WEST VIRGINIA MINE SAFETY AND
HEALTH ADMINISTRATION

IN THE MATTER OF:

THE INVESTIGATION OF THE
APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE.

The interview of STANLEY STEWART, taken upon oral examination, before Lynne M. Rodriguez, Registered Professional Reporter and Notary Public in and for the State of West Virginia, Wednesday, January 5, 2011, at 2:25 p.m., at the Mine Academy, 1301 Airport Road, Beaver, West Virginia.

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On behalf of Stanley Stewart:

Marty Hudson, Miner's Rep.

Also Present:

Polly Hampton, Solicitor's Office
Sandin Phillipson, MSHA Tech Support, AI Team
Jasey Maggard, MSHA
Thomas Morley, MSHA, AI Team
Richard Stoltz, MSHA, AI Team
Mindy Stewart
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**Stanley Stewart**

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MR. BABINGTON: My name is Matt Babington. Today is January 5, 2011. I'm with the Office of the Solicitor, U.S. Department of Labor. I'll be asking questions on behalf of the Mine Safety & Health Administration today.

We also have several other people who are going to be interviewing. I would ask they state their appearance for the record.

MR. TUCKER: Bill Tucker with the Office of Miners' Health, Safety & Training.

MR. MCGINLEY: Patrick McGinley, with the Governor's Independent Investigation Team.

MR. BABINGTON: And Mr. Stewart, before I go through the rest of my opening script, can we have the people who are with you identify themselves for the record?

MR. HUDSON: Marty Hudson, miner's rep.

(b)(7)(C)
MR. BABINGTON: And let's have just people in the rest of the room identify themselves.

MR. MAGGARD: I'm Jasey Maggard with Accident Investigation Team, MSHA.

MR. MORLEY: Tom Morley, with MSHA.

MR. STOLTZ: Rich Stoltz, also with MSHA.

MS. HAMPTON: Holly Hampton, Solicitor's Office, for the Department of Labor.

MR. PHILLIPSON: Sandin Phillipson, with MSHA.

MR. HUDSON: Could I get a list of those names or pass around a sheet, because I didn't write them all down. That way, it will save--

MR. BABINGTON: Holly, can you rip out a piece of paper and have everybody sign it? Thank you.

Okay, we went through this script the first time so I'll just try to hit the high points.
As you know, thank you so much for coming in. You know, as you know, this interview is completely voluntary. You can refuse to answer any questions. You can take a break at any time. You can ask any clarifying questions that you want. This is really mainly about fact finding and trying to get your understanding of certain facts.

Of course, the team members also, by agreeing to be here, agree to keep this information confidential. Just to note with your representative, this is not a adversarial proceedings so there won't be formal cross examination but your representatives may ask clarifying questions at any time.

To note also, there may be a need to use the information that you provide to us or other information we may ask you to provide in the future may be used in other investigations into and hearings about the explosion.

We note since you'll we're going
to be interviewing other individuals, we request you not discuss your testimony with person aside from personal representative or counsel.

The court reporter will record your interview. Please speak loudly and clearly. If you do not understand a question, please ask the interviewer to re-phrase it and please answer each question as fully as you can, including any information you've learned from someone else.

And again, you'll be able to make a statement at the end, and we discussed before we went on the record of certain items that you'd like to cover from your first interview.

Before I begin, I just want to thank you one more time for appearing and answering questions and for your candidness both in the first interview, your candidness in front of Congress and, you know, you've really put yourself out there and gave us a lot to work with.
Okay, the main thing we'd like to
talk about is there was an event in 1997
at UBB, and we mentioned it in passing
during your first interview and I just
wanted to go through more information
about that.

And again, I understand this was
now ten plus years ago, so if you don't
remember certain things, if there are
approximations, just let me know. This
isn't a test here, we're just looking for
what you can recall.

I would ask the court reporter to
now swear the witness.

(WITNESS, STANLEY STEWART,
SWORN.)

EXAMINATION

BY MR. BABINGTON:

Q. So let's start with in the days, I guess
this happened, this event, did it occur in January
of 1997?

A. Yes, sir.

Q. Okay. Now was this ignition on the
longwall?
A. Yes, it was.

Q. Okay. Can you kind of describe how working conditions had been in say the weeks leading up to weeks leading up to the ignition?

A. The working conditions?

Q. Right. So the conditions of the longwall, whether there had been any odd occurrences.

A. I don't recall any odd occurrences. We were on a good panel and loading a lot of coal, and that particular morning, I think we already had ran four cuts and it wasn't but 10:00 approximately when it happened.

Q. Uh-huh.

A. And that morning, I didn't feel like the air was what it should be, but we did have air. Would you like for me to explain what all I remember?

Q. Yes. I mean, before we get there, in terms of the air not being as good, do you remember at all, you know, the air readings that you were used to and the air readings you might have had on that day?

A. No, I really don't remember.

Q. Okay. In terms of say how the temperature
was, sometimes when the air is really moving swiftly, you have to wear a jacket on the longwall.

Had it been like that in the weeks leading up to it?

A. Sometimes it would be but I wasn't wearing a jacket that day.

Q. Okay. Then basically starting from that morning, just walk me through what happened.

A. Okay, we had cut out on the tail and I was pulling shields so I was standing on jack 174, waiting on a sheer operator to get done finishing his shuffle, and I just happened to look toward the tail and there was a glow from back behind the wall, and everyone knows that's no-man's land back there. You know, this all happened real quick, you know. I said, "Uh-oh, this is bad," and I just pointed to the sheer operator and I just took off running, and I honestly felt like I was a dead man that morning. I said each step will probably be my last. I could feel a little bit of heat and the smoke, and I would pass other guys, the other sheer operator, every one of them I went by and say, "Get the hell out of here," you know. And the line was
still running. I think it was probably
approximately mid face, I just slowed down enough
to kill it, turn it off, and everyone else -- the
main thrust of it went down the tail. Some of it
came back up the face.

The other sheer operator, he got some hair
singed, the one that was on the tail end of the
sheer. Well, of course, I didn't die and felt
like, you know, that was an awful feeling, but we
all proceeded out to the head end of the longwall
and the boss and Jeannie Blair decided to walk back
down the face and they saw blue flames shooting in
between the toes of the shields and they quickly
got off of the face and we got in the mantrip and
headed outside.

Q. Who were the two individuals who saw the
blue flames?

A. That would have been Jack Roles and
Jeannie Blair, whose actual first name is Elmer.

Q. And it was after they saw the blue flames
that they withdrew everybody and left the area?

A. Yes. For some reason, they went back down
the face. I remember looking at somebody and
saying, "Ain't no way I'd walk back down that
face." We should have been getting out of there anyway.

Q. Is this the same Jack Roles that was, I believe, longwall coordinator at the time of the April 5th accident?

A. Yes, it is.

Q. To go back, you said there was the sheer operator on the tail was the first guy that you yelled at to get out?

A. Yes.

Q. What was his name?

A. Rick Farrell. He's deceased now.

Q. Just to clarify, I believe there's a Mike Farrell who currently works at the mine. Do you know if Mike Farrell and Ricky Farrell are related?

A. That's Ricky's son.

Q. Now what did Rick Farrell do after you yelled at him to get out?

A. He was behind me. Once the fire, I guess, got to him and singed his hair, I'm going to assume that he was running.

Q. Uh-huh.

A. Because, you know, I just passed everybody. You know, I'd tell them, "Hey, go," and
some guys was on up the line, they didn't really
know what was happening, but I wasn't slowing down.

