



SARGENT'S
COURT
REPORTING

Quality Work. Quality People.

Transcript of the Testimony of (b)(7)(C) & (b)(7)(D)

Date: (b)(7)(C) & (b)(7)(D)

Case:

Printed On: June 18, 2010

Sargent's Court Reporting Services, Inc.
Phone: 814-536-8908
Fax: 814-536-4968
Email: schedule@sargents.com
Internet: www.sargents.com

CONFIDENTIAL STATEMENT UNDER OATH

OF

(b)(7)(C) & (b)(7)(D)

taken pursuant to Notice by Alicia R. Brant, a
Court Reporter and Notary Public in and for the
State of West Virginia, at The National Mine
Health & Safety Academy, 1301 Airport Road,
Room C-137, Beaver, West Virginia, on Tuesday,
(b)(7)(C) & (b)(7)(D) , beginning at (b)(7)(C) & (b)(7)(D)

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

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

A P P E A R A N C E S

DEREK J. BAXTER, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

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

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

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

DAVID STEFFEY
National Mine Safety and Health Academy
1301 Airport Road
Room C-137
Beaver, WV 25813-9426

JOHN T. O'BRIEN
Safety Instructor
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
819 Stewart Street
Welch, WV 24801-2311

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Baxter	7 - 11
5	STATEMENT	
6	By Mr. Farley	11 - 12
7	WITNESS: (b)(7)(C) & (b)(7)(D)	
8	EXAMINATION	
9	By Mr. Steffey	12 - 51
10	EXAMINATION	
11	By Mr. Farley	51 - 64
12	EXAMINATION	
13	By Attorney McAteer	64 - 73
14	RE-EXAMINATION	
15	By Mr. Steffey	73 - 109
16	DISCUSSION AMONG PARTIES	109 - 110
17	RE-EXAMINATION	
18	By Mr. Farley	111 - 113
19	RE-EXAMINATION	
20	By Attorney McAteer	113 - 118
21	RE-EXAMINATION	
22	By Mr. Steffey	118 - 129
23		
24		
25		

I N D E X (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

RE-EXAMINATION

By Mr. Farley

129 - 133

CLOSING STATEMENT

By Attorney Baxter

133 - 135

CERTIFICATE

136

1	EXHIBIT PAGE	
2		PAGE
3	NUMBER	DESCRIPTION IDENTIFIED
4	One	Map 26*
5	Two	Map 45*

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

*exhibits not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is June
5 15th, 2010. I am with the Office of the Solicitor,
6 U.S. Department of Labor. With me is David Steffey,
7 an accident investigator with the Mine Safety and
8 Health Administration, MSHA, an agency of the United
9 States Department of Labor. Also present are several
10 people from the State of West Virginia. I ask that
11 they state their appearance for the record.

12 MR. FARLEY:

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

15 MR. O'BRIEN:

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

18 ATTORNEY MCATEER:

19 I'm Davitt McAteer, and I'm the
20 Governor's special investigator.

21 ATTORNEY BAXTER:

22 And Mr. Steffey, Mr. Farley and Mr.
23 McAteer will be conducting the questioning today.
24 All members of the Mine Safety and Health
25 Accident Investigation Team and all members of the

1 State of West Virginia Accident Investigation Team
2 participating in the investigation of the Upper Big
3 Branch Mine explosion shall keep confidential all
4 information that's gathered from each witness who
5 voluntarily provides a statement until the witness
6 statements are officially released. MSHA and the
7 State of West Virginia shall keep this information
8 confidential so that other ongoing enforcement
9 activities are not prejudiced or jeopardized by a
10 premature release of information. This
11 confidentiality requirement shall not preclude
12 investigation team members from sharing information
13 with each other or with other law enforcement
14 officials. Your participation in this interview
15 constitutes your agreement to keep this information
16 confidential.

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

1 You may have your personal attorney
2 present during the taking of this statement or another
3 personal representative, if MSHA has permitted it, and
4 may consult with your attorney or the representative
5 at any time. Do you have a personal representative
6 here with you?

7 (b)(7)(C) & (b)(7)(D)

8 No, I do not.

9 ATTORNEY BAXTER:

10 Your statement is completely voluntary.

11 You may refuse to answer any question and you may
12 terminate your interview at any time or request a
13 break at any time. Since this is not an adversarial
14 proceeding, formal Cross Examination will not be
15 permitted. However, your personal legal
16 representative may ask clarifying questions as
17 appropriate.

18 Your identity and the content of this
19 conversation will be made public at the conclusion of
20 the interview process and may be included in the
21 public report of the accident, unless you request that
22 your identity remain confidential or your information
23 would otherwise jeopardize a potential criminal
24 investigation. If you request us to keep your
25 identity confidential, we will do so to the extent

1 permitted by law. That means that if a judge orders
2 us to reveal your name or if another law requires us
3 to reveal your name, or if we need to reveal your name
4 for other law enforcement purposes, we may do so. We
5 request that you refrain from discussing your
6 statement with others who may be interviewed. Also,
7 there may be a need to use the information you provide
8 to us or other information we may ask you to provide
9 in the future in other investigations into and
10 hearings about the explosion. Do you understand?

11 (b)(7)(C) & (b)(7)(D)

12 Yes, sir.

13 ATTORNEY BAXTER:

14 Do you have any questions?

15 (b)(7)(C) & (b)(7)(D)

16 No, sir.

17 ATTORNEY BAXTER:

18 After the investigation is complete, MSHA
19 will issue a public report detailing the nature and
20 causes of the fatalities in the hope that greater
21 awareness about the causes of accidents can reduce
22 their occurrence in the future. Information obtained
23 through witness interviews is frequently included in
24 these reports. Since we will be interviewing other
25 individuals we request that you not discuss your

1 testimony with any person aside from your personal
2 representative or counsel.

3 A court reporter will record your
4 interview. Please speak loudly and clearly. If you
5 do not understand a question asked, please ask us to
6 rephrase it. Please answer each question as fully as
7 you can, including any information you've learned from
8 someone else.

9 I would like to thank you in advance for
10 your appearance here. We appreciate your assistance
11 in this investigation. Your cooperation is critical
12 in making the nation's mines safer. After we have
13 finished asking questions, you'll have an opportunity
14 to make a statement and provide us with any other
15 information that you believe to be important. If at
16 any time after the interview you recall any additional
17 information that you believe might be useful, please
18 contact Norman Page at the telephone number or e-mail
19 address provided to you.

20 ATTORNEY FARLEY:

21 (b)(7)(C) & (b)(7)(D) on behalf of the West Virginia
22 Office of Miners' Health, Safety and Training, I want
23 to advise you that the West Virginia Mine Health and
24 Safety Regulations also protect coal miners against
25 discrimination. And should you experience any such

1 discrimination, you have a right to file a complaint.
2 I'm going to provide you with some contact information
3 should that occur. We'd just caution you that in the
4 event that that happens, you need to file a complaint
5 within 30 days. Okay?

(b)(7)(C) & (b)(7)(D)

6
7 Yes, sir.

8 MR. FARLEY:

9 Thank you.

10 ATTORNEY MCATEER:

(b)(7)(C) & (b)(7)(D)

11 I'm Davitt McAteer, as I
12 mentioned, and the Governor has asked me and a group
13 of people to do an independent review for the purpose
14 of trying to keep these things from ever happening
15 again. So thanks for coming.

(b)(7)(C) & (b)(7)(D)

16
17 You're welcome.

18 ATTORNEY BAXTER:

19 Please swear the witness in.

20 -----
(b)(7)(C) & (b)(7)(D)

HAVING FIRST BEEN DULY SWORN,

21
22 TESTIFIED AS FOLLOWS:

23 -----
24 EXAMINATION

25 BY MR. STEFFEY:

1 Q. Good morning.

2 A. Hi.

3 Q. Would you please state your full name and spell
4 your last name?

5 A. (b)(7)(C) & (b)(7)(D)

6 Q. Would you please state your address and telephone
7 number?

8 A. (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D)

10 Q. Are you appearing here today voluntarily?

11 A. Yes, sir.

12 Q. Has anyone made any promises concerning the
13 testimony you're about to give?

14 A. No, sir.

15 Q. Has anyone given you anything in exchange for the
16 testimony you're about to give?

17 A. No, sir.

18 Q. Has anyone made any threats concerning the
19 testimony you're about to give?

20 A. No, sir.

21 Q. Has anyone else interviewed you concerning the
22 accident and your knowledge of the conditions in the
23 mine?

24 A. Massey company lawyers did.

25 Q. Do you remember when they interviewed you?

1 A. Let me think, please. Probably a month or so ago.

2 I don't know an exact date.

3 Q. Where did this interview take place?

4 A. It was taken at Elk Run Coal Company, main office.

5 Q. Do you remember what type of questions they asked?

6 A. Just what I thought maybe happened, where I was at

7 at the time it happened, things concerning the

8 explosion, if I thought what would have caused it or

9 things in that nature.

10 Q. Okay. Did they caution you about what you should

11 say in this interview or how you should answer our

12 questions?

13 A. No, sir.

14 Q. Did they give you any advice on this interview or

15 any instructions?

16 A. No, sir.

17 Q. Okay.

18 A. Not as I remember.

19 Q. All right. ^{(b)(7)(C) & (b)(7)(D)} how many years of mining

20 experience do you have?

21 A. A little over ^{(b)(7)(C) & (b)(7)(D)} years. ^{(b)(7)(C) & (b)(7)(D)}

23 Q. If you wouldn't care, give me a brief description

24 of your coal mine employment history.

25 A. I started as a red hat for Performance Coal

1 Company, moving belt, dusting, a lot of belt work,
2 belt splices, things in that nature. After I got my
3 black hat, I went to a motorman, and again, moved
4 belt. I worked on sections. And here recently I've
5 (b)(7)(C) & (b)(7)(D)

6 Q. Okay. Do you have any mining certifications?

7 A. Yes, sir.

8 Q. Would you care to list them?

9 A. I'm an underground EMT miner. I'm a certified
10 dust sampler, certified underground mine foreman. I
11 think that's it.

12 Q. Okay. And when did you become a (b)(7)(C) & (b)(7)(D)

13 A. Approximately --- let me think here. For what
14 time? I've been doing it probably for maybe eight or
15 nine months. I've helped out since I've had my
16 certification, which I can't remember really when I
17 got it, the exact date, but probably for two years now
18 I've actually been helping (b)(7)(C) & (b)(7)(D)

19 Q. And then for what did you say, how many months
20 full time?

21 A. Probably eight, nine --- seven, eight, nine
22 months, not a long time.

23 Q. Okay.

24 A. Just here recently.

25 Q. Are you presently employed?

1 A. Yes, sir.

2 Q. Where at?

3 A. I'm still with Massey Energy. I work down at ---
4 it's called (b)(7)(C) & (b)(7)(D) It's down in (b)(7)(C) & (b)(7)(D)

5 Q. Okay. Now, is that with Performance or ---?

6 A. I'm still under Performance payroll, but actually
7 Elk Run --- it's an Elk Run mine.

8 Q. So Elk Run runs the mines, and your payroll still
9 comes out of Performance?

10 A. Yes, sir.

11 Q. When did you start there?

12 A. Let me think. I think around the 20th of April.
13 It was probably about two, two-and-a-half weeks after
14 the explosion.

15 Q. Okay. And what's your job title there?

16 A. I'm still classified as (b)(7)(C) & (b)(7)(D) but
17 I'm going to the section. I'm going to (b)(7)(C) & (b)(7)(D)

19 Q. Okay.

20 A. I'm not going to use my certification right now.

21 Q. And I believe you said that you started with
22 Massey as a red hat?

23 A. Yes, sir.

24 Q. So would it be safe to say that a hundred percent
25 of your mining experience is with Massey?

1 A. All but for three months. I left and went to ---
2 it was called (b)(7)(C) & (b)(7)(D)

3 Q. Okay.

4 A. I went for (b)(7)(C) & (b)(7)(D)
5 Then I went back to Massey --- Performance, the same
6 mines.

7 Q. What was the reason for you leaving?

8 A. Just the condition of (b)(7)(C) & (b)(7)(D) It was ---.

9 Q. What was the reason you left Massey?

10 A. They had a realignment. And I don't really like
11 third shift, and they put me back on third shift,
12 moving belt and things like that. And (b)(7)(C) & (b)(7)(D) was
13 like just maybe (b)(7)(C) & (b)(7)(D)
14 and it was the dayshift, and that's the reason I took
15 it.

16 Q. How long do you have to drive to get to work right
17 now?

18 A. Now, probably (b)(7)(C) & (b)(7)(D)

19 Q. Have you ever done any other jobs at Massey? Ever
20 been on light duty or anything?

21 A. No.

22 Q. Ever been injured?

23 A. I've been (b)(7)(C) & (b)(7)(D) but I've never taken light
24 duty. I've (b)(7)(C) & (b)(7)(D) and things like that.

25 Q. Were you off?

1 A. No. (b)(7)(C) & (b)(7)(D)

2 Q. How did you (b)(7)(C) & (b)(7)(D)

3 A. I was trying to spread the forks on a forklift,
4 and I had a guy helping me. (b)(7)(C) & (b)(7)(D)

8 Q. Was this when you were at UBB?

9 A. Yes, sir.

10 Q. When did you first go to UBB?

11 A. I started (b)(7)(C) & (b)(7)(D)

12 Q. Okay. Let's go back to this (b)(7)(C) & (b)(7)(D) So
13 you did this on the job?

14 A. Yes, sir.

15 Q. Was there an accident report filled out?

16 A. Yes. I'm pretty sure there was.

17 Q. Did you go to the hospital?

18 A. I went to (b)(7)(C) & (b)(7)(D) . It's a clinic down
19 in (b)(7)(C) & (b)(7)(D)

20 Q. Anybody from the company go with you?

21 A. No, sir.

22 Q. Nobody from safety met you there or anything?

23 A. No, sir.

24 Q. Was there any pressure on you to return from
25 work --- or to return to work, that is?

1 A. Not really. I mean, they wanted me to come back
2 as soon as I could, yet no. At the time I started as
3 a red hat, if you missed work, you didn't stay at
4 Massey long. And I was --- so I just had started as a
5 red hat and (b)(7)(C) & (b)(7)(D)
6 and ---.

7 Q. So you were fearful of losing your job over an
8 injury?

9 A. At the time, yeah. I mean, just --- it's changed
10 a lot here in the past --- since I've been with
11 Massey. But when I started it was, you better show up
12 or ---.

13 Q. So you saw a lot of red hats that got sent home?

14 A. Oh, yes. Very few of us made it through.

15 Q. So your first day of employment at Upper Big
16 Branch was (b)(7)(C) & (b)(7)(D) Did I hear you correct?

17 A. Yes, sir.

18 Q. Did you receive the Massey initial training?

19 A. As in what, sir? I don't understand.

20 Q. In the videos that they showed.

21 A. Oh, yes. Yes.

22 Q. So they covered S1, ---

23 A. Yes, sir.

24 Q. --- P2?

25 A. I went to orientation for eight hours before ---

1 Q. Okay.

2 A. --- I went, yes, sir.

3 Q. And when did you get this?

4 A. That was probably two days before I started with
5 Performance. It was down at the Performance safety
6 building. I think George Nelson was the safety
7 director then.

8 Q. What subjects did they go over?

9 A. S1, self-rescuer.

10 Q. What type of self-rescuer training did you have?

11 A. SCRS (sic) rescuer.

12 Q. How often do you do that training?

13 A. We do it every quarter. You know, we have fire
14 drills and things like that. We do our trainings and
15 things and every retraining. And every so often
16 they'll pop up and say, no, we're doing --- now it's a
17 big thing to transfer the two over and things like
18 that.

19 Q. So they teach you how to transfer the two over and
20 they teach you how to put one on?

21 A. Yes, sir.

22 Q. Blindfolded, I assume?

23 A. Yes, sir.

24 Q. Do they teach you when to put it on? Do they tell
25 you when you need to put that ---?

1 A. If you have any doubt whatsoever, put it on.

2 Q. Okay. And that's what they tell you?

3 A. Yes, sir.

4 Q. Okay. What else did they cover? Did they cover
5 any safety and regulations, requirements that had to
6 be done, any required duties?

7 A. None that I can remember. It's been so long,
8 really.

9 Q. What about when you became (b)(7)(C) & (b)(7)(D) what were
10 you told then?

11 A. Just --- when I become (b)(7)(C) & (b)(7)(D) it was,
12 nobody showed me the route I needed to take, I mean,
13 like --- you know, everybody told me like you should
14 (b)(7)(C) & (b)(7)(D) to show your route you
15 go and things like that. When I started, they pretty
16 much just --- well, I was there so long, I guess they
17 thought I knew exactly where to go, which I did, and I
18 made sure I knew where all the (b)(7)(C) & (b)(7)(D)

21 Q. Okay. We're going to talk about that a little
22 more right here in a minute.

23 A. Okay.

24 Q. What was your first job assignment at Upper Big
25 Branch? Do you remember the first thing that you did

1 there?

