



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Virgil Bowman

Date: June 10, 2010

Case:

Printed On: June 15, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
VIRGIL BOWMAN

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, June 10, 2010, beginning at 10:00 a.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MATTHEW N. BABINGTON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209

THOMAS MORLEY
Mine Safety and Health Administration
765 Technology Drive
Triadelphia, WV 26059

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

A P P E A R A N C E S (cont.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JOHN O'BRIEN
Safety Inspector
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

J. DAVITT MCATEER, ESQUIRE
West Virginia Independent Investigation
132 West German Street
P.O. Box 1050
Shepherdstown, WV 25443

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	6 - 11
5	OPENING STATEMENT	
6	By Mr. Farley	11
7	DISCUSSION AMONG PARTIES	11 - 13
8	WITNESS: VIRGIL BOWMAN	
9	EXAMINATION	
10	By Mr. Morley	13 - 57
11	EXAMINATION	
12	By Mr. Farley	58 - 81
13	EXAMINATION	
14	By Attorney McAteer	81 - 90
15	RE-EXAMINATION	
16	By Mr. Morley	90 - 95
17	RE-EXAMINATION	
18	By Mr. Farley	95
19	RE-EXAMINATION	
20	By Attorney McAteer	96 - 97
21	CLOSING STATEMENT	
22	By Attorney Babington	98 - 99
23	STATEMENT	
24	By Mr. Bowman	99
25	CERTIFICATE	100

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Bandytown fan

map

98*

*exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is June 10th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Tom Morley, an accident investigator with the Mine Safety and Health Administration, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

ATTORNEY MCATEER:

I'm Davitt McAteer, with the Governor's independent investigation.

MR. FARLEY:

I'm Terry Farley, with the West Virginia Office of Miners' Health, Safety and Training.

MR. O'BRIEN:

John O'Brien, with the West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today.

Tom Morley will be conducting initial questioning.

All members of the Mine Safety and Health

1 Accident Investigation Team and all members of the
2 State of West Virginia Accident Investigation Team
3 participating in the investigation of the Upper Big
4 Branch Mine explosion shall keep confidential all
5 information that is gathered from each witness who
6 voluntarily provides a statement until the witness
7 statements are officially released. MSHA and the
8 State of West Virginia shall keep this information
9 confidential so that other ongoing enforcement
10 activities are not prejudiced or jeopardized by a
11 premature release of information.

12 This confidentiality requirement shall
13 not preclude investigation team members from sharing
14 information with each other or with other law
15 enforcement officials. Your participation in this
16 interview constitutes your agreement to keep this
17 information confidential.

18 Government investigators and specialists
19 have been assigned to investigate the conditions,
20 events and circumstances surrounding the fatalities
21 that occurred at the Upper Big Branch Mine-South on
22 April 5th, 2010. The investigation is being conducted
23 by MSHA under Section 103(a) of the Federal Mine
24 Safety and Health Act and the West Virginia Office of
25 Miners' Health, Safety and Training. We appreciate

1 your assistance in this investigation.

2 You may have your personal attorney

3 present during the taking of this statement or another

4 personal representative, if MSHA has permitted it.

5 You may consult with your attorney or representative

6 at any time. Your statement is completely voluntary.

7 You may refuse to answer any question and you may

8 terminate your interview at any time or request a

9 break at any time. Since this is not an adversarial

10 proceeding, formal Cross Examination will not be

11 permitted; however, you may ask clarifying questions

12 as appropriate.

13 For the record, do you have a personal

14 representative with you today?

15 MR. BOWMAN:

16 No.

17 ATTORNEY BABINGTON:

18 All right. Have you been advised of your

19 right to have a legal representative with you?

20 MR. BOWMAN:

21 Yes.

22 ATTORNEY BABINGTON:

23 Okay. With that knowledge, do you still

24 agree to participate in this interview?

25 MR. BOWMAN:

1 Yes.

2 ATTORNEY BABINGTON:

3 Thank you. Your identity and the content
4 of this conversation will be made public at the
5 conclusion of the interview process and may be
6 included in the public report of the accident unless
7 you request your identity remain confidential or that
8 your information would otherwise jeopardize a
9 potential criminal investigation. If you request us
10 to keep your identity confidential, we will do so to
11 the extent permitted by law. That means that if a
12 Judge orders us to reveal your name or if another law
13 requires us to reveal your name or if we need to
14 reveal your name for other law enforcement purposes,
15 we may do so. Also, there may be a need to use the
16 information you provide to us or other information we
17 may ask you to provide in the future in other
18 investigations and, too, in hearings about the
19 explosion. Do you understand?

20 MR. BOWMAN:

21 Yes.

22 ATTORNEY BABINGTON:

23 Do you have any questions?

24 MR. BOWMAN:

25 No.

1 ATTORNEY BABINGTON:

2 After the investigation is complete, MSHA
3 will issue a public report detailing the nature and
4 causes of the fatalities in the hope that greater
5 awareness about the causes of accidents can reduce
6 their occurrence in the future. Information obtained
7 through witness interviews is frequently included in
8 these reports. Since we will be interviewing other
9 individuals, we request that you not discuss your
10 testimony with any person aside from a personal
11 representative.

12 A court reporter will record your
13 interview. Please speak loudly and clearly. If you
14 do not understand a question asked, please ask the
15 interviewer to rephrase it. Please answer each
16 question as fully as you can, including any
17 information you may have learned from someone else.

18 I'd like to thank you in advance for your
19 cooperation here. We appreciate your assistance in
20 this investigation. Your cooperation is critical in
21 making the nation's mines safer.

22 After we've finished asking questions,
23 you'll have an opportunity to make a statement and
24 provide us with any other information that you believe
25 to be important. If at any time after the interview

1 you recall any additional information that you believe
2 might be useful, please contact the team or Norman
3 Page at the contact information provided to you in the
4 letter that I gave you.

5 Finally, any statements given by miner
6 witnesses to MSHA are considered to be an exercise of
7 statutory rights and protected activity under Section
8 105(c) of the Mine Act. If you believe any discharge,
9 discrimination or other adverse action is taken
10 against you as a result of your cooperation with this
11 investigation, you're encouraged to immediately
12 contact MSHA and file a complaint under Section 105(c)
13 of the Act.

14 MR. FARLEY:

15 Virgil, on behalf of the Office of
16 Miners' Health, Safety and Training, I also want to
17 advise you that West Virginia Coal Mine Health and
18 Safety regulations protect miners against
19 discrimination. And I'm going to provide you with
20 some contact --- contact information in the event that
21 you should experience such treatment.

22 MR. BOWMAN:

23 Thank you. I have one question. Will I
24 get a copy of this interview? It's being recorded.

25 ATTORNEY BABINGTON:

1 Yes. Yeah, we can take this as your
2 request for your transcript. They won't be released
3 for quite a while.

4 MR. BOWMAN:

5 Okay.

6 ATTORNEY BABINGTON:

7 But when they become available for
8 release, yeah, you can request a copy of your
9 transcript at that time.

10 ATTORNEY MCATEER:

11 You're requesting that now?

12 MR. BOWMAN:

13 Yeah.

14 ATTORNEY BABINGTON:

15 Okay. Then we can ---.

16 ATTORNEY MCATEER:

17 Why don't we give his address where you
18 want it sent and we'll put it in the record?

19 MR. BOWMAN:

20 703 Camp Creek Road, Julian, West
21 Virginia, 25529.

22 ATTORNEY BABINGTON:

23 Okay. And, yeah, as Davitt said, we'll
24 take this as your request for your transcript.

25 -----

1 VIRGIL BOWMAN, HAVING FIRST BEEN DULY SWORN, TESTIFIED
2 AS FOLLOWS:

3 -----

4 MR. MORLEY:

5 Thank you.

6 EXAMINATION

7 BY MR. MORLEY:

8 Q. Please state your full name and spell your last
9 name.

10 A. Virgil Bowman, B-O-W-M-A-N.

11 Q. And please state your address and telephone number
12 for the record.

13 A. (b) (7)(C)

14 (b) (7)(C)

15 Q. Are you appearing here today voluntarily?

16 A. Yes.

17 Q. How many years of --- total years of mining
18 experience do you have?

19 A. Thirty-six (36).

20 Q. Can you give me a brief description of your
21 employment history?

22 A. I started for Cedar Coal Company in 1974. And I
23 thought I'd work for there forever because it was a
24 power company owned it.

25 Q. Uh-huh (yes).

1 A. But things didn't work out, so I worked there
2 until '77. Then I went to Cannelton Industries. It
3 was owned by Aracoma Steel. So then I worked there
4 until '82. And then I left there in '82 and that was
5 some years you couldn't find --- really find a job in
6 the coal mine. So I worked at a machine shop my
7 father-in-law owned until '85.

8 And then I went to work at a mine in Buckhannon,
9 West Virginia. And then in '86, I came back down to
10 Boone County and got a job down here with Ryan
11 Robinson. And then in '88 I got a job with Rick
12 Abraham. And then I worked with them until '95, when
13 I started with Massey, which I'm still working with.

14 Q. What kind of jobs did you perform during that ---?

15 A. I've always been electrician. I was on the first
16 electrician trainee program in West Virginia when I
17 worked at Cedar Coal.

18 Q. Do you have any mining certifications?

19 A. Yes. Certified electrician, certified mine
20 foreman, certified shop foreman, EMT, and a trainer,
21 MSHA trainer.

22 Q. Okay. Where are you presently employed?

23 A. Upper Big Branch, for Performance Coal.

24 Q. And when did you start up there?

25 A. September of 1995.

1 Q. And what is your present job title?

2 A. I'm classified as a underground maintenance
3 foreman.

4 Q. Okay.

5 A. I'll give you a job description.

6 Q. Yes.

7 A. Okay. Job description is that me, with another
8 man named Tom Sheets, ---

9 Q. Okay.

10 A. --- we're in charge of maintaining the AMS system
11 and the belts, ---

12 Q. Okay.

13 A. --- as far as electrical part is concerned.

14 Q. Can you describe the --- in general, the
15 management structure at Upper Big Branch from the top
16 down?

17 A. Okay. Chris Blanchard is president.

18 Q. Okay.

19 A. As far as I know.

20 Q. Okay. Let me say as of April 5th.

21 A. April 5th? Okay. Everett Hager was the
22 superintendent.

23 Q. Yes.

24 A. And they had I think two block mine foremen, Rick
25 Foster --- maybe three, Rick Foster, Terry Moore and

1 Gary May.

2 Q. What kind of mine foremen?

3 A. Block foremen.

4 Q. What's that mean?

5 A. That means that here, how the structure laid out,
6 Everett Hager, he was over from Ellis Portal up to
7 Headgate 22. Okay. Gary May, he was on Upper Big
8 Branch side. He was over from the south side of UBB
9 and UBB Portal up until Ellis Switch. I'm sure y'all
10 are familiar with all these locations since y'all ---

11 Q. Well ---.

12 A. --- looked at the map so many times. Okay. Then
13 Terry Moore, I believe he was the mine foreman on
14 Ellis side. And Rick Foster was the mine foreman on
15 UBB side.

16 Q. Okay. And was that your job title on April 5th?

17 A. Yes.

18 Q. And how long have you had that title?

19 A. Probably since I been there, I'd say.

20 Q. Okay. You said you were in charge of the --- your
21 duties were the AMS system and maintaining the belts;
22 is that correct?

