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**Transcript of the Testimony of Harold Cooper**

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**Case:**

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STATEMENT UNDER OATH  
OF  
HAROLD COOPER, JR.

taken pursuant to Notice by Cynthia Piro Simpson, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137 Beaver, West Virginia, on Wednesday, June 16, 2010, beginning at 1:10 p.m.

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ATTORNEY HAMPTON:

Let's go on the record. My name is Polly Anna Hampton. Today is June 16th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Mr. John Godsey, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia, and I ask that they state their appearance for the record now.

MS. MONFORTON:

Celeste Monforton with Governor Manchin's special team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY HAMPTON:

There are also several members of the investigation team also present in the room today. Mr. Godsey will be conducting the initial part of the

1 questioning today.

2 All members of the Mine Safety and Health

3 Accident Investigation Team and all members of the

4 State of West Virginia Accident Investigation Team

5 participating in the investigation of the Upper Big

6 Branch Mine explosion shall keep confidential all

7 information that is gathered from each witness who

8 voluntarily provides a statement until the witness

9 statements are officially released. MSHA and the

10 State of West Virginia shall keep this information

11 confidential so that other ongoing enforcement

12 activities are not prejudiced or jeopardized by a

13 premature release of information. This

14 confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. Your participation in this interview

18 constitutes your agreement to keep this information

19 confidential.

20 Government investigators and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine-South on

24 April 5th, 2010. The investigation is being conducted

25 by MSHA under Section 103(a) of the Federal Mine

1 Safety and Health Act and the West Virginia Office of  
2 Miners' Health, Safety and Training. We appreciate  
3 your assistance in this investigation.

4 You may have a personal attorney present  
5 during the taking of this statement, or another  
6 personal representative if MSHA has permitted it, and  
7 you may consult with this person at any time. Your  
8 statement is completely voluntary. You may refuse to  
9 answer any question and you may terminate the  
10 interview at any time or request a break at any time.  
11 Since this is not an adversarial  
12 proceeding, formal Cross Examination will not be  
13 permitted. However, a personal legal representative  
14 may ask clarifying questions. Just so the record is  
15 clear, do you have a personal representative here with  
16 you today?

17 MR. COOPER:

18 No.

19 ATTORNEY HAMPTON:

20 Your identity and the content of this  
21 conversation will be made public at the conclusion of  
22 the interview process and may be included in the  
23 public report of the accident unless you request that  
24 your identity remain confidential or your information  
25 would otherwise jeopardize a potential criminal

1 investigation. If you request us to keep your  
2 identity confidential, we will do so to the extent  
3 permitted by law. That means that if a judge orders  
4 us to reveal your name or if another law enforcement  
5 --- excuse me, and if another law requires us to  
6 reveal your name or if we need to reveal your name for  
7 other law enforcement purposes, we may do so.

8 Also, there may be a need to use the  
9 information you provide to us or other information we  
10 may ask you to provide to us in the future in other  
11 investigations into and hearings about the explosion.  
12 Do you understand or have any questions?

13 MR. COOPER:

14 No questions.

15 ATTORNEY HAMPTON:

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

1 A court reporter will record your  
2 interview. Please speak loudly and clearly. If you  
3 do not understand a question, please ask the  
4 questioner to rephrase it. Please answer each  
5 question as fully as you can, including information  
6 you have learned from someone else.

7 I would like to thank you in advance for  
8 your appearance here. We appreciate your assistance  
9 in this investigation. Your cooperation is critical  
10 in making the nation's mines safer.

11 After we have finished asking questions,  
12 you'll have an opportunity to make a statement and  
13 provide us with any other information you believe to  
14 be important. If at any time after the interview you  
15 recall any additional information that you believe  
16 might be useful, please contact Norman Page at the  
17 telephone number or e-mail address provided to you.

18 Any statements given by miner witnesses  
19 to MSHA are considered to be an exercise of statutory  
20 rights and protected activity under Section 105(c) of  
21 the Mine Act. If you believe any discharge,  
22 discrimination or other adverse action is taken  
23 against you as a result of your cooperation with this  
24 investigation, you are encouraged to immediately  
25 contact MSHA and file a complaint under Section 105(c)

1 of the Act. Okay. Could you please swear in the  
2 witness?

3 -----

4 HAROLD COOPER, JR., HAVING FIRST BEEN DULY SWORN,  
5 TESTIFIED AS FOLLOWS:

6 -----

7 MR. FARLEY:

8 Mr. Cooper, on behalf of the West

9 Virginia Office of Miners' Health, Safety and

10 Training, I would like also to advise you that the

11 West Virginia Coal Mine Health and Safety regulations

12 protect you against discrimination, too. And I'll

13 give you some contact information just in the event

14 that you should experience any such treatment; okay?