2 A. The first thing I did was (b)(7)(C) & (b)(7)(D)

3 Q. Okay.

4 A. I was on (b)(7)(C) & (b)(7)(D)

5 Q. All right. Did you receive any training prior to
6 that, any task training or anything?

7 A. Not that I can remember.

8 Q. Did they take you in the mine, on a tour of the
9 mine, or did they just put you to work?

10 A. They took me to work, sir.

11 Q. Okay. And did you have your annual refresher?

12 A. Yes. Yes.

13 Q. How often do they do that?

14 A. We do it once a year.

15 Q. Okay.

16 A. Mostly ours most of the time is around the end of
17 March or April.

18 Q. Okay. And who does this?

19 A. We had ours at Marfork.

20 Q. Are you qualified to take methane tests?

21 A. Yes, sir.

22 Q. And how were you qualified?

23 A. I was trained on a Solaris spotter.

24 Q. Okay. And who did you demonstrate your
25 proficiency in its use for?

1 A. I think maybe --- just maybe Jim Walker maybe.

2 Q. And who is he?

3 A. He's a safety director at Massey.

4 Q. Okay. Were you qualified by MSHA?

5 A. Yes. When I took my foreman test, I had to
6 perform a gas test for MSHA.

7 Q. Now, was that MSHA or was that for the State?

8 A. That was for the State.

9 Q. Okay.

10 A. The State. It was done at Oak Hill.

11 Q. You mentioned evacuation drills ---

12 A. Yes.

13 Q. --- and you traveled the escapeway?

14 A. Yes, sir.

15 Q. How often do you do this?

16 A. Escapeways, I think every quarter we do
17 escapeways. I'm pretty sure. I'm in the escapeways a
18 lot where I ^{(b)(7)(C) & (b)(7)(D)} so ---. I was always in them,
19 so ---.

20 Q. Any other kind of training that the company
21 provided you?

22 A. No.

23 Q. All right. What time does your normal shift start
24 and end?

25 A. 6:00 to 3:00. 6:00 to 4:00. I'm sorry.

1 Q. 6:00 to 4:00.

2 A. 6:00 to 4:00. We work tens.

3 Q. Okay. And what portal did you enter traveling
4 into the mine?

5 A. I traveled the South Portal. I (b)(7)(C) & (b)(7)(D) the
6 barrier section and the portal section.

7 Q. Okay. What type of transportation did you have?

8 A. Track. A Jeep.

9 Q. Track?

10 A. Yes, sir.

11 Q. Okay. So was it a rubber-tired that ran on the
12 track or was it a track-mounted ---?

13 A. It's a track-mounted ---.

14 Q. Battery power?

15 A. Yes, sir.

16 Q. Okay. How many pre-shift examiners were there for
17 each shift in this mine?

18 A. Dayshift, we had several. On the south side,
19 which where I was at, there was probably four.

20 Q. Four on the south side?

21 A. Yes, sir, on the dayshift. Evening shift I think
22 there was 2:00, because evening shift ran 6:00 to
23 6:00, their shift did, so they had to pre-shift for
24 third shift and dayshift. They had to do two runs,

25 (b)(7)(C) & (b)(7)(D) where we just had to do (b)(7)(C) & (b)(7)(D)

1 dayshift.

2 Q. Okay. Did you ever have to conduct more than ---
3 did you ever have to conduct more than one pre-shift
4 exam?

5 A. Yes, sir. I was on the second shift also for a
6 little while.

7 Q. We'll come back to that.

8 A. Okay.

9 Q. Let's talk about this multi-gas detector. You
10 mentioned you had a Solaris?

11 A. Yes, sir.

12 Q. Did you take it home?

13 A. Yes, sir.

14 Q. So you charged it at your house?

15 A. Yes, sir.

16 Q. Who calibrated it and maintained it?

17 A. I did, sir. We had a calibration in a bump,
18 calibration at the mines.

19 Q. How often did you calibrate it?

20 A. Every 30 days. I actually done mine a lot --- if
21 I had time, just at least once a week, more like it
22 for me.

23 Q. Okay.

24 A. I always made sure it was calibrated and up to
25 date.

1 Q. Did you have a probe ---

2 A. No.

3 Q. --- when you went in the mine?

4 A. No.

5 Q. Now, you mentioned that you were responsible for

6 (b)(7)(C) & (b)(7)(D)

Yes, sir.

9 Q. --- is that right?

10 A. Yes, sir.

11 Q. Would you care to mark these areas on the map?

12 ATTORNEY BAXTER:

13 We'll mark this map as (b)(7)(C) & (b)(7)(D) Exhibit

14 One.

15 (b)(7)(C) & (b)(7)(D) Exhibit One marked for

16 identification.)

17 BY MR. STEFFEY:

18 Q. This being the Upper Big Branch portals.

19 A. How should I mark this, just the whole area that I

20 (b)(7)(C) & (b)(7)(D) ---?

21 Q. Well, yeah, circle the area that (b)(7)(C) & (b)(7)(D)

and then we'll get into some specifics.

23 A. Okay.

24 MR. FARLEY:

25 And for your (b)(7)(C) & (b)(7)(D) maybe

(b)(7)(C) & (b)(7)(D)

1 highlight the entire length of the area

2 A. Okay. Oh, the red is the beltline? I didn't see
3 that.

4 BY MR. STEFFEY:

5 Q. Yes, that's correct.

6 A. Okay. And this is the portal section.

7 Q. So you're marking the belt with the green
8 highlighter?

9 A. Yes, sir.

10 Q. Okay.

11 A. I'm just trying to figure out where I'm at here.

12 This would be the south --- I think this is the South
13 belt here. Sorry I'm taking so long.

14 MR. FARLEY:

15 That's okay.

16 A. It's been so long since I've seen the map.

17 Barrier section ---. That's the North belt. If I
18 ain't mistaken, this here would be the new barrier
19 section.

20 BY MR. STEFFEY:

21 Q. Okay.

22 A. Now, these up in here --- I've got these EPs
23 also, ---

24 Q. Okay.

25 A. --- because (b)(7)(C) & (b)(7)(D) I think, on Thursdays.

(b)(7)(C) & (b)(7)(D)

1

2 Q. So you did (b)(7)(C) & (b)(7)(D) areas also?

2

3 A. Yes.

(b)(7)(C) & (b)(7)(D)

3

5 Q. Okay.

6 A. Should I just circle the ---?

6

7 Q. You can circle that and then write out from it
8 made

(b)(7)(C) & (b)(7)(D)

7

8

10 WITNESS COMPLIES

11 BY MR. STEFFEY:

12 Q. Part of the map is cut off.

13 A. Oh, okay. Because I (b)(7)(C) & (b)(7)(D) than ---.

14 Q. Yeah.

15 A. Okay. And also, on these --- (b)(7)(C) & (b)(7)(D) the
16 interior on these EPs here. (b)(7)(C) & (b)(7)(D) the
17 EPs. (b)(7)(C) & (b)(7)(D) the exterior, but (b)(7)(C) & (b)(7)(D)

the interior. (b)(7)(C) & (b)(7)(D) or

19 anything. (b)(7)(C) & (b)(7)(D) you know, and that

20 nature.

21 Q. Okay. And you did that also on Thursday, I would
22 assume?

23 A. Actually, (b)(7)(C) & (b)(7)(D) did that on Mondays. Let me
24 think a second. Yes, Mondays. (b)(7)(C) & (b)(7)(D) on
25 the old barrier section.

1 Q. Okay. Well, if you would just circle that area
2 and write (b)(7)(C) & (b)(7)(D) on Mondays.

3 WITNESS COMPLIES

4 A. I think that's it.

5 BY MR. STEFFEY:

6 Q. Okay. With the blue marker, would you mark any
7 waterholes that you remember checking?

8 WITNESS COMPLIES

9 A. I can't remember if we had a pump. This here's on
10 the barrier. If I'm not mistaken, there's a pump in
11 this area here. I'm not exactly for sure where, but I
12 know it's in this area.

13 BY MR. STEFFEY:

14 Q. Okay.

15 A. I had a pump there.

16 Q. Approximately where you think it is.

17 A. Okay. One there.

18 ATTORNEY FARLEY:

19 And if you would just out from those
20 locations write pump, ---

21 A. Okay.

22 ATTORNEY FARLEY:

23 --- please.

24 WITNESS COMPLIES

25 A. We was in the process of setting up some pumps

1 over here. We never had any power or anything to
2 them. We just had the pumps going in that area, but
3 we never --- we had some discharge ran to it, but we
4 never had anything actually connected.

5 BY MR. STEFFEY:

6 Q. So you had some water in that area?

7 A. Yes, sir. The old barrier. I never was up in
8 there much. That was (b)(7)(C) & (b)(7)(D) that took
9 care of this area. I was helping him get his
10 discharge ran and things like that.

11 ATTORNEY BAXTER:

12 Okay. And what area is that exactly?

13 A. This --- it was --- it's called old Four section,
14 old barrier section. It's just right at Plumley
15 Switch. We call it Plumley Switch. It's up in that
16 area. And it was the old panel they pulled off of it
17 before they went to the new panel.

18 BY MR. STEFFEY:

19 Q. In here. And (b)(7)(C) & (b)(7)(D) that made that
20 area?

21 A. That was Jim Boyer.

22 Q. Okay.

23 A. By the way, (b)(7)(C) & (b)(7)(D) . We
24 helped --- (b)(7)(C) & (b)(7)(D) up and things like that.
25 (b)(7)(C) & (b)(7)(D) So I was up in there some

1 and he was up in there some. That's all a lot of this
2 area was. (b)(7)(C) & (b)(7)(D) and --- it just
3 depends where (b)(7)(C) & (b)(7)(D) time. You know,
4 we would call and say I will get this and he would get
5 that.

6 Q. Okay. So you (b)(7)(C) & (b)(7)(D) area?

7 A. I think (b)(7)(C) & (b)(7)(D) once. Once.

8 Q. You (b)(7)(C) & (b)(7)(D)

9 A. Yes.

10 Q. What do you remember about the old barrier section
11 that --- what did you say his name was, ---

12 A. Jim Boyer.

13 Q. --- that Jim Boyer normally made?

14 A. He'd just say water was starting to build up in
15 the faces. And we had some 15-horsepower pumps. We
16 was in the process of getting up there and running,
17 start pumping the area.

18 Q. How much water was there?

19 A. Jim --- the last I spoke to him, you had to have
20 waders, so --- if you was going to set the pumps.
21 Above your knees at least, so ---.

22 Q. Okay. Did it interfere with ventilation?

23 A. I'm sure it did. I mean --- I'm sure it did. Any
24 water like that is going to ---?

25 Q. How long did this condition exist?

1 A. Just --- not very long, because when it started to
2 add up, that's when Jim told the superintendent about
3 we needed to get some pumps up there, and they was in
4 the process of getting pumps and things like that.

5 Q. And this was during the weekly exams?

6 A. Yes, sir. It was in the books. It's in the
7 books. (b)(7)(C) & (b)(7)(D) that water was
8 going in the faces, and we was in the process of
9 setting pumps to pump the water out.

10 Q. Okay.

11 A. Everything (b)(7)(C) & (b)(7)(D) the book.

12 Q. If you would write in here that water is starting
13 to build in the faces, old barrier section.

14 WITNESS COMPLIES

15 BY MR. STEFFEY:

16 Q. Okay. Any high spots in there that you had to
17 (b)(7)(C) & (b)(7)(D)

18 A. No, sir. It's six, six-and-a-half to seven foot.

19 Q. No place that you needed to probe?

20 A. No. No, sir.

21 Q. Okay. What about working sections, (b)(7)(C) & (b)(7)(D)
22 pre-shift any working sections?

23 (b)(7)(C) & (b)(7)(D) Very seldom. If it was, it would be on like a
24 Sunday or something, because I work a lot of Sundays
25 and ---.

1 Q. If you would take the orange highlighter and
2 circle the sections that (b)(7)(C) & (b)(7)(D)

3 WITNESS COMPLIES

4 BY MR. STEFFEY:

5 Q. And right out from these working sections ---.

6 And you indicated that (b)(7)(C) & (b)(7)(D)

7 these; correct?

8 A. Yes, sir, I did.

9 Q. Okay. Now, you mentioned that you entered the
10 mine at what time?

11 A. 6:00 a.m.

12 Q. 6:00 a.m. All right. What was the first thing
13 you had (b)(7)(C) & (b)(7)(D)

14 A. The first thing (b)(7)(C) & (b)(7)(D) the track on the
15 way in, the roadways, the way in. Then we was ---
16 made sure the belts would start up.

17 Q. And what were (b)(7)(C) & (b)(7)(D) Four? Were you

18 (b)(7)(C) & (b)(7)(D) for the dayshift when you went in?

19 A. Yes. Yes, just any broke rail or any hazardous
20 condition, a rib roll or a timber maybe falling or
21 things, just make sure it was safe for the crews to go
22 in.

23 Q. Okay. Prior to entering the mine, did you review
24 the previous pre-shift examination?

25 A. Yes, sir, (b)(7)(C) & (b)(7)(D) ---

1 Q. Okay.

2 A. --- every morning.

3 Q. Okay. Then what did you do after (b)(7)(C) & (b)(7)(D)
4 rails and the belts?

5 A. We do a lot of belt work. We would go and clean
6 on the belts, pins, taking care of my belt heads,
7 check pumps, set pumps, everything. We --- at Massey
8 when you're (b)(7)(C) & (b)(7)(D) you're pretty much like a
9 general laborer also (b)(7)(C) & (b)(7)(D) You're
10 doing everything, what anybody asks you to do.

11 Q. So you were doing some rock dusting also?

12 A. I'd rock dust, yes, sir.

13 Q. Okay. How long did it take you to complete your
14 (b)(7)(C) & (b)(7)(D)

15 A. Approximately two, two-and-a-half hours. That was
16 the --- (b)(7)(C) & (b)(7)(D) you
17 know, in case I would come across something, a
18 condition, you know, a drop or roll or something like
19 that, if it was hot or ---.

20 Q. Now, you were walking or were you riding?

21 A. Walking, sir. The beltlines we had, we had to
22 walk. You couldn't ride our beltlines.

23 Q. Okay. So you would take your ride in and park it
24 somewhere?

25 A. Yes, sir.

1 Q. Okay. And did you do (b)(7)(C) & (b)(7)(D) prior to
2 the oncoming second shift also or ---?

3 A. Yes. We (b)(7)(C) & (b)(7)(D), yes.

4 Q. Okay. Did you ever find any hazards?

5 A. Occasionally, just maybe a rib roll or water on
6 the track, water building. I don't know if a bad belt
7 splice would be a hazard, things like that. I'm
8 trying to think. A lot of times, you know, if you see
9 where some rock is falling, had to go set a timber or
10 a roof bolt or things like that.

11 Q. Then what did you do?

12 A. It would be (b)(7)(C) & (b)(7)(D)
13 outside, and the evening shift fire boss would take
14 care of it or the outby crew would go and take care of
15 it.

16 Q. Okay. Did you ever see the section foreman
17 outside at any point between shifts?

18 A. Yes, sir.

19 Q. Did you ever talk to him?

20 A. Yes, sir.

21 Q. What did you talk to him about?

22 A. Just how good they ran that day, just things in
23 that nature.

24 Q. Did you ever convey to him any hazards that you
25 found?

1 A. Yes, sir. Yes. If I found something like some
2 water starting to add up on our beltline or water on
3 the belt, dust or things like that, in that nature,
4 yes.

5 Q. Did the section bosses talk to each other?

6 A. Yes. Yes, sir.

7 Q. Okay. What did they talk about?

8 A. Just the condition of the ribs and the roof, how
9 they ran that day, you know, just help each other out.

10 Q. During ^{(b)(7)(C) & (b)(7)(D)} you mentioned that you'd
11 find some hazards.

12 A. Yes, sir.

13 Q. What would you classify as a hazard? Can you go
14 through how --- or what you would call a hazard?

15 A. I think a hazard is anything that has the
16 potential of hurting somebody or injuring somebody or
17 endangering somebody. That's a hazard to me. And if
18 it it's a big enough hazard that I think should be
19 took care of it, ^{(b)(7)(C) & (b)(7)(D)}

24 Q. All right.

25 A. I was never --- I have a conscience, and ---.

1 Q. Let's go back and talk about your training for
2 (b)(7)(C) & (b)(7)(D)

3 A. Yes, sir.

4 Q. Now, you mentioned that they basically just, more
5 or less, said to you (b)(7)(C) & (b)(7)(D)

6 A. Yes, sir. They was real good at Performance.

7 These guys who --- we made our papers. We was so

8 shorthanded (b)(7)(C) & (b)(7)(D) they would put anybody

9 (b)(7)(C) & (b)(7)(D) . That always bothered me. It made me

10 mad because we was shorthanded all the time, all the
11 time.