23 A. Yeah, electrically.

24 Q. Just the electrical part of it?

25 A. Yes.

1 Q. Okay. Who's your immediate supervisor?

2 A. Paul Thompson.

3 Q. Okay. And who did Paul work for?

4 A. He was --- he is the maintenance coordinator for
5 Performance Coal.

6 Q. Okay. Would he report directly to --- to who? Do
7 you know?

8 A. Everybody.

9 Q. You were a foreman. Who'd you supervise?

10 A. We had kind of a unique structure there. I know
11 y'all are familiar with the way Massey does things.
12 Most of the electricians were salary, and then they
13 had a few hired electricians.

14 Q. Okay.

15 A. And so then really I'm a salary, non-exempt
16 electrician.

17 Q. Okay. So do you have any people that you directly
18 supervise?

19 A. No.

20 Q. Okay. So do you set your own work assignments or
21 does somebody do that for you or ---?

22 A. Yeah, we set our time sheets and that. We set our
23 own work assignments. Since we are responsible for
24 making sure the --- all the belts run and everything,
25 they leave it up to us to schedule what needs to be

1 done and everything as far as an electrician concern.
2 But from time to time, like with the new longwall
3 setup or something like that, they'll say, we need to
4 have this running as far as wiring it up and
5 everything by a certain date.

6 Q. Okay. So as far as like the AMS system and the
7 electrical components of the belt system, that's the
8 only thing you work on, if I understand that?

9 A. Yeah.

10 Q. Pretty much? And they basically just keep it
11 running and you guys decide what you need to do and
12 when?

13 A. Yes.

14 Q. Is that a fair characterization?

15 A. Unless there's something like a new section
16 starting or something that needs the belt head wired
17 up or a time period set for the longwall to start up.

18 Q. Okay.

19 A. And then we got to adjust our schedules then to
20 make sure it's done in time.

21 Q. Do you order all your own materials for ---

22 A. Yes.

23 Q. --- what you need? Do you have the authority to
24 do that or do you have to get approval from someone?

25 A. We've gotta requisition. It has to be approved

1 then by the Purchasing Department.

2 Q. Okay. If you detect a safety hazard, can you
3 independently decide to correct them, to fix them
4 yourself?

5 A. Yes, I can.

6 Q. And can you independently stop work or shut down
7 equipment, if there's a hazardous condition?

8 A. Yes.

9 Q. Okay. So do you consider your position a
10 management position?

11 A. Yes.

12 Q. Okay. What was your work schedule for the week of
13 the accident, on the days preceding?

14 A. My work schedule is from 6:00 a.m. in the morning
15 until 4:00 p.m. in the afternoon. But on April the
16 5th, as I mentioned earlier, the deadline was getting
17 close for the new longwall and everything. And so the
18 Headgate 22 belt was getting too long for the belt
19 drive it was laying on at the time, ---

20 Q. Okay.

21 A. --- so we were setting up a new Mother Drive. Are
22 y'all familiar with these terms, Mother Drive and ---?

23 Q. Yes.

24 A. We were setting up a new Mother Drive belt head in
25 line with Headgate 22 section's section belt.

1 Q. Okay. Can you show me where that was planned to
2 be?

3 A. Headgate 22, that's (indicating) their beltline.

4 Q. Uh-huh (yes).

5 A. So it would be about here.

6 ATTORNEY BABINGTON:

7 Okay. Would you mind marking that with a
8 blue highlighter, please?

9 A. Just draw a circle around it?

10 ATTORNEY BABINGTON:

11 Circle or an X or something like that.

12 WITNESS COMPLIES

13 A. Okay.

14 BY MR. MORLEY:

15 Q. If you don't mind, then you draw a little line
16 from that and then say, here's what it is, because
17 we'll forget.

18 A. Okay.

19 Q. Makes it easier later. It'll be new --- new
20 Mother Drive?

21 A. I'll just put Headgate 22 dumping point.

22 Q. Okay.

23 A. Or ---.

24 WITNESS COMPLIES

25 A. So what that was going to do, it was going to ---

1 where the other belt head was, belt drive was up here
2 (indicating) ---

3 BY MR. MORLEY:

4 Q. Okay.

5 A. --- we were going to set this. And then the belt
6 would be running through there, so this would be
7 driving the belt instead of that other belt drive.

8 Q. So currently there was a belt drive. And why
9 don't you --- why don't you mark the location in this
10 orange where the current belt drive was.

11 A. Uh-huh (yes). Let me find --- but this
12 (indicating) is the crossover belt; right?

13 ATTORNEY BABINGTON:

14 Right; that ---.

15 MR. MORLEY:

16 I believe so.

17 ATTORNEY BABINGTON:

18 Right.

19 A. And the current head drive was approximately right
20 here (indicating).

21 ATTORNEY BABINGTON:

22 Do you mind labeling that, as well,
23 please?

24 WITNESS COMPLIES

25 ATTORNEY BABINGTON:

1 For the record, witness labeled one area
2 Headgate 22 dump point in a blue highlighter. And
3 that appears to be at the 130 Break on 7 North belt,
4 located at about the intersection of 8 North headgate
5 22 and that 7 North belt ---?

6 A. Yes, and that's the new ---.

7 ATTORNEY BABINGTON:

8 That was the new dump point?

9 A. Yes.

10 ATTORNEY BABINGTON:

11 Okay. And then you noted Headgate 22
12 dump, with a circle with that same blue highlighter,
13 essentially right at the intersection of Headgate 22
14 and the crossover.

15 A. Correction, that's supposed to be drive.

16 ATTORNEY BABINGTON:

17 Oh, that's drive. Okay. Do you
18 mind ---?

19 MR. MORLEY:

20 It says drive.

21 ATTORNEY BABINGTON:

22 It says drive? Oh, okay. Sorry. My
23 bad. Okay. So you labeled that Headgate 22 drive,
24 and that's at the Number One entry, the intersection
25 between Headgate 22 and the crossover entries down to

1 Headgate 1?

2 A. Yes, approximately right there (indicating).

3 ATTORNEY BABINGTON:

4 Right.

5 BY MR. MORLEY:

6 Q. So this existing drive, this was the drive from
7 this remote head here that dumped at ---

8 A. Yes.

9 Q. --- Seven North?

10 A. Yes.

11 Q. Okay. And then you were going to replace that
12 setup with the larger drive intended for the longwall?

13 A. Yes.

14 Q. Okay. And that would be on the 81 Crosscut from
15 the dumping point?

16 A. Yes.

17 Q. Okay.

18 A. So to continue, that's what we were doing that
19 day. And also part of our job is the new fire-
20 suppression systems. I know you're familiar with
21 them, the Pillar fire-suppression systems?

22 Q. No.

23 OFF RECORD DISCUSSION

24 A. Pillar Innovations fire suppression system.

25 BY MR. MORLEY:

1 Q. Now, if you --- tell me about that.

2 A. Okay. You know, before they had the old dilute
3 systems.

4 Q. Yes.

5 A. And then they had the sprinkler systems. So then
6 after the Aracoma fire and they saw all the damage,
7 you know, a mine car did to the rubber hose and stuff
8 like that, the industry had to come with a better
9 system. So this is two-inch galvanized pipe. It's
10 all rigid pipe. So I think after January the 1st of
11 this year, everything has to be rigid pipe.

12 Q. Okay.

13 A. And so then Tom and I, that's what we do also,
14 because it's kind of a tedious to put up. And if it's
15 not put up right, it's not protected.

16 Q. Okay. And you were installing that at this belt
17 drive. And were you in the process of installing that
18 at all the belt drives or ---?

19 A. Well, all the belt, the belt drives had.

20 Q. Okay.

21 A. We already installed ---.

22 Q. Okay.

23 A. We installed them as we put 'em in.

24 Q. Okay.

25 A. So then that particular day, on April the 5th, Tom

1 and I were hung up on the midnight shift that night,
2 changed our schedule. We start installing that.

3 Q. Okay. So while you normally worked dayshift, I
4 think you said --- was it 6:00?

5 A. 6:00 to 4:00.

6 Q. 6:00 to 4:00. On April 5th, you did not come out
7 on dayshift?

8 A. No, we did come on dayshift April 5th. We
9 would've come out on the 6th, that night on the
10 midnight shift and started installing.

11 Q. Okay.

12 A. If it hadn't been for that, we'd have still been
13 in there when the accident happened.

14 ATTORNEY MCATEER:

15 I'm not clear yet. Could I ask a
16 clarifying question?

17 A. Yes, sir.

18 ATTORNEY MCATEER:

19 I'm missing a ---. When you said you
20 came out at midnight ---.

21 A. No, sir. We came out regular time on the 5th at
22 six o'clock.

23 ATTORNEY MCATEER:

24 So Monday the 5th?

25 A. Yes, at six o'clock.

1 ATTORNEY MCATEER:

2 6:00 a.m. in the morning?

3 A. Yes.

4 ATTORNEY MCATEER:

5 All right.

6 A. And we'd normally get off at 4:00. We normally

7 would have left that area about three o'clock.

8 ATTORNEY MCATEER:

9 Right.

10 A. But that day because we want to work midnight that

11 night we left about ten after 2:00.

12 MR. MORLEY:

13 Okay. Now, I'm understanding.

14 A. Okay.

15 ATTORNEY MCATEER:

16 And you were going to come back ---

17 A. We were going to come back that night.

18 ATTORNEY MCATEER:

19 --- at midnight?

20 A. Yes.

21 ATTORNEY MCATEER:

22 The change from the 5th to the 6th?

23 A. Yes.

24 ATTORNEY MCATEER:

25 Thank you.

1 BY MR. MORLEY

2 Q. On the off shift, so you could work on the
3 drive ---

4 A. Yes.

5 Q. --- when it was down?

6 A. Yes.

7 ATTORNEY MCATEER:

8 Thank you.

9 BY MR. MORLEY:

10 Q. Okay. Well, can you just describe what you did
11 that day, then, since you were in the mine that shift?

12 A. Okay. That day where we have so many people and
13 not enough mantrips for all the people, you know, at
14 the shift change because we got people starting at six
15 o'clock and then ---. The day shift starts at 6:00
16 and the midnight usually doesn't get outside until
17 8:00, so usually it's at 8:00 or later before we get a
18 ride, because the maintenance crew usually has one
19 ride, you know, that the midnight uses and the day
20 shift uses. And you got to have some charge in it, so
21 it was close to ten o'clock that day before we arrived
22 at the area there at Headgate 22 ---

23 Q. Okay.

24 A. --- dumping point.

25 Q. And then what did you do for the rest of that

1 shift?

2 A. Okay. Tom Sheets, he was working on --- putting
3 visible disconnect in the controller box for that
4 headgate. And I was working on having a breaker panel
5 in the power distribution box for that breaker head
6 --- for that head.

7 Q. And did that take all shift?

8 A. Yes. Like I said, we worked from --- we got there
9 about 10:00 and worked until about 2:00.

10 Q. So you spent your entire shift ---

11 A. Yes.

12 Q. --- right about in this area, ---

13 A. Yeah. At one time Tom Sheets ---.

14 Q. --- which is the new drive?

15 A. Right. He came up here (indicating) to put our
16 mantrip on charge. So he took it up there and put it
17 on charge and walked back down to this area.