15 A. Okay.

16 MR. FARLEY:

17 Thank you very much.

18 ATTORNEY HAMPTON:

19 Okay. Let's begin.

20 EXAMINATION

21 BY MR. GODSEY:

22 Q. Okay. Mr. Cooper, state your full name and spell  
23 your last name.

24 A. Harold Robert Cooper, Jr., C-O-O-P-E-R.

25 Q. And your home address?

1 A. It's (b) (7)(C)

2 (b) (7)(C)

3 Q. And your telephone number?

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

5 Q. Are you appearing here today voluntarily?

6 A. Voluntarily.

7 Q. Okay. Has anyone made any promises to you for  
8 giving this statement or offered you any rewards in  
9 exchange for making your statement?

10 A. No.

11 Q. Has anyone threatened you or warned you not to  
12 provide this statement?

13 A. No.

14 Q. Has anyone from the company or a person  
15 representing the company talked to you concerning the  
16 explosion?

17 A. With Massey.

18 Q. Uh-huh (yes).

19 A. Yeah.

20 Q. With who? Who talked to you?

21 A. When we went back to work, there was Massey  
22 lawyers.

23 Q. Do you know when that was?

24 A. Probably about two weeks after the accident.

25 Q. Did you receive any directions on how to give your

1 testimony today?

2 A. No, sir.

3 Q. Did they suggest you contact them once you've had  
4 your interview, to re-contact them after you had this  
5 interview today?

6 A. They said --- I think they said you didn't have to  
7 do nothing without a lawyer present.

8 Q. And did they want to see --- did they want to see  
9 you later, I mean, after --- or ask you if you'd come  
10 back?

11 A. No.

12 Q. Okay. How many years of mining experience do you  
13 have?

14 A. I'm going on ten.

15 Q. Did you ever work at David Stanley Contractors?

16 A. No.

17 Q. Just give us a brief description of your  
18 employment, mine employment history.

19 A. Well, I started out about five years Marfork on a  
20 move crew. And I was on hoot owl. And then I went to  
21 dayshift on supply motor and worked up there until  
22 they shut down White Queen. Then they transferred us  
23 to UBB in April '09. That was there that this  
24 happened. And now I'm at Round Bottom, Shop Number  
25 Three, what they called it.

1 Q. Okay. So your entire experience has been with  
2 Massey; correct?

3 A. Yes.

4 Q. Okay. And you say you're at Round Bottom?

5 A. Yeah, Round Bottom.

6 Q. Okay. And what is your job, present job title?

7 A. I went back to the move crew.

8 Q. Move crew; okay. Okay. The following questions  
9 I'll be asking you, they all be --- they wouldn't be  
10 about the mine you're at now. It'll be at Upper Big  
11 Branch.

12 A. All right.

13 Q. Because I don't want to get you confused. What  
14 was your first date of employment at UBB?

15 A. April '09. I don't know exact day.

16 Q. Okay. Do you remember what you all's assignment  
17 was at UBB?

18 A. Well, I run the supply motor up to November.

19 Q. Okay.

20 A. I was on evening shift. They put me on the  
21 evening shift there.

22 Q. That was November of '09?

23 A. Yeah.

24 Q. Okay.

25 A. Up to November, '09. Then I went back to move

1 crew to get off evening shift, ---

2 Q. Okay.

3 A. --- because I didn't like evening shift.

4 Q. That's a pretty good move; wasn't it? Do you  
5 remember what areas of the mine you visited on the  
6 first day that you went up to UBB?

7 A. What was that question again?

8 Q. What areas of the mine did you visit on the first  
9 day? Where did they take you?

10 A. I probably went to Four section, and I think I  
11 went to Three section.

12 Q. Okay. Where was Four section? North is ---?

13 A. Four section was going that way to where the  
14 explosion happened, but it was a short distance in.  
15 It was just right through the double doors. Wasn't in  
16 there far at all.

17 Q. Who'd you travel --- do you remember who you  
18 traveled with?

19 A. They had two guys with me. I didn't have no  
20 helper with me. He had to add a guy named Nate and  
21 some other guy named --- I think his last name was  
22 Skaggs. They had them go with me.

23 Q. Okay. Did you walk the escapeway every night?

24 A. Yeah, I believe we did.

25 Q. What kind of training did you receive before you

1 went to UBB?