12 Q. Now, when you say you were shorthanded and they
13 would (b)(7)(C) & (b)(7)(D)

14 A. I mean, a certified man, (b)(7)(C) & (b)(7)(D) And like
15 I said, a lot of the guys, just turn them loose. They
16 tell them --- they show them on a map. You need to
17 get this area tonight or up. You need to come out and
18 fire boss tonight and ask the fire boss who's going to
19 be there to help you out and show you where to go and
20 things in that nature.

21 Q. Even though that previous fire boss was already
22 maxed out on his job responsibilities?

23 A. Yes, sir.

24 Q. So they didn't conduct a lot of training with the
25 fire bosses?

1 A. I don't think like they should. No, I do not.

2 Q. Now, you said that (b)(7)(C) & (b)(7)(D)

3 A. Yes, sir.

4 Q. So when you say you were shorthanded, did you have
5 enough people to get it done?

6 A. We had enough. But you was so worn out, I mean,
7 you just at a constant, super fast pace and ---. And
8 sometimes if you was running behind, you'd have to
9 call to maybe another certified man up on the section,
10 you know, could you help --- could you get your
11 section belt or me or could you check these pumps for
12 me up in this area because I'm running behind, things
13 like that. Because if you done your examination, you
14 come across a hazard or something, you want to take
15 care of it on the spot. You know, it could throw you
16 behind because three hours prior to the next shift,

17 (b)(7)(C) & (b)(7)(D)

18 Q. So if you had --- so I guess what you're telling
19 me is that you had enough people to do the job,
20 providing you didn't run into anything?

21 A. Yes, sir. If you'd come across something, you ran
22 into something, you'd have to call and try to get
23 another certified man to help you (b)(7)(C) & (b)(7)(D)

25 Q. And why was that? Why ---?

1 A. Just such a big area we had to take care of, the
2 (b)(7)(C) & (b)(7)(D) And it was so --- just --- the pace you
3 (b)(7)(C) & (b)(7)(D) if
4 you come across any hazard or got held up, it was
5 very, very hard to (b)(7)(C) & (b)(7)(D)

6 Q. When you came across a hazard that may delay
7 production, were you still encouraged to put this in
8 the book?

9 A. Yes. I put --- anything that I found, it was down
10 (b)(7)(C) & (b)(7)(D)

11 Q. Did anybody ever say anything to you about that?

12 A. No, sir. No, sir.

13 Q. How do you feel --- what do you feel about the ---
14 how the company looked at (b)(7)(C) & (b)(7)(D)

15 Was it something that they viewed as a necessity or a
16 formality to production? What --- you know, or maybe
17 you have another thought on it. What's your thoughts
18 on this?

19 A. I think, you know, it had to be done. By law, it
20 had to be done. But like I said, they consider us

21 (b)(7)(C) & (b)(7)(D) Massey

22 does. And we would tell, you know, this needs to be
23 taken care of. They would take care of it, but they
24 felt like, you know, it's no big deal.

25 Q. Ever grumble about the cost of taking care of

1 something? Anybody ever talk about that?

2 A. No. That's one thing they never cared about. But
3 we --- but pump-wise, for some of these areas here, it
4 takes so long to get pumps because Mr. Blanchard is
5 the one that signs off on them.

6 Q. Why wouldn't he sign off on them?

7 A. I have no idea. I don't know. He was ---.

8 Q. I mean, water impeding ventilation sounds to me
9 like something that you would want to take care of.

10 A. Yes, sir. I agree. I agree, sir.

11 Q. Is there anywhere else in this mine that you
12 traveled?

13 A. No, sir. No.

14 Q. Okay.

15 A. (b)(7)(C) & (b)(7)(D)

16 Q. Okay.

17 A. When I was a (b)(7)(C) & (b)(7)(D) I traveled everywhere.

18 Q. How long ago were you a (b)(7)(C) & (b)(7)(D) ?

19 A. I was a (b)(7)(C) & (b)(7)(D)

22 Q. Okay.

23 A. I was everywhere then in the mines.

24 Q. Okay. When you were a (b)(7)(C) & (b)(7)(D) , how many typical
25 (b)(7)(C) & (b)(7)(D)

1 A. Just one.

2 Q. Just one?

3 A. Just one, yes, sir.

4 Q. Did you ever travel through any equipment doors?

5 A. Yes, sir.

6 Q. Were those equipment doors automatic or were they
7 manual?

8 A. Both.

9 Q. Both?

10 A. Both. We had some automatic and some manual, but
11 the automatic wouldn't work half the time.

12 Q. And why was that?

13 A. They wasn't being repaired. If they would go
14 down --- it used to be when I first started with
15 Massey, if the doors or something like that would go
16 down, they was taken care of, but ---.

17 Q. Why did that attitude change?

18 A. I think when Chris Blanchard become our president,
19 a lot of things changed at Upper Big Branch.

20 Q. Now, these doors, you said some of them were
21 manual?

22 A. Yes, sir.

23 Q. Now, you mentioned in your Massey initial training
24 that they went over S1 and P2 with you; is that
25 correct?

1 A. Yes, sir.

2 Q. Are you aware of a company policy addressing
3 manual doors, ---

4 A. Yes, sir.

5 Q. --- how they are to be secured?

6 A. Yes, sir.

7 Q. What is that policy?

8 A. You're talking about security, meaning how they're
9 blocked and ventilated?

10 Q. How you secure them against opening, against
11 sudden unintended movement.

12 A. You put the doors facing the --- the air against
13 the door is how you're wanting the door because you
14 don't want your air in behind your doors, you know,
15 taking a chance of opening --- the air blowing the
16 doors open.

17 Q. And nobody ever covered installing a chain on the
18 door ---

19 A. Up under ---?

20 Q. --- or a stick and jack?

21 A. Yes, sir. Yes. Bolting to the top the door
22 frames, yes, sir.

23 Q. Okay. Or a latching mechanism that automatically
24 latches when the door (sic) passes through, they've
25 talked about that also?

1 A. Yes. We never had that, but ---.

2 Q. You never had that?

3 A. Yes.

4 Q. So this was --- was this an S1 standard?

5 A. I don't think it was.

6 Q. You don't think it was?

7 A. No. I mean, the doors was --- I don't like doors.

8 Doors are okay for temporary, you know, moving a
9 section or supply doors, but when you go and put doors
10 in place of overcasts and things in that nature to
11 ventilate, that's just ---.

12 Q. So this was a common practice?

13 A. Yes, sir. We have more doors in that place, you
14 couldn't even imagine.

15 Q. And that interfered --- did that interfere with
16 your ventilation?

17 A. Yes, sir. There's no doubt in my mind.

18 Q. When you would approach these doors, and you
19 mentioned some of them were --- they opened by ---
20 opened manually, ---

21 A. Yes, sir.

22 Q. --- what type of shape were they in?

23 A. Some was in really good shape and some of them was
24 just very poor shape.

25 Q. So there was --- was there leakage around these

1 doors?

2 A. Yes, sir.

3 Q. How did you know there was leakage?

4 A. You could feel the air. You could hear it. I
5 mean, you could hear it. And if you go open a door
6 --- and they should have some pressure on it, you know
7 what I'm saying?

8 Q. Uh-huh (yes).

9 A. But when you go to a door and just open it ---
10 where you come to the doors and they're standing
11 open ---.

12 Q. So you came to doors that were standing open?

13 A. Yes, sir.

14 Q. How often did that occur?

15 A Now, when I was ^{(b)(7)(C) & (b)(7)(D)} I was up in the
16 northern part, which ---.

17 MR. STEFFEY:

18 Let's get him another map. Let's put
19 this map ---.

20 BY MR. STEFFEY:

21 Q. Now, is this the section map that has the doors on
22 it?

23 A. Glory Hole. Right here. These doors right here,
24 sir.

25 Q. Okay. If you would, highlight those with a yellow

1 marker.

2 ATTORNEY BAXTER:

3 And we'll mark this as ^{(b)(7)(C) & (b)(7)(D)} Exhibit

4 Two.

5 ^{(b)(7)(C) & (b)(7)(D)} Exhibit Two marked for

6 identification.)

7 BY MR. STEFFEY:

8 Q. Now, color them in. It's kind of a little bit
9 harder to see.

10 WITNESS COMPLIES

11 BY MR. STEFFEY:

12 Q. That's good. And just make a line out from them
13 and write door.

14 ATTORNEY MCATEER:

15 And your initials.

16 WITNESS COMPLIES

17 BY MR. STEFFEY:

18 Q. Okay. Now, are these the doors that you're
19 talking about that you would find open?

20 A. Every now and then. They sat right here. You
21 would find them --- these are the red automatic doors,
22 but they wasn't working.

23 Q. Okay.

24 A. They was --- just the jacks was broke on them.

25 You had to open them manually.

1 Q. Were they bent or anything? Was anything wrong
2 with the doors?

3 A. Yes, sir. They was damaged.

4 Q. Okay.

5 A. They were damaged.

6 Q. Which set would you find open quite a bit?

7 A. This set right here, sir.

8 Q. Okay.

9 ATTORNEY BAXTER:

10 And which one are you ---?

11 BY MR. STEFFEY:

12 Q. And this is the inby ---?

13 A. Inby set, yes, sir.

14 Q. Okay.

15 A. I think would probably be 78. What break would
16 that be? Around the 80s right through there. Yeah,
17 that's them.

18 Q. What'd your --- did you notice a change in airflow
19 right there at that point with the doors open?

20 A. Yes. You'd lose air.

21 Q. And you'd lose air from your intake or ---

22 A. Yeah.

23 Q. --- beltline?

24 A. Yes. Here's a --- your beltline here. Here's
25 your intake running.

1 Q. Uh-huh (yes).

2 A. And your beltline is through here. So when these
3 doors are open, this air just ---.

4 Q. So do you lose it off your intake?

5 A. Yes. Yes.

6 Q. And you could noticeably feel that?

7 A. Yeah. You could tell when --- like after you'd
8 come upon the doors open, you know, you would close
9 them, you could feel the air pick back up through
10 there.

11 Q. And where did this intake air go to?

12 A. This went to the section.

13 Q. So this went to the headgate section, ---

14 A. Yes, sir.

15 Q. --- the tailgate sections ---?

16 A. And this is --- the main intake crosses right
17 through here, as I remember. It's been a while since
18 I've been up in there, because I've been on the south
19 side so long. But the last time I was up in that
20 area, the main intake ran right up between these doors
21 here, up to the headgate, you know, the longwall and
22 One and Two sections.

23 Q. Did you ever report that these doors were damaged
24 to anybody in management outside?

25 A. Oh, yes. They ---.

1 Q. And what did they do?

2 A. They said they put an order in to get them fixed.

3 Q. And then what happened?

4 A. As far as I can remember, they was the same. Last
5 saw I them before, they never was fixed.

6 Q. So they put an order in, and that was as far as it
7 went?

8 A. I think they had a contract, I'm not sure which
9 company it was, would come in and install our doors.
10 But there at the end, we was installing the doors
11 ourselves. I don't know if they lost the contract or
12 what.

13 Q. Do you know if they had a procedure for installing
14 those doors, that the company --- Massey had a
15 procedure for installation of doors?

16 A. Yes. Yes. Like I said, the doors, you had to
17 be --- you know, bolted to the top, secured, blocked,
18 sealed and aerated.

19 Q. So they adhered to that procedure when they
20 installed those doors?

21 A. When the doors was put up, they was put up
22 correctly, yes.

23 Q. Did they do it during a production shift? Were
24 the men working inby?

25 A. Let me think. They had fixed doors with men

1 working inby, yes, they have.

2 Q. Okay. So you said these doors, they didn't have a
3 latching mechanism or anything on them?

4 A. No. I guess if they was automatic, the jacks
5 would keep them closed. But where the jacks was ---
6 we call it pull the pins on the jacks, where you can
7 manually open the doors ---.

8 Q. And you're not aware of any Massey policy that
9 states that they need to have that door latched in any
10 way, shape or form or have a way to latch it if it
11 doesn't close ---

12 A. No, sir.

13 Q. --- automatically?

14 A. No.

15 Q. Okay. I just have a couple more questions here,
16 and then we're going to --- I'm going to let these
17 other guys here talk to you for a couple minutes.

18 A. Yes, sir.

19 Q. Oh, let's see here. So you mentioned that you
20 found one set of these doors open. Did you ever find
21 both sets open?

22 A. No, sir.

23 Q. No?

24 A. No.

25 Q. So it was primarily ---?

1 A. It was mostly that one set. They always had
2 trouble ---.

3 Q. So they had trouble keeping the inby set open?

4 A. Closed?

5 Q. Closed.

6 A. Yeah. One door was always --- even --- somebody
7 wrote even on the door, make sure door stays shut.
8 But how can you make sure it stays shut when you go
9 through it and close it, then when somebody comes
10 through the other door, that door is going to open
11 right back up, you know, because the air changing in
12 between.

13 Q. Do you know how these doors got damaged?

14 A. I'd say probably from mantrips or Jeeps hitting
15 them or motors, the flatcars running into them,
16 because these two doors right here, sir, are very
17 close together. And when I was ^{(b)(7)(C) & (b)(7)(D)}, you just
18 had maybe, maybe four or five foot to get ^{(b)(7)(C) & (b)(7)(D)}
19 ^{(b)(7)(C) & (b)(7)(D)} in there.

20 Q. So it was tight in order to get it in there and
21 close both doors?

22 A. Yes, sir. Yes, sir.

23 Q. Did anybody ever just open both doors and go on
24 through?

25 A. Yes, sir.

1 Q. How often does that happen?

2 A. If there was trips going in together, probably
3 regularly. Regularly, I would say.

4 Q. All right. I'll come back to you on that. I'm
5 going to give these guys a chance ---

6 A. Yes, sir.

7 Q. --- to ask any questions they have.

8 EXAMINATION

9 BY MR. FARLEY:

10 Q. Okay. I think you just told us how you think the
11 doors would be damaged.

12 A. Yes, sir.

13 Q. Okay. The doors you marked at 78, when is the
14 last time you saw those doors?

15 A. Actually, one Sunday, before I done (b)(7)(C) & (b)(7)(D)
16 run --- I'm a an (b)(7)(C) & (b)(7)(D) . They had me
17 take some doors up there because they had some guys to
18 come in who was going to install the doors, but it was
19 the wrong size doors. I think --- let me think now.
20 The doors up there might have been --- yeah, they was
21 six-foot doors, but the ones up there was like 12
22 foot. An the new ones, I helped them up, was 14. And
23 they had to move highline and everything over to get
24 the doors to fit directly. But at that time, the
25 doors --- that's the reason they was bringing new

1 doors in, because they were damaged.

2 Q. Okay.

3 A. And I think they actually maybe had a violation on
4 it also. That's why they was fixing them.

5 Q. Okay. Again, when was the last time you saw those
6 doors at 78?

7 A. Let me think.

8 Q. When was the last time you passed through there?

9 A. Probably in February or March. February or March.
10 I'm not --- I can't tell you an exact date or month,
11 it's been so long.

12 Q. 2010?

13 A. Yes, sir. Yes, sir.

14 Q. Okay.

15 A. It was this year.

16 Q. All right.

17 A. Because the last time I was up in that area I was
18 taking the new doors up. I was ^{(b)(7)(C) & (b)(7)(D)} where the
19 guys come in who was going to install the doors.

20 Q. So the last time you saw these doors in 78 they
21 needed to be repaired?

22 A. Yes, sir.

23 Q. But the doors that you brought in were the wrong
24 size?

25 A. Wrong size, yes, sir.

1 Q. So you don't know if the doors were actually
2 repaired?

3 A. No, sir, I do not.

4 Q. Okay.

5 A. I do not.

6 Q. All right. Because it would be hard to repair the
7 door if you had the wrong size door; right?

8 A. At the time they wasn't repaired because they was
9 going to talk to their boss and talk to our super and
10 see, you know, ---

11 Q. Yes.

12 A. --- get the right door or get the highline moved
13 over. Where it was hanging, it wasn't giving enough
14 room for the doors to actually open. They would have
15 had to hang the highline further over to install the
16 14-foot doors instead of the 12s.