Q. Smart of you. You said you felt heat on
your legs?

A. Yes, I could just feel it at my back, and
the smoke, you know, it got smokey where the
visibility wasn't really great and so, you know,
like I said, I thought that was it, game over.
Luckily, it wasn't.

Q. Now do you remember seeing -- I mean, I
don't know if you had a spotter on you or if you
saw the methane detector on the sheer.

Did you see any detections of methane, did
you hear any warnings of methane or CO or anything
like that?

A. No, I didn't. I didn't have a detector
and I hadn't looked at the one on the sheer, but
that morning, I just remembered we was getting some
big falls back behind the face and it was sand rock
and booming like thunder, and in my opinion, it had
accumulated behind the face and the sand rock or
the roof bolts in the tail entry itself had to be
the ignition source. That's my opinion.

Q. You're saying the rock hitting the roof
bolts?

A. I'm saying sand rock can create a spark itself, you know, but also in the tail entry that we've already mined by, the roof bolts can pop out and create a spark also, but sand rock, by itself, can make a spark, you know, and it was falling big that morning, like, you know, thunder.

Q. Now on that part of the longwall face, what percentage did you think it was coal to sandstone or sand rock?

A. I don't exactly understand.

Q. Well, if I understand correctly, on the current longwall, there was an area of the wall as they cut through that was sandstone. It wasn't just entirely coal so they had to cut through this -- it was about maybe that much sandstone that was in the wall that they had to cut through in order to get to the coal on the top and the bottom.

A. You're referring to like middle band?

Q. Sure, yes.

A. Okay, I'm really not familiar with how much was on their face, on the current one at the time.

Q. Well, that's what I'm saying, did they
have any kind of middle band on the longwall face in '97?

A. Yes, we usually did. It wasn't always sand rock. Sometimes it would be sand rock and very hard to cut and other times it would just be slate, but I can't remember that particular day what we -- I can't go back and remember that.

Q. You remember surprising a lot from 13 years ago so I won't fault you for that little detail.

A. I can tell you the date. I done told you the time; January 4th, I'm pretty sure.

Q. And you said it was around 10 a.m. in the morning?

A. That's correct.

Q. Now Rick Farrell was the one who had his eyebrows singed?

A. Yes.

Q. Did anyone else suffer any injuries out of it?

A. No.

Q. So after you withdrew, what happened then?

A. We went outside and you could see smoke coming out of one of the portals and, of course, we
went home. I remember, I'm not a hundred percent; it seems like we couldn't go back for a couple days because CO levels in those tail entries were too high, you know, deadly levels, and when we finally went back to work, they had an investigation and they would call us out of the mine one at a time, and if I recall correctly, there was approximately six inspectors, state and federal, would question us.

Pete Hendricks, who was over all Massey mines, provided us with a lawyer, just, you know, for our benefit. I kind of looked and I said, "I don't need a lawyer for anything, I haven't done anything," but, you know, it doesn't take a genius to figure it out. That was Pete Hendricks eyes and ears, in case anyone said anything, they would be looking for a job soon, I felt certain of that.

Q. As a result of the investigation, do you know if any report was created or produced out of that investigation?

A. I personally don't know if there was. I'm sure there was but I never saw it. And here's another little fact. Well, I say it's a fact; that we weren't even aware of. I heard from several
different sources, and I can't recall any of their names, that the owl shift had tore out an overcast that night and somehow short-circuited the air to the longwall. I don't know exactly which overcast it would have been or exactly what purpose it was, but I had heard they had torn that overcast out, and I also heard when the mine was evacuated, that they left people in there to get it built back.

Now, you know, that's hearsay but I think it's fairly accurate.

Q. So you're saying that the night before the ignition on the longwall, so on the night of January 3th, that the owl shift tore out an overcast, that's what you heard?

A. That's what I heard.

Q. And then they put in people after the ignition to re-build that same overcast?

A. Yes. I believe they were already in there working on it, and rather than leave the mine, they remained -- the mine was supposed to be evacuated; they remained to get it built, and we all know why.

Q. Okay. So you didn't see any report out of it. What actions, if any, did the company take in response to the ignition?
A. Pete Hendricks changed the ventilation plan after that. Before that, the return was going down the face and out-by, and if I recall, that's when we started ventilating in-by, toward the gob.

Q. Thank you. Did the company hold any kind of meeting or training session to address what they thought happened during the ignition or how to react to that sort of situation in the future?

A. I don't remember them having any meetings or special goings over of what occurred outside of that ventilation change. That's all I remember.

MR. BABINGTON: I'm going to let these gentlemen ask some follow-ups and then I'll come back with more.

EXAMINATION

BY MR. TUCKER:

Q. I just have a couple. You mentioned once you all pulled out of the mines, you was gone a couple days before you went back to work, you recall, two or three days, or how long that was that the longwall was down?

A. I feel like it was at least two, Bill, and I can't say three for certain, but the mine was shut down until them CO levels came down.
Q. When you went back to the longwall first shift after the ignition, was your all's crew the first crew that produced coal after the ignition or do you recall?

A. I don't really recall exactly if we were the first ones to go back or not. I do remember Jack Roles asking me if I was okay going down the face, you know. He knew I was on the point of where it happened and he wanted to know if I was all right with going down the face or not, and I said, "Yes, I'm fine, buddy."

Q. Do you remember anything significant that was different when you went back other than on your first shift back, had they changed the vent plan?

A. I can't remember exactly when that ventilation change happened. I don't think they could have changed it that quickly. It may have still been the same. I really just can't remember a hundred percent.

Q. So you said they were right there at the tail cutting out when it ignited. Do you recall if they was cutting any top rock?

A. I don't think we were cutting top rock at that time. And like I stated, it came from back
behind the face. There was no fire ball or anything around the sheer at the time.

MR. TUCKER: Okay. That's all I have.

EXAMINATION

BY MR. MCGINLEY:

Q. How many ignitions happened that day? Was it more than one?

A. That's the only one that I'm aware of, the one that I stated before, and like I said, when Jack and Jeannie went down the face, they told me the blue flames were shooting between the jack toes, it scared them. I mean, I think they went down the face maybe because what I had told them, they was going to go see if I was just telling them one, but when they saw that, out they came.

Q. If there was more than one ignition on that day, would you expect that management would have told you or somebody would have told you?

A. I wouldn't expect management to tell if there was, no.

Q. Would you have liked to have known if there was more than one ignition that day?

A. Yes, I would liked to have known.
Q. Why?

A. Just so I'd have the facts and know something was going on, something big, and, you know, that's where I work and I would just like to be informed of what's happening in my workplace, especially in a dangerous situation like that.

Q. Do you remember, you said Elmer Blair, Jamie?

A. Jeannie.

Q. Jeannie?

A. Uh-huh.

Q. If he was an electrician?

A. Yes.

Q. Who was the head end sheer operator, do you remember?

A. Richard Hutchins. We call him Smurf.

Q. James Green, does that sound familiar to you?

A. Yes, it does. I think he may have just started there. Green, yes, I believe he was kind of new. He was down the face that day, I'm pretty sure, if it's the same guy you're referring to.

Q. Jack Roles, at the time of the explosion, he was the longwall coordinator at UBB, is that
right?

A. Which explosion?

Q. In April of 2010.

A. Yes, he was.

Q. But at the time of the 1997 event, in January, what was his position? He wasn't a coordinator, was he?

A. No, he wasn't a coordinator. He was a face boss.

Q. Foreman?

A. Yes, sir.

Q. And do you remember who the longwall coordinator was?

A. It was either Bill Downey or Virgil Joyce. No, I correct that. John Hubbard.

Q. Were there any communications between Roles and the outside when this ignition took place in January, 1997?

A. I personally didn't hear them. I'm going to assume he went to the phone and called out.

Q. Did Mr. Roles have you all work on the ventilation before you left, do you remember?

A. Now that you mention that, I believe we did hang a few curtains and try to direct more air
Q. Did that make you nervous to do that or do you think that was an appropriate thing to do?
A. Yes, I was nervous and I wanted to get out of there, but yes, it needed done, I thought.