2 A. Before I went to UBB?

3 Q. Yeah, before you went underground there, went to  
4 work, just prior to?

5 A. Just the regular task training stuff.

6 Q. And was this task training on a motor?

7 A. On a motor, yeah.

8 Q. And that's all the training that you received, you  
9 think?

10 A. Yeah.

11 Q. Okay. Did you receive the Massey initial  
12 training?

13 A. The yearly training?

14 Q. That Massey --- it says Massey training.

15 A. Yeah.

16 Q. Okay. And do you remember when your last annual  
17 refresher training was?

18 A. The last one was --- see, we had it right before  
19 this explosion happened.

20 Q. So around March?

21 A. Yeah.

22 Q. And you said --- what was your job title on April  
23 5th, 2010?

24 A. 2010?

25 Q. Uh-huh (yes).

1 A. Move crew.

2 Q. Thank you. Sorry.

3 A. Move crew on the Three section.

4 Q. And that is where?

5 A. That's south side.

6 Q. What was the move crew? What are their duties?

7 What do they do? I mean ---.

8 A. We move belt.

9 Q. Just move belt? Do you ever move equipment?

10 A. I mostly just move belt, might do some rock  
11 dusting, set timbers, build cribs.

12 Q. Okay.

13 A. Just whatever they needed done, most the time.

14 Q. So your job on April 5th or prior to that, you  
15 moved belts, whatever on the belt line. What was the  
16 belt --- what kind of condition was the belt line in  
17 for average, the entire belt?

18 A. Muddy and wet, mostly.

19 Q. Too much accumulation for coal or ---?

20 A. Not where I was.

21 Q. Okay. Where were you?

22 A. I was on that, on Three South.

23 Q. Was you ever up around 22 Headgate or ---?

24 A. I couldn't even really tell you where them places  
25 was. I wasn't really --- after they had moved

1 everything around, I wasn't really around the  
2 longwall. I don't even know where it was, really.  
3 And the One and Two section, I don't really know where  
4 it was.

5 Q. Well, what was the furthest point of travel that  
6 you've been in this mine recently?

7 A. Well, when I first started up there and they had  
8 the One and Two section farther back in there, and I  
9 went back in there a pretty good ways.

10 Q. Did you work on the One North Headgate, the belt  
11 in the panel?

12 A. No.

13 Q. How about One North Tailgate, the belt in the  
14 panel?

15 A. No.

16 Q. Have you ever worked on the section?

17 A. Not there. I worked at ---.

18 Q. Not at UBB?

19 A. No. I worked at White Queen and filled in for a  
20 scoop man for a little bit.

21 Q. Okay. Did you ever have to work alone?

22 A. Work alone?

23 Q. Here at UBB?

24 A. UBB? Probably so.

25 Q. Did you ever have a methane monitor assigned to

1 you?

2 A. Yeah.

3 Q. Who took care of that for you?

4 A. I think it was Everett Hager. Everett Hager. You  
5 got to excuse me. I got a cold a little bit. I've  
6 had it four weeks. I can't get rid of this.

7 Q. Okay. What condition did they keep the track in?  
8 I mean ---.

9 A. The track?

10 Q. Yeah.

11 A. Well, some of it was pretty good and some of it  
12 was terrible.

13 Q. Okay. Do you know which one was terrible?

14 A. Well, up toward the Three section where it was, it  
15 was terrible.

16 Q. All right.

17 A. Now, up toward the longwall and everything like  
18 that, they had a track man and they kept that track in  
19 pretty good shape.

20 Q. Okay. Did you ever hear anybody talk about the  
21 doors around 78 being --- the doors at --- equipment  
22 doors where they go from the intake into the neutral  
23 back and have to go back into the intake? Are you  
24 familiar with that area?

25 A. No.

1 Q. Have you ever experienced or talked to someone  
2 about having a ventilation change made while people  
3 were underground?

4 A. No. The only thing I know is they built stoppings  
5 sometimes. And a lot of times they'd send --- I was  
6 on-call. I missed more work at this place than I've  
7 ever missed anywhere.

8 Q. Okay.

9 A. I mean, I was on-call when I first went there.  
10 They just called. You called in and checked you was  
11 going to work that day.

12 Q. You said you built stoppings. Did you say you  
13 built stoppings or ---?

14 A. We built stoppings one time.

15 Q. Do you know where, when that was, how long ago?

16 A. It was probably right around when I first started  
17 up there.

18 Q. Okay.

19 A. And a fan went off one time and they sent us home.  
20 It was pretty close to that date when that happened.

21 Q. Okay.

22 A. And again, they had the air, too. They sent us  
23 home pretty close to --- about a week before the fan.

24 Q. Okay. Did you ever --- about that time, did you  
25 hear --- ever hear anybody making complaints about the

1 ventilation on the section amongst each other at the  
2 mine?

3 A. No, I never did.

4 Q. Okay. Have you ever noticed only while you're on  
5 the track or the belt, anytime that the ventilation  
6 changed directions?

7 A. No.

8 Q. Around middle of March, a couple, three weeks  
9 before the event happened, they had some trouble, I  
10 think, on the --- ventilation problem. And they  
11 missed several shifts. Do you remember that?

12 A. I remember some missing more than what we missed  
13 on the hoot owl. I remember we'd go in and they'd  
14 say, well, you can work four hours or you can go home.