18 ATTORNEY BABINGTON:

19 When you say he brought the mantrip up to
20 charge it, you're pointing to an area at about 135
21 Break?

22 A. Yes.

23 BY MR. MORLEY:

24 Q. And there's a charger there?

25 A. A charging station, there, yes.

1 Q. Is that at a separate switch or is that --- do you
2 just charge 'em on the track or ---?

3 A. It's about --- there's about a break of track inby
4 the section switch, where ---

5 Q. Uh-huh (yes).

6 A. --- motors or mantrips can pull up in there and
7 get out of the way.

8 Q. Okay. During that shift that you're working
9 there, did you notice anything unusual at all?

10 A. No, sir, it was just a day like any --- any other
11 day.

12 Q. Were they loading coal all day? Did you see coal
13 on the belt?

14 A. We wasn't close to the belt.

15 Q. Okay. So you couldn't actually observe that?

16 A. Couldn't really observe it.

17 Q. When was the last time you were at these sections,
18 Tailgate 23 and Headgate 22?

19 A. The last time would have been, on 22, would've
20 been the last calibration day for the CO monitors.

21 Q. Okay.

22 A. And it would be in the book, calibration book.

23 Q. Just --- I'm not really looking for an exact date,
24 but roughly how long ago would that have been?

25 A. It would've been probably about the middle of

1 March, I'd say.

2 Q. Okay. And what about the tailgate?

3 A. The tailgate would've been probably about that
4 same time.

5 Q. Okay.

6 A. But in the longwall, then, they had their own
7 electrician that did their calibration.

8 Q. So you didn't really deal with the longwall belt?

9 A. No. The electrical --- the head part, the belt
10 drive part, we did.

11 Q. Okay.

12 A. We did not go to the longwall.

13 Q. So when was the last time you can remember being
14 on the longwall?

15 A. The longwall face or around the stage loader or
16 anything?

17 Q. Yeah.

18 A. It was probably back in September, August or
19 September when we were getting the AMS system ready.
20 I mean, we were installing CO --- so it's probably
21 been ---.

22 Q. Quite some time.

23 A. Probably August or September.

24 Q. Okay. What were your observations of the mining
25 conditions underground, because you worked at a lot of

1 different mines? And how did this mine look, just in
2 general?

3 A. It looked better than most of them.

4 Q. Okay. What about the rock dusting?

5 A. The rock dusting was good. They had a crew that
6 mostly --- most of the time on evening shift because
7 there was less traffic and everything, but that had a
8 duster and that crew spent the whole shift dusting
9 some place in the mine every night.

10 Q. How many people were there?

11 A. Two, a two-man crew. In the area that we were in,
12 there around the Headgate 22, the dumping point, it
13 was like it was rock dusted well the day we were
14 there.

15 Q. Were there just those two guys, one rock dust crew
16 in the mine?

17 A. As far as I know.

18 Q. Okay. And the condition of the beltline
19 structure, was it --- did you have a problem with
20 rollers, accumulation, spillage, anything like that?

21 A. Well, the mines are so big, I know there'd been
22 violations where they posted violations and stuff
23 where different parts of the mine had been --- they
24 found a roller stuck or maybe accumulation up under a
25 roller somewhere. But as far as my observations, you

1 know, I was hardly on the beltline.

2 Q. When you were at these drives and stuff, would you
3 be able to tell me in which direction the air was
4 ventilated on those different beltlines?

5 A. All evening everything was going inby.

6 Q. On April 5th, everything was going inby on all of
7 these?

8 A. Yes.

9 Q. And are you fairly certain of that?

10 A. Yes.

11 Q. What about in --- and we're referring to Seven
12 North and Headgate 22 belts? What about inby this
13 (indicating) junction where it --- I guess it would be
14 Tailgate Number One belt?

15 A. Yeah.

16 Q. Is that what this was called?

17 ATTORNEY BABINGTON:

18 They refer to that as the crossover to
19 Headgate One.

20 BY MR. MORLEY:

21 Q. The crossover to Headgate One. Inby that point,
22 do you know what direction that the ---

23 A. I wasn't ---

24 Q. --- section belt ---?

25 A. I wasn't there. I wasn't there that day.

1 Q. Well, and --- the last time you were there, what
2 direction was that belt?

3 A. Air was coming down that that belt.

4 Q. Down? You mean ---?

5 A. Going outby, on that belt.

6 Q. And where did that --- that one was going outby,
7 but from Seven North until the crossover belt, it'd be
8 going inby?

9 A. I was thinking it was. And I could be mistaken.

10 Q. To the best of your memory, could you put arrows
11 for the belt direction, air direction on the belt?
12 And if you're unsure, just tell us that.

13 A. I'm not really sure. Like I said, it's been ---
14 it's been two months.

15 Q. Yeah. Okay. As far as your experience, was the
16 ventilation adequate at all times?

17 A. It had been adequate. Well, I know there've been
18 some violations wrote. There was two incidences that
19 I can think of is --- it would've probably been around
20 the first of September, you know. We all went in the
21 mine and we were proceeding. That's when they came in
22 and started up that --- that longwall. And we were
23 proceeding, you know, do checks on it to see if it was
24 ready to start up. And then evidently they had not
25 finished an air change, ---

1 Q. Okay.

2 A. --- because I think inspectors came in and found
3 that they were still working on some controls or
4 something. And then they put everybody out of the
5 mine.

6 Q. Okay. Were there any other times when --- that
7 you know of that ventilation may have changed and
8 there were people underground?

9 A. No, there were just two air changes that stick in
10 my mind, that one --- well, the one was that one
11 there, you know, when they first started the Bandytown
12 fan up.

13 Q. Okay.

14 A. And the second one was December 19th. I remember
15 it because of the big snow.

16 Q. Okay.

17 A. They started air change, I think that Friday night
18 or something on the midnight shift. And I think it
19 was like the middle of the next week before they got
20 it finished.

21 Q. Were miners other than those making air change in
22 the mine at that time?

23 A. Not at that --- not on that one, I don't believe
24 they were.

25 Q. Okay.

1 A. But on that one we're talking about around the 1st
2 of September ---.

3 Q. The one they were cited for?

4 A. Yeah. I think we'd all went in, you know,
5 thinking everything was just fine, everything was
6 finished.

7 Q. Okay. Are there any other times that you know of
8 that changes were made with people underground?

9 A. No, not that I know of.

10 Q. Okay. Were you ever up at the ---? Did you ever
11 observe the mining up at the sections?

12 A. No.

13 Q. Okay. Getting back to general conditions in the
14 mine. Kind of got side-tracked there.

15 A. Okay.

16 Q. What was the methane and oxygen like in the mine?
17 Did you ever experience anything out of the ordinary?

18 A. No. No, sir, I did not.

19 Q. Did you ever detect methane?

20 A. No.

21 Q. None?

22 A. No. On my detector, you know, even those --- a
23 new calibration, you know, had to go in there and
24 you'll say --- it'll say .05.

25 Q. Okay.

1 A. And then it'll go to zero and ---.

2 Q. Uh-huh (yes).

3 A. Because it doesn't go in .1 increments or nothing
4 like that. That's the only think like that.

5 Q. Nothing more than that?

6 A. Nothing more than that.

7 Q. Okay. What about the roof, rib and floor
8 condition in the mine?

9 A. The roof, it was always pretty good, but we always
10 had a problem with the ribs because we were in high
11 coal.

12 Q. Okay.

13 A. So even though you had to be conscious of the roof
14 all the time, you couldn't forget about the ribs,
15 also. The ribs were bad in different areas of the
16 mine.

17 Q. Did they provide any support for that?

18 A. Yes, they --- all their bolters that they got
19 were, you know, were DDR bolters, you know, that would
20 --- they had to rotate so they could bolt the ribs,
21 when they got in bad conditions.

22 Q. Did they bolt the ribs at times?

23 A. Yes.

24 Q. Okay.

25 A. And also, then, on all the mainline belts they

1 made a practice of putting that batting up on the
2 roof.

3 Q. Meshing?

4 A. Yes.

5 Q. So are the mainline belts meshed continually or
6 just in certain spots?

7 A. Just in certain spots.

8 Q. Okay. What about accumulations of water? Were
9 there any spots in the mines that had problems with
10 water?

11 A. Yes. There was a couple places. One was at the
12 66 Break on the mainline.

13 Q. Would that be along Five North belt?

14 A. No, it'd be on the main line on UBB side. It'd be
15 up, back out this (indication) way.

16 Q. Okay.

17 A. Back out --- back out this way.

18 Q. Anywhere else?

19 A. Not along the track. They had two places where
20 they kept sumps that they kept water pumped to with a
21 big pump and their sumps, and they would draw the
22 water that way.

23 Q. Where were these sumps at?

24 A. One was at the mouth of Headgate 17. It would be
25 about 53 Break on the mainlines of UBB side.

1 Q. Okay.

2 A. Okay. The other one was at 77 Break on the
3 mainline, on UBB side.

4 Q. Okay. Anywhere in this end of the mine?

5 A. Not that I can remember, not that I can recall in
6 the area that we worked in.

7 Q. Did you ever have any conversations with fellow
8 mine workers or mine --- other mine management
9 concerning unsafe conditions in the mine?

10 A. During our safety meetings, we always --- we
11 always asked if anybody has any concerns or anything.

12 Q. Okay. How did they address concerns that people
13 had?

14 A. Well, like I say, the bolt men would, they would
15 bring up about the ribs and everything and everybody
16 contributed to it. But no major concerns outside of
17 everyday coal mining. See, the irony to all this is
18 that --- and I'm sure you're all aware of this, too
19 --- about a month before this happened, I know Massey,
20 company-wide, put out a questionnaires to every
21 employee. You all were aware of that, weren't you?

22 Q. I wasn't personally aware of that, so go ahead.

23 A. Okay. Okay. They provided every employee, I mean
24 Massey-wide, company-wide, with a questionnaire that
25 was completely anonymous. And it said, do not sign

1 your name to this. And it asked all these questions.
2 A lot of 'em you're asking to day. Do you feel safe?
3 Do you think Massey's a safe company to work for? Do
4 you think your immediate supervisor is concerned about
5 your safety? And it asks you some questions on the
6 corporate level. Now, when I say corporate level, I
7 mean, you know, the CEO and the person under him,
8 Chris Adkins.

9 Q. Uh-huh (yes).

10 A. And then it said on the management level, meaning
11 you --- Chris Blanchard on down. And so then it asked
12 a lot of questions about --- even asked a question
13 about, do you think MSHA's investigations are fair?
14 And anyway, then we had our retraining. And the
15 general consensus was that everybody thought it was a
16 safe place to work. Everybody thought that their
17 immediate supervisor was, you know, really concerned
18 about their safety.

19 Q. Okay.

20 A. But then I think then the corporate didn't get too
21 good of ratings, though.

22 Q. Okay.

23 A. But like I said, the point I was trying to make is
24 that Massey-wide, all --- all the employees, these
25 were high percentages, thought that they were under

1 safe conditions and thought that they had a supervisor
2 that cared about their safety.

3 Q. At your training or --- did you receive any
4 correction ---? Did they try to make any corrections
5 based on the results of that survey or concerns they
6 --- you know, did anybody tell you we heard about
7 this, we're going to do this differently?