Q. Judgment call?
A. Excuse me?
Q. A judgment call?
A. Yes.

Q. So your recollection is that the mine shut down for a couple of days?
A. Yes, it seems kind of foggy but I believe we were down for a couple of days.

Q. So there was an investigation and those who had information about the ignition were called out of the mine one by one and they were asked questions by inspectors?
A. Yes, that's correct.

Q. So you were called out while you were working on your shift and somebody said come out and talk to the inspectors?
A. That's correct.

Q. And do you remember where that
conversation took place?

A. It was upstairs at the UBB portal in their mine office area.

Q. And you remember there were a number of inspectors present, all of whom were asking questions, or just one, do you remember?

A. I can't remember if each and every one of them asked me a question, but I was asked questions by more than just one.

Q. And were they federal and state inspectors or one of the other, do you recall?

A. I believe they were federal and state.

Q. So there were federal and state inspectors, as you recall. You were there and the there was the lawyer that Mr. Hendricks provided for you, is that right?

A. That's correct.

Q. Was there anybody else present?

A. No, not that I can remember.

Q. What kind of introduction did you have to this lawyer? I mean, if he was supposed to be your lawyer, did you meet with him before the interview with the inspectors?

A. No; when we would get outside, that's when
Mr. Hendricks would told me that "I got a lawyer here for you. That way, that will help protect you," you know, and that's the only introduction we had.

Q. So that was when you were asked to come out of the mine, you got outside right before the interview and Mr. Hendricks said, "Here's your lawyer. We got for you to protect you?"

A. Right.

Q. Did you ever see that lawyer again?

A. No.

Q. Did that lawyer talk to you before you went in to be interviewed by the inspectors?

A. I don't recall talking to them.

Q. Was it a man or woman?

A. I remember it being a woman.

Q. Was she a lawyer with Massey or from some outside firm, do you have any idea?

A. I really don't know. I'm assuming she was tied to Massey some way.

Q. Did she give you a card?

A. No.

Q. But she did introduce herself and tell you what her name was, or do you remember?
A. We were told her name but I can't remember.

Q. So you went in. How long did the interview last?

A. I'm going to say mine approximately 30 minutes. I can't really recall exactly, but in the neighborhood of 30 minutes.

Q. Do you recall whether other people on the shift when the ignition took place were interviewed by the inspectors?

A. Are you referring to people that didn't work on the longwall?

Q. No, the ones that you were working with when the ignition occurred.

A. Yes, sir, they were interviewed also.

Q. Do you know whether they were provided lawyers by Massey?

A. Yes, they were.

Q. Was it the same person, the same woman?

A. Yes, sir.

Q. Did she take notes, do you recall, while this questioning was going on?

A. I don't recall if she was taking notes or not.
Q. If she was your lawyer, you'd probably like to see those notes.

A. I sure would.

MR. HUDSON: May I ask a question?

MR. BABINGTON: Sure, go ahead.

EXAMINATION

BY MR. HUDSON:

Q. Stanley, you talked about Pete Hendricks changing the air at some point in time, you don't recall exactly when, but my question to you would be, was there a new ventilation plan posted on the bulletin board and did you guys spend any time in the lamp house with anybody going over the new ventilation plan with you or you just knew the air had changed? I mean, do you recall any of that?

A. I don't recall it being posted on the bulletin board, which doesn't mean it wasn't. I don't remember if we were talked to in the bath house or not, but I remember them saying they were going to change the ventilation system, the return to the gob instead of going out-by.

Q. But I mean, was there a sit-down of everybody who worked on the longwall and somebody
come in and said, "Hey, we're going to do it like this," or was it just you know because somebody told you they was changing the air?

    A. I don't remember having a big sit-down, to tell you the truth.

    Q. And I was going to ask, and you asked, but I was going to ask the same question was, do you think the lawyer took notes when you were in that meeting?

    A. I'm going to assume she did, but when I was in the interview, I was just focused on the inspectors in front of me so I really never paid her any attention, because I didn't need her anyway.

    Q. Yes. Well, the question would come if she had notes of you and other people, I mean, you certainly have a right to yours, but they would have a right to everybody's, and the question would be, you know, a good lawyer would probably take notes, you know, and if it's an indication she was there to protect Pete Hendricks or there to protect you is, you know, two different points, but it's just whether or not, you know.

    A. Uh-huh.
MR. MCGINLEY: I've got some more questions.

MR. BABINGTON: Do you mind if we come back to your follow-ups?

MR. HUDSON: Yes.

EXAMINATION

BY MR. MCGINLEY:

Q. Do you know the name Joe Evans?
A. Yes, I do.

Q. Was he at Performance Coal back in 1997? Would he have been the president?
A. Joe was the president but I don't remember exactly what years he was there.

Q. Okay.
A. Yes, he was, because I believe that ignition happened on the very first panel and I just remember when we were moving the longwall, Joe was there. He made me mad a couple of times.

Q. Would that have been the two west longwall panel; does that ring a bell? I know you've gone through a lot since then.
A. No, head gate 1 is all I can remember us calling it.

Q. How about Eddy Lester, does that name
sound familiar to you?

A. Yes, it does.

Q. What was his job back in 1997, if you remember?

A. I'm not a hundred percent on whether he was the superintendent or just a general mine foreman, but yes, he was over the mine.

Q. How about Larry Bain?

A. Larry Bain, that sounds like one of the safety men.

Q. Safety director maybe?

A. Uh-huh. Yes, sir.

MR. MCGINLEY: Okay, that's enough for now.

EXAMINATION

BY MR. HUDSON:

Q. Can I ask one more question about the interview?

During the interview that the lawyer was with you with the state and federal inspectors, do you recall if the lawyer asked you any questions during that time or was it just state and federal that asked you questions?

A. It was only the state and federal. I
don't remember my lawyer, or --

Q. Or the lawyer?

A. I don't remember the lawyer asking anything.

Q. Okay.

MR. BABINGTON: Thank you.

EXAMINATION

BY MR. BABINGTON:

Q. Besides being interviewed by MSHA and state inspectors, do you recall ever being interviewed by company officials?

A. No, I don't.

Q. Okay. Returning back to the ignition and, you know, those seconds afterwards, let's start with I guess you said Roles and Blair saw blue flames running along the ground between the toe of the sheers?

A. That's what they came back and said, yes.

Q. Okay. Did they say anything about seeing the flames anywhere besides hugging the floor?

A. I don't remember them saying they saw them anywhere else. They just said that they were shooting out from the toes of the shields and they left. It scared them.
Q. I'm sure. Did you or did you hear anyone else say that they saw any flames or sparks on the face itself?

A. No, I personally didn't see any and I don't remember anyone else saying they saw any. The answer is no.

Q. Okay. So you saw the glow coming from behind the shields?

A. Yes.

Q. And then you said you heard Roles and Blair see the blue flames shooting out the toes?

A. Yes.

Q. Okay. Do you remember any unusual smells either before or during, before seeing the glow or after the glow?

A. Now that's a good question, because sometimes we would smell things that would seem a strange smell, because Richard Hutchins and I would even talk about it, and I can't remember a hundred percent if we could smell it that morning or not, but I vaguely feel like that we did.