15 Q. Have you ever discussed any safety concerns or  
16 problems with management?

17 A. No, not really.

18 Q. Do you know of anyone that has?

19 A. Not right off.

20 Q. What about floor heave? I'm going to ask you  
21 about that. Have you been anywhere in the mine where  
22 there's --- that you seen the floor bottom come up?

23 A. No.

24 Q. What about the miners? What conditions are the  
25 miners on the track?

1 A. Miners?

2 Q. Uh-huh (yes).

3 A. As far as I remember, it was pretty good, what I'd  
4 seen.

5 Q. Has anybody ever talked to you about on the  
6 sections? Did you ever talk much to anybody that  
7 works on the section in the bath house or anything?

8 A. All of them guys was on that first mantrip, I  
9 think.

10 Q. Uh-huh (yes).

11 A. I knew every one of them, because they come from  
12 White Queen. They transferred up there.

13 Q. Did they ever talk about shortage of air on that  
14 section?

15 A. They never did talk to me about that.

16 Q. Nothing about line curtain or anything like that?

17 A. No. I just seen them all down there at that  
18 retraining.

19 Q. Do you have anything that you could tell us about  
20 the conditions of the mine that you've maybe been  
21 concerned with or somebody else talked to you about?

22 A. No, not really.

23 EXAMINATION

24 BY MR. FARLEY:

25 Q. When was the last time you were inby 78 Switch?

1 A. Inby 78 Switch?

2 Q. Yes, sir.

3 A. Probably when I first started, probably two months  
4 after that.

5 Q. Last year?

6 A. Yeah, back in '09.

7 Q. Okay. When was the last time you were inby Ellis  
8 Switch?

9 A. Inby Ellis Switch?

10 Q. Yeah.

11 A. Out toward the punchout or back toward the  
12 longwall?

13 Q. Back toward the longwall.

14 A. Well, I've been inby a little, not very far, just  
15 a few breaks switching out.

16 Q. Okay.

17 A. And that was probably that morning. See, I worked  
18 that night before.

19 Q. Okay. Sure. And if you were inby Ellis Switch  
20 the morning before the explosion, did you notice any  
21 dust, unusual dust?

22 A. No.

23 Q. Did it seem foggy?

24 A. Not really.

25 Q. Were you having any difficulty breathing?

1 A. No.

2 MR. FARLEY:

3 Okay.

4 EXAMINATION

5 BY MS. MONFORTON:

6 Q. Just a couple --- okay. Just a couple questions  
7 to follow up. You said --- I think that you said the  
8 track by the longwall was pretty good, but the track  
9 in the Three section where you worked was terrible?

10 A. Yeah, they said it ---.

11 Q. Can you explain that a little bit?

12 A. They said it went back to, I guess when Peabody or  
13 somebody had it before, and that some of that track  
14 had been there that long. And the only thing that was  
15 holding it together was the ballast, the gravel they  
16 put down in it. That was the only things holding that  
17 track together. I rode it a lot on the motor, the  
18 supply car, and the ties, you could go by and look at  
19 them and the ties was ripped up because they was  
20 rusted right in two. Rusted right in two. The only  
21 thing that was holding it together was the mud and the  
22 gravel and stuff they had in it.

23 Q. Yes, you said it was terrible. Was that something  
24 that you or somebody would have reported to management  
25 about that condition?

1 A. They usually just telled us --- told us to fix it.  
2 We fixed it a lot.

3 Q. Why do you think that they had the track in that  
4 condition there, but different on the longwall? Any  
5 ideas?

6 A. I don't know. Even the track man, he didn't  
7 hardly go that way, just once in a blue moon. Most of  
8 all he was over there toward the longwall and all that  
9 up there, because they was --- they'd go haul the  
10 shields and all that stuff. They needed good track up  
11 there.

12 Q. Uh-huh (yes). They needed good track up there by  
13 the longwall, but ---?

14 A. Yeah.

15 Q. Yeah. Can you explain a little bit when you said  
16 something about that you were on-call and you missed  
17 more work here than anywhere? What did that mean?  
18 Did that have something to do with your schedule?

19 A. No, it's just besides vacation and personal days  
20 and stuff like that, I was on-call always. We'd go in  
21 and they'd send you home. Just miss more work. I  
22 don't know how long I was on-call. It was for a  
23 while.

24 Q. Other people on-call like that, too?

25 A. Yeah.

1 Q. So you're kind of, like, around for extra? You  
2 didn't have regular work to do there? I'm trying to  
3 figure out. Do they have a crew that was just the  
4 on-call crew?

5 A. I don't really know. As far as I knew, everybody  
6 was on-call, but I figured they worked some men  
7 outside or something. I don't know for sure. But I  
8 knew --- as far as I knew, everybody was on-call.