17 Q. Okay. All right. But to your knowledge at least,
18 it was not repaired?

19 A. No, sir. The last time I went through there, the
20 doors was not repaired.

21 Q. Okay. Very good. Do you know who had the --- who
22 the contractor was that was used to install a door?

23 A. No, sir. I'm sorry.

24 Q. That's okay.

25 A. I think the only reason they was there --- because

1 I don't think they do contracts with them anymore.

2 But at the time they bought the doors, they was under
3 contract to put the doors in.

4 Q. Okay.

5 A. And they was just coming back to finish the job, I
6 think. I'm not for sure which contractor it was.

7 Q. Okay. All right. Let me back up on some things.

8 You said as a ^{(b)(7)(C) & (b)(7)(D)} you felt like you were
9 considered as an ^{(b)(7)(C) & (b)(7)(D)}

10 A. Yes, sir.

11 Q. Okay. Are you considered a member, what the
12 company --- what Massey refers to as a member?

13 A. I think Massey just calls us members to keep us
14 happy and make us feel like we're part of something.

15 Q. Okay.

16 A. That's a joke.

17 Q. So you're not a contractor. You work directly
18 for ---

19 A. Yes, I worked ---.

20 Q. --- worked directly for Performance, UBB?

21 A. Yes, sir. Yes, sir. We're called members. The
22 guys who work for Massey, we're members, employees.

23 Q. When you started with Massey, did you start as a
24 contractor?

25 A. No, sir. I was hired straight in as a red hat for

1 Massey Energy.

2 Q. Is that unusual?

3 A. At the time I started, no, because they was --- I
4 guess that's when the big boom was happening with coal
5 and there was several of us hired in, just straight in
6 like that. Now, you have to go through like the
7 contractors and work three, four, six months and still
8 not get hired. I was lucky.

9 Q. Now, when you're hired by a contractor and you
10 work at the mine, is that something like a try-out
11 period, a probation period?

12 A. Yes, sir. Yes, sir.

13 Q. Okay. So if I understood you correctly, during
14 economic times when miners were difficult to find, you
15 were hired directly by the company as a member?

16 A. Yes, sir. Yes, sir.

17 Q. Okay.

18 A. It was in like ^{(b)(7)(C) & (b)(7)(D)} I was hired. At the time
19 I don't think there was very --- any contractors. You
20 was hired straight in, no trial or anything, just you
21 was hired straight in.

22 Q. Okay. At the time --- let's just say the last
23 couple of months at UBB, who was your immediate
24 supervisor? Who did you report to?

25 A. My supervisor on the south side was Gary May.

1 Q. Gary May?

2 A. Gary May.

3 Q. Was he the general mine foreman?

4 A. General mine foreman is Rick Foster.

5 Q. Okay. What was Gary May's position?

6 A. Super.

7 Q. Superintendent?

8 A. Super, yes, sir, on the south side.

9 Q. You were talking about the time you broke your
10 finger. How many (b)(7)(C) & (b)(7)(D)

11 A. Just (b)(7)(C) & (b)(7)(D) here, sir.

12 Q. Just your (b)(7)(C) & (b)(7)(D)

13 A. Yes, sir.

14 Q. Was it splinted or how ---?

15 A. How it was, the (b)(7)(C) & (b)(7)(D) split. They couldn't do
16 anything to it pretty much, just let it heal on its
17 own.

18 Q. Okay.

19 A. I think I (b)(7)(C) & (b)(7)(D) for like a day, but I
20 couldn't do anything with it. It was in the way, you
21 know. They told me if I had light duty I could just
22 (b)(7)(C) & (b)(7)(D), and I did that for (b)(7)(C) & (b)(7)(D)
23 then I went right back to the section (b)(7)(C) & (b)(7)(D)

24 Q. Okay. Earlier when Mr. Steffey asked you a
25 question your response was when you were a red hat you

1 were concerned about the loss of your job for missing
2 work.

3 A. Yes, sir.

4 Q. And you said, very few of us made it through.

5 A. Yes, sir.

6 Q. Now, does that mean that red hats were frequently
7 fired for missing work?

8 A. Just that and just quit and things of that nature,
9 because most of the time, as red hats, they put us on
10 belt moves and things like that, which is very hard,
11 strenuous work. And I guess that's how they like
12 sorted us out, if you're going to make it or not,
13 things of that nature.

14 Q. Okay.

15 A. As a red hat, you know, you got the jobs nobody
16 else wanted, you know, which is understandable, but a
17 lot of them didn't make it.

18 Q. Okay. Now, the (b)(7)(C) & (b)(7)(D) --- you
19 indicated --- as you indicated, on the map in the
20 south area for the conveyor belts, you were

21 (b)(7)(C) & (b)(7)(D) What time did
22 you (b)(7)(C) & (b)(7)(D)

23 A. On the south side we started at 1:00.

24 Q. 1:00. What time ---? Go ahead. I'm sorry.

25 A. I'm sorry. Four o'clock is when the evening shift

1 started.

2 Q. So you would start at 1:00 p.m.?

3 A. Yes, sir, three hours prior.

4 Q. All right. Now, you indicated that you, on
5 occasion, did (b)(7)(C) & (b)(7)(D) on the barrier and
6 portal section.

7 A. Yes, sir.

8 Q. About how frequently was that? Can you give
9 me ---?

10 A. Like on a Sunday. I had to work a lot of Sundays,
11 and (b)(7)(C) & (b)(7)(D) then.

12 Q. Okay. So did (b)(7)(C) & (b)(7)(D) the faces at the time?

13 A. Yes, sir.

14 Q. Did you find any methane in the faces?

15 A. No, sir.

16 Q. Any in the Two section?

17 A. No, sir.

18 Q. I think you indicated you didn't have an
19 extendable probe for your detector. Any high places
20 along your conveyor belts that you couldn't reach?

21 A. Yes, sir, there was some high places.

22 Q. That you couldn't --- where?

23 A. Probably the One North belt. It was high in
24 places, probably maybe at the face eight or nine feet
25 you would come across.

1 Q. Did that create a situation where you couldn't get
2 within a foot of the top?

3 A. Yes, sir. You'd just hold it as high as you can
4 as you was walking in the area.

5 Q. Okay. Did you ever report that to anybody?

6 A. No, sir.

7 Q. Okay. I'm trying to get a sense of the attention
8 given to outby work.

9 A. Yes, sir.

10 Q. Now, the belts that you examined prior to this
11 explosion are at the south area of the mine.

12 A. Yes, sir.

13 Q. Are you aware of any particular plan to see that
14 they were routinely rock dusted?

15 A. Yes, sir. They --- we rock dusted --- the fire
16 bosses when we say we. A ^{(b)(7)(C) & (b)(7)(D)} regularly --- we
17 had trickle dusters down the beltline, who would be on
18 one and --- like I was always throwing dust out in
19 that area until they could get track duster up in
20 there to dust the beltlines.

21 Q. Okay. Now, where were the trickle dusters
22 located?

23 A. Just certain areas down the beltlines.

24 Q. Would that usually be tails and drive
25 installations?

1 A. Yeah, down the belt heads and the belt drives and
2 down the tails and mostly --- we tried to have one
3 fairly in the middle kind of to help. And we had
4 hoses coming out where we could --- had shutoff valves
5 where you could turn them off and just shoot the dust
6 in different directions, ---

7 Q. Okay.

8 A. --- things like that. And if there was places
9 like in between the overcasts, where you couldn't get
10 much of it, they'll hand dust that area.

11 Q. Okay. Now, how often would the belts have been
12 machine dusted in your area?

13 A. Machine dusted at least once every two weeks, I
14 would think. I mean, one thing I'll say about the
15 South side, it stayed dusted. They take --- they done
16 their best to keep it dusted. They did pretty well.

17 Q. Okay. Did you --- how often was it necessary for
18 you to make an entry in

(b)(7)(C) & (b)(7)(D)

19 when a particular area needed to be cleaned and
20 dusted?

21 A. Every day. Pretty much every day, at least spot
22 cleaned and dusted in certain areas.

23 Q. Did you usually specify the particular area?

24 A. Yes, sir, what break it was at or things in that
25 nature, yes, sir.

1 Q. Okay. Did you ever have to make entries in an
2 entire belt, where its entire length needed to be
3 cleaned and dusted?

4 A. I don't think I have. I don't think I have.

5 Q. Okay. Now, did you ever (b)(7)(C) & (b)(7)(D) belts other
6 than those you identified on the map earlier?

7 A. Yes. I'm trying to think when --- before --- when
8 I was at UBB, they split the mines up to north side
9 and south side, and it used to be just one big mine,
10 one open mines. But a lot of times they would say ---
11 they would call and say we had a fire boss not show up
12 or something, and your side is covered, will you come
13 --- which is called the north now, would you come up
14 like --- I guess it would be Five, Six and Seven North
15 belts or (b)(7)(C) & (b)(7)(D) these bolts. And I would
16 go up there and help do them belts. That's been a
17 long, long time ago.

18 Q. How long?

19 A. Probably eight or nine months. I can't remember
20 exactly when they split the mines. They made the
21 south Ellis Portal and UBB portal. I'm saying split
22 the mines.

23 Q. Was the longwall in operation at that time?

24 A. Yes. They just had got in operation.

25 Q. Sometime last year?

1 A. Yes, sir. Yes.

2 Q. Okay. Also, as you were showing us the area of
3 your examinations in the south side of the mine, ---

4 A. Yes, sir.

5 Q. --- there was something I missed. I understood
6 you to say that there were some areas where water had
7 accumulated ---

8 A. Yes, sir.

9 Q. --- and you felt that needed to be pumped, ---

10 A. Yes, sir.

11 Q. --- but Blanchard wouldn't sign off on the use of
12 pumps; is that correct? Is that what you said?

13 A. It took us a while to get the pumps, yes. I
14 mean, ---.

15 Q. I'm sorry. Go ahead.

16 A. They said they was on order, which I don't know if
17 they was on back order or what, but it took us a while
18 to get the pumps. But we had a discharge ram just
19 waiting on pumping.

20 Q. Okay. Any explanation other than they were just
21 on order?

22 A. No, sir.

23 Q. Now, what made you feel like that Blanchard
24 wouldn't sign off on the use of pumps?

25 A. He was a funny person. A lot of times --- you had

1 to sign off on everything. He had to sign off on
2 everything. It seemed like he cared more about the
3 longwall and the headgate and tailgates being ---
4 taken care of than the other sections. That's how it
5 seemed to me, because the longwall, if they needed a
6 pump, it was there within the hour, you know. I mean,
7 the longwall was --- he took --- the longwall was his
8 baby, and he just took care of the longwall. No
9 matter what they needed, you know, make sure the
10 longwall had it. And I think the other sections maybe
11 suffered from it. That's how I feel.

12 Q. Now, you indicated that pumps were hard to come by
13 in your area. Now, were there any other areas where
14 you think sections, other than the longwall, the gate
15 and development sections, might have suffered for lack
16 of equipment or supplies?

17 A. No. No. I mean, ---

18 Q. Okay.

19 A. --- we always ---. Like for the south side, we
20 took care of everything the best of our knowledge and
21 ability.

22 Q. Okay. Now, I think I asked you earlier if you're
23 considered a member, and I think you said yes. Are
24 you considered a supervisor?

25 A. No. No, I'm just a ---

1 Q. Are you ---

2 A. --- (b)(7)(C) & (b)(7)(D)

3 Q. --- a salary ---?

4 A. (b)(7)(C) & (b)(7)(D)

5 Q. An (b)(7)(C) & (b)(7)(D)

6 A. Yeah.

7 Q. Okay. So no one reports to you?

8 A. No, sir.

9 Q. Okay.

10 A. No.

11 EXAMINATION

12 BY ATTORNEY MCATEER:

13 Q. (b)(7)(C) & (b)(7)(D) you support the Boston baseball team?

14 A. Yeah. I like the Sox.

15 Q. Thanks for your testimony.

16 A. You're welcome.

17 Q. Good memory. When you were at the interview with
18 the Massey lawyers, did either lawyer or both lawyers
19 say to you anything about coming with you here?

20 A. No. No.

21 Q. They didn't suggest that they could make
22 arrangements to be with you and accompany you?

23 A. No. Well, let me think. Let me think now. Well,
24 I kind of think they did. They might have offered to
25 --- if we needed somebody to come with --- they

1 wouldn't represent us individually, I don't think, but
2 they could maybe come and ---.

3 Q. Okay.

4 A. I think so. I'm sorry. I should have been ---
5 it's hard to remember, sir.

6 Q. That's quite all right.

7 A. But they told me when I interviewed with the
8 Massey lawyers this wasn't no --- for me, it was just
9 for the company.

10 Q. Okay.

11 A. They're not going to represent us, just they're
12 representing the company. They just wanted to know
13 what we thought happened and things of that nature.

14 Q. Now, you said that you had pre-shifted the working
15 sections on Sundays as a fill-in matter. You worked
16 some Sundays.

17 A. Yes, sir.

18 Q. Did you work the 4th of April, the day before the
19 explosion?

20 A. No. It would have been Easter Sunday.

21 Q. That's right.

22 A. That was Easter. No, I did not.

23 Q. Okay.

24 A. No, I did not.

25 Q. I think the evening shift come in to pre-shift for

1 third shift that night, because we was idle that day.
2 That's very, very rare for us to be idle, because we
3 work seven days a week.

4 Q. You said on occasion

(b)(7)(C) & (b)(7)(D)

sections or parts of sections because of
6 hazardous conditions. How many times? Do you have a
7 rough number or ---?

8 A. Maybe three or four times.

9 Q. Okay.

10 A. Five at the most.

11 Q. Anybody in a supervisory capacity ever speak to
12 you about that?

13 A. No. My super, which was Gary May, told me any
14 time I need to shut the belt off, shut it off. Don't
15 hesitate. He doesn't care, you know, how long
16 production is down, if I found a hazard, shut the belt
17 off and call for help if I needed help to correct the
18 hazard.

19 Q. Now, you testified that Mr. Blanchard would
20 order --- would have to sign off --- first you said
21 pumps and then you said in answer to Mr. Farley's
22 question, sign off on everything?

23 A. About supplies, yes, sir.

24 Q. Can you tell me sort of anything that you're aware
25 of that he would have to sign off, like what kind of

1 supplies?

2 A. Bolts, roof bolts, plates, straps, timbers,
3 basically I think almost everything he had to sign off
4 to --- for them to order it.

5 Q. You spoke for a couple of minutes about the doors
6 and you said that the --- these are red automatic
7 doors?

8 A. Yes, sir.

9 Q. Were both sets red and automatic?

10 A. These two was, yes, sir.

11 Q. Okay. By red you mean color red?

12 A. Yeah, red. They're red. They're just a heavier
13 built, stronger door.

14 Q. Okay. But then you said that the --- that there
15 was a piston --- I'm sorry, jack ---

16 A. Yes, sir.

17 Q. --- that would operate the doors?

18 A. Yes. They would open and close the door, a jack
19 would.

20 Q. You testified that sometimes they would pull the
21 pins?

22 A. That's when the jacks wasn't working, sir. You
23 would have to knock the pins out to make the doors
24 open freely, you know, manual --- you'd go to manual
25 then.

1 Q. Right. But by knocking the pins out you would, in
2 effect, be --- the doors would have no automatic
3 function?

4 A. Yes, sir.

5 Q. So then from that point forward they would be
6 what?

7 A. Just manually. There's no way to latch them. No
8 way to keep them closed.

9 Q. And then you testified that there was a marking on
10 the door, make sure the door stays shut.

11 A. Yes, sir.

12 Q. Shouldn't the air pressure have kept the door
13 shut?

14 A. Yes, sir.

15 Q. Does that suggest to you there was not enough air
16 pressure?

17 A. Yes, sir. There's no other explanation.

18 Q. One Sunday when you were acting as a motorman in
19 order to bring the replacement doors up, that's the
20 doors at 78 as well?

21 A. Yes, sir.

22 Q. Okay.

23 A. Yes, sir. It was --- actually, it would have been
24 this set right here, the ones they was having trouble
25 with.

1 Q. The inby doors?

2 A. Yes, sir.

3 Q. Do you remember when that was roughly?

4 A. I'm thinking around February or March. I can't
5 remember exactly when, but I ---.

6 Q. That's this year?

7 A. Yes, sir. Yes, sir. I was only an experienced
8 motorman. Before fire boss time, they wanted me to
9 run the doors. The men up there ---

10 Q. Sure.

11 A. --- did that.

12 Q. And this crew of people who were going to replace
13 it, they weren't from the company?

14 A. No, sir. They was contractors.

15 Q. Were they out of Kentucky or West Virginia or ---?

16 A. I'm not for sure. I'm not for sure, sir.

17 Q. Do you remember anything about them or ---?

18 A. There was two of them. There was two.

19 Q. Okay. Two of them?

20 A. Yes, sir.

21 Q. Did you have any conversations with them?

22 A. Yes. I was with them for a couple hours up there,
23 trying to figure out how we was going to get the doors
24 in and things like that. That's when we both decided,
25 you know, the right size doors had to be put up or the

1 highline needed to be moved over to have the doors
2 installed correctly.