Q. Are you able to describe what that unusual smell was?

A. It's hard to describe. It was just a
strange like smell. I can't come up with any adjectives to explain what it smelled like.

Q. Would you describe it as smelling like stale kerosene?

A. That could be a close assumption, something stale, just different.

Q. I guess it could also smell like, I mean, propane, gasoline, any of those different things. Would you say kerosene closer than a different kind of --

A. Yes, more like kerosene but not a hundred percent kerosene. I mean, it's just tough, because I can remember in the future, we would smell that sometimes and we would look at each other, you know. We would actually get concerned. That's why I'm pretty sure we could smell it that morning.

Q. Were there certain areas of the mine where the smell was stronger than others?

A. I couldn't pinpoint any certain areas. It just seemed like times it would be there.

Q. So was there anything that you would do beforehand? I mean, was it like you would cut on the tail and you would smell it, you would be on the head gate side, you would cut on the head and
you would smell it? Were there situations that you could say that the smell appear there?

A. What I remember is when we would smell, you could smell it anywhere on the face usually.

Q. Okay. Do you remember seeing any sparks coming off the bits on the sheer drum?

A. Are you referring to --

Q. In '97.

A. No, I don't remember seeing any.

Q. Do you recall, as you were running back up towards the head gate on the longwall, do you recall whether the lights were still on across the face?

A. Yes, the lights were still on and the line was still running, because I shut it down.

Q. Do you remember anyone calling the head gate to kill the power?

A. I don't remember if they did or not.

Q. Besides you killing the line, do you remember anyone else de-energizing anything else, any other machinery on the wall?

A. I don't remember anyone while I was trying to get off the face. Once we got out to the head, you know, and everyone followed, then we knocked
the power. I don't remember who may have gave the
order or what exactly transpired, but we got the
power knocked but not at the moment while I was
running.

Q. Okay. So the power, if you remember
correctly, the power wasn't knocked until you
reached all the way to the head gate of the
longwall or had the power been knocked before you
got all the way off the face?

A. I really can't remember exactly when it
was knocked.

Q. Uh-huh.

A. So I can't say after we got -- My mind
says after we all got to the head. I don't know if
anyone got on the box and called out and told them
to knock the power while I was running or not.

Q. Uh-huh.

A. But I do remember lights on and the line
running and I know I made it approximately mid face
when, you know, for some reason I just thought to
reach over there and lock it out.

Q. Okay.

A. It didn't need to be running. It could
make a spark.
Q. Do you remember how the head gate man was contacted about the ignition?

A. No, I don't remember how for certain. I'm sure someone called him. I remember who the head gate man was.

Q. And who was that?

A. Gary Calliope.

Q. Do you recall about what shield numbers the glow was behind?

A. I was standing on shield 174. We had 176 shields, and so what I could see out in the tail entry and back behind the tail shields. It would be those three. If it was any further up the line, I don't know. I just seen the glow coming.

Q. You saw enough at that point?

A. Yes.

Q. You said you remember seeing smoke. Did you see what shields the smoke was coming out of or was it --

It sounds as though you as were running, smoke kind of started moving passed you. That's kind of a bad question but I think if you could talk about that a little bit.

A. My opinion was I'm not a hundred percent.
You know, I hadn't really ever thought of it coming through the shield, but of course, it could. You know, I just thought it was coming up the line behind me, but I'm sure some came through the shields also because the whole line seemed smokey after that happened. Even when I got way up the line, you know, the whole face was smokey, so I'm sure some came in between the shields along from the tail.

Q. So even basically as you were running away from the glow, there still ended up being smoke in front of you?

A. The line looked smoke I, yes.

Q. See if you can remember this. So when they would cut out at the tail, would the crew ever shut off the water prior to cutting out?

A. I don't remember ever shutting it off when we cut out on the tail. It would happen sometimes out at the head, especially if we had a lot of air, we might shut it off sometimes to keep the water from blowing all over you, but on the tail, I don't remember it being shut off.

Q. And so on the head, though, you would cut the water off before you finished cutting out?
A. Sometimes. Later on, it seems like the sheer was made where you couldn't turn it off, but I don't recall them ever shutting it off to cut out at the tail.

Q. Where would you normally change bits on the sheer?

A. Normally, we would change them out toward the head, after we would finish a cut, unless we're in tough conditions and we would have to stop and set them on the tail or sometimes mid face, but if they were dull, we would set them on the tail, but normally it would be at the head if everything would go okay.

Q. So you would change the bits for both drums at the head?

A. Yes.

Q. How common was it for the water sprays on the drums to come out?

A. I don't remember water sprays. Okay, I'll just answer it this way. I don't feel like it was very common for them just to lose a water spray, pop it out, I mean, you know. It could happen and it did but it wasn't common.

Q. Do you recall anyone removing the water
sprays for any reason?

A. I can remember going in and there might be one or two removed, and the only reason I could think of in removing them would be to lessen the pressure, but we would usually, our crew would usually replace them because it did lessen the pressure.

Q. As soon as you noticed the sprays were missing, would you replace them or would you wait until you were back on the head, or how frequently would you replace them if they needed to be replaced?

A. We wouldn't usually replace them until we would stop and have to set bits, and we would already be loading coal before we would know they were missing.

Q. Uh-huh.

A. And so that means your bits are already set, so we would load and just go ahead and replace them, normally when we would have to set bits is my recollection.

Q. Just as an aside to that, you know, these questions, as I've been asking about the sprays, you know, we've been asking about in the context of
'97.

Has your answers, would those be applicable to the other experiences you have had on long walls at UBB?

A. Could you repeat?

Q. Sure. Let me try that again. So we've been talking the '97 ignition and the practice on the longwall at that time.

Were there different practices with regard to the water sprays at other times that you worked on the longwall at UBB?

A. Were they different?

Q. Uh-huh. You know, you're talking about just in terms of how frequently you would replace the sprays, you know, whether the water would be shut off before you cut out on the tail, how would you change bits. Like those questions, you know, we've talked about how it was in '97. Do you recall different practices at other times that you worked at UBB?

A. I really don't understand what you actually mean by different, but I don't recall different practices. Usually just whatever the conditions warranted is what we'd do, like
referring to setting bits.

If you was in good conditions, of course, you know, you could milk them bits to the head or whatever. We would get in conditions sometimes where it would be so dag-gone hard, you couldn't load four or five shields, you'd have to stop and set bits, but as far as the water sprays goes, I don't remember anything being different.

Q. Okay. Let me think about that one. Maybe I can come up with a better way to ask it.

So returning back to '97 and what you recall from that, do you ever remember either you or other people on your crew removing sprays to allow the sheer motors to be cooled?

A. I don't recall removing them to allow the sheer motors to be cooled. Now at the time, I was a jack setter. If the sheer operators did it, I can't really answer for them, but I personally didn't do it.

Q. Now this talking about all your experience on longwalls at UBB, did you ever encounter any air reversals on any of the longwall panels you ever worked on?

A. It seems like there was one or two
occasions that the air came the wrong way but I can't remember which panels or what panel it may have been on, but yes, it had happened a couple of times when I was still on the longwall.

Q. And how would you react to that? Would you shut down, or what's the protocol for reacting to a longwall reversal on the longwall face?

A. No, we didn't shut down. We would just look at each other, "Air is going the wrong way," and I don't remember shutting down for it. It didn't seem like it stayed going the wrong way but I do recall that happening.

Q. How long do you think the reversal, you know, would it be five minutes and then go back the other way or would it behalf way through the end of the shift? Do you remember how long those reversals would normally last for?