9 Q. Okay. All right. Thanks.

10 A. I don't know exactly when that was, but I know it  
11 was right short after I started in April '09.

12 MS. MONFORTON:

13 Uh-huh (yes). Okay. Thank you.

14 RE-EXAMINATION

15 BY MR. GODSEY:

16 Q. When you were outby on the track, did you ever ---  
17 somebody call in and tell you that an inspector was  
18 coming? Okay. The inspector was on the property and  
19 he would soon be coming underground?

20 A. I knew they knew.

21 Q. How did you know?

22 A. I knew. About anytime we went to the phone, they  
23 knew the inspector was coming.

24 Q. Did you have a foreman that you worked for?

25 A. I worked around a few foremans.

1 Q. Who directed your work at night ---?

2 A. My work? That'd be Gary May or Rick Foster.

3 Q. Okay. How many was in your work crew?

4 A. Most times, just me and the motor guy.

5 Q. Who was that?

6 A. James Davis.

7 Q. Okay. And as soon as the inspector came, they  
8 would stand up there and they would holler on the  
9 phone and ---?

10 A. Either that or the boss would holler out, and  
11 they'd know it.

12 Q. Did they have any special code word they'd use?

13 A. Not that I know of.

14 Q. Okay. Is there anyone else that you think that we  
15 should talk to that may have some information about  
16 this accident?

17 A. Maybe talk to Rick Foster.

18 Q. Well, we probably will, but ---.

19 A. Or Gary May. I mean, they was superintendent and  
20 they weren't on the sections, I don't believe. They  
21 was up there. And Gary May's been in that mines for a  
22 long time. The fire boss, I know it probably wouldn't  
23 hurt to talk to him.

24 Q. Who was the fire ---?

25 A. Glenn Allman.

1 Q. Did you see him do a lot of fire bossing?

2 A. Yeah.

3 Q. Well, did it seem like he was always in a hurry  
4 or ---?

5 A. Yeah.

6 Q. Did they have enough time to do their  
7 examinations, you think, adequate?

8 A. Far as I know.

9 Q. Okay. Do you think that the ventilation was  
10 adequate at all times?

11 A. Far as I know.

12 Q. Do you know if they've ever made any major  
13 ventilation changes with people underground while  
14 people were still working?

15 A. Not that I know. Now, I know we had to build  
16 stoppings that one time. I don't know what went on,  
17 because they wasn't running coal then.

18 Q. Did you say that was later back?

19 A. Yeah, it was later, back when I first started.

20 Q. Have you ever built up with the overcast or do you  
21 know how to build overcast?

22 A. I've worked on some overcasts. We worked on two  
23 --- well, one up there toward the old Four section,  
24 because the old Four section is the men that was on  
25 that mantrip. They went on up to, I think it was One

1 section.

2 Q. Was that inby the 78 airlock doors?

3 A. Yeah.

4 Q. When did you do that?

5 A. Well, when old Four wasn't --- old Four because  
6 you could walk outside from it.

7 Q. Did you ever work on airlock doors?

8 A. No.

9 Q. Did anyone ever go over with you the Massey's  
10 policies for maintaining track?

11 A. Maintaining the track?

12 Q. Uh-huh (yes).

13 A. No.

14 Q. Did you know there was such a policy?

15 A. I mean I didn't know they had a policy. That's  
16 all I know. I like good track and I'm not breaking my  
17 motor. Now, I got a supply car on.

18 Q. Okay.

19 A. I had never seen a place, though, that just had  
20 one manual jack. I mean, I come from White Queen. We  
21 had two high drives and a manual jack everything. Had  
22 re-trackers working.

23 Q. Well, you had to step down; didn't you?

24 A. Yeah. I've come in places now, the re-tracker's  
25 not working we've got old manual jack.

1 Q. And what about switches? How did they maintain  
2 the switches?

3 A. Switches? Switch up there was pretty good.

4 Q. Are they electric or manual?

5 A. Manual.

6 Q. Okay.

7 A. And they was a guy on that old Four section, the  
8 inspector for you all, Pauley.

9 Q. Uh-huh (yes).

10 A. He checked that switch a lot.

11 Q. Did you have to travel through any airlock doors  
12 when you came in off --- out, from outside?

13 A. As I went to Three section I traveled through four  
14 sets, because I went the other way toward old Four. I  
15 traveled through one set.

16 Q. Did you ever find any of them open when you come  
17 up to them?

18 A. Open?

19 Q. Uh-huh (yes).

20 A. I'll go ahead and say, yeah. I don't care.

21 Q. And how often would you find them being left open?

22 A. Not very often.

23 Q. Were they ever damaged? I mean ---.

24 A. Ah, yeah. The ones toward --- I don't know what  
25 shape they was in there then, but I know they replaced

1       them.  They were going toward the old Four up there  
2       toward where the longwall was and everything.