3 Q. So who was informed that the doors were the wrong
4 size?

5 A. Our super would have been informed.

6 Q. Who was that?

7 A. That was Gary May.

8 Q. Who called him?

9 A. The dispatcher. Let me think who the dispatcher
10 was at the time. I can't remember who the dispatcher
11 was.

12 Q. That's all right.

13 A. I might here in a few minutes, but ---.

14 Q. That's all right. You're doing very well. Did
15 the contractor take the doors back then?

16 A. No. They was left there.

17 Q. At that 78 ---?

18 A. Yes, sir. We gone and we laid them on the rib,
19 that and the jacks. well, no, I take that back. The
20 jacks wasn't with the doors.

21 Q. Okay.

22 A. Because that was another problem. They had ---
23 the doors --- when I went and got the doors, they was
24 down in the old supply yard. And I guess they had
25 been ordered for a long time because they --- and a

1 lot of parts was missing from the original doors. I
2 guess they needed them to fix the other doors that was
3 --- needed repaired. Because that's another problem,
4 because they guy didn't want to put the doors up and
5 not have the jacks there to fit. And they just wanted
6 to make sure for their boss everything was there and
7 things of that nature.

8 Q. Who was their boss; do you remember?

9 A. I don't know who the contractor was, no, sir.

10 Q. Did they then leave or did they stick around
11 or ---?

12 A. They left.

13 Q. Okay.

14 A. But once I seen my super, that's --- I had the
15 dispatcher call --- the super out of the north side
16 was actually a guy named Everett Hager. He was the
17 super for that side. But the only reason I called my
18 super, that's who I worked for, because I didn't know
19 much about Everett or anything like that, and I was
20 just calling Gary to let him know ---

21 Q. Sure.

22 A. --- about the doors, because all the hardware
23 wasn't there with the doors to install them. They was
24 the wrong size. I was just covering myself from
25 getting in trouble ---

1 Q. Sure.

2 A. --- and the contractor was covering theirselves
3 for getting in trouble, you know, so ---.

4 Q. Did they call somebody?

5 A. I guess they called, when they got out there,
6 their boss. And Gary said he would tell Everett
7 about, you know, the wrong doors and needed to have
8 everything to put the doors up with.

9 Q. In your experience, did this problem of people
10 taking stuff from the doors or taking equipment from
11 one place to the other, did that occur on a regular
12 basis or did you have to kind of scab what you could
13 get?

14 A. Yeah. Yeah. Yes, sir.

15 Q. You testified that the highline was coming through
16 there?

17 A. Yes. When you put your doors up, you block around
18 your door with solid block.

19 Q. Right.

20 A. And you would run your highline through the block
21 and you would like plaster and seal it around the
22 highline to keep it ventilated, you know, keep it
23 airtight, supposed to.

24 Q. Sure.

25 A. And what it was, the --- where --- these doors

1 that was up there, if I'm not mistaken, they was
2 12-foot doors. And the ones that I had taken in was
3 14 foot.

4 Q. Right.

5 A. The highline had to be moved over to give enough
6 width for the doors to fit in properly.

7 Q. But what is the highline?

8 A. That high voltage. The high-voltage line. I'm
9 sorry. I should have specified.

10 Q. That's okay. And that's the voltage line that
11 runs from ---?

12 A. Outside to all the way in the mines, the
13 high-voltage line, the power, our power.

14 ATTORNEY MCATEER:

15 That's all the questions I have right
16 now.

17 ATTORNEY MCATEER:

18 Would you like a break, ^{(b)(7)(C) & (b)(7)(D)}

19 A. I'm fine, unless you all ---. I'm fine.

20 RE-EXAMINATION

21 BY MR. STEFFEY:

22 Q. When you ^{(b)(7)(C) & (b)(7)(D)} ---

23 A. Yes, sir.

24 Q. --- I think you said you were on light duty,
25 ^{(b)(7)(C) & (b)(7)(D)} for a couple of days, ---

1 A. Yes, sir.

2 Q. --- and you went back to the section, ---

3 A. Yes, sir.

4 Q. --- (b)(7)(C) & (b)(7)(D)

5 A. Yes, sir.

6 Q. Why did you go back to the section, (b)(7)(C) & (b)(7)(D)

7 A. It's been so long. I figured they'd send me back
8 to ---.

9 Q. So you didn't ask for that. They just told you to
10 go?

11 A. Probably. There wasn't nothing to do (b)(7)(C) & (b)(7)(D)
12 that night, and they probably just sent me up there to
13 help out.

14 Q. Okay.

15 A. If I'm not mistaken, they told me just to watch
16 myself, you know, don't hurt myself anymore, my
17 (b)(7)(C) & (b)(7)(D) any more than I had to. They tried to ---
18 light duty --- they tried to keep me on light duty, I
19 guess, what they considered light duty, but there's
20 nothing light duty underground. But I did go back. I

21 (b)(7)(C) & (b)(7)(D) probably the beginning of the shift
22 that night, and I finished the shift out, went to the
23 doctor that morning and I got it taken care of, and
24 the next night I was back out. I didn't miss any
25 time, no lost time.

1 Q. Okay. What's the company's attitude toward lost
2 time accidents?

3 A. They don't like it at all.

4 Q. They don't like it.

5 A. If you can walk and breathe, they want you there.

6 Q. Ever know of anybody that was hurt that probably
7 shouldn't have been there, but they had them out there
8 doing light --- what they called light duty?

9 A. I'm sure I have. I'm trying to think of names and
10 faces. I'm sure that I have, I mean, --- especially
11 the salary guys. If they're hurt or something, they
12 want them there because they don't want things sitting
13 at the house.

14 Q. What's the reason for that attitude?

15 A. I guess they don't want you getting over for
16 a ---.

17 Q. Okay.

18 A. Massey is a hard company to work for, but
19 financially-wise, it's about the best you can work
20 for. And you put up with a lot of things to keep your
21 job with them, a lot of hours, a lot of holidays. And
22 I've worked --- I couldn't tell you how many holidays
23 I've worked, vacations I've had to work through,
24 because --- we work seven days a week at UBB because
25 of the longwall, no exceptions. I mean, you --- seven

1 days a week.

2 Q. Now, did they tell you a lot of times you was
3 going to have to work through vacation?

4 A. Oh, yeah.

5 Q. What was their reason?

6 A. Can't stop production. Got to stay ahead of the
7 longwall they'd say. Got to keep the headgates drove
8 up. Got to stay ahead of the longwall. Because when
9 the wall pulled out, nowhere to go, we all wouldn't
10 have no jobs. Basically that was it.

11 Q. Do you think other companies do that?

12 A. No. No. I'm sure they don't.

13 Q. These other companies, do you think they're still
14 in business?

15 A. Yes. I have (b)(7)(C) & (b)(7)(D) that work at
16 union mines.

17 Q. So this ain't the only way to do this?

18 A. No, sir. Even --- I mean, like when the longwall
19 moves, I used to help move the longwall. It was, you
20 know, six, seven days a week. I mean, just --- you
21 didn't get any days off until the longwall was moved,
22 and you was working 12, 14-hour days.

23 Q. So basically your job was the focal point of your
24 life?

25 A. Your job is your life. It hurts your family life

1 tremendously. I regret a lot. I regret doing to that
2 mine because it's hurt my family a lot.

3 Q. The area that (b)(7)(C) & (b)(7)(D) how would you
4 describe the roof, rib and the floor in the areas of
5 this mine ---?

6 A. The One section was sandstone top. Bottom, it was
7 hard. I mean, it was hard and I mean it was ---
8 really good everything. I mean, it was --- now, the
9 barrier section, the ribs was real soft, the top was
10 scaly. It was never just shale, it was ---.

11 Q. Now, when you said the barrier section, you mean
12 the new barrier section ---

13 A. Yes.

14 Q. --- or the ---?

15 A. Yes, the new barrier section.

16 Q. Why was the top scaly?

17 A. It was in between two longwall panels. It was
18 taking a lot of weight, I think. I mean, they --- you
19 had it right in between --- this is what --- this
20 panel, it would have been, probably 16 and ---. It
21 was in between two longwall panels. It was just ---
22 that's not a smart way to mine, going between two big
23 panels like that. I mean, it squeezes and takes
24 weight.

25 Q. Anybody ever come and look at it up there?

1 Anybody from engineering ever come in the mine? Have
2 you ever seen them?

3 A. Oh, yeah, they --- putting spads and things up.

4 Q. I'm not talking about surveyors. I'm talking
5 about any engineers coming and checking ventilation.

6 A. Not that I know of.

7 Q. Okay.

8 A. Not that I know of.

9 Q. Do you know who your engineers were?

10 A. No, sir.

11 Q. Did any of the sections in this mine, miner
12 section, longwall --- or the longwall ever mine
13 through a gas well, known or unknown?

14 A. Let me think here. If I'm not mistaken, I thought
15 people had been on the north side, they actually did
16 cut into a well, an old --- what's it called, casing?

17 Q. Uh-huh (yes).

18 A. A ramp-down, one time.

19 Q. Was it a miner section or ---?

20 A. Yes, it was a miner section.

21 Q. Did they intend to cut into it?

22 A. No. I'm sure they didn't. I'm sure they didn't.

23 Q. What happened after that?

24 A. I'm not sure. That's been several years ago.

25 Q. Do you know approximately where at in the mine

1 they were at?

2 A. Let me see here. It would have been closer up
3 this way, towards the --- let me just grab that map
4 right here.

5 Q. If this ain't it, we've got another map here.

6 ATTORNEY BAXTER:

7 So we're now looking at ^{(b)(7)(C) & (b)(7)(D)} Exhibit

8 One again.

9 A. I'm trying to think where ---. No, I'm mistaken.
10 I think it was up on the old LBB section, Lower
11 Branch. That's where they cut into it at.

12 BY MR. STEFFEY:

13 Q. Where is that?

14 A. This is called LBB, Lower Branch.

15 Q. Uh-huh (yes).

16 A. Old LBB. If I'm not mistaken, it was up in there
17 somewhere.

18 Q. Can you mark with the highlighter or circle the
19 area that you believe this gas well to be in?

20 A. I have no idea what area, but I know --- I'm
21 pretty sure it ---.

22 Q. Is this the LBB area right here?

23 A. Yes. I can mark this ---.

24 Q. Circle the area if you wouldn't care, just the
25 whole general area, and then label this out here LBB

1 area.

2 WITNESS COMPLIES

3 BY MR. STEFFEY:

4 Q. You believe that this is the area that they cut
5 into an unknown gas well?

6 A. Yes, sir.

7 Q. Did anybody ever call MSHA?

8 A. To tell you the truth, I don't know. I don't
9 know. I can't remember a lot. I probably was a
10 supply man at that time. I was on a motor. I don't
11 really --- I just remember they cut into the casing.

12 Q. Do you remember about when this happened?

13 A. I'd say at least four years, if not more.

14 Q. Now, how do you know all this?

15 A. I heard about it.

16 Q. You heard about it from whom?

17 A. Just the men.

18 Q. Just the men talking?

19 A. Yeah.

20 Q. And what were they saying about it?

21 A. Just that they cut through a well.

22 Q. Any methane?

23 A. No.

24 Q. Did they have to section off?

25 A. No. It was --- luckily, it was I guess what we

1 call a dead well.

2 Q. Plugged?

3 A. Plugged.

4 ATTORNEY BAXTER:

5 Do you remember the names of any of the

6 men who told you that?

7 A. Yes.

8 ATTORNEY BAXTER:

9 Care to share them?

10 A. The miner man, his name is James Griffin. He was

11 a miner man.

12 ATTORNEY BAXTER:

13 Anyone else?

14 A. I'm trying to think of who was on that crew. I

15 can't remember who was on that crew, but I know who

16 the miner man was.

17 BY MR. STEFFEY:

18 Q. Do you remember who the section boss was?

19 A. It's been so long. I don't for sure know.

20 Q. Who was the superintendent at that time?

21 A. At that time, probably --- either Bill Potter or

22 Rick Hodge. I'd say it was probably --- no, at that

23 time, probably Wendell Wills I think was president.

24 Probably Wendell Wills.

25 Q. So Chris Blanchard wasn't president then?

1 A. No. If I'm not mistaken, probably Bill Potter had
2 been or Rick Hodge. It's been years, years ago.

3 Q. That's still a serious matter.

4 A. Oh, yeah. I mean, why --- it should have been
5 marked. I mean, something like that, that's just
6 huge.

7 Q. Yes.

8 A. I mean, that's just --- something like that is
9 uncalled for with the technology.

10 Q. I agree.

11 A. I mean, ---.

12 Q. Any other incidents where they cut into a gas
13 well?

14 A. That's the only time I've ever heard.

15 Q. Did the mine have any other problems with
16 undermining gas wells that you know of?

17 A. Not that I know of, sir.

18 Q. Okay. Did anyone ever discuss the lower Eagle
19 seam below the Eagle seam?

20 A. No. No.

21 Q. Did you know that seam was down there?

22 A. I'm sure there was something below us and above
23 us. I don't know exactly what.

24 Q. Okay. Did you ever encounter any methane
25 outbursts anywhere in the mine?

1 A. I haven't.

2 Q. Did you ever hear of anybody encountering them?

3 A. Actually, after the explosion I have heard --- I
4 stayed on the South side. I didn't even get to --- I
5 rarely talked to anybody on the north side. And after
6 the explosion I've talked to several people who said
7 they was getting a lot of gas up on the wall and the
8 headgate. They knew what they was driving.

9 Q. Were they finding this here in the pre-shift exam?

10 A. I don't know, sir. I mean, I'm talking about the
11 section, them telling me what they was hitting up
12 there.

13 Q. Do you know who the pre-shift examiner was on the
14 wall at the time?

15 A. No, I really don't. I don't know how they --- I
16 know the fire bosses. I don't know what area, though.

17 Q. Do you remember them telling you they were
18 encountering ---?

19 A. The section men, actually who was up there on the
20 section mining.

21 Q. Now, this was the section or the longwall?

22 A. The section. I guess it would have been the ---

23 Q. The headgate?

24 A. --- the headgate.

25 Q. Okay.

1 A. And they told me they was hitting, there at the
2 end, a lot of gas. And this is what they told me. I
3 at least talked to some of the men on the longwall.

4 Q. Was it coming from the floor or through the roof
5 or ---?

6 A. The face.

7 Q. Coming out the face?

8 A. The face. Because they said they was picking ---
9 they said a lot --- picking up gas up on the tail end
10 of the wall.

11 Q. Okay. Did they say --- did they complain of an
12 odor? Did they smell anything? Was there an odor
13 associated with it when they would find methane?

14 A. Nobody said anything.

15 Q. Nobody said anything about a distinct odor?

16 A. No, sir. They was just picking up a lot of scary
17 volumes of methane.

18 Q. Now, when you say scary, what do you mean? How
19 high?

20 A. About 1.8. And I heard --- I have heard it went
21 to four or five percent.

22 ATTORNEY BAXTER:

23 Do you remember the names of any of the
24 people who ---?

25 A. Yes. James Griffin, again, the miner man, he was

1 --- they picked up 1.8, and he sent word to the
2 section boss, you need to come, you know, look at
3 this, you know. We're hitting gas. It's just hearsay
4 now. I don't know this for a fact. And they said the
5 section boss just dragged his feet coming over there
6 and checking on it. And I believe that. I really do.

7 BY MR. STEFFEY:

8 Q. Now, did anybody outside know about this, anybody,
9 the superintendent, mine foreman?

10 A. I'm sure they had to. I'm sure they had to.

11 Q. Did they ever say anything?

12 A. Not that I --- like I said, on my side, the South
13 side, we never encountered gas or nothing like that.
14 But the north side --- this was after the explosion.
15 I was starting to find out all this stuff. I had no
16 idea the conditions those guys was working under.
17 They shouldn't have been --- this should never have
18 happened.

19 Q. I agree.

20 A. And I mean, ---.

21 Q. You know, you've got a sign going up to the mine
22 that I noticed the first day I was on the property
23 that says accidents are caused. We're going to find
24 out what caused this.

25 A. I hope so. I hope so. I worked for them guys

1 when I was a red hat for many years.