A. What little bit I can recall of them, usually it wasn't very long. I can't actually say if it was a matter of minutes or a minute or 30 minutes, but I just remember it going the wrong way, you know, and we would just say "Wow."

Q. Whenever you had those air reversals, do you remember reporting them, you know, up the chain
of command?

A. I don't know if they were reported or not.

Q. And I know you can't remember the panels.

Do you remember roughly the years?

A. No.

MR. HUDSON: I mean, could you clarify, was there a chain of command there?

MR. BABINGTON: I made an assumption there. I apologize.

MR. HUDSON: Yes. I mean --

Q. If you were going to report an air reversal, who would you have reported it to?

A. Well, I guess the foreman would have called outside to the superintendent, whoever it may have been at that time, which probably was Eddy Lester, but I don't know if he did or not. I guess that would be considered the chain of command.

Q. And actually that brings me back to a quick follow-up, which is who was the superintendent in '97?

A. I'm thinking Eddy may have been the superintendent.

Q. Okay.
A. We went through a lot of presidents, superintendents, you know, they bounced around.

Q. And we've talked about Pete Hendricks earlier on. Do you remember what his title was at that point?

A. I think Pete was overall production at all Massey mines. He was like Don Blankenship's right arm.

Q. Are you familiar with Chris Adkins?

A. Yes, I am.

Q. Is Chris Adkins serving the role now what Pete Hendricks might have been serving back in '97?

A. He may be. I remember Chris in '97, because he came up on the longwall when we had the head gate had fallen in, and so I don't know exactly what his title was in '97 but that would be, my guess, that he's probably about what Pete was.

Q. We talked about that there was some sandstone on the longwall face. When you would watch the sheer cut into that, do you recall seeing any sparking?

A. In the '97 ignition?

Q. Yes.
A. I don't recall seeing any myself.

Q. Have you seen sparking on the longwall shears before?

A. On that hard middle man like you're talking? Yes, I have.

Q. Okay. But you didn't see it in '97?

A. I don't recall seeing it.

Q. How long would the bits last for?

A. That particular panel, they would go probably five or six passes, because things were pretty soft.

Q. Did the crew use shield sprays while you were working?

A. We had shield sprays. They all didn't work. Sometimes we would actually just turn them off. You had a valve on each shield; you could turn them off if they was leaking or something, but they were available.

Q. Were there any that typically worked and that others that typically didn't work?

A. Yes, yes. The shield sprays are supposed to activate when the shield activates and then shut off after it sits, and all of them didn't work.

Q. We'll keep going. Do you want to take a
break or are you okay? Would you like some water?

A. I would like a sip of water.

Q. I'll get you a bottle. Here you are.

A. Thanks.

Q. You're welcome. Just to clarify, when you cut out on the tailgate, the sheer operator did usually have the sprays on?

A. To my knowledge, yes.

Q. Okay. Remind me about that. I think that you said that morning, the morning of the '97 ignition, you had a lot of roof falls behind the shields?

A. That's correct.

Q. Had there previously been a large area that hadn't caved in yet?

A. I don't remember being a large area. We was just into some big Massey sandstone and it was cracking and breaking loudly, but I don't remember there being a large area. It may have been, I just can't remember if there was.

Q. We talked about Ricky Farrell and, you know, his eyebrows were singed.

A. Yes.

Q. Were they singed immediately or did it not
happen until he was further up the face?

   A. He got singed when I ran by him and
   pointed, and I guess he looked, and he got singed
   right there.

   Q. Okay. And he was still in the position
   right after having cut out on the tail?
   A. Right. He would have been at about 173
   shield.

   Q. Uh-huh. I think you said that you had
   previously observed -- well, you said, I guess, you
   were aware of falling sandstones creating sparks on
   their own?
   A. That's correct.

   Q. Have you ever seen either sandstone
   striking itself or striking roof belts actually
   igniting methane?
   A. I haven't seen it actually igniting
   methane, no. I have seen it make the sparks.
   Q. Uh-huh.
   A. But I haven't saw that happen. Don't want
   to.

   Q. Smart man. At the interview with MSHA and
   the federal and state inspectors where you had your
   personal attorney present, did you feel that her
presence at the interview, did you feel that that
affected your testimony?

   A. Yes, I did. Had I known anything, I
wouldn't have said it, and none of the others would
either, I felt a hundred percent certain of that.
We all discussed that was Pete Hendricks' eyes and
ears and we knew the consequences if we would have
said anything wrong.

   MR. HUDSON: If I say a couple
names, would you remember the name? Do
you remember and a Norton, that name?

   A. No.

   MR. HUDSON: Or any other Massey

   --

   A. No.

   MR. HUDSON: Okay.

   Q. Were there any pieces of information that
you didn't provide to the federal and state
inspectors because that attorney was there?

   A. At the time that I was there, I wasn't
aware of that overcast being knocked out. Had I
been aware of it, I still wouldn't have provided
the information with her there.

   Q. Moving away from the '97 event, do you
recall any ignition occurring in 1999?

A. '99. No, I don't.

Q. So you haven't even heard any rumors or hearsay about an event occurring in 1999?

A. No, I don't remember.

Q. Were you still close to Ricky Farrell at that time?

A. Yes. Yes; actually I graduated high school with Rick, so yes.

Q. If Rick had been in an ignition or some kind of event in '99, would he have likely told you about it?

A. I feel that he would have.

MR. HUDSON: Could I ask one more question about the water shears and the sprays?

MR. BABINGTON: Sure.

EXAMINATION

BY MR. HUDSON:

Q. You testified that you came in at your shift and at times there may have been two or three that may have been missing that had been plugged.

Was there ever a time that there was more than two or three or every time that there was just
a water problem in general, that when you guys came in you confronted when you came to the section?

    I mean, two or three seems like a couple, but was there ever a time there was more than that?
    
    A. Well, I don't remember being more than that, Marty. They wasn't plugged, they would just remove them. I don't know if a spray would be messed up and shooting over toward the sheer operator sometimes, or whatever the reason would be, but they would take a spray out and it would lessen the pressure and stop it from spraying over the line.

    MR. HUDSON: Okay.

    EXAMINATION

    BY MR. BABINGTON:

    Q. Do you recall situations where the water sprays would get clogged or stopped up and you would have to clean them out?

    A. Yes. Yes, that would happen.

    Q. How frequently would you have to clean out sprays?

    A. I don't remember doing it very frequently at all. Sometimes if we were down or something, we could find some stopped up, but they wasn't going
to spend a whole lot of time cleaning up sprays and knocking them out of production.

Q. Is it possible you would let five, six, seven, eight get stopped up before you would go back and clean them?

A. I would say that would be a good possibility, or not cleaning them at all and hope the owl shift would fix it.

Q. How good was the owl shift about cleaning and replacing water sprays?

A. I'm not really sure, because them boys were expected to get a couple of cuts of coal a night themselves, plus all their other work, so they would set bits. I'm not sure how good they were on the sprays.

Q. We talked about a lot of different experiences of what occurred right around that ignition. Do you remember any noises from either right before the ignition or the ignition or after the ignition?

A. The only noises I remember was the sand rock falling so big and loud, and you could tell it was Massey falls, and them's the only noises I can
remember.

Q. Do you remember hearing a fall right before seek the ignition?

A. Yes, because it had been breaking all morning and falling, and we was down there on the tail, and yes, it was falling back there then. I sure do remember it.

Q. So it sounds like it was falling fairly continuously throughout morning then?

A. Yes.

Q. And it was falling continuously right up until you saw the glowing behind the shields?

A. That's correct.

Q. Mr. Stewart, when you spoke to Congress, you mentioned, I'll read it from your statement, "A young man I personally know was working at a Massey mine as a fire boss and was told by upper management to fix the books to proper air reading when the section had virtually no air. He was so angry he quit Massey. I will provide his name privately."