8 A. They didn't address any individual concerns or
9 anything.

10 Q. Okay. Just speaking about employee safety or any
11 --- do you think that the miners, would they be
12 comfortable coming forward with a safety concern? Do
13 they think they were ---

14 A. Yes.

15 Q. --- threatened or ---

16 A. No.

17 Q. --- retaliated against for safety concerns?

18 A. They're comfortable about --- they're comfortable
19 about coming forward.

20 Q. Okay.

21 A. Because everybody's just like us. We all got
22 families, you know, we want to go home to and stuff
23 and --- so everybody wants to work as safe as they
24 can.

25 Q. In your travels to the mines, did you ever notice

1 anything unusual with the mine floor, any --- any
2 heaving or anything like that?

3 A. Yes.

4 Q. Where would that have occurred at?

5 A. It was a long time ago when I started in '95, when
6 I was on --- I was on a miner section at that time.

7 Q. Uh-huh (yes).

8 A. And that night I was on the midnight shift and you
9 heard a noise, and then that's what it was. And you
10 looked there and the bottom just hooved up in the
11 middle.

12 Q. Okay. Did anything come out, any methane or
13 anything coming out of it?

14 A. No, not that I'm aware of.

15 Q. Okay. Did you carry a gas detector?

16 A. Yes.

17 Q. And did you maintain that? Did you have to charge
18 it yourself?

19 A. Yes.

20 Q. And how was it calibrated and such?

21 A. I'd calibrate it.

22 Q. At the mine or ---?

23 A. At the mine.

24 Q. Okay. And you charged it at ---?

25 A. At the mine.

1 Q. You left it at the mine at all times?

2 OFF RECORD DISCUSSION

3 A. Gas detector, it was charged at the mine.

4 ATTORNEY BABINGTON:

5 She's saying, was it yes or no?

6 A. Yes. Yes.

7 ATTORNEY BABINGTON:

8 Yeah, she can't record ---.

9 A. Yeah.

10 BY MR. MORLEY:

11 Q. Did you ever know of any other times at the mine
12 --- encountered any gas sources, feeders, gas,
13 uncharted wells, anything like that?

14 A. Not that I'm aware of.

15 Q. Okay. Were you ever on the Headgate One belt,
16 Headgate One North belt section when you were driving
17 that? That would be the current longwall headgate
18 when they were developing it with the miner.

19 A. I can't recall.

20 Q. Okay. Do you recall if they had any --- any
21 problems there with roof or water, mining conditions?

22 A. I'm trying to make sure that I ---. I don't know
23 where you're really talking about here.

24 Q. The section here (indicating), driving to the back
25 of the --- actually, this goes all the way back to

1 Bandytown fan.

2 ATTORNEY BABINGTON:

3 Is that the Headgate One North? Is

4 that ---

5 MR. MORLEY:

6 Yes.

7 ATTORNEY BABINGTON:

8 --- what you're referring to?

9 MR. MORLEY:

10 Yes.

11 A. Does it go by any other name?

12 BY MR. MORLEY:

13 Q. The section right under your hand there

14 (indicating).

15 A. Oh, we know that as Number Two section.

16 Q. Okay.

17 ATTORNEY BABINGTON:

18 Just to clarify for the record, the

19 Number Two section is the, what, up on the ---?

20 A. No, this would be the Number Two section, wouldn't

21 it?

22 ATTORNEY BABINGTON:

23 Sorry. So the Number Two section

24 would've been the Tailgate One North. Is that what is

25 labeled as Tailgate One North on the map, on ---? So

1 I think what Tom is referring to is the Headgate One
2 North area labeled on the map leading all the way back
3 to Bandytown fan; is that right, Tom?

4 MR. MORLEY:

5 Correct.

6 A. Yes. They had problems with water all the way up
7 in this (indicating) area through here.

8 ATTORNEY BABINGTON:

9 When you say, through here, do you mind
10 giving approximate breaks?

11 A. I'd say approximately from 60 Break probably on
12 down to 90, I'd say.

13 BY MR. MORLEY:

14 Q. Have you ever been back to that part of the mine
15 since the longwall started?

16 A. Yes.

17 Q. And what were you doing there?

18 A. Well, they were setting pumps ---

19 Q. Okay.

20 A. --- trying to control the water here (indicating).

21 Q. Yes.

22 A. And then they determined that they couldn't
23 control the water there. That's why they moved over
24 here (indicating) the best of my knowledge.

25 Q. Were those electric pumps they were setting back

1 there?

2 A. Yes.

3 Q. And how were those powered?

4 A. When the longwall was --- before they retreated
5 back to the point that they are now --- they were, ---

6 Q. Yes?

7 A. --- they were getting the power from the longwall
8 mule train box.

9 Q. Okay. And they had power cable running down the
10 headgate to the ---?

11 A. Yes.

12 Q. And those pumps were approximately located --- do
13 you have ---? Do you have crosscut numbers?

14 A. I believe 65 and around 75, approximately.

15 Q. Once the longwall ---? Were those inby the ---
16 those were inby the longwall face?

17 A. Yes.

18 Q. And were they still utilizing those pumps or ---?

19 A. No.

20 Q. When did they discontinue?

21 A. When the longwall mule train got too far outby,
22 you know, to have the legal length of cable.

23 Q. Okay.

24 A. And so they'd made provisions. They drilled those
25 power boreholes.

1 Q. Okay.

2 A. But they never did use them.

3 Q. Okay. So they never did utilize ---?

4 A. The power boreholes.

5 Q. I don't know if that's on this map or not. Do you
6 know approximately where the power boreholes ---?

7 A. No, sir, I don't.

8 Q. Okay. You said due to the problems with the water
9 and such, they started doing the tailgate, ---

10 A. Yes.

11 Q. --- new tailgate section?

12 A. To the best of my knowledge. That's why they
13 decided to move that barrier and move over and
14 establish a new tailgate.

15 Q. That's mainly due to water?

16 A. Yes.

17 Q. Okay.

18 ATTORNEY BABINGTON:

19 I'm sorry. Just as a quick clarifier.

20 And that new tailgate, I believe that was referred to
21 as Tailgate 22; is that correct? This one; correct?

22 A. Yes.

23 ATTORNEY BABINGTON:

24 Okay.

25 BY MR. MORLEY:

1 Q. Well, just another clarifying question. Those
2 designations like Two section, Number One section, are
3 those names that they give to the actual --- do those
4 kind of move with the unit from place to place or is
5 that ---?

6 A. Yes. We referred to Headgate 22 section --- they
7 still did from time to time to One section, Headgate
8 One section.

9 Q. Yes.

10 A. I mean, there's always --- it's the same crew, a
11 different place, and they'll say --- they still say,
12 that One section crew, sometimes, you know. But it's
13 Headgate 22 that we're talking about.

14 Q. So the One section or the Two section terminology
15 kind of follows the ---

16 A. Yes.

17 Q. --- crew from different --- to different
18 locations?

19 A. Yes.

20 Q. Okay. Have you ever been up to Eight North up in
21 here (indicating)?

22 A. When they were developing up in there, I was.

23 Q. Okay. Did they ever experience methane up in this
24 area, where the ---?

25 A. As far as I --- far as I know, they didn't.

1 Q. Okay. Any floor conditions abnormal up in that
2 area, that you remember?

3 A. Not in that area. There were bad ribs up in that
4 area, after they moved off of there.

5 Q. Okay. In this mine and down along Six North belt
6 in particular, they have doors on the track entries
7 instead of overcasts.

8 A. Yes.

9 Q. Okay. Does using doors instead of overcasts to
10 separate the main intake from the belt line concern
11 you?

12 A. Yes. I like overcasts. I think overcasts would
13 be better.

14 Q. What were the conditions of those doors and did
15 they have problems with them?

16 A. Yes. They had problems with --- you know, it's
17 hard to maintain any kind of door in the coal mine ---

18 Q. Right.

19 A. --- when you have supply crews. So then from time
20 to time, you know, they would be damaged.

21 Q. Okay. And how long did they remain damaged?

22 A. I would say maybe two or three shifts until they
23 got a new door there and put it up. They would still
24 close, but they weren't sealed. It wouldn't seal
25 adequate.

1 Q. Was there enough room to fit the entire supply
2 train inside the --- to airlock it through?

3 A. If it was one motor, one car, there was.

4 Q. What if they had more than one motor, one car?

5 A. Then they wouldn't have been able to.

6 Q. So they just opened up both doors and drove
7 through or ---?

8 A. Well, I didn't observe that.

9 Q. Okay. You had mentioned earlier that there was a
10 time when you were setting up the longwall, there was
11 a citation here that they had to --- there was an air
12 change in there, they had to leave the mine. Was
13 there any other times that the mine was ever evacuated
14 that you know of, everybody was pulled out?

15 A. I'm trying to think, but that's the only one that
16 sticks out in my mind.

17 Q. Okay. Any times that your oncoming shift was
18 delayed or canceled due --- due to a problem or an
19 issue?

20 A. I remember one time --- now, I don't know dates or
21 anything, but ---

22 Q. Okay.

23 A. --- they were late going in because all the fire
24 bosses hadn't called all the reports out yet. I think
25 they were delayed about 20 minutes that morning.

1 Q. Okay.

2 A. And they wouldn't send them in unless all ---
3 everything was clear.

4 Q. Did you have any concern with the ventilation
5 system before the explosion?

6 A. No, I didn't. Like we said earlier, I think it
7 was an adequate ventilation system, but I think it was
8 a fragile ventilation system because so many controls.

9 Q. Could you expand on that a little bit? What
10 controls and what exactly concerns would you have had?

11 A. Well, the ventilation's always adequate unless
12 maybe a rib had knocked down part of a ventilator or
13 something like that.

14 Q. Okay. Did those issues come up frequently or ---?

15 A. No.

16 Q. I mean, were they having constant problems or was
17 that ---?

18 A. Not constant problems, but they were from time to
19 time, though.

20 Q. Okay. Were there ever unintended air reversals
21 that you knew about or ---?

22 A. Well, there was a violation on one. I don't know
23 all the particulars.

24 Q. Okay.

25 A. But I think there was a violation, I believe, on

1 Headgate 22 that the air was reversed or something.

2 Q. Do you know of cases where there was reduced
3 quantities on some sections, inadequate air on the
4 sections?

5 A. Not that I'm aware. I know I would listen to their
6 fire bosses because we were waiting for our callouts,
7 too.

8 Q. Uh-huh (yes).

9 A. And they would give 'em what air they had on the
10 section. And best of my knowledge, there was enough
11 air coming to the section, but they had to ventilate
12 it properly.

13 Q. Okay. Were you ever around the Glory Hole area?

14 A. Yes.

15 Q. And do you know of any problems in that area with
16 methane, low oxygen, carbon --- CO?

17 A. Not that I observed.

18 Q. You never heard the stories about it or ---?

19 A. Well, something they referred to is that, you
20 know, we had nuclear sensors.

21 Q. Okay.

22 A. We had nuclear reactors and nuclear sensors on the
23 --- for the flow control. And the Glory Hole would've
24 been there.

25 Q. What exactly was the purpose of those?

1 A. To maintain a high and low level air seal in the
2 Glory Hole.

3 Q. Okay.

4 A. In that bend.

5 Q. Okay.

6 A. And so I think the time that you're referring to
7 is a incident where see, the guy from Ronan has to
8 come and --- they had to come and commission those
9 reactors.