2 Q. I notice a tattoo on your arm commemorating the
3 29.

4 A. I'll never forget them. It changed the way I ---
5 It's going to change the way I mine forever, too.

6 Q. It's going to change everyone.

7 A. I hope so.

8 Q. Now, let's go back to this methane on the gate
9 roads. They said it was coming out of the face?

10 A. Yes, sir.

11 Q. Any water coming with it?

12 A. Yes. I think they was in some water up there. It
13 was wet. They said it was wet in there.

14 Q. Okay. And you heard this after the explosion,
15 after it happened?

16 A. All the stuff I'm hearing now come after the
17 explosion. I had no idea the conditions those guys
18 was working under.

19 Q. So did anybody outside ever talk --- did you ever
20 hear of them having any discussions outside, any
21 safety meetings, that guys were starting to pick up a
22 lot of methane?

23 A. Not on my side, where we --- like the split, I
24 mean, it's hard to believe it's one mines it would
25 have been split. We never ---

1 Q. Okay.

2 A. --- talked. I mean, it was ---.

3 Q. What about excessive water? Did you ever
4 encounter any excessive water?

5 A. The longwall had a lot of water behind it.

6 Q. The longwall had a lot of --- the active longwall
7 panel?

8 A. Yes.

9 Q. Okay.

10 A. I think they had I don't know how many air pumps
11 set up in there. Just constantly had to pump water up
12 in there.

13 Q. And how do you know this?

14 A. Just hearsay. And I seen the pumps come in by
15 truckloads. I mean, truckloads of pumps.

16 Q. That were headed for the longwall?

17 A. Yes, sir. Yes, sir.

18 Q. They run a discharge line up there or what did
19 they ---?

20 A. Yes, sir.

21 Q. Did this ever interfere with ventilation? Did you
22 hear anything about that?

23 A. I haven't heard anything, but I'm sure it had to.

24 Q. Did you ever hear of it roofing out?

25 A. I've heard on occasions it's very close to roofing

1 out. And that right there stops the air. I mean,
2 that's a solid --- you don't get more solid than
3 water, you know. I mean, ---. But they done whatever
4 they had to do to keep the wall running.

5 Q. So the wall took priority above everything?

6 A. Anything and everything.

7 Q. Was production on the longwall put above safety,
8 in your opinion?

9 A. Yes, sir.

10 Q. Do you care to go into that?

11 A. I think all they worried about was production. I
12 mean, like I said, this is all just hearsay because I
13 never was up there, but ---.

14 Q. Did you talk to any of the men that were up there
15 that --- what would they say that would give you that
16 impression?

17 A. Just Blanchard wanted a report every 30 minutes on
18 the wall, every --- I mean, 30 minutes, 24 hours,
19 what's going on up on the wall. And if it was down,
20 he'd say get into coal as soon as possible, as fast as
21 you can. And I don't think he cared what it took to
22 get in the coal, just make sure that shearer was
23 running. Make sure you had call on the belt.

24 Q. Did you ever see Blanchard at the mines?

25 A. I've seen Blanchard maybe three or four times.

1 And if he walked in this room right now, he probably
2 wouldn't know who I was. He's a numbers person and
3 he's not a people person.

4 Q. Did he ever talk to you or any of your men or any
5 of the other men?

6 A. Annual retraining he would come in and make his
7 appearance, do a little speech about how we need to
8 pick up production and we need to do better to keep
9 everybody working and things of that nature. But
10 actually just to come and talk to you like, how are
11 you doing, is everything okay, you need anything,
12 never, never.

13 Q. During (b)(7)(C) & (b)(7)(D) mentioned scaling up
14 here. We'll jump back to this and come back to Mr.
15 Blanchard.

16 A. Okay.

17 Q. Up here on the --- what you call the ---

18 A. Barrier section.

19 Q. --- barrier section, ---

20 A. The new barrier section.

21 Q. --- new barrier section, you mentioned there were
22 problems with the roof up there and you believe it was
23 due to being between two longwall panels.

24 A. Right.

25 Q. Were there any other areas that you found these

1 problems?

2 A. No. Everything else, it was pretty good. I mean,
3 the ribs, you're always going to have concerns. But
4 it was taken care of. I know up on the barrier they
5 was driving and timbering and just trying to --- like
6 on a Sunday, like doing my work, everything's idle.
7 And all the way down the belt head --- when I'd go
8 down and rock dust my belt head, it would sound like
9 World War III up in the barrier section, just bumping
10 and just --- when I fire bossed it, you know, it was
11 just --- you made sure you looked everywhere you went
12 and it was --- it was hectic. It was scary to go up
13 in there.

14 Q. Okay. Let's talk about an exam book here when you
15 was on the barrier section. Do you remember where the
16 barrier section was at on 11/29 of 2009? Were they
17 here or were they on the old section?

18 A. They probably was up in here, 11. It would have
19 been real close. Because they haven't been down here
20 very long. I would say they was right here where they
21 could --- yeah, right here is where they would have
22 been because --- let's see. Should be some double
23 doors here somewhere. Right here, that's where we
24 moved equipment out and took it up to there. So this
25 is the last panel on the old barrier section that was

1 bad.

2 Q. Okay.

3 A. They probably was up in here.

4 Q. Okay.

5 A. More than likely.

6 Q. Now, there was a (k) order issued at this mine on
7 11/24/2009 at the longwall for a roof fall. But when
8 I go through the pre-shift examination book for the
9 barrier section, ---

10 A. Uh-huh (yes).

11 Q. --- I find a note that says from 11/21 to 11/29
12 that this section was down, no power, belts off, no
13 examinations done, ---

14 A. Yes. That's correct.

15 Q. --- dangered off at the mouth.

16 A. Yes. I remember that.

17 Q. Can you explain what happened?

18 A. That's when, I think, they was done mining and
19 everything was just setting up there. They hadn't
20 moved to this new area yet. And the power was knocked
21 at the mouth.

22 Q. Why did we have it dangered off?

23 A. To keep somebody from going up in there. That's
24 by Plumley --- where the switch was to get up into the
25 barrier section, it was dangered off there to keep ---

1 where it wasn't pre-shifted. That's why it was
2 dangered off. There was no power or anything up in
3 there. It was just to keep people from going up in
4 there. That's why it was dangered off, sir.

5 Q. Okay. That always makes me curious when I
6 see ---.

7 A. I think they actually set this place --- it could
8 have set for probably about two weeks before it was
9 actually moved down to the new setup.

10 Q. No roof falls or anything?

11 A. No, sir.

12 Q. Okay.

13 A. Just idle. They was done.

14 Q. When ^{(b)(7)(C) & (b)(7)(D)} for hazardous conditions
15 and you conducted tests, methane, oxygen
16 deficiency, ---

17 A. Yes, sir.

18 Q. --- did you determine air was moving in its proper
19 direction?

20 A. Yes.

21 Q. How did you do that?

22 A. I could just feel it and I would --- we had smoke
23 tubes we'd get to take and, you know, you'd just have
24 to answer which way the dust is going and things of
25 that nature.

1 Q. How did you determine the air volume?

2 A. Well, we had anemometers, but --- on the beltline,
3 but I never took any readings or anything like that.

4 Q. Where would you take a reading like that?

5 A. Like, occasionally if I had to go to the section,
6 I would go to the last open break and take my air
7 readings and things like that, and I would put it in
8 the book. Like the last open break would have them.

9 Q. Okay.

10 A. And also (b)(7)(C) & (b)(7)(D)
11 readings, and that was (b)(7)(C) & (b)(7)(D) sir.

12 Q. And that was (b)(7)(C) & (b)(7)(D)

13 A. Yes, sir.

14 Q. All right. Did (b)(7)(C) & (b)(7)(D) refuge alternatives?

15 A. Yes, sir. Every --- you talking about outby or
16 the one on the section?

17 Q. The one on the section.

18 A. Yes, sir. (b)(7)(C) & (b)(7)(D) for the spot -- (b)(7)(C) & (b)(7)(D) to
19 make sure it had a spotter in it, the spotter was up
20 to charge and calibrated, and all the air gauges were
21 showing regardless of any physical damage around it.

22 Q. And when did you do that?

23 A. Every time I (b)(7)(C) & (b)(7)(D) Like on a Sunday, if I
24 (b)(7)(C) & (b)(7)(D) , I would make sure the fresh
25 air base was (b)(7)(C) & (b)(7)(D) , sir.

1 Q. Okay. The continuous miners on the sections, they
2 were equipped with a methane sensor; is that correct?

3 A. Yes, sir.

4 Q. Have you ever seen or heard of anybody bridging
5 out a methane sensor in this mine?

6 A. No, sir.

7 Q. Anybody ever discuss the approved methane and dust
8 control plan with you?

9 A. Not with me personally.

10 Q. Not with you?

11 A. No, sir.

12 Q. So when you went to the section and you took a
13 last open crosscut air reading, how did you know that
14 quantity was adequate?

15 A. The air?

16 Q. Yes.

17 A. Massey didn't want less than 20,000 in the last
18 open break. That's what --- anything over that I knew
19 I was okay in that last open break.

20 Q. Now, are you aware of the law that --- 30 cfr,
21 part 75.300 ---?

22 A. No, sir.

23 Q. 370 requires that all persons affected by
24 ventilation changes be trained in those ventilation
25 changes. Now, Massey requires 20,000.

1 A. Yes, sir.

2 Q. You said no one ever went over the approved
3 methane and dust control plan with you.

4 A. I was thinking of the memo.

5 Q. You saw it?

6 A. Yes, sir.

7 Q. You saw the memo saying 20,000?

8 A. Yes, sir. If you had 20,000, don't ---.

9 Q. Would you consider a section pre-shift examiner
10 someone that would be affected by a methane and dust
11 control plan?

12 A. Yes.

13 Q. Wouldn't you think they'd probably need to know
14 what was in that plan?

15 A. Yes, sir.

16 Q. Did you have to have curtains up on your section?

17 A. Yes.

18 Q. In all places?

19 A. Anyplace that was --- to run the bolts in, yes,
20 sir. Ten feet in, yes, sir, we hung curtain.

21 Q. How much air did you have to have at the end of
22 that curtain?

23 A. I'm not for sure. I never was the section boss
24 that actually had to do that. I was told when I done
25 the pre-shift just get air in the last open break.

1 Q. But when (b)(7)(C) & (b)(7)(D) the section, you also had
2 to (b)(7)(C) & (b)(7)(D) hazards; correct?

3 A. Yes, sir. Like the faces and stuff.

4 Q. Okay.

5 A. But (b)(7)(C) & (b)(7)(D)
6 reading behind the curtain or anything because they
7 never was in production, unless the section boss did
8 that. I never had to section boss or anything.

9 Q. Did anybody ever cover the methane dust control
10 plan with a miner crew? Did you ever see that take
11 place?

12 A. No, sir.

13 Q. Nobody ever talked about that? They just talked
14 about what the company policy was?

15 A. That I heard of. But I never --- I'm sure they
16 have, but --- I don't know. That was a long section,
17 and we had safety meetings and stuff, and I know you
18 go over with the miner men things like that, but never
19 me.

20 Q. Okay. So you (b)(7)(C) & (b)(7)(D) on the section ---

21 A. Yes, sir.

22 Q. --- for a little while?

23 A. Yes, sir.

24 Q. Did you ever take a cut --- did you ever see the
25 miner man take a cut without a curtain?

1 A. No, sir.

2 Q. Always hung a curtain?

3 A. Always hung a curtain.

4 Q. Was it exhausting or blowing ventilation?

5 A. Blowing.

6 Q. Blowing.

7 A. I've seen curtain with holes and stuff in it. I
8 mean, no ribs, but always the men --- the miner men
9 I've always worked with, they tried to keep on
10 cutting, and the bolt crew did, too. They really
11 tried.

12 Q. Could you use a scrubber on the section you were
13 on?

14 A. No. I think anything under 20 foot you can't use
15 a scrubber.

16 Q. You ever see them turn it on?

17 A. No, I haven't.

18 Q. Okay.

19 A. I haven't.

20 Q. How many production shifts were on the miner
21 sections?

22 A. Two, day and evening. And third shift, just a
23 dead shift, moving belt and things like that.

24 Q. Did you have a maintenance shift?

25 A. Yes, third shift.

1 Q. Did you ever run coal on that maintenance shift?

2 A. Not that I know of they ever ran coal on third
3 shift.

4 Q. Okay.

5 A. I know on the wall they ran every now and then on
6 third shift, but I don't think the actual miner
7 sections did, no, that I can recall any time.

8 Q. So the wall, they would run whenever they could?

9 A. I heard --- a lot of times like I guess if they'd
10 been down, to get a lot of cuts or whatever they would
11 have to run on a third shift.

12 Q. Okay.

13 A. There's something I don't understand. I mean, I
14 don't know if this is true or not, but I heard they
15 passed the actual spot where they was supposed to pull
16 out on the wall, like the longwall stop that they're
17 saying, they mined past that.

18 Q. They mined past that?

19 A. That's what I've heard.

20 Q. Who did you hear that from?

21 A. Just --- names I don't know. Just people talking,
22 that they actually mined past where they originally
23 was supposed to pull it out.

24 Q. What was their reason for doing that?

25 A. Just to stay in the coal until a new headgate was

1 established. Because I heard --- I can't think of
2 names, but they passed the original stop where they
3 was supposed to pull out of. They kept on mining.

4 Q. Are you aware of any fault lines or roof problems
5 that they had up around the longwall, in the area
6 where they had the ignition? Nobody ever mention
7 that?

8 A. No. I haven't heard anything like that.

9 Q. Okay. Now, you mentioned that they put doors in
10 while men were working inby.

11 A. No, repaired doors.

12 Q. Repaired doors?

13 A. Yes, sir.

14 Q. Did they ever make any major ventilation changes
15 while men were working in the mine?

16 A. I heard they had.

17 Q. You heard that they have?

18 A. I heard they have.

19 Q. Who did you hear that from?

20 A. Just some of the men on the section.

21 Q. That they actually made the changes while they
22 were working?

23 A. Yeah.

24 Q. And who would make these changes?

25 A. That I don't know. I probably --- I'm sure

1 Blanchard and the supers would have to know about it.

2 I mean, ---.

3 Q. Did you hear Blanchard and Whitehead were there
4 when these changes were made?

5 A. Yeah. Yeah, I did.

6 Q. Did they supervise these changes?

7 A. I'm sure they did. I heard they had.

8 Q. Do you ever remember any air reversals in any of
9 the air courses while you were working underground?

10 A. I don't, sir. Like I say, I'm always up on the
11 south. I had no idea what's going up in there in the
12 north. If I knew what was going on up there like
13 that, it ---.

14 Q. What about on the day of the explosion, have you
15 heard about any air reversals that day?

16 A. No.

17 Q. Okay.

18 A. No.

19 Q. Did anybody ever call you while you were in the
20 mine and tell you an inspector was on his way to your
21 area of the mine?

22 A. Not actually call me personally, but in the
23 mornings you'd be on the phone and the section bosses
24 would get there, it was always, do we have any
25 company. That's just every day. Every time you

1 called the production report out, do we got any
2 company, every time.

3 Q. And who would tell them if they had company?

4 A. The dispatcher.

5 Q. The dispatcher?

6 A. Yes, sir.

7 Q. Was this encouraged by management outside, the
8 company?

9 A. I'm sure it was. Ever since I started, it's been
10 like that there. I mean, ---.

11 Q. Are you aware that the Mine Act expressly forbids
12 prior notification that an inspector is in the mine?

13 A. Yes, sir.

14 Q. Do you think these people were aware of that?

15 A. Yes, sir.

16 Q. What would they tell them if they had company?

17 A. Where they was going, if they knew, if they knew
18 where he was going, things of that nature.

19 Q. Do you think production ceased?

20 A. Oh, yeah.

21 Q. Did production cease? Did you hear if it did?

22 A. Oh, yeah. I'm sure it did.

23 Q. Why?

24 A. You had to make it right. You know, you had to
25 make sure you had your air to run, you had no

1 hazardous conditions on the sections, I mean, make
2 sure your equipment was up to par.

3 Q. Weren't they supposed to be doing that the whole
4 time?

5 A. Yeah, should have. Should have.

6 ATTORNEY BAXTER:

7 Do you remember which section bosses said
8 that over the phone or said that in general?

9 A. It probably just wasn't the section bosses. It
10 probably was everybody. It was --- it's awful to say
11 this, but it was a common thing, I mean, just we got
12 company.

13 BY MR. STEFFEY:

14 Q. So what was the attitude toward mine inspections?

15 A. The company didn't like it. I mean, but I was
16 really glad to see inspectors. Thank God for
17 inspectors. I mean, ---.