Can you talk a little bit about those circumstances?

Let me interrupt you for one second. If
you still don't want to provide -- As we've talked about, at some point these transcripts will be released. If you don't wish to have his name included, we can talk about his name off the record but I would still like to discuss the circumstances of the situation, if you're comfortable doing that.

A. What I know about that, my son told me he knew this boy and he told me that he had told him that after the explosion, that he was a hoot owl boss, I believe, instead of a fire boss, but he called out there was no air on the section where he was at and they wanted him to fix the books as if there was, and so I saw that boy personally and asked him about it, and he confirmed yes, and he did quit soon thereafter.

If I recall correctly, he wouldn't do it and so they said they would get someone that would, so that's basically that story.

MR. HUDSON: And further, but they had offered him a place in the mine somewhere else. Do you want to elaborate on that?

A. Yes, that's basically what -- offer him to go work for them somewhere else, or whatever, and
get somebody up there that would fix it.

MR. BABINGTON: Thank you. I'm going to have one last thing at the end but I'm going to hand it over to the fellows for follow-ups.

EXAMINATION

BY MR. TUCKER:

Q. I just have a couple quick ones, Stanley. When was about the last time that you can recall that you worked on longwall?

A. The month of December of '08, because I left the longwall and went to a continuous miner the first week of January of '09, so I was on the longwall from day one that Performance Coal started their longwall until January of '09.

Q. What was you doing at the last, right before you left and went to miner section?

A. I had got off of the face and I worked on the owl shift on longwall. We basically did a little of everything; moved power, go down the face and fix things, hang the monorail, everything that goes with the owl shift on the longwall.

Q. You mentioned that a couple times, that you and your co-workers, you would notice the air
reversal and it may last a minute or two or a few minutes, or you're not sure exactly how long.

Do you happen to recall maybe about where you were at on the jack line when that would happen? Would there be one place that it would tend to happen more often than say another?

A. I don't recall where I would be at on the face when it would happen but it would be reversed the whole length of the face.

Q. Okay.

A. I do remember that.

Q. And one last question. I know you mentioned in '97, that the top was working a lot, falling a lot that day right prior to the explosion, or the ignition, you were right there at the tail.

Do you recall how it fell behind the shields at the tail? Was it fairly open, had it fell in tight at that point, or do you recall?

A. I don't recall a hundred percent but it wasn't in tight. I feel like we had sand rock roof. I can't say how far back it was but it wasn't tight like when we would be mining in slate roof, it would be fell right up tight against the
shields. I'm pretty sure these were not tight.

    MR. TUCKER: Okay. That's all I have. Thank you.

    MR. BABINGTON: We're going to take a short break and then we'll come back and Mr. McGinley have some follow-ups and then if you have some follow-up. So let's go off the record.

    (Recess taken.)

EXAMINATION

    BY MR. BABINGTON:

    Q. I just have one quick question and I'm going to hand it off to Mr. McGinley.

    Before we went on the break, you were talking about events in December of 2008 and January, 2009. You were talking about your experiences on the longwall.

    A. Yes.

    Q. Okay. Was that at UBB?

    A. No, that was at Logan's Fork.

    Q. Okay. Now did you follow the longwall when it went from UBB to Logan's Fork and back to UBB?

    A. I followed it from UBB to Logan's Fork and
then I left the longwall in January of '09 to go back to UBB to run a continuous miner. Longwall didn't come until, I think, July of '09.

Q. Okay. Did you start working back on the longwall when it came back to UBB?

A. No, I didn't.

MR. BABINGTON: Okay. Pat?

EXAMINATION

BY MR. MCGINLEY:

Q. You were asked some questions about the sprays, water sprays, on the longwall on the shields, especially with regard to the longwall. For the record, where are the sprays located?

A. Those would be sprays on the top of the shield and out at the end of it.

Q. Okay.

A. Spraying toward the face.

Q. And what's the reason for having those water sprays?

A. I feel like the ones on the top would be to keep the dust down from the top of the shield, and then same thing on the end, spraying toward the face, just aid in keeping the dust down.
Q. The sprays on the sheer, they're to keep the dust down. Is there another reason? Does it have anything to do with cooling?

A. Yes, they got cooling motors. Water circulates through the motors and keeps them cool.

Q. Is the source of the water in the sprays and the source of the cooling water the same?

A. Yes, to my knowledge, it is.

Q. Do you know what happens when there's not enough cooling water to cool the equipment?

A. It will burn motors up.

Q. Have you ever seen that happen?

A. I believe I have a couple of times in my mining career.

Q. Do you have any sense of how many, you know, how much the water sprays would be reduced in order to burn up the motor?

A. No, I'm not really sure if the water would be low, I don't know how low it would have to get to burn the motor up. I know if they run them dry, it doesn't take very long.

Q. When you were working on the longwall, you worked on the longwall at UBB and then you left and went to Logan's Fork, is that right?
A. That's correct.

Q. Then you came back to UBB in what, the spring of, winter of 2009, as a continuous miner operator?

A. Yes.

Q. In your experience in working at the longwall, whose responsibility was it to keep the sprays operational, unclog them, replace them if they were broken?

A. That would normally fall on the sheer operator for the most part, and the owl shift. When they come in there, they should check the sheer out. If there's anything wrong with it, they should fix it, including the water sprays.

Q. Now on the owl shift, the sheer doesn't operate, is that right, at UBB?

A. Normally. Sometimes they wanted you to run it, wanted the owl shift to run it.

Q. Does it take actually operating the sheer to be able to tell if the sprays are working properly?

A. You wouldn't really have to operate it. You could just turn the water on and start the sheer and see if there are any out.
Q. So who would do that on the owl shift?
A. I'm thinking the maintenance, they had the maintenance crew that went over the sheer.

Q. Now we had somebody testify that the S-1 manual required checking things like the water sprays on the sheer on every shift. Do you have any knowledge about that?
A. I personally didn't know that that was in the S-1, but if you're asking did we check them every shift, I don't remember actually seeing them checked.

Q. It wasn't your job?
A. No, not when I wasn't the sheer operator.

Q. Okay. When you were the sheer operator, would you check, or you would know by just observing when you started up?
A. That's correct.

Q. How often did you see someone on the crew hook up a pressure gauge to the sheer to check the water pressure? Was that ever done?
A. Yes, I've seen it done on some occasions, check the pressure. It wasn't done a lot but it was done.

Q. Who would do that?
A. That would be one of the maintenance men.

Q. Would that be on the owl shift or in each shift?

A. I've seen it done on our shift but the owl shift probably should be the ones to check it the most often. I've seen it done on production shift a few times.

Q. You mean half dozen times over 15 years?

A. That's probably close.

Q. Okay. Very infrequently?

A. Right.

Q. What's involved with the pressure gauge on the sheer to check the water? Does it take very long?

A. I believe they would take a spray out and put the pressure gauge in, then you turn the water on to see what pressure reading you would get.

Q. Then how long would that take?

A. It would vary and depend.

Q. I mean just roughly?

A. Normally not very long. Five, ten minutes.

Q. What about replacing sprays if they were either broken or too clogged and just wouldn't
function, how long would that take?

A. If you had the proper tools, it wouldn't take long to replace a couple sprays.

Q. Give me a ballpark estimate.

A. One spray, you should be able to change it out in a minute or less if the keeper will come out okay.

Q. What do you mean by that, the keeper? Just people will be reading this record that won't understand those terms.

A. Okay, you put the spray in, you have a little horseshoe keeper that you pound in to hold it in place.

MR. BABINGTON: Is another word for the keeper the staple?