3       Q.  Are you talking about the ones up there where  
4       Terry was talking about, at the Six North?

5       A.  It'd been closer to outside.  I know when they was  
6       hauling them shields indoors ---.

7       Q.  Did they leave them like that or how ---?  Did  
8       they fix them or ---?

9       A.  They fixed them after a while, because a lot of  
10      times you had to --- it was electric and you had to  
11      manually open and close them.

12     Q.  Okay.  Was there a lot of leakage around those  
13     doors?

14     A.  One time.  And I know I got the job, me and my  
15     buddy, a couple times, sealing them back up.

16     Q.  What, did they just knock the block out around  
17     them or do they ---?

18     A.  Yeah.

19     Q.  Block?

20     A.  Yeah.

21     Q.  What were they made of, the doors?

22     A.  The doors?

23     Q.  Yeah.

24     A.  As far as I know, steel.  They was pretty solid.

25     Q.  You say you've never worked --- have you worked on

1 a section here? I think I asked you that.

2 A. I went up there for old Four section. They'd  
3 asked me to help them move or something like that,  
4 once in a while, move section or something. And I'd  
5 go just do manual labor, like move their stretcher out  
6 or something like that.

7 Q. How would you find their ventilation curtains up  
8 there? Did they have them down or how were they ---?

9 A. Their ventilation curtains?

10 Q. Yeah. Yeah, on the face and stuff.

11 A. As far as I know, up there it was pretty good.  
12 That's one thing that they told us when we went there.  
13 I can't remember who the guy was. There was Homer.  
14 One of the guys with Lewis Homer. I can't remember  
15 his name, but he told me ---.

16 Q. Was he a superintendent or something prior or ---?

17 A. He was right underneath of Homer. I don't know if  
18 he quit or what. Next thing I know, we looked up and  
19 he's gone.

20 Q. Okay. You said that you had a methane monitor  
21 assigned to you. Did you ever detect any methane on  
22 the section you were at?

23 A. No, not where I was.

24 Q. Have you ever heard anything about the highest  
25 methane anyone's found there?

1 A. No.

2 Q. Okay. Has anyone ever talked to you about the  
3 methane monitors on the miners being bridged out?

4 A. No. I didn't know you could do it. I've heard of  
5 bridging out.

6 Q. Yeah.

7 A. I've heard of it, but I hadn't heard of bridging  
8 out on methane.

9 Q. What if your fellow miner or something went out  
10 and made a complaint about a safety issue or any kind  
11 of other concern that you had to management? What  
12 would be the result? Would there be kind of  
13 retaliation or would the company take care of it?

14 A. They should take care of it.

15 Q. They should. What would they ---?

16 A. They should. Most of the time they would.

17 Q. Well, when wouldn't they?

18 A. They'd do it as soon as they could, most of the  
19 time. I mean, I don't believe there'd be any  
20 retaliation. I've never worried about that myself.

21 Q. Okay. Let's go to April 5th, 2010. Where were  
22 you at the time of the accident?

23 A. The time of the accident?

24 Q. Uh-huh (yes).

25 A. I was at home.

1 Q. How'd you get --- and who notified you? How'd you  
2 become aware of it?

3 A. My wife's aunt wanted to know where I was, if I  
4 was up there.

5 Q. Okay. What'd they tell you? What was the first  
6 thing they said?

7 A. That they'd been some kind of accident with  
8 fatalities at UBB.

9 Q. You wouldn't remember what time you were notified?

10 A. Probably right after 3:00, 3:30 or something like  
11 that.

12 Q. Did they call you, the company call you to come  
13 and work or ---?

14 A. No, I didn't hear nothing from the company until  
15 about probably a week later and some woman called me,  
16 wanting to know if I needed anything and how I was  
17 doing and that they was going to give me two weeks'  
18 pay. I'd be off two weeks and when I'd be ready to  
19 work.

20 Q. Have you talked to any of your co-workers since  
21 the accident and discussed this event?

22 A. Yeah, they all discuss it, talk about it.

23 Q. What are some of the things that they said about  
24 what may have caused it or what led up to it or any  
25 other problem?

1 A. I've heard a lot of people speculating a gas well.  
2 That's what they're saying.

3 Q. And they haven't ---?

4 A. Undetected gas well.

5 Q. Has there ever been a problem with a gas well  
6 there before?

7 A. I don't know. If there was, it was before I went  
8 there.

9 Q. Okay.

10 A. I don't know how old that mines is. Somebody said  
11 it's real old, though.

12 Q. Okay.

13 A. And looking at the track on that one side, I  
14 believe it was old.

15 Q. Okay. Have you ever been injured there? I may  
16 have asked you that. Forgive me if I have.

17 A. Injured? No.

18 Q. Do you know anybody that has been injured?

19 A. Yes. When I first went there it seemed like they  
20 was taking somebody out every night for a while.

21 Q. How serious were the accidents?

22 A. I don't know. They'd smash fingers or something  
23 like that, sprained ankle.

24 Q. Would you see a lot of people --- several people  
25 on light duty working around that office or dispatcher

1 or anything like that?