10 Q. Okay.

11 A. They're not ready, and so they had to come and
12 decommission 'em, also, when we got done with 'em.

13 Q. Yes.

14 A. So I think a person took that representative up
15 there to do that. And I don't think that they ---
16 they didn't check up in the side of the tube where the
17 reactor is. And I think there was low oxygen there.

18 Q. Okay. So that was like in a cavity adjacent to
19 the Glory Hole?

20 A. Yes. So since then, we had mine rescue come in
21 and they ventilated that adjacent area ---

22 Q. Okay.

23 A. --- and made sure it was okay for the guy to come
24 and decommission the reactors.

25 Q. So that was after the Glory Hole was no longer in

1 use?

2 A. Oh, yes.

3 Q. Okay. You work on the CO system. Does it ever go
4 into alarm or alert mode?

5 A. Yes.

6 Q. And what's the procedure and what's --- what's
7 usually the problem?

8 A. What's usually the problem?

9 Q. Yeah.

10 A. Most of the time the problem is a bad detector.

11 Q. Okay.

12 A. A bad --- a bad unit.

13 Q. Uh-huh (yes).

14 A. But every time something happens, everybody goes
15 --- somebody goes and investigates it.

16 Q. Okay. And do you do the calibrations on the
17 system?

18 A. Yes.

19 Q. And how often do you do that?

20 A. Every 30 days.

21 Q. How's the primary escapeway maintained?

22 A. As far as I know, in good condition.

23 Q. When was the last time you traveled it?

24 A. From which area?

25 Q. When was the last time you traveled any of it, I

1 guess I should say.

2 A. It would've probably been in August. We also
3 helped maintain the intake phones.

4 Q. Okay.

5 A. And so that would've been in the Ellis area and
6 Four North belt --- belt area.

7 Q. Do you know who the responsible person is on each
8 shift?

9 A. It's posted. Are you talking about now or April
10 the 5th?

11 Q. Was it posted before April 5th?

12 A. Yes, it's always posted. Yes.

13 Q. Where is it posted?

14 A. It's posted upstairs. We've got a bulletin board
15 in the hallway where we post the violations and
16 special postings and stuff. It's posted there. It's
17 posted in several places in the main office.

18 Q. Okay.

19 A. As far as being posted down in the bath house, I
20 don't know.

21 Q. Did you ever work in another Massey mine? Were
22 you ever assigned to go work in another Massey mine
23 for a period of time?

24 A. Yes.

25 Q. And then you were reassigned to the UBB?

1 A. Yes.

2 Q. Okay. How long were you gone?

3 A. One week.

4 Q. Okay. Did you receive any training when you
5 returned?

6 A. Not when I returned. I went to --- when I went to
7 the other mine, I got training before I was brought
8 inside to the mine.

9 Q. Okay. Do you work on the tracking system?

10 A. No. Tom and I started out just installing the
11 cable, ---

12 Q. Okay.

13 A. --- because there was, like, 14,000 feet of cable
14 we had to install. We started out doing that, but our
15 other work was going to get behind, so they got two
16 men to do that full time ---

17 Q. Do you know ---?

18 A. --- while we were trying to do that and our other
19 jobs, too.

20 Q. Who were those men?

21 A. The men they assigned to it was Derek Kiblinger
22 and Patrick Lentz.

23 Q. Did you do electrical inspections?

24 A. Sir?

25 A. Did you do any electrical inspections on the

1 equipment?

2 A. On the belt heads and everything, we did.

3 Q. Okay. How often do you do that?

4 A. We did that once a week as far as, you know, a
5 visual check.

6 Q. Uh-huh (yes).

7 A. The midnight maintenance foreman, he would do all
8 the electrical checks as far as ground faulting the
9 breakers. And we'd do a visual check on any kind of
10 dangerous condition, like on conduits or entrance
11 glands or ---.

12 MR. MORLEY:

13 Entrance glands.

14 BY MR. MORLEY:

15 Q. Were you there at the mine? You worked at the
16 mine after the April 5th accident, during the recovery
17 operation?

18 A. Yes, I'm still there?

19 Q. Did you participate in the recovery?

20 A. No.

21 Q. So what did you do after the accident?

22 A. We were busy hooking up the emergency units,
23 hooking power to them and making sure they were hooked
24 up, you know, right. And then they started moving the
25 mobile home office trailers in.

1 Q. Uh-huh (yes).

2 A. And we had to hook those up. And also we have to
3 go --- since they drilled all the holes and
4 everything, we have to make sure we had reset fans.
5 Some are diesel and some are electric, so we have to
6 --- we have to maintain those.

7 Q. The one on top of the boreholes?

8 A. Yes.

9 Q. Okay.

10 A. We've been busy.

11 Q. But if I understand you, you did not participate
12 directly in the recovery of the ---

13 A. No.

14 Q. --- of the victims or anything like that?

15 A. I did not.

16 MR. MORLEY:

17 Okay. You want to go ahead, Terry?

18 MR. FARLEY:

19 Sure.

20 ATTORNEY BABINGTON:

21 Terry, it's been about an hour. Do you
22 want to take a quick break and then we can do follow-
23 ups?

24 MR. FARLEY:

25 Okay.

1 ATTORNEY BABINGTON:

2 Okay. All right. Off the record.

3 SHORT BREAK TAKEN

4 EXAMINATION

5 BY MR. FARLEY:

6 Q. Mr. Bowman, let me back up on some things, and I'm
7 sure I'll be coming from many different directions
8 here, so bear with me. Do you have mine foreman and
9 fire boss papers?

10 A. Yes.

11 Q. Okay. How long have you had 'em?

12 A. Since '98, I think.

13 Q. Okay. Did I get you correct when you got your
14 electrical training at Cedar Coal Company?

15 A. Yes.

16 Q. Who was your electrical trainer there?

17 A. John Wolcott. Can I elaborate?

18 Q. Sure

19 A. Okay. Like I said, this was the first program, so
20 there was not an approved instructor yet.

21 Q. Okay.

22 A. So John Wolcott, he was a good individual. He
23 became --- he was the electrical engineer for Hughes
24 ---. And then he was electrical engineer. He knew
25 everything about electricity but he didn't know

1 anything about the coal mine electricity.

2 Q. Uh-huh (yes).

3 A. So he was teaching us about cosine of theta and
4 all the theories and everything.

5 Q. Uh-huh (yes).

6 A. So he did the best he could. So then after our
7 year's training and everything, we had to go in the
8 mine and really learn it after you get there, you
9 know. We knew all about the fundamentals of
10 electricity. After that, then, you know, there were a
11 couple more instructors, you know, that were coal-
12 mining instructors that had been electricians.

13 Q. Okay. Well, I assume you didn't pass the State
14 electrical certification exam?

15 A. I did or didn't?

16 Q. Didn't.

17 A. Oh, yes, a hundred percent.

18 Q. All right. Now, concerning your duties in
19 maintaining the AMS system in the belts, can you
20 specify to some extent what the CO alarm level
21 settings are for the UBB Mine?

22 A. Five is warning and ten is alarm.

23 Q. Okay.

24 A. And there's no ambient offset.

25 Q. There's no ambient offset?

1 A. Not in our plan.

2 Q. Okay. All right. Do you know what the ambient CO
3 in the mine might be?

4 A. Most of the time it's zero.

5 Q. Okay. Do CO alarm levels account for any ambient
6 CO ---?

7 A. No.

8 Q. Okay. How often do you have nuisance CO alarms?

9 A. I'd say approximately one a week where we had so
10 many units --- you would have a unit. Everybody had
11 --- most of the time it would say, dead.

12 Q. Okay. All right. Are any of the CO --- prior to
13 April 5th, were any of the CO arms --- CO alarms at
14 UBB ever disabled?

15 A. Disabled? No.

16 Q. Okay. Were any methane sensors on the AMS system?

17 A. No.

18 Q. Okay. Are there any velocity sensors ---? Were
19 there any velocity sensors on the AMS system?

20 A. No.

21 Q. The AMS system --- did the AMS system include the
22 tracking communications' system?

23 A. They were on the same computer, but they were in
24 different --- different screens.

25 Q. Okay. Where would that computer have been

1 located?

2 A. There was a computer in the main office and down
3 in the dispatcher shack.

4 Q. Okay. Now, is that a computer you would
5 personally access from time to time?

6 A. Yes.

7 Q. Okay. And was that like daily access?

8 A. I would access it when we'd install new units,
9 when we'd install new sections.

10 Q. Uh-huh (yes).

11 A. But I'd say more likely weekly.

12 Q. Okay. What other person could've accessed this
13 computer?

14 A. Most of the time it would've been me.

15 Q. Just you?

16 A. Even though they had access to it, we had pass
17 codes.

18 Q. Uh-huh (yes).

19 A. But they would usually wait until I got there to
20 put another unit on the map or something like that.

21 Q. Okay. What other persons would have had access to
22 that computer?

23 A. Tom Sheets would've had access to it. John
24 Henline, Paul Thompson.

25 Q. Now, Sheets worked with you; correct?

1 A. Yes.

2 Q. Now, Henline and Thompson, what were their ---?

3 A. John Henline, he was evening shift. He would've
4 been classified underground maintenance foreman, just
5 as I would.

6 Q. Okay.

7 A. And Paul Thompson, like I said earlier, he was a
8 maintenance coordinator. He was not at the mine site
9 all the time.

10 Q. Okay. Okay. Part of your duties include
11 responsibility for, I think you said electrical
12 matters with conveyer belts at UBB?

13 A. Yes.

14 Q. Okay. In order to accomplish getting your job
15 done, let's say, did you ever --- did you at any time
16 walk the belts in their entirety?

17 A. The only time when I would have to do that would
18 be if we had a problem with the control line, then
19 you'd have to walk it until you found a certain point
20 where the problem was.

21 Q. Okay. Do you recall the last time you would've
22 walked or traveled any of the UBB conveyor belts in
23 their entirety?

24 A. I cannot recall.

25 Q. Would it have been this year?

1 A. Probably not.

2 Q. Maybe last year?

3 A. Probably last year.

4 Q. Okay. And as for your duties with, at the belts,
5 were you involved at any time with installation of the
6 belts?

7 A. Yes.

8 Q. Okay. Would you elaborate on that?

9 A. When I say installation, it would be, you know,
10 the motor wiring ---

11 Q. Okay.

12 A. --- and the motor leads ---

13 Q. Uh-huh (yes).

14 A. --- and all the control system for it, and the
15 fire suppression system.

16 Q. Okay. So you didn't set belt heads or ---

17 A. No, sir.

18 Q. --- install belt itself? Okay. Were you involved
19 in any of the belt moves?

20 A. No.

21 Q. Okay. Did your duties include any
22 responsibilities for belt cleaning and rock dusting?

23 A. No.

24 Q. Okay. Who would've been assigned to monitor the
25 belt cleaning and rock dusting? Do you know?

1 A. I'd say that the fire bosses when they make their
2 fire boss --- they report what area, you know, needs
3 additional dusting, the fire boss assigned to that
4 belt.

5 Q. Okay. Now, I think on the day of the accident,
6 you were at the 22 Headgate belt dumping point,
7 helping to install a new Mother Drive belt?