A. Right, staple.

Q. But if you noticed or if it was noticed that there were five, six, seven, eight sprays that weren't functioning properly on the sheer, you wouldn't stop production, you would wait until the end of the shift, is that what you said before? Was there a rule or expectation?

A. I think I was referring to like two or three. If there were seven or eight out, you're
not going to have any water spray, it's just going
to be running, so if there were seven or eight out,
I would like to think a man would fix that.

Q. Why would that be?
A. To keep the dust down and get his water
right on that drum.

Q. In your testimony back in June, last year
now, you mentioned at least one time when the
oxygen level was 18.8 or something, I think on head
gate 22. Do you recall that? You said it was
really hot.

A. I recall saying that about one of the
longwall panels.

Q. Okay.

A. And yes, it was miserable hot, and yes,
the oxygen seems like it was down to under 19
percent.

Q. Now you carried a spotter the last few
years you worked at UBB?

A. I didn't carry one until I become miner
operator.

Q. Okay.

A. I didn't carry it on the longwall face
when I was a jack setter. Sheer operators carry
it.

Q. So how would you know what the oxygen was if you didn't have a spotter?

A. The boss told us.

Q. And would that have been sometime in the last couple of years, last year?

A. No, it was in the early days of UBB longwall. It was a long time ago, probably in '90s, it may have been '98. Yes, it may have been '98. I ain't a hundred percent on that.

Q. So when you went to UBB and worked as a miner operator, you had a spotter with you, right?

A. Yes.

Q. How often did you check the spotter?

A. Check it?

Q. Just take a look at it.

A. Daily.

Q. Did you only look at it right there where you were working on the mine or did you look at it sometimes when you were going in or going in different places? On the mantrip going in, did you have any occasion to look at it?

A. I carried it in my bucket and I would get it out of my bucket. I'd look at it, like I say,
on a daily basis, and plus when I take my test, looking at it.

Q. Sure. Was there ever a variation reading other than 20.8? Was it always 20.8 or did you have some variations?
A. I didn't --

Q. The oxygen, on the oxygen.
A. Oh, well, the spotter I had, it was just methane, just a methane spotter.

Q. What kind of spotter was it?
A. It just had the square readout for methane. I didn't have one like the boss carried.

Q. It wasn't a multi gas?
A. No.

Q. Did you ever go up to the Bandytown fan?
A. No, I never did.

Q. We had a number witnesses say that Massey's S-1 program required 20,000 cfm at the last open break. Have you ever heard that before?
A. No, I hadn't.

Q. We were also told that if the air was less than 20,000, it was required to shut the section down.
A. I would have liked to have known that.
Q. Were there ever times, to your knowledge, when there was less than 20,000 cfm at the last open break where you were working?

A. On the head gate 22. I’m estimating the majority of the time it was less than 20,000.

Q. Did work stop when it was less than 20,000 to fix the air to get it up to 20,000?

A. No.

Q. Do you think the shift foreman knew about that 20,000 rule?

A. I really don’t know if the shift foreman knew that was in their S-1 policy or not.

Q. Were you ever in the mine at UBB when there was a Massey safety audit? We understand the auditors were the Massey mine rescue teams. They doubled.

A. It seems like I was in the mine once or twice when they was having an audit but it’s been a long time ago. I don’t recall any personally myself in recent time.

Q. Did any safety auditors ever, Massey safety auditors ever come up to gate 22 when you were working there?

A. Not during my shift. I don’t remember
Q. How about when you worked over at Logan's Fork, any safety auditors come on your shift?

A. I worked the owl shift down there and I never saw any.

Q. Did you know anything about Massey safety auditors?

A. I had heard about them and --

Q. Did you hear about it from management or just men talking?

A. Both.

Q. What did management say about safety auditors?

A. They would just say that maybe they were going to be here a certain day or something like that.

Q. So that when the safety auditors were going to show up, people working in the mine had prior knowledge, is that right?

A. Yes, that's pretty good assumption.

Q. Sort of like the same thing that happened with regard to state and federal inspectors?

A. Yes.

Q. Did you have responsibility for rock
dusting?

A. Did I have a responsibility?

Q. Yes. Did you ever have?

A. I would maybe help the scoop man sometimes rock dust, you know, if I wasn't loading coal in my miner. I wouldn't actually consider it my responsibility, but when you look at it another way, it's everyone's responsibility.

Q. Right. So how did Massey indicate to you and other people that worked in the mine how to identify rock dusting that wasn't in compliance with the non-combustibility standards of MSHA?

A. I don't recall anything of that nature. Just, you know, we would rock dust, just make everything white and consider it good.

Q. But you couldn't tell whether it met MSHA standards?

A. No, I wouldn't have a clue.

Q. Does the name Drexel Short ring a bell, going back to '97?

A. Yes, it does.

Q. Did he have anything to do with that methane ignition, do you remember?

A. I don't recall seeing him around. I don't
know if he ever came to the mine site or not. I know he was high up in the Massey hierarchy.

Q. Does the law firm of Smith, Heenan & Althen ring a bell to you, Smith, Heenan?
A. No.

Q. Does the name Donna Kelly ring a bell?
A. No, sir.

Q. You don't know whether she was your lawyer or not?
A. No.

Q. I mean the lawyer that Mr. Hendricks told you was going to represent you.
A. Even if she was sitting right here, I wouldn't recognize her today.

Q. Sure.
A. And her name, I wouldn't --

Q. You only saw her for half an hour?
A. Just a few minutes, yes, half hour.

Q. Was Wendell Wills the mine foreman at the time of that ignition?
A. Wendell was there at the time. I'm not sure if he had became the mine foreman yet or not, to tell you the truth, but I remember when he started there, he was just an owl shift mine
foreman, or something like that, so I don't know if
at that time he had done moved up or not.

Q. Does the name James Kinder sound familiar?
A. Jim Kinder, yes.

Q. Was he working back in '97 at UBB?
A. I can't remember if he was there at that
time or not. He was, I think, a chief maintenance.

Q. On the shield sprays, whose job was it to
make sure the shield sprays were working properly?
A. That one, I don't know. I don't know if
it was a maintenance man responsibility or just
whoever. They weren't worked on much.

Q. Do you know when you were working at UBB,
a fellow by the name of Thomas Harrah?
A. Thomas Harrah?

A. Yes, I think that's the boy we called
Pickles.

Q. Do you know whether he was ever a foreman
at UBB?
A. Yes, he was an acting foreman.

Q. You know that from recent knowledge in the
last month or so?
A. Yes.
Q. Does that surprise you?

A. Yes, it did surprise me. Of course, we all know he never had his papers, and I never had a clue he never had his papers. Actually he was wanting me -- when I told him I was going to get off the longwall and get a continuous miner job, he was wanting me to come to his section, and I didn't, I went to Richard Hutchins' section, but yes, it surprised me when all that came out.

Q. You mentioned Jack Roles had been at UBB, was the longwall foreman back in '97 when the ignition occurred, and most recently, he was longwall coordinator at UBB, right?

A. That's correct.

Q. Do you know any other people by the name of Roles that worked at UBB?

A. There was a --

Q. Foreman maybe.

A. Well, this one Roles that I knew, and I can't remember his first name, I think he was in maintenance, but I can't remember any other Roles that were foremen.