18 Q. Why didn't the company like inspectors?

19 A. Because they would cost them money. It was going
20 to cost them money. It was going to cost them
21 downtime.

22 Q. But if they're keeping it right all along, they're
23 not going to get a citation.

24 A. No. No.

25 Q. So why did they have to stop then to fix this if

1 all Massey mines are safe?

2 A. Because they're not all safe.

3 Q. So is the attitude catch me if you can?

4 A. Catch me and I'll pay the fine because I got the
5 money to pay it, really. I mean, this is my job. I
6 work for Massey, but I'm --- I don't care much for
7 Massey. The only reason I work for Massey is to take
8 care of my family, and it's just --- it's not a
9 good --- Massey is not a good company. It's not.

10 Q. Did anybody ever tell you to be careful what you
11 say to an inspector? Anybody above you in management
12 caution you about what you say to inspectors?

13 A. Yeah.

14 Q. What did they say?

15 A. Don't tell them no more than they ask --- need to
16 know. If you don't know something, just tell them no
17 or things of that nature.

18 Q. Who would tell you that?

19 A. Like a super sometimes, you know, watch what you
20 say, things like that. But if I ---.

21 Q. Something to the effect they're not here to help
22 us?

23 A. Yeah. Massey --- how do I say it? They'd breed
24 it into you from young. Like when I was --- when I
25 was a red hat there, that's one thing I'd never do, if

1 it's not right, I don't do it because I can't sleep
2 now any night because of this right here. I'm a
3 different person.

4 Q. I believe so.

5 A. And when you first start with Massey, they'd mold
6 you into Massey. You understand what I'm trying to
7 say? They'd just ---

8 Q. All too well.

9 A. --- do their this is how we're going to do it.
10 We're going to show you how to do this our way. They
11 say do the right thing. That's a joke with Massey.
12 It really is. I mean, they show you the way they want
13 you to do it. We --- I guess you can get by with it.
14 That's how I feel. I mean, I'm --- if this ever gets
15 out, I'll probably lose my job or something, but ---.
16 I'm just very disappointed in Massey, especially Upper
17 Big Branch. It's something I'm not proud of.

18 Q. Did they --- do you know if anybody ever made a
19 complaint about an unsafe condition in this mine
20 either to MSHA or to the company, using the company
21 hotline?

22 A. No. No, sir.

23 Q. Were you ever cautioned --- was anybody --- did
24 you ever know --- was anybody ever cautioned about
25 making complaints to MSHA?

1 A. Not that I know of, sir.

2 Q. What do you think would have happened to somebody
3 if they'd had made a complaint to MSHA and management
4 would have found out?

5 A. They probably would have fired you on the spot
6 because of a lawsuit, but you would have quit or you'd
7 been transferred to somewhere about as high as this
8 table, and you would have quit anyway because you
9 couldn't handle working in there.

10 Q. So you'd characterize the environment as
11 threatening?

12 A. Yes. And I have heard --- I talked to several
13 people who went in behind the wall, had to go in
14 behind the wall and check pumps and set pumps, and a
15 couple of them refused, and I heard Blanchard saying,
16 well, if they don't want to do it, we got a stack of
17 resumes. Somebody will do it. And I can give you
18 some ---.

19 Q. Did Blanchard ever go do it?

20 A. No. Blanchard didn't do nothing. He was all
21 mouth.

22 Q. Now, these people that went behind the wall, do
23 you know any of them personally?

24 A. Yes, sir.

25 Q. Would you care to give some of their names?

1 A. Grant Racey, he refused. And I think Blanchard
2 didn't like that very much. I don't know if he got in
3 trouble for it, but he refused. And I'm trying to
4 think who else went in behind a wall. Probably
5 Rick --- one of them that passed away, Rick probably
6 had to go behind a wall. Kenny Chapman probably had
7 to go behind a wall. I'm saying probably everybody on
8 the miner section crews up there on that headgate and
9 tailgate had to go do something behind the wall.

10 Q. Had to go set pumps?

11 A. Set pumps or ---. Like when the wall first
12 started running, in behind there, there was some power
13 centers and belt heads that was dead and there was no
14 power to them, and they went and got them. They went
15 and got them.

16 Q. Through the water?

17 A. This wasn't through the water.

18 Q. Okay.

19 A. This is stuff like a belt --- I think a belt head
20 was up there and maybe a kVA box or a splitter box or
21 something, and they went and got them even after the
22 wall was running. They was behind the wall.

23 Q. Were they behind there while it was running?

24 A. Yes, sir. Blanchard wanted them to get it.

25 Q. Were you ever around in this mine when a citation

1 was issued?

2 A. Yes, sir.

3 Q. What was management's response to getting a
4 citation?

5 A. They didn't like it. They wanted to know why,
6 what you could do to prevent it. They didn't
7 like ---.

8 Q. Did they argue the citation?

9 A. Oh, yeah.

10 Q. What was their basis of argument?

11 A. Just --- a lot of times they thought MSHA was just
12 picking on them, UBB, you know.

13 Q. Did you ever discuss any mine plans with any
14 inspectors? Did you ever talk to any inspectors?

15 A. No, sir.

16 Q. Ventilation problems in this mine, do you know
17 about when they started?

18 A. I think most of it went into the wall, the new
19 setup that was running.

20 Q. Anybody have any ideas why?

21 A. No. Like I said, I was the --- (b)(7)(C) & (b)(7)(D) that
22 big drill bit in for when they, I guess --- what's
23 that called? The new fan they put in, the borehole
24 they did. And we figured, you know, when they first
25 turned that fan on, it was just --- I think it's an

1 exhausting fan, ---

2 Q. Yes.

3 A. --- if I'm not mistaken. It would just --- if you
4 had water, you had to find the motor and pull them
5 off. I mean, it was tremendous air. I don't know why
6 they --- I mean, being that close to this fan, why
7 didn't they have any air up on their sections? And I
8 heard the men complaining they rarely have air to run
9 right. But at the time I didn't know this. I mean, I
10 didn't find any of this out until ---

11 Q. After.

12 A. --- after the explosion. Because I worked a lot
13 of --- (b)(7)(C) & (b)(7)(D) I worked for a lot of
14 men who was up on these sections, working. That's how
15 I'm finding this stuff out.

16 Q. Have you heard of anything being called out just
17 prior to the explosion from the longwall or from any
18 of the sections that they had some running --- some
19 sort of problem?

20 A. I haven't heard anything.

21 Q. Haven't heard anything?

22 A. No.

23 Q. Have you ever had a work shift that's been delayed
24 or cancelled due to an unsafe condition?

25 A. Yes, sir. I guess a couple months ago it was down

1 over ventilation on the wall. Just probably three or
2 four days we didn't work. And I'm trying to
3 think ---. That's the only time I can remember us not
4 working.

5 Q. Did you ever express any concerns about the
6 ventilation prior to the explosion?

7 A. No. But like I said, when I was on the south
8 side, we always have plenty air. I mean, it was just
9 cold, we had so much air over there. And I had no
10 idea what was going on up on the north side. And I
11 wish I did.

12 Q. Do you want to take a break for a few minutes, and
13 then we'll let these guys talk to you?

14 A. Yeah.

15 SHORT BREAK TAKEN

16 ATTORNEY BAXTER:

17 Let's go on the record. ^{(b)(7)(C) & (b)(7)(D)} on the
18 break you came up to discuss with MSHA that you wanted
19 to --- you requested that your identity be kept
20 confidential ---

21 A. Yes, sir.

22 ATTORNEY BAXTER:

23 --- for this interview?

24 A. Yes, sir.

25 ATTORNEY BAXTER:

1 Okay. And what are the reasons for that?

2 A. For fear of my job, sir.

3 ATTORNEY BAXTER:

4 Okay. And you're presently employed by

5 Massey?

6 A. Yes, sir.

7 ATTORNEY BAXTER:

8 Okay. Now, as I said at the beginning of

9 the interview, if you request us to keep your identity
10 confidential, we will do so to the extent permitted by
11 law. That means if a judge orders us to reveal your
12 name or if another law requires us to reveal your name
13 or if we need to reveal your name for other law
14 enforcement purposes, we may do so. Do you
15 understand?

16 A. I understand.

17 ATTORNEY BAXTER:

18 Okay. And hearing that, you do want your
19 identity kept confidential at this time?

20 A. Yes, sir, as long as possible, please.

21 MR. FARLEY:

22 I need to see the map that would reflect
23 the existing longwall, please.

24 ATTORNEY BAXTER:

25 This is ^{(b)(7)(C) & (b)(7)(D)} Exhibit Two.

1 RE-EXAMINATION

2 BY MR. FARLEY:

3 Q. ^{(b)(7)(C) & (b)(7)(D)} a little while ago you were talking about
4 concentrations and scary volumes of methane.

5 A. Yes, sir.

6 Q. And you mentioned the longwall, the tail end of
7 the longwall and so forth, and you mentioned a
8 conversation with a guy named James Griffin?

9 A. Yes, sir.

10 Q. Now, you said James Griffin was a continuous miner
11 operator; correct?

12 A. Yes, sir.

13 Q. Now, on April 5th and before, on what section did
14 James Griffin work?

15 A. If I'm not mistaken, he was on the headgate
16 section.

17 Q. Now, when you say headgate, you mean Headgate 22
18 section?

19 A. Yes, sir.

20 Q. Was he the continuous miner operator?

21 A. He was the operator, the miner operator.

22 Q. Do you know how long he was working on that
23 section prior to the explosion?

24 A. He's been a miner man from the beginning, from all
25 this. He's mined all of it.

1 Q. Okay. Now, the methane concentrations that he was
2 telling you about, were those on Headgate 22 section
3 only or were there other areas?

4 A. Just on his section, on the headgate.

5 Q. Headgate 22 section?

6 A. Yes.

7 Q. Okay. And did he say how recently he had
8 encountered it?

9 A. A few days before the explosion.

10 Q. Okay. Now, you mentioned one number of 1.8
11 percent and then possibly up to four to five.

12 A. Not four or five, but I know for a fact he told me
13 he got 1.8 and he sent the buggy --- it was a lady.
14 Her name was Bobbie Pauley. She was his buggy woman.
15 He sent her to tell the section foreman you need to
16 come. We was hitting some methane up there. And so
17 he dragged his feet getting over there.

18 Q. And that's a few days prior to the explosion?

19 A. How I understood it, yes, sir.

20 Q. Okay. Now, did James Griffin ever work on the
21 longwall, the existing longwall panel, as far as you
22 know?

23 A. He probably drove it up, yes, sir, with the miner.

24 Q. Well, do you mean he would have been involved in
25 mining the headgate and tailgate entries in

1 preparation for it?

2 A. Yes, sir.

3 Q. Okay.

4 A. Now, he never mentioned hitting gas when he was
5 mining through it with the continuous miner.

6 Q. Okay.

7 A. The only thing I heard about gas is where they're
8 at now, that headgate.

9 Q. Headgate 22?

10 A. Yes, sir.

11 Q. Okay. All right.

12 MR. FARLEY:

13 Davitt?

14 EXAMINATION

15 BY ATTORNEY MCATEER:

16 Q. ^{(b)(7)(C) & (b)(7)(D)} if I could ask you a couple questions about
17 the incident that you just talked about, the
18 conversation with Mr. Griffin. He encountered 1.8
19 percent methane. He sent Bobbie Pauley to get the
20 foreman. And this was two days before the explosion?

21 A. How I understood it, yes, sir.

22 Q. And do you know who the foreman was?

23 A. Brandon Bowling I think that night moved the
24 section. I think Brandon Bowling.

25 Q. And I'm looking at the pre-shift and on-shift

1 examinations for Headgate 22.

2 A. Uh-huh (yes).

3 Q. Are you familiar with any of the examiners?

4 A. I know fire bosses, yes. I don't know who
5 actually was up there doing the exams, but I'm sure
6 I'd know who it was if I knew the name of them.

7 Q. Could you just examine --- I'm at 3/20 and it goes
8 to --- it's supposed to go to 4 --- the date of the
9 accident. It starts at --- I'm sorry. It starts on
10 3/2 and goes to 3/19. Apparently the --- so it
11 doesn't quite get to the accident.

12 A. Uh-huh (yes).

13 Q. Could you look at some of these and just see if
14 you know ---. It's very hard to read the names of the
15 pre-shift persons because they use --- the exact
16 scribble.

17 A. What do I need to look at, just ---?

18 Q. Yeah, right there. Uh-huh (yes).

19 A. Let's see here.

20 WITNESS REVIEWS DOCUMENT

21 A. This is Kyle Anderson.

22 BY ATTORNEY MCATEER:

23 Q. Right.

24 A. I think Kyle, he's probably like a third shift,
25 maybe a move boss or something in that area. I have

1 no idea who this is. Terry Moore, Terry probably
2 would have been the mine foreman I think on the north
3 side. I don't know who this is here, but ---.
4 There's Terry Moore again. I can't make that out
5 there. John Bickford, he's a fire boss. I can't make
6 that out. Patrick Holbert, he's a section boss I
7 think for, yeah, the headgate.

8 Q. Does this refresh your memory as to who might have
9 been the fire boss at the time?

10 A. So far the only fire boss name I've seen has been
11 John Bickford, ---

12 Q. Okay.

13 A. --- the actual fire boss. Everybody else has been
14 a section boss or the mine foreman, which would have
15 been Terry Moore.

16 Q. Right. Okay.

17 A. But John Bickford is the only fire boss I've seen.

18 Q. That's fine. You don't need to go through the
19 whole --- I just was hoping that that would refresh
20 your memory.

21 A. So far as I saw, John Bickford.

22 Q. Now, you said you never saw engineers? Do you
23 know who does the engineering, the ventilation
24 engineering?

25 A. Excuse me?

1 Q. Do you know who does the ventilation engineering?

2 A. No, sir.

3 Q. Have you ever heard the name Route 3 Engineering?

4 A. Oh, yeah. Yes, sir. Yeah. Okay.

5 Q. Okay. Do you know any of those guys?

6 A. Alan Stiltner, I think he works for them. I went
7 to actual vocational school with him and drafting, and
8 I think he works for them.

9 Q. Right.

10 A. That's the only person I know, I think.

11 Q. Since you've been at UBB you've not seen Alan?

12 A. Maybe once or twice, yes, just to, you know, throw
13 my hand up at him ---

14 Q. Sure.

15 A. --- to acknowledge him, you know.

16 Q. Have you ever seen them in there taking readings
17 or taking samples or looking at the ventilation system
18 in any way while you're --- whether he's the north
19 side or south side, these guys in the mine?

20 A. I haven't. I haven't personally.

21 Q. Okay.

22 A. If I did, I don't remember, but I ---.

23 Q. And you say you saw pumps going to the --- many
24 going to the wall?

25 A. Yes, sir.

1 Q. Many can be one or a hundred. Just give it a
2 guesstimate.

3 A. Twenty (20) to 30.

4 Q. Okay. I recognize that's a guesstimate.

5 A. Yeah, just a guess.

6 Q. The annual meeting that Mr. Blanchard attended,
7 what's the purpose of that annual ---?

8 A. Eight-hour retraining on your SCRS rescuers and
9 your fresh air base and your refuge chambers and first
10 aid and things of that nature.

11 Q. What's the subject area of that annual training?

12 A. Just to bring us up on the new ---.

13 Q. But it's safety?

14 A. Yeah, safety. Safety, yes, sir.

15 Q. Did Mr. Blanchard ever speak to you about safety?

16 A. No, not personally.

17 Q. What did he speak to you about?

18 A. Just how --- the rough conditions we're in, and
19 we're going to have to bear with it and get through it
20 and got to make sure we stay, you know, on schedule.
21 That's why we end up working all these holidays and
22 vacations.

23 Q. You testified earlier that he said pick up
24 production.

25 A. We need --- yeah, pick --- we need to add to our

1 footage, you know, run more coal.

2 Q. Okay.

3 A. Run more coal.

4 ATTORNEY MCATEER:

5 That's all the questions I have. Thank

6 you.

7 A. You're welcome.

8 RE-EXAMINATION

9 BY MR. STEFFEY:

10 Q. ^{(b)(7)(C) & (b)(7)(D)} would you say there's a lot of pressure to
11 run coal at this mine?

12 A. Yes, sir.

13 Q. Do you think anybody took shortcuts due to that
14 pressure?

15 A. Probably. I'm sure they did.

16 Q. Where did that pressure come from?

17 A. Chris Blanchard, the president. That's who it all
18 starts with.

19 Q. You mentioned that --- did you ever mention that
20 you saw him in the mine? I believe you did.

21 A. Maybe two or three times I've seen Mr. --- in case
22 like something --- like a section was down or
23 something --- like a longwall would be down or
24 something in that nature, he would come in and want to
25 know what's going on and ---. On the day that the

1 explosion happened, I know him and Jason Whitehead
2 went in.