8 A. Yes.

9 Q. Okay. What was the quality of rock dusting in
10 that area at the time, in your opinion? What would
11 you say?

12 A. Best I remember it looked adequate.

13 Q. Okay.

14 A. It looked good.

15 Q. Was there a trickle duster operating in the area
16 at the time?

17 A. Yes.

18 Q. Do you recall where?

19 A. It would've been about one break inby.

20 Q. Okay. You mentioned --- you referred to a Pillar
21 Innovations fire suppression systems, which was a two-
22 inch galvanized pipe now required for your belt head
23 dumping point installation; is that correct?

24 A. That's correct.

25 Q. Now, is that required by State or Federal law or

1 is that a Massey thing?

2 A. I believe after January 1st it was State and --- I
3 think it's State and Federal law.

4 Q. Okay. Were all the belt heads and dumping point
5 installations at UBB equipped with that system?

6 A. There was one that wasn't and that was on our
7 agenda after we got the Mother Drive finished to put
8 it on it. We had the parts on hand.

9 Q. Okay. I think you indicated that you were at this
10 Headgate 22 dumping point from around 10:00 a.m. to
11 2:00 p.m. on April 5th?

12 A. Yes.

13 Q. Did you experience anything like a burning
14 sensation in your eyes or ---?

15 A. No, sir.

16 Q. Any unusual smells?

17 A. No, sir.

18 Q. Okay. And you carried a methane detector; is that
19 correct?

20 A. Yes.

21 Q. Any --- did you detect any methane at any time?

22 A. No.

23 Q. I think you indicated you put the mantrip on
24 charge at a location around 135. Was that on charge
25 while you were working or ---?

1 A. While we were working, yes.

2 Q. Okay. In talking about belt air earlier, I think
3 you said that for the most part air was going inby on
4 all belts?

5 A. No.

6 Q. Did you say that or no?

7 A. No, I was wrong.

8 Q. Would you clarify that?

9 A. I'd say since that Bandytown fan started up, you
10 know, it --- the location, it sucks everything that
11 way.

12 Q. Okay. So is it fair to say that the air was
13 moving inby on all the belts?

14 BRIEF INTERRUPTION

15 ATTORNEY BABINGTON:

16 Off the record for a minute.

17 A. I was trying to remember.

18 OFF RECORD DISCUSSION

19 ATTORNEY BABINGTON:

20 All right. Sorry about that.

21 BY MR. FARLEY:

22 Q. Okay. I'm sorry. I think you were talking
23 about ---?

24 A. No, no, I couldn't say a hundred percent sure that
25 it was going inby.

1 Q. Okay. What was the air velocity like on the belt?
2 Was it strong, weak? Did you notice if --- was it
3 easy to detect which direction the air was moving in?

4 A. Yes.

5 Q. Did you ever take an air reading in terms of
6 measuring cubic feet per minute for methane?

7 A. No, I didn't.

8 Q. In December 2009, I think you said around December
9 19th, 2009, to be exact, that there was an air change
10 started on a Friday night mid --- midnight shift and
11 not finished. Did that result from some type of
12 violation or order issued by Federal or State
13 agencies?

14 A. I'm not sure.

15 Q. Okay. Are you aware of any type of ventilation
16 problem around the --- around March 9th of 2010 at
17 UBB?

18 A. No. It doesn't come to mind.

19 Q. Okay. Is there an area in the UBB Mine known as
20 the Seven North construction area?

21 A. I'm not familiar with the term that they use.

22 Q. Okay. When you exited the mine on April 5th, did
23 your mantrip travel through the area of 78?

24 A. Yes.

25 Q. Okay. And what time would you have traveled

1 through that area?

2 A. It would've probably been about 25 after 2:00.

3 Q. Okay. What was the status of the doors at that
4 area at the time?

5 A. They were all closed when we came to 'em, because
6 I had to get off and open it up and let the mantrip
7 through. They were all in place.

8 Q. Okay. And Sheets was with you?

9 A. Yes.

10 Q. Anybody else?

11 A. No.

12 Q. See anybody else in the area at the time?

13 A. Not when we were coming out, no.

14 Q. Okay. Did you notice anything different about the
15 area as opposed to when you entered in the morning?

16 A. No, we didn't.

17 Q. Was there anything in the air or did it seem foggy
18 or was there dust in the air?

19 A. Not that I recall.

20 Q. Did you experience any difficulty in breathing?

21 A. No.

22 Q. Okay. You said earlier that ironically Massey had
23 provided all employees with an anonymous survey
24 inquiring about mine safety, what you thought of
25 management and the corporate level and so forth. And

1 I think you said that the corporate did not get high
2 ratings.

3 A. Right.

4 Q. Now, when you refer to the corporate, what does
5 that mean? Who is that?

6 A. As far as we were --- I think it had an
7 explanation on that questionnaire ---

8 Q. Uh-huh (yes).

9 A. --- corporate being the CEO and the person under
10 him, Chris Adkins.

11 Q. So the CEO would be ---?

12 A. Don Blankenship.

13 Q. Okay. Were the unfavorable rankings limited to
14 Blankenship and Adkins?

15 A. On the corporate level?

16 Q. Yes, sir.

17 A. Yes.

18 Q. Okay. Anybody else who got unfavorable rankings,
19 if you can recall?

20 A. I believe Chris Blanchard got unfavorable
21 rankings, I believe.

22 Q. Okay. Now, when a survey asks you to rank these
23 people, was it like a one to ten scale or good, fair,
24 excellent or poor or how ---?

25 A. I believe it was --- I believe it was like good,

1 fair, poor ---. I think there were four different
2 categories there.

3 Q. Okay. And you said this was about a month before
4 the explosion occurred?

5 A. Approximately.

6 Q. Did you by chance maintain a copy of that survey?

7 A. No, sir.

8 Q. Okay.

9 A. But I'm sure somebody has them. They got
10 everything else.

11 Q. Okay.

12 A. But I know it's not your guys' fault, but the
13 first thing, they come and they come take all the
14 books. So you start a new book. And then they come
15 and take it again. And you start a new book. Then
16 they come and take it again. You start a new book.
17 I'm running out of books.

18 Q. Can you elaborate a little bit more about the
19 survey? Was it just popularity of the --- did it ask
20 you if you liked these people or did it ask you to
21 evaluate their performance?

22 A. Evaluate their performance.

23 Q. Okay. Now, we've indicated that the corporate
24 people did not receive high ratings. Why do you think
25 that was?

1 A. Well, I think it's mostly because of
2 unfamiliarity. Most of us rank and file, you know,
3 just ordinary members ---

4 Q. Uh-huh (yes).

5 A. --- don't meet with the CEO that often.

6 Q. Uh-huh (yes).

7 A. Most of us don't meet Chris Adkins that often.
8 And most people don't meet Chris Blanchard that often.
9 So the people they work with every day and they see
10 with every day got better ratings.

11 Q. Okay.

12 A. And it's just like if we'd sit here and rate
13 President Obama. All we can make our decisions on is
14 what we see on the news media, what we hear about him.
15 None of us really know him, do we?

16 MR. MORLEY:

17 I don't.

18 A. I think that's why --- if you don't know a person
19 personally, all you know is what you hear about them
20 and things like that.

21 BY MR. FARLEY:

22 Q. So you believe it's fair to say that familiarity
23 influenced the survey?

24 A. I think so.

25 Q. You indicated that you carried a gas detector.

1 What kind of detector was it?

2 A. Solaris.

3 Q. Okay. And you indicated you calibrated it
4 yourself. What did you do? Just briefly describe how
5 you would've calibrated it.

6 A. We'd have the Solaris automatic calibration
7 machine.

8 Q. Okay. Oh, before I forget, as you were leaving
9 the mine on April 5th and you passed through the doors
10 in the area of 78, did you close the doors after you
11 passed through them ---

12 A. Yes, sir.

13 Q. --- for the record? Do you know if anybody else
14 was following you out at that point that was nearby?

15 A. Yes, there was two motors. Both of 'em had a car
16 with 'em.

17 Q. Do you know who was operating those motors or
18 riding in those motors?

19 A. Bruce Dickers was on one motor ---

20 Q. Uh-huh (yes).

21 A. --- and Joe Massey was on another motor.

22 Q. Okay. Anyone else you can recall?

23 A. Not that I recall.

24 Q. Okay. Back to the doors. And I believe you said
25 earlier that you prefer overcasts to doors; correct?

1 A. Yes.

2 Q. Now, why do you think doors were used in the UBB
3 --- UBB Mine as opposed to overcasts?

4 A. I think that they were presented with a deadline
5 and I think that's the decision that they made to get
6 it done quicker.

7 Q. Okay. Now, when deadlines were established, where
8 did that usually come from?

9 A. I would say it would come from the corporate.

10 Q. Okay. The ventilation system. You said earlier
11 that you had no concerns with the ventilation prior to
12 the explosion, but you felt the system was fragile?

13 A. Yes.

14 Q. Okay. Now, does that mean that you felt like that
15 one little problem could screw up the whole works?

16 A. Yes.

17 Q. Could you give me an example of that?

18 A. I don't know of it ever happening, but I know the
19 many air changes that they've had ---

20 Q. Uh-huh (yes).

21 A. --- and the violation they had got when they
22 thought they had everything right and they would come
23 in and they would find something wrong.

24 Q. Uh-huh (yes).

25 A. And so that told me that if one thing was not

1 right, you know, it'd mess everything else up.

2 Q. Okay. Let me ask the question like this. If you
3 were going to enter the area where the explosion
4 occurred, which would include the longwall 22 Tailgate
5 section, 22 Headgate section and the area outby for
6 some considerable distance, let's just say all the way
7 to Ellis Switch, if you were going into that area and
8 you were going to do one little thing to screw up the
9 entire ventilation, what would that be, if that's what
10 your goal was?

11 A. I would say here (indicating) on old Two section,
12 you know, where the Bandytown fan is pulling, ---

13 Q. Uh-huh (yes).

14 A. --- there's a set of doors there that if you'd
15 close those doors that it would disrupt it.

16 Q. Can you mark those doors for me on the map,
17 please?

18 A. If I can find them. This (indicating) should be
19 78 here, shouldn't it?

20 Q. That's the way I got it.

21 A. Seventy-eight (78)'s right here. And there's the
22 old cut-through. I was thinking those doors were
23 right in here.

24 Q. Okay. You're referring to the tailgate entries on
25 the tailgate side of the mouth of the longwall?

1 A. Uh-huh (yes).

2 ATTORNEY BABINGTON:

3 Was that a yes?

4 A. Yeah.

5 BY MR. FARLEY:

6 Q. And could you just circle that area, indicate
7 where you think the doors were --- are located that
8 you're referring to?

9 ATTORNEY BABINGTON:

10 Could you label them as well, please?

11 WITNESS COMPLIES

12 ATTORNEY MCATEER:

13 The doors are not shown, though, on the
14 map?

15 A. Right there, aren't they?

16 ATTORNEY MCATEER:

17 Okay. I couldn't see them.

18 ATTORNEY BABINGTON:

19 Yeah, there are two Ds that he
20 placed ---.

21 ATTORNEY MCATEER:

22 Okay. Good.

23 BY MR. FARLEY:

24 Q. Now, another question was if you were to go to one
25 location and do something to screw up the whole works,

1 how would that --- on the basis of your understanding
2 of the ventilation system there, how would that ---
3 something like that have screwed up the entire works?

4 A. Well, it looks like to me the whole ventilation
5 system is based on the Bandytown fan pulling all the
6 time.

7 Q. Uh-huh (yes).

8 A. And so then it looks like to me that if you close
9 these (indicating) doors here that that would change
10 about everything, wouldn't it?