Q. Do you know Rick Hodge or Hodges?

A. That name is familiar, I just can't bring
him up.

Q. Would he have been somebody in management?
A. I can't remember.

Q. So Thomas Harrah was Pickles?
A. Yes, that was Pickles.

Q. I guess he's in a Pickle. That's it.

MR. BABINGTON: Let's actually take a five minute break. Actually do you want to do your follow-up?

MR. HUDSON: I just have three things.

MR. BABINGTON: Go ahead and do your follow-up, then we'll take a break.

EXAMINATION

BY MR. HUDSON:

Q. At one point, Stanley, you said that Pete Hendricks had provided a lawyer which you felt like it was for them instead of you, but during that, you said you did not know about the stopping had been out and you said, and correct me if I'm wrong, but you said if you did know, you probably wouldn't have told them.

Was that out of fear that it would get back to them? You said you didn't know the
stopping was out when you during that interview
with that lawyer. Can you clarify that a little
bit?

A. Yes, it was overcast.

Q. Overcast, okay.

A. Yes, it was out of fear. None of us would
say anything if we did know anything, because like
I stated before, that was just his eyes and ears in
there and he had already made it pretty plain to
everybody that he fired people on a regular basis,
and so yes, I had a fear that whatever you said, he
would find it out, and it would take a week or a
month but you knew you would be looking for work,
and at that particular time, there wasn't any work
in the mines anywhere else.

Q. Just two more quick questions.

One is, going back to your first
testimony, did you ever see the bottom hoove or did
you ever take a miner and cut the bottom out if you
saw it hooving?

A. Yes, we had what we referred to as
hooveage, as a bottom hoove up and if it would
hoove too much and we still had the miner close
evenough, we would go back and scrap it out. I done
that on several occasions.

Q. Was that during the year of 2010, did you do it any during that year?

A. It would have been '09 and probably early 2010, yes.

Q. Okay.

A. We would have it hoove up on head gate 22, and, in fact, I probably cleaned some up just the last set of days we worked before April the 5th, I had to go scrap a brake out.

Q. Okay.

A. At an intersection where it hooved.

Q. And just one more point to clarify that wasn't perfectly clear in your first testimony. Would you explain a little bit more who Jake Doss is and what he told you he did? I mean, he told you firsthand knowledge what he did.

A. Jacob Doss, we called him Tattoo, he stopped by the house, I can't remember exactly the month, it was early June of '10, and he and I talked and I got to mentioning that illegal air change that we had made. He was on our section or crew at that time, and he volunteered the information to me that that wasn't the only one,
that he got off our section and was working
out-by. He said they made illegal air changes
while our crew was up on the section working, and
plus he also told me that he would be stationed at
doors, I don't know which sets, to open or close
whatever was needed to direct air to a section that
maybe an inspector was at and then get a call when
the inspectors were leaving, fix the doors back to
where there wasn't enough air, so yes, he
volunteered a lot of information to me that I
didn't know.

Q. Do you feel like that was out of guilt
that he stopped and told you that or why would he
stop and tell you that?

A. Yes, he felt a little guilty. I said,
"You know what, tattoo? You need to tell somebody
this," and he acted like he was scared to, but I
said, "Buddy, this is valuable information, you
know. We got 29 buddies that were killed and you
don't need to protect nobody." And so, you know,
when he left, he had a little different attitude.
He seemed like he was willing to talk.

Q. He did talk to me on the phone, but
obviously that's not the state or federal.
A. Yes.

MR. BABINGTON: The name was Jack Doss?

MR. MCGINLEY: Doss.

A. Jacob Doss.

MR. BABINGTON: Doss, D-O-S-S?

A. Yes.

MR. BABINGTON: Thank you.

EXAMINATION

BY MR. TUCKER:

Q. Do you know where he's working at now?

A. Not exactly, Billy. The last time I talked to him, he told me they had just been bouncing him around from one mine to another. Slip Ridge was one he mentioned. I don't know if he's been to Round Bottom, and I'm not a hundred percent where he's at now. I have his phone number at home. I don't know if you all have access to it or not, or are able to get it.

Q. If you can give it to us, it would be appreciated. Was he working at UBB at the time of the explosion?

A. Yes. Yes, he was.

MR. MCGINLEY: Where does he
live?

A. He lives around the Ashford area now. He
did live at (b)(7)(C) but he told me he had moved over
around, I'm pretty sure he said around the (b)(7)(C)
area. It's in (b)(7)(C) of course.

MR. BABINGTON: So he's still
working for Massey?

A. Yes. The last I talked to him, he was.

MR. BABINGTON: When was the last
time you talked to him?

A. Probably just a couple months ago, if
that.

MR. HUDSON: That's all I had.

MR. BABINGTON: Let's take a two
minute break.

MR. MCGINLEY: Can I ask just one
follow-up?

MR. BABINGTON: Sure, Pat.

EXAMINATION

BY MR. MCGINLEY:

Q. With regard to the lawyer that Massey
provided to you back in '97, you said you would
have been scared and most folks there would have
been scared to talk in front of her.
If you had had an opportunity to talk confidentially with federal or state inspectors about any safety problems at Massey, would you have any problem doing that?

A. No, I wouldn't have had a problem at all.

Q. It was just the fact that there was a lawyer present that you knew was being paid by Massey and was the management's eyes and ears?

A. That's correct.

Q. And you were afraid that you would get fired?

A. Absolutely.

Q. But at that time, you really didn't have anything to say to them about violations; the information about the overcast came to you later?

A. That's true. I wasn't aware of that overcast being torn out at that time.

MR. MCGINLEY: Okay. Thanks.

MR. BABINGTON: Let's take a two minute break off the record.

(Recess taken.)

MR. BABINGTON: Bill, any more questions from you?

MR. TUCKER: No, sir.
MR. BABINGTON:  Pat?

MR. MCGINLEY:  No.

MR. BABINGTON:  Mr. Stewart, thank you so much for coming in and talking with us again.

We're 2 1/2 hours this time so we only have 5 1/2 hours to go so we can let you go.

You know, you did some follow-up from your first testimony but I want to give you another opportunity to make any personal statement you'd like to make.

MR. STEWART:  Well, I would like to state that my opinion of what caused that or what I feel like caused that explosion, and that was negligence on Massey and the management at Upper Big Branch.

The ventilation in that whole area of the mine was lacking, and rather than fix it properly, install new fans at the Ellis portal, or whatever it took, they just kept manipulating the air, trying to get by and keep us loading coal
without actually addressing the ventilation problem.

It's a known fact that the mine had multiple ventilation problems with the fact that they were shut down so many times the year prior to April 5th due to ventilation, so I feel very strongly that that would have been prevented had they took the measures to make sure that the three sections that were operating in that end of the mine were ventilated properly, and that's the way I feel about it.

MR. BABINGTON: Well, thank you, Mr. Stewart. You have Norman Page's contact information. We can provide that again if you like. You have Bill Tucker's contact information.

If you have any other information that you would like to provide to us, please feel free to.

MR. STEWART: Okay.

MR. BABINGTON: And thank you so much for coming in.

MR. STEWART: Okay.
MR. BABINGTON: Let's go off the record.

(Interview concluded at 4:31 p.m.)
STATE OF WEST VIRGINIA, To-wit:

I, Lynne Rodriguez, a Notary Public and Registered Professional Reporter within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the deposition of was duly taken by me and before me at the time and place specified in the caption hereof.

I do further certify that said proceedings were correctly taken by me in stenotype notes, that the same were accurately transcribed out in full and true record of the testimony given by said witness.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which these proceedings were had, and further I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

My commission expires the 2nd day of June, 2020.

Given under my hand and seal this 7th day of January, 2011.

Lynne M. Rodriguez, RPR
Notary Public