3 Q. After the explosion or before?

4 A. After the explosion.

5 Q. Okay. What else do you know about when they were
6 there?

7 ATTORNEY MCATEER:

8 How do you --- I'm sorry, David. How do
9 you know that?

10 A. I listened on the mine phone.

11 ATTORNEY MCATEER:

12 Okay.

13 A. They unhooked most of the phones, but where I
14 stayed outside, I was double backed that evening to do
15 air readings at the portals. And they left a phone
16 hooked up in one of the portals, and I listened to
17 everything.

18 BY MR. STEFFEY:

19 Q. So you were there the day of the explosion?

20 A. I got out maybe five or six minutes before it
21 happened.

22 Q. Okay. Let's talk about that day. Where were you
23 at when the explosion occurred?

24 A. I just had got outside.

25 Q. Just got outside.

1 A. Just had enough time to put my light up.

2 Q. You were performing your regular job
3 responsibilities?

4 A. Yes. I was starting upstairs

(b)(7)(C) & (b)(7)(D)

6 Q. Okay. How did you know something had happened?

7 A. As soon as I come out of the white house, the fan
8 sits maybe 75 yards from the office, and it started
9 making a noise I've never heard the fan do. It's just
10 like it was slowly slowing down, and it stopped, and
11 the blades turned backwards, because I --- there was
12 stuff flying outside the back of the fan, like through
13 the blades. And that's when we started getting a lot
14 of dust and stuff coming out the portals.

15 Q. So you saw material actually coming out of the
16 portals?

17 A. Yes, sir. Yes, sir. And at the time we thought
18 it was a roof fall, because I --- a couple guys there
19 said it must have been a big fall, because it wasn't
20 smoke that was coming out our side. It was just dust
21 and things of that nature, you know, and we thought we
22 had a big, big, big fall. And I went upstairs and
23 proceeded to do my book, and that's when the COs ---
24 our computers, you know, have the CO, the CO monitors
25 started crashing.

1 Q. When you say they started crashing ---?

2 A. Started going --- showing red, which means fire,
3 and started going inby, down the line, each ---.

4 That's when --- you're trained when you see something
5 like that, it means one thing, it's a fire. You're
6 going to have COs every now and then that go red.

7 They're going to be around like a charging station or
8 somebody will be welding in that area and smoke will
9 go down on it and he will call --- the dispatcher will
10 call and say, would you go check this area out and
11 maybe see what's wrong with the CO? You would go
12 check it and confirm back that they're welding down
13 here or something of that nature. But that day it
14 started crashing.

15 Q. So you've been in a mine when you've had CO
16 sensors either go into alert or alarm status ---

17 A. Yes, sir.

18 Q. --- before, but never this many?

19 A. Never. Never.

20 Q. Okay.

21 A. You know then it's bad, and we started hollering
22 for our head men to do a shift change. They was
23 coming out and we started hollering, making sure
24 everybody is all right, you know, just see what's
25 going on in there. There wasn't no answer.

1 Q. Okay.

2 A. I thought maybe just communication, you know, the
3 fall had took communications out.

4 Q. Okay. And when did you find out it was
5 something ---?

6 A. Probably about --- I'm just guessing like the
7 time, an hour after all this happened. It was --- a
8 call come out that somebody heard that you need to get
9 at least ten ambulances up here. We got bodies
10 outside the mantrip everywhere.

11 Q. Now, who called out and said that?

12 A. I'm not for sure who called out and said that, but
13 there was another guy there who come out and told me
14 what just come over the mine phone. And that's when a
15 couple vehicles pulled up at our portal, which was
16 UBB, and got all the first aid boxes they could and
17 defibrillators we had and just rushed over to Ellis
18 Portal. That's when we knew it was an explosion.

19 Q. When did you start listening to the mine phone?

20 A. As soon as it happened.

21 Q. As soon as it happened?

22 A. After that happened, then --- because like I said,
23 I was upstairs at this time doing

(b)(7)(C) & (b)(7)(D)

24 (b)(7)(C) & (b)(7)(D) making sure it was taken care of.

25 And that's why I remember them hollering for Head and

1 them and we --- I was thinking, well, the fall has
2 taken communications out. After I noted it in ^{(b)(7)(C) & (b)(7)(D)}
3 and things, that's when I found about ---.

4 Q. When did Whitehead and Blanchard go into the mine;
5 do you know?

6 A. I guess right after they got the call something's
7 happened, because I heard they went --- Jason
8 Whitehead and Chris went in. I don't even know if
9 they --- I don't even think they was under any
10 apparatus or anything. I mean, I don't even see how
11 they survived going in that. I mean, ---.

12 Q. And you listened to their conversations on the
13 phone?

14 A. Some of it. I heard some --- I heard a few
15 things.

16 Q. Did you see how far they --- did you hear how far
17 they made it?

18 A. I know they made it to the wall.

19 Q. Did they make it across the wall?

20 A. I don't know that. I know they made it up to the
21 wall.

22 Q. Up to the longwall?

23 A. Yes.

24 Q. What about on the headgate?

25 A. I don't know.

1 Q. You don't know?

2 A. I don't know.

3 Q. Okay. What happened after that?

4 A. That's just when it just went crazy. I mean, you
5 can't describe it. It's just like ---. Helicopters
6 started coming in. Like Chris Adkins was flown in.
7 He was one of the first ones there. They called ---
8 the mine rescue teams did real well. I mean, they was
9 there as soon as they could. They just went --- on
10 our side, UBB side, is where all the rescue teams was
11 coming to. There was I don't know how many. I mean,
12 it was just chaos, I mean, just chaos coming in.
13 There was helicopters flying over and just the rescue
14 teams trying to get the word to go in to start
15 searching. And I know there was six confirmed pretty
16 early. And later on in the shift, as they was
17 advancing, I know I heard Jason Whitehead on the
18 phone. That's when we was coming across more people,
19 you know.

20 Q. Did they ever indicate if they felt there were any
21 survivors?

22 A. Never, just --- what really --- I knew it was bad
23 whenever they got to 78 Break up here, at these doors.
24 The doors was, how I took it by the phone, was gone
25 and the intake was unestablished. It was destroyed.

1 And that's when you know. And an explosion of that
2 magnitude, they never had a chance to go nowhere. I
3 mean, if you're a miner, you know. You know what I'm
4 saying? You know. You just get hope for the families
5 and things of that nature, but you know.

6 Q. Yeah.

7 A. You know.

8 Q. Did anybody give you any instructions?

9 A. No, just we done air readings every 15 minutes at
10 our portals outside, and I recorded all them. And all
11 them was given to Gary May, my superintendent.

12 Q. Okay. So you continued taking air readings?

13 A. Every 15 minutes, yes, at every portal.

14 Q. How long did you do that for?

15 A. I done that for I think 19 hours.

16 Q. Nineteen (19) hours.

17 A. I done an air reading for nine of them. I double
18 backed.

19 Q. Anybody take any statements from you?

20 A. No, sir.

21 Q. Okay. Did you go underground after that at all?

22 A. No. Never went back there.

23 Q. Do you know how people were accounted for when
24 they were entering and exiting the mine?

25 A. Our check-in and check-out boards. We had tags

1 also. We had now the leaky feeder systems. We
2 carried tags.

3 Q. So this is the tracking system?

4 A. Yes, sir.

5 Q. Do you know of any problems with that tracking
6 system? Have you heard of any?

7 A. At first it worked great. I mean, it --- anywhere
8 in the mines you could talk and --- there at the end,
9 like everything, it started having problems. But
10 they --- I think Derrick Kiblinger and Patrick Romus
11 was the guys over the leaky feeder. They worked
12 really hard on it to keep it up and working. So it
13 wasn't really no major --- we had communication pretty
14 much.

15 Q. Did the air readings that you took ever 15 minutes
16 at the portals for 19 hours, did they ever change any?

17 A. Stayed pretty consistent. No methane whatsoever
18 on our side, no CO, and the air --- our side stayed
19 pretty safe, safe condition.

20 Q. Okay. Did you ever travel toward the old Glory
21 Hole?

22 A. Yes, many times.

23 Q. Many times?

24 A. When I was (b)(7)(C) & (b)(7)(D) and stuff. When I was a
25 (b)(7)(C) & (b)(7)(D) all the --- this whole beltline. I

1 (b)(7)(C) & (b)(7)(D) all this stuff in. I was --- I (b)(7)(C) & (b)(7)(D) and
2 then I was a (b)(7)(C) & (b)(7)(D) to help install the beltline
3 up to here.

4 Q. Okay.

5 A. So I spent probably six months to a year in that
6 area.

7 Q. Were there any problems around that Glory Hole?

8 A. The top was bad.

9 Q. Top was bad?

10 A. Top was bad.

11 Q. What about methane and water?

12 A. When I was there, no.

13 Q. Okay.

14 A. When I was there, no.

15 Q. What about the pump into Eight North up here
16 around the gas well at the very north end of the mine?
17 Were you ever up there?

18 A. I was, but I didn't know there was a well up
19 there.

20 Q. Do you ever remember picking up any methane there?

21 A. No. No. I have fire bossed up there, too, and I
22 never picked anything up. That's been a long time
23 ago.

24 Q. Does Massey have any incentive programs for
25 safety?

1 A. Yes. They have installed a Raymond Safety ---
2 don't get hurt, no lost times. If nobody in the mine
3 gets hurt you get points which you can turn in for
4 like gifts and things.

5 Q. Everybody share equally in that, salary and hourly
6 people?

7 A. I think so. I think so.

8 Q. What about production incentive?

9 A. They have bonuses.

10 Q. They have bonuses?

11 A. Yes.

12 Q. How often did you get a bonus?

13 A. Never.

14 Q. Never?

15 A. They set it too high. They set it too high for
16 the conditions. I couldn't even come close to
17 bonusing.

18 Q. So they just kept raising the bar?

19 A. Yes.

20 Q. Okay. Did you know Josh Napper?

21 A. Never knew him. Never. He just I guess recently
22 hired in. I knew like the older men, but not him.

23 Q. Are you aware of the letter that he wrote to his
24 family?

25 A. I heard about that.

1 Q. Why do you think he'd write a letter like that?

2 That's the kind of letter that somebody writes when
3 they're going off to war.

4 A. I think somebody that's been in the mines as long
5 as he has, the boy's heard something. He's probably
6 talked to some men, older men, who was concerned.

7 Q. Do you have any notes that you kept while you were
8 underground as to what you found, who you talked to,
9 what you heard, anything?

10 A. No. No, I sure don't. Anything I found like that
11 I just put in the pre-shift, the fire boss books.

12 Q. Do you have anything that you'd like to add,
13 anything that might help us, anything that you can
14 think of at all?

15 A. No, really not. I hope it don't happen again.

16 RE-EXAMINATION

17 BY MR. FARLEY:

18 Q. I need to clarify a couple things.

19 A. Okay.

20 Q. After the explosion occurred, you indicated that
21 you listened on the mine phone to some
22 conversations ---

23 A. Yes, sir.

24 Q. --- from underground.

25 A. Uh-huh (yes).

1 Q. Now, you indicated that Blanchard and Whitehead
2 went underground.

3 A. Yes, sir.

4 Q. Where did they go underground?

5 A. I think they went into Ellis Portal and worked
6 their way up to the longwall.

7 Q. Okay. Do you know what time they entered the
8 mine? Can you estimate that?

9 A. I'm saying probably four o'clock because the
10 explosion --- they're saying 3:30. I know exactly
11 what time it happened. It was 3:01. Because my watch
12 beeped. That's when I said, I got 30 minutes to get
13 upstairs to fill my book out.

14 Q. Okay.

15 A. And the explosion happened around three o'clock.

16 Q. According to your watch?

17 A. To my watch.

18 Q. Okay.

19 A. That's when we got the effect of it.

20 Q. Now, you indicated that you knew that they made it
21 up to the wall?

22 A. Yes, sir.

23 Q. Now, what does that mean? Does that mean that
24 they made it to the longwall face, the outby end of
25 the mouth of the longwall or what?

1 A. The mouth of the longwall is what I think. That's
2 how I took it, meant the mouth of the longwall.
3 Because like we didn't know they was in there.

4 Q. Okay. Did you hear what he said as to where he
5 was located?

6 A. No.

7 Q. Okay. Now, what time did you stop listening?

8 A. I listened all through the night. When I wasn't
9 taking my air readings, when I had a few minutes in
10 between the readings, if I heard somebody on the
11 phone, I would go and listen, see what was going on.

12 Q. All right.

13 A. So just off and on through the night, the evening.

14 Q. All right. Now, did you --- you also indicated
15 that there was six confirmed fatalities early.

16 A. Yes, sir.

17 Q. Who did you recall hearing report that to the
18 surface from underground?

19 A. Well, there's a guy named David Taraczkozy. We
20 call him Doughnut. He's an electrician. He was over
21 there. And he come back to --- when I say over there,
22 I mean Ellis side. And when he come back to UBB side,
23 he said he saw them bringing --- he saw the bodies
24 bringing outside of the drift mouth.

25 Q. Okay.

1 A. That's when we knew ---.

2 Q. Now, after that, did you hear anyone report from
3 underground of finding more bodies?

4 A. Yes, sir. I heard Jason Whitehead say at one
5 time, I can't say what time it was, saying we've
6 accounted for three more bodies.

7 Q. Did he specify the location?

8 A. I think the longwall. I'm not a hundred percent
9 sure. I think --- it had to be the longwall because
10 he wouldn't have been up in the headgate yet.

11 Q. Okay. That's fine. All right. But you just
12 heard three bodies?

13 A. Yes.

14 Q. Any more?

15 A. No, not --- I never heard any more on the phone.

16 Q. Okay.

17 A. Like I said, when I left there, there was like six
18 or seven confirmed, and when I got home there was
19 already like 25. I don't even know how they found
20 that number that quick. I mean, it was just ---.

21 Q. Now, did Blanchard --- did you hear Blanchard
22 reply and say at any time that they made it to the
23 longwall face?

24 A. No, not the face.

25 Q. Okay.

1 A. No, sir.

2 Q. All right. Now, during the evening of April 5th
3 and the morning of April 6th, did you take any notes
4 on anything you heard, anything you did, anything you
5 saw?

6 A. No, just the air readings. When I got all my
7 readings, I recorded.

8 Q. Okay.

9 A. That's the only notes I took.

10 Q. Okay. Now, if I understood you correctly, you
11 don't know the time that it was reported that an
12 additional three bodies were found?

13 A. No, sir. I'm sorry.

14 Q. Okay. That's all right. I just want you to be
15 accurate, that's all.

16 MR. FARLEY:

17 That ought to do it for me.

18 MR. STEFFEY:

19 I'm done.

20 ATTORNEY BAXTER:

21 On behalf of MSHA and the Office of
22 Miners' Health, Safety and Training, I want to thank
23 you for appearing and answering questions today. Your
24 cooperation is very important to the investigation as
25 we work to determine the cause of the accident. We

1 request that you not discuss your testimony with any
2 person aside from your personal representative. After
3 questioning other witnesses, we may call you if we
4 have any follow-up questions that we feel that we need
5 to ask you. If at any time you have additional
6 information regarding the accident that you would like
7 to provide to us, please contact us at the contact
8 information that was previously provided to you.

9 Any statements given by miner witnesses

10 to MSHA are considered to be an exercise of statutory
11 rights and protected activity under Section 105(c) of
12 the Mine Act. If you believe any discharge,
13 discrimination or other adverse action is taken
14 against you as a result of your cooperation with this
15 investigation, you are encouraged to immediately
16 contact MSHA and file a complaint under Section 105(c)
17 of the Act. Remedies under the Mine Act include back
18 wages and immediate temporary reinstatement to your
19 most recent position with the company, pending a
20 complete investigation of your complaint. In order to
21 file such a complaint, you should contact the MSHA
22 district office in Mount Hope, West Virginia. For
23 more information concerning your rights as a miner
24 under the Mine Act, please visit MSHA's website at
25 www.msha.gov.

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

5 A. No, sir. I'm fine.

6 ATTORNEY BAXTER:

7 Davitt, did you have any additional
8 questions?

9 ATTORNEY MCATEER:

10 I did not. No. Thank you.

11 ATTORNEY BAXTER:

12 Okay. Again, I want to thank you for
13 your cooperation in this matter.

14 A. You're welcome.

15

16

* * * * *

17

STATEMENT UNDER OATH CONCLUDED AT 12:31 P.M.

18

* * * * *

19

20

21

22

23

24

25

1 STATE OF WEST VIRGINIA)

2)

3

4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

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

12 That the proceeding is herein recorded fully
13 and accurately;

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



20
21
22 *Alicia R. Brant*
23
24
25