11 Q. I don't know.

12 A. That's the place I would look for right there.

13 Q. Okay.

14 MR. O'BRIEN:

15 Those doors were normally open? Is that
16 what you're saying?

17 A. Yes.

18 ATTORNEY BABINGTON:

19 Just to clarify, as well, those doors we
20 mentioned were on the tailgate side of the mouth of
21 the longwall. It also seems to be labeled around 33
22 Break on that Tailgate One North section.

23 MR. FARLEY:

24 Thanks.

25 BY MR. FARLEY:

1 Q. Let me continue with a couple things. You
2 referred to an air reversal on the 22 Headgate
3 section. Do you recall when that occurred?

4 A. No, I don't. I remember a violation that they had
5 went over on ---. I don't know any of the
6 particulars.

7 Q. Okay. Then you mean you don't recall when it was,
8 but would it have been this year?

9 A. I don't think it was this year.

10 Q. You indicated earlier that you had been previously
11 assigned to work at another mine for a week. Which
12 mine was that?

13 A. That was a Cedar Grove Mine. Like I said, I'm
14 responsible for wiring that, you know, the Mother
15 Drive belt heads?

16 Q. Uh-huh (yes), uh-huh (yes).

17 A. So they were getting the longwall ready to run and
18 I was sent there to wire it up.

19 Q. Okay. All right. A couple more here. I think
20 you said earlier that the last time you had actually
21 visited the longwall face area would've been sometime
22 in September of last year?

23 A. August or September, I believe.

24 Q. Prior to April 5th, would you have --- when would
25 you have last visited the 22 Headgate section face

1 area, or did you?

2 A. Yes, it would've been to calibrate the CO --- not
3 the face. I just went to the tailpiece was the only
4 place I went to.

5 Q. Okay. Do you recall when that was?

6 A. It would've been probably about the middle of
7 March.

8 Q. Do you recall traveling the 22 Headgate conveyor
9 belt, walking it from one end to the other?

10 A. Yes.

11 Q. What'd it look like?

12 A. The best I remember it looked pretty good.

13 Q. And does that mean it appeared ---? Did it appear
14 that it needed additional --- needed rock dusting or
15 were there any accumulations of loose coal?

16 A. Not that I know.

17 Q. Okay. Prior to April 5th, 2010, what was the last
18 shift you worked at UBB?

19 A. It would've been the Thursday before.

20 Q. Okay. Was that a holiday weekend?

21 A. Yeah. Well, Friday was the holiday.

22 Q. Okay. Did anybody work on --- at the UBB Mine on
23 April 4th?

24 A. Not that I know of.

25 Q. Okay. Are you aware of any type of air change

1 that might've occurred on April 4?

2 A. No.

3 Q. Okay. Now, on April 5th, were you aware any time
4 during the day that the longwall was not in operation,
5 down for any reason?

6 A. Not that day, I wasn't, but then somebody said
7 after --- after that, you know, it'd been down that
8 day.

9 Q. Okay. Now, could you elaborate on what someone
10 said?

11 A. They just said --- they said it was down until
12 about 2:30.

13 Q. Okay. Do you recall, did it go down at a
14 particular time earlier in the day? Was it down all
15 day? What's your memory on it?

16 A. I don't know.

17 Q. Okay. Can you remember your source of
18 information?

19 A. No, I can't.

20 Q. Okay. In a supervisory capacity, was it normal
21 routine for the production foremen on the various
22 working sections of the longwall to call out
23 production reports periodically during each shift?

24 A. Yes.

25 Q. Okay. Well, what was --- what was the normal

1 schedule for that? How did that work?

2 A. I believe on the miner sections, I believe it was
3 either they call it out when they start up, when they
4 start up, ---

5 Q. Uh-huh (yes).

6 A. --- well, between 7:30 and 8:00 or something like
7 that.

8 Q. Uh-huh (yes).

9 A. Then I think again at 10:00 or 11:00 and 2:00.
10 And of course they called after fire boss and
11 everything, but ---.

12 Q. Okay. Was the procedure different for the
13 longwall?

14 A. I believe they had to call every 30 minutes, I
15 believe.

16 Q. Okay. Now, when they would call out, would they
17 speak to anyone in particular?

18 A. They would speak to Greg Clay or whoever was in
19 his position, you know, if he wasn't there or
20 something.

21 Q. Okay. What was Greg Clay's position?

22 A. He was the purchasing --- purchasing agent, but he
23 would receive those calls because he would --- he had
24 to complete and put them on e-mails.

25 Q. Okay. Would Greg Clay distribute that information

1 to other people, I mean once he received it?

2 A. As far as I know he would.

3 Q. Do you know how many people might've been on his
4 list, his distribution list?

5 A. No, I don't.

6 MR. FARLEY:

7 Mr. McAteer?

8 ATTORNEY MCATEER:

9 Thank you, Terry.

10 EXAMINATION

11 BY ATTORNEY MCATEER:

12 Q. I'd like to thank you for the --- you've been very
13 clear in your testimony. Who'd you work for at
14 Buckhannon?

15 A. Jimmie Ryan.

16 Q. What's the name of the mine?

17 A. It was Long Branch Energy.

18 Q. You described the block foreman scheme. I'm
19 familiar with the block foreman theory. Can you just
20 --- there were three block foremen?

21 A. Yes. The block foremen, they would be over a
22 specific production section.

23 Q. Okay. And so the first one is the Ellis Portal to
24 22 Headgate?

25 A. Yes.

1 Q. The second one is the Ellis Portal Switch?

2 A. Yes, outby to UBB.

3 Q. Outby to UBB, and the ---?

4 A. There would be two block foremen and Gary May,
5 who'd be like a superintendent.

6 Q. Okay. Now, the day that you were working on the
7 5th, you said you were working on the Mother Belt
8 installation of a panel on the Mother Belt drive?

9 A. Yes.

10 Q. What kind of power is that? What level of power?

11 A. 12,470 volts.

12 Q. And what did you do on that day?

13 A. The box hadn't --- wasn't energized or anything.

14 Q. Okay.

15 A. It was there and I was taking out a 18 by 20 inch
16 panel with a breaker on it and replacing it with a new
17 one.

18 Q. Was the old one defective or were you putting more
19 power or ---?

20 A. Yes, the old one was damaged.

21 Q. Do you know when it became damaged?

22 A. When they were installing the box.

23 Q. When was that?

24 A. It was the week before.

25 Q. So it would've been Tuesday, Wednesday?

1 A. Yes.

2 Q. I went to law school and don't know anything about
3 electricity.

4 A. Yes, sir.

5 Q. It scares me, so ---.

6 A. Me, too.

7 Q. There we go. But this panel that you're putting
8 in there, you're --- you pulled the power. You take
9 the ---.

10 A. There was no power on it.

11 Q. There was no power on it. Okay.

12 A. No power. It wasn't energized.

13 Q. So you take the old guts of the panel box out and
14 put a new set of guts in?

15 A. Yeah, the whole new unit in.

16 Q. Whole new unit. All right.

17 A. Yeah, everything's on the unit that you put it in.

18 Q. Yeah. Okay. And that's got 12,470 volts on it?

19 A. It would have when it was energized.

20 Q. Okay. Was it energized that day?

21 A. No, there was no cable even going into the box.

22 Q. But the box had been blown earlier the previous
23 week, so the cable had been there at one point?

24 A. No, it was a new installation.

25 Q. Okay.

1 A. It's a box that they just put up there in
2 place ---

3 Q. Okay.

4 A. --- and when they were in the process of taking it
5 off of a car that they transported in on and put it in
6 the place where it was going to set, they damaged with
7 a piece of equipment that one particular panel.

8 Q. Oh, okay. So it hadn't been ---?

9 A. No, it wasn't electrically damaged. It was ---

10 Q. Okay.

11 A. --- physically damaged.

12 Q. And when you finished, you closed the panel up and
13 then when was the power to be put on?

14 A. It would probably been sometime later that week.

15 Q. And you were doing this in preparation for moving
16 the wall?

17 A. Well, like I explained earlier, this head was like
18 an extension to the Headgate 22 belt, an addition to
19 it.

20 Q. But I thought you testified that this was done at
21 least in preparation for the move of the wall?

22 A. Yeah. Later on, see, when the Headgate 22 got
23 finished, ---

24 Q. Right.

25 A. --- the longwall would come up there, and that

1 would be their dumping point head then.

2 Q. Right. And when was that contemplated, or do you
3 have any idea?

4 A. Don't have any idea.

5 Q. And we're not talking days here, we're talking
6 weeks or are we ---?

7 A. At least weeks.

8 Q. Okay. And what was Tom working on?

9 A. He was installing a visible disconnect switch in
10 the control box for that drive.

11 Q. That's not the same box that you're working on?

12 A. No.

13 Q. And did he complete that installation?

14 A. Yes.

15 Q. And was the power put back on ---

16 A. No.

17 Q. --- the box? So there's not power to the box at
18 the panel you're working on or the box that he's
19 working on?

20 A. No.

21 Q. Okay. You'd stated that you calibrated once a
22 month. Would that typically be in the middle of the
23 month?

24 A. No. We try to keep it about the middle of the
25 month because of our other work we have to do, and

1 sometimes we have to do a little bit earlier. But we
2 try to keep it --- like you said, we try to keep it in
3 the middle of the month.

4 Q. What does the AMS stand for, the system?

5 A. Atmospheric monitoring system.

6 Q. Okay. How long was the survey that you took, how
7 many pages? Do you remember?

8 A. I believe it was four pages.

9 Q. Four pages. And you said you heard from somebody
10 about the results of that survey.

11 A. Yes, at --- we had our annual retraining.

12 Q. Okay.

13 A. Okay? The section director, he --- all the
14 classes, he gave them the results.

15 Q. Who was that?

16 A. Berman Cornett.

17 Q. Did anybody react to the results, the fact that
18 there was some findings of not so satisfactory results
19 at some level?

20 A. I think everything turned out about everybody ---
21 the way everybody thought it was going to, I believe.

22 Q. You said that the pumps --- now, we're talking
23 about the new head, the new tailgate --- was
24 established because the failure, the inability to
25 adequately pump the water out?

1 A. Yes.

2 Q. And when was that, do you remember roughly?

3 A. No, sir.

4 Q. Okay. Could it have been in '10 or would it have
5 been 2009 or ---?

6 A. The decision was probably made in 2009.

7 Q. Okay. But you said you --- I'm sorry, you
8 testified that you put some of the power to the pumps
9 down there?

10 A. Yes.

11 Q. What kind of pumps were they using?

12 A. Submergible pumps.

13 Q. What was their capacity?

14 A. Probably about a nine horsepower.

15 Q. And you did two of those?

16 A. Yes.

17 Q. That's a pretty good amount of horsepower. I mean
18 it could pump a lot of water?

19 A. Yes.

20 Q. Okay. You know the capacity for that or just ---?

21 A. About gallon per minute?

22 Q. Yes.

23 A. No, sir, I don't.

24 Q. Okay. The doors, did they have an automatic open
25 and close mechanism?

1 A. Yes, but they had been tore up.

2 Q. Was that your responsibility from an electrical
3 standpoint or ---?

4 A. Well, I had replaced jacks on 'em before.

5 Q. But how reliable are those jacks?

6 A. They're 110 volt jacks and it surprised you how
7 much power or torque they have.

8 Q. Uh-huh (yes).

9 A. They are reliable, but most of the time it was all
10 from physical damage.

11 Q. So they were frequently malfunctioned or failed?

12 A. Yes.

13 Q. Okay. When did the Robins --- I think it's, I'm
14 sorry, Rower Company ---?

15 A. Ronan?

16 Q. Ronan dismantle the reactor?

17 A. I can't think of a specific date. It was this
18 year.

19 Q. It's in 2010?

20 A. 2010.

21 Q. And you described that as a nuclear reactor?

22 A. Yes.

23 Q. Can you tell me anything more about it or ---?

24 A. No, not really.

25 Q. I mean, did you work on it at all or ---?

1 A. No.

2 Q. Okay. I forgot, and I thought you may have
3 mentioned a rock dust crew?

4 A. Yes.

5 Q. You've mentioned --- do you know them by name?

6 A. No, sir.

7 Q. Okay. Have you heard that any rock dust crew had
8 been --- any member of that crew had been discharged,
9 sleeping on the job?