2 A. There was one guy that's --- I think he had to  
3 have surgery on his back or something. He was on the  
4 longwall crew. And he was a good buddy of that --- he  
5 hauled the shields with that --- I think his name's  
6 (b)(7)(C) . He hauled shields with him. And I didn't  
7 see --- he said he had to go have to have surgery on  
8 his back, that he's going to be off soon. And the  
9 next time I seen him was down there when I went and  
10 got my stuff for work at UBB.

11 Q. Okay. When was that?

12 A. I don't remember. Let's see here. Probably about  
13 two weeks after.

14 Q. Okay.

15 A. They called us and told us to come down Elk Run.

16 Q. Okay. Did you provide Massey's attorneys with the  
17 same information that you have provided us today?

18 A. Yes.

19 Q. Okay.

20 RE-EXAMINATION

21 BY MR. FARLEY:

22 Q. On the morning of April 5th this year --- well,  
23 what time did you finish work there?

24 A. What time I finished work?

25 Q. Uh-huh (yes).

1 A. Let's see. We was probably out by 7:30.

2 Q. Okay. What time did you start ---?

3 A. Somewhere in there.

4 Q. What time did you start Sunday night, the night  
5 before?

6 A. Sunday night?

7 Q. Uh-huh (yes).

8 A. We left to go underground probably about 11:30 or  
9 12:00.

10 Q. Okay. Did you see anybody that you didn't  
11 normally see on your shift, any mine management people  
12 that you wouldn't routinely see?

13 A. Gary May.

14 Q. Yeah, president, vice-president, superintendent,  
15 mine foreman, anybody that you didn't usually see?

16 A. Not that I remember, no.

17 Q. Okay.

18 RE-EXAMINATION

19 BY MS. MONFORTON:

20 Q. What can you tell us about the S1 program?

21 A. S1? Well, they tell me was a Safety First.  
22 That's what they tell me.

23 Q. Uh-huh (yes). And do you know anything else about  
24 it?

25 A. Yeah, they just ---. We go to --- we have safety

1 meetings and stuff like that and they tell us about  
2 safety.

3 Q. Where do you have the safety meetings?

4 A. I think sometimes they have them up on the  
5 section, we've had them. We've had them when we get  
6 off the mantrip on a section or they've had them up in  
7 the --- I know White Queen we had them in the bath  
8 house before we even left to go underground.

9 MS. MONFORTON:

10 Okay. Anything?

11 RE-EXAMINATION

12 BY MR. GODSEY:

13 Q. When was the last time you traveled the primary  
14 escapeway? How many times did you travel?

15 A. Primary escapeway at UBB?

16 Q. Uh-huh (yes).

17 A. I couldn't even tell you.

18 ATTORNEY HAMPTON:

19 Now, let's take a two-minute break. Off  
20 the record.

21 SHORT BREAK TAKEN

22 ATTORNEY HAMPTON:

23 Okay. Let's go back on the record. Are  
24 there any further questions?

25 MS. MONFORTON:

1 I have a couple questions.

2 RE-EXAMINATION

3 BY MS. MONFORTON:

4 Q. Mr. Cooper, did you ever have any encounters with  
5 Chris Blanchard?

6 A. Chris Blanchard?

7 Q. Uh-huh (yes).

8 A. A lot of times, guys seemed they want to go the  
9 opposite way.

10 Q. Why do you think that was?

11 A. And some of the older guys that have been there  
12 for a while, they said the company went to pot when he  
13 took over.

14 Q. Company --- do you know when that was?

15 A. I don't know.

16 Q. So you can't answer that?

17 A. I know he was over Marfork, too.

18 Q. What did they say? What did they mean when they  
19 said it went to pot after he came?

20 A. I don't exactly know.

21 Q. Yeah.

22 A. All I know that some of the old-timers that'd been  
23 there for a while, some of them guys have been there  
24 at Performance for quite a while.

25 Q. And then he came and it --- they said it went to

1 pot?

2 A. That's just what they told me.

3 Q. Yeah.

4 A. And they told other people.

5 Q. Uh-huh (yes). Do you think they were talking  
6 about how the mine was maintained or what do you  
7 think? When they said, went to pot, what do you think  
8 they were referring to?

9 A. They was just different things. I know one time  
10 they --- when I first went there and they finally did  
11 get --- started getting stuff in there and trying to  
12 haul it in for that longwall, the guys was worried  
13 about their vacation. And I don't know if he said it  
14 or not, but they said he said they need to get that  
15 thing up and running or we'll have to work vacation.  
16 I think some guys did work vacation, but I don't know  
17 if it's voluntarily or they made them work.

18 Q. Uh-huh (yes). So kind of that kind of work  
19 environment, then, is that when you come and don't  
20 know if you're going to get your vacation?