10 A. No.

11 Q. Okay. Do you recall whether you worked on the 9th
12 of March, when there was a ventilation inspection?
13 That would've been --- sorry. That would've been a
14 Tuesday.

15 A I'm sure I worked, but it doesn't stand out in my
16 mind. Like I said earlier, there's two that did, you
17 know ---

18 Q. Right.

19 A. --- the first one, then that one with the big
20 snow.

21 Q. Right. Sure. Okay. Do you know or have heard
22 rumors who Mr. Clay sends those e-mails to?

23 A. No, I don't know.

24 Q. But have you heard anything, who it was?

25 A. I can guess who it would be. I would say he would

1 probably send it to Chris Blanchard and --- probably
2 just Chris Blanchard.

3 Q. Okay.

4 A. I assume Blanchard probably sends it on past him
5 then, I'd say.

6 Q. Okay.

7 OFF RECORD DISCUSSION

8 ATTORNEY MCATEER:

9 That's all the questions I have right
10 now. Thank you very much, sir.

11 A. Thank you.

12 RE-EXAMINATION

13 BY MR. MORLEY:

14 Q. I have a couple follow-up questions I was given
15 here. Were you asked to check the CO monitor system
16 after the explosion?

17 A. On the computer?

18 Q. Yeah.

19 A. No, I wasn't asked to.

20 Q. Did you?

21 A. Yes.

22 Q. And what did you see?

23 A. Everything was red from Number Four North head to
24 Number Six tail.

25 Q. When you say red, you mean ---?

1 A. In alarm state.

2 ATTORNEY BABINGTON:

3 And Number Four North head, what area is
4 that referring to?

5 A. Ellis Switch area.

6 BY MR. MORLEY:

7 Q. And Number Six tail would be ---?

8 A. Right in the hole.

9 ATTORNEY BABINGTON:

10 That's around 100 Break.

11 BY MR. MORLEY:

12 Q. What about inby in that area?

13 A. Nothing. But we learned later, I guess, the
14 controls had been blown. The control lines had been
15 blown out up there.

16 Q. Okay. But the one at Number Six tail was still
17 operating in alarm?

18 A. All these (indicating) were still operating in
19 alarm state. And talking to investigators, they ---
20 that took the computer and said it continued operating
21 for several hours, on battery power.

22 Q. When did you look at the system?

23 A. Let's see, I got --- we went outside probably
24 about five minutes until 3:00. And a little after
25 3:00 is when we heard the fans, you know, the sound

1 change on the fans. So to me, as I went upstairs and
2 I saw that, and then I went back to the fan then to
3 check it.

4 Q. Then did you go back to the CO system again?

5 A. Yes. Several times.

6 Q. Did any of them ever clear up or did they all ---

7 A. No. No, they didn't clear. They stayed in alarm
8 state.

9 Q. And did everybody at the portal know that they
10 were in alarm? And how does everybody know when they
11 go in alarm?

12 A. The AMS operator, he calls underground and tells
13 the people in that area, but there was nobody to get
14 ahold of. He tried to call them.

15 Q. How late did you stay at the mine that night?

16 A. I left about nine o'clock the next morning, ten
17 o'clock.

18 Q. What did you do between that time and nine o'clock
19 the next morning?

20 A. At one point I went over to Ellis, over to the
21 other portal because, you know, their power came from
22 our side of the mine, so we was trying to help
23 establish power over to their office because they were
24 --- that's where they were bringing people out over
25 there, too, and everything. We had people on both

1 sides, you know, MSHA and State and rescue teams and
2 emergency vehicles and so they was wanting power over
3 there.

4 Q. What time did you get to Ellis?

5 A. I think about 11:30 that night, I believe.

6 Q. And what else did you do over there that night?

7 A. Well, we had to start hooking up the ---

8 Q. Alarm?

9 A. --- MSHA trailers, the State trailers and
10 everything, working with them, getting the power
11 sources and everything.

12 Q. Okay. Changing, changing gears here, in 2004, do
13 you recall or are you aware about like an outburst
14 problem that happened on one of the longwalls?

15 A. Not that I remember.

16 Q. No gas outbursts?

17 A. Not that I know. Not that I recall.

18 Q. Okay.

19 A. That was a long time ago and I'm 55 years old.

20 Q. Okay. Do you ever --- are you ever around during
21 welding, cutting operations?

22 A. Yes.

23 Q. And what are your normal procedures for that?

24 A. We always took our gas tests. We'd always have,
25 you know, the rock dust and fire extinguisher and

1 continuously monitor the air.

2 Q. Okay. When welding, did you --- did you always
3 carry the negative lead with you?

4 A. I don't understand the question.

5 Q. I don't really understand it, either. And this is
6 new to me. Okay. Let's keep going.

7 A few more questions here. When inspectors would
8 come to the mine, would people under --- would miners
9 underground at the mine be aware that the --- when the
10 inspectors arrived at the property?

11 A. No, the people underground would not.

12 Q. They wouldn't? They were never notified by
13 someone that inspectors had come?

14 A. The office would be because the guard shaft, they
15 announce any time somebody comes through the gate
16 unless it's, you know, it's a member that works there.
17 Like if there's a vendor comes there, anybody comes
18 through the gate besides a worker, they always got
19 their two-way radio up in the office.

20 Q. Uh-huh (yes).

21 A. And they'll say, such and such from MSHA on the
22 property or such and such from State electrical on the
23 property or such and such from ---.

24 Q. Are you aware if that information was ever related
25 underground?

1 A. I'd say --- I'd say it was when they got where
2 they were going to.

3 Q. Okay. And one last question. Being in
4 maintenance of electricity, did you ever hear any
5 stories or are you aware that if any methane monitors
6 in the mine had ever been bridged out?

7 A. No.

8 Q. Okay.

9 OFF RECORD DISCUSSION

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. Okay. On April 5th of this year, when you were
13 exiting the mine, you indicated that you were going
14 through the doors around 78 and you indicated there
15 was a guy behind you in another track mine vehicle by
16 the name of Joe Massey; is that correct?

17 A. Yes.

18 Q. Is there another employee at the mine known as
19 Billy Massey?

20 A. That's his name. Everybody calls him Joe.

21 Q. Okay. They're one and the same?

22 A. Yeah. I was going to mention I call him Joe, and
23 I says, well, everybody knows Joe. Yeah, Billy Massey
24 and Joe is the same person.

25 MR. FARLEY:

1 Okay.

2 RE-EXAMINATION

3 BY ATTORNEY MCATEER:

4 Q. Just a couple questions. On the 5th, did you take
5 a gas test? Do you remember any time taking a test?

6 A. When we arrive on the worksite, we just usually
7 --- we turn it on when we just go in and we usually
8 turn it off when we come out.

9 Q. Sure. Did your electrical training come out of
10 the S1 manual?

11 A. No.

12 Q. Do you have an S1 manual?

13 A. Yes.

14 Q. Ever read it?

15 A. Yes.

16 Q. I have a lot of lawyer's manuals. I'm not sure I
17 read them all the time as much as I should. Would the
18 same apply to you?

19 A. Well, the S1 manual is beneficial because --- this
20 might be on the record. It don't have to be. Anyway,
21 I'd say what they did when they got to S1 ---. Are
22 you talking about our S1 manual?

23 Q. Yeah.

24 A. All right. Yeah, they got --- as far as the
25 electrical part, they got all their top electrical

1 people, you know ---

2 Q. Right.

3 A. --- and they said, well ---. And their best
4 practices you use, safety ---

5 Q. Sure. Okay.

6 A. --- practices you use. The same way with
7 production. They got all their top people in
8 production and everything as far down as setting belt
9 heads and ---.

10 Q. Uh-huh (yes).

11 A. It's good.

12 Q. Okay. Were there any high-voltage equipment or
13 cables that would have arcing capacity above standard
14 mine arcing capacity, any, ---? This is, again, not
15 an electrician talking, anything that was unusually
16 powerful that would have an arcing capacity.

17 A. No.

18 Q. Okay. You left the mine about 30 minutes before
19 it happened. What do you think happened?

20 A. What I think happened is ---. I don't know the
21 particular what would have happened, but it had to be
22 something --- a sudden --- sudden occurrence from some
23 outside source, I'd say.

24 ATTORNEY MCATEER:

25 Okay. That's all the questions. Thank

1 you again, Mr. Bowman.

2 ATTORNEY BABINGTON:

3 Terry, anything else?

4 MR. FARLEY:

5 No.

6 ATTORNEY BABINGTON:

7 All right. We marked up one map. We'll

8 label that as Bowman One.

9 (Bowman Exhibit One marked for

10 identification.)

11 ATTORNEY BABINGTON:

12 It's a Bandytown fan map. On behalf of

13 MSHA ---. Sorry. And that map's part of the record.

14 On behalf of MSHA and the Office of

15 Miners' Health, Safety and Training, I want to thank

16 you for appearing and answering questions today. Your

17 cooperation is very important in the investigation as

18 we work to determine the cause of the accident.

19 We request that you not discuss your

20 testimony with any person aside from your personal

21 representative. After questioning other witnesses, we

22 may call you if we have any follow-up questions. At

23 any time you have additional information regarding the

24 accident that you'd like to provide to us, please

25 contact us at the contact information previously

1 provided.

2 If you wish, you may now go back over any
3 answer you've given during this interview. You may
4 also make any statement that you'd like to make at
5 this time.

6 A. Only statement I'd like to make is like with all
7 the guys that perished in this, I was familiar with
8 all of 'em and how safety-conscious they were. And
9 like Edward Jones, we call him Dino. And I'm sure,
10 you know, if there had been anything out of the
11 ordinary when he called his fire boss out, he would've
12 made a note of it, because these guys aren't guys, you
13 know, that observe a situation and not do something
14 about it.

15 That's why I said a while ago, whatever happened
16 was something just unusual. I mean, just right now,
17 you know, just ---.

18 ATTORNEY BABINGTON:

19 All right. Thank you. And again, I want
20 to thank you for your cooperation in this matter.

21 A. Okay, gentlemen.

22 ATTORNEY BABINGTON:

23 Off the record.

24 * * * * *

25 STATEMENT UNDER OATH CONCLUDED AT 12:04 P.M.

1 STATE OF WEST VIRGINIA)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:

That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;

That the proceeding is herein recorded fully
and accurately;

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



Alison Salyards