21 A. A lot of guys don't like it.

22 MR. FARLEY:

23 I have just a couple more questions.

24 RE-EXAMINATION

25 BY MR. FARLEY:

1 Q. Did Mr. Blanchard, did he ever --- are you aware  
2 of any time that he had ventilation changes made with  
3 people underground or ---?

4 A. Not that I knowed of. I never did see him up  
5 there, just ---

6 Q. Did you ever talk to him?

7 A. --- once in a while.

8 Q. Did you ever talk to him?

9 A. Not since White Queen. I didn't even know he was  
10 over there twice.

11 Q. And you said you were talking on the phone with  
12 --- on the phone or something. Did you ever know of a  
13 time that a section foreman had stopped production  
14 because of a safety issue and called outside and he  
15 was ordered to put the coal --- the miners back in  
16 coal?

17 A. Not that I know. I mean, I wasn't around the  
18 section a whole lot, but I was around some.

19 Q. What about the longwall? Did you ever hear him  
20 tell them to put the --- something happened on the  
21 longwall and he told them to get the longwall running?

22 A. I don't really know nothing about the longwall.

23 Q. Okay.

24 A. I don't even know what it consists of, really, the  
25 longwall. I've heard. I don't know.

1 Q. Anything else you'd like to say? Any concerns you  
2 got or any ---? I was talking about those --- some of  
3 the things that they --- that some of your friends or  
4 workers said that they thought would have been a gas  
5 leak.

6 A. Gas well. I heard somebody say it might have been  
7 a spark off the mantrip or something like that. Or it  
8 might have been a power center, electrical and ---.

9 Q. What about welding? Have you been around them  
10 when they're welding or cutting?

11 A. I've been around some.

12 Q. What kind of procedures do they do?

13 A. They're supposed to have some bag dust and a fire  
14 extinguisher. And you're supposed to have your  
15 methane detector.

16 Q. Is there anything else you'd want to ---?

17 A. Most of the time when they've done welding or  
18 cutting or something, I've been on the track.

19 Q. What do you all do when you --- I mean what do you  
20 do? What procedures do you do on the track?

21 A. When a track would break or something like ---  
22 they'd need to put in another piece or something like  
23 that.

24 Q. Did that happen very often?

25 A. Not a whole lot.

1 Q. Did you ever talk to Ralph Plumley any on the  
2 track crew?

3 A. Ralph Plumley?

4 Q. Yeah.

5 A. I've talked to Ralph some.

6 Q. Did you ever tell him about the problems you had  
7 down there on the track where you were?

8 A. Well, mostly, like I said, he was the longwall  
9 side.

10 Q. Okay.

11 RE-EXAMINATION

12 BY MS. MONFORTON:

13 Q. Just one more question. When you were on the move  
14 crew, it sound you did a lot of different tasks on  
15 building stoppings and cribs and stuff. What was it  
16 like trying to get the equipment you needed, the tools  
17 and supplies to do your job?

18 A. Gary May and Rick Foster, they got our equipment,  
19 whatever we needed. Pretty easy.

20 Q. Pretty easy; okay.

21 A. Yeah. They're still the same now, because that's  
22 who my --- that's who my boss is now down Round  
23 Bottom.

24 ATTORNEY HAMPTON:

25 Okay. On behalf of MSHA and the Office

1 of Miners' Health, Safety and Training, I want to  
2 thank you for appearing and answering questions today.  
3 Your cooperation is very important to the  
4 investigation as we work to determine the cause of the  
5 accident. We request that you not discuss your  
6 testimony with any person aside from a personal  
7 representative or attorney. After questioning other  
8 witnesses, we may call you if we have any follow-up  
9 questions. If at any time you have any additional  
10 information regarding the accident that you would like  
11 to provide to us, please contact us at the contact  
12 information that was provided to you in the letter.

13 If you wish, you may now go back over any  
14 answer that you've given during this interview or make  
15 any statement that you would like. Is there anything  
16 else you would like to say?

17 A. No.

18 ATTORNEY HAMPTON:

19 Okay. Again, we want to thank you for  
20 your cooperation.

21 A. Sure.

22

23 \* \* \* \* \*

24 STATEMENT UNDER OATH CONCLUDED AT 1:50 P.M.

25 \* \* \* \* \*

1 STATE OF WEST VIRGINIA )

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CERTIFICATE

I, Cynthia Piro Simpson, a Notary Public in  
and for the State of West Virginia, do hereby certify:  
That the witness whose testimony appears in  
the foregoing deposition, was duly sworn by me on said  
date and that the transcribed deposition of said  
witness is a true record of the testimony given by  
said witness;  
That the proceeding is herein recorded fully  
and accurately;  
That I am neither attorney nor counsel for,  
nor related to any of the parties to the action in  
which these depositions were taken, and further that I  
am not a relative of any attorney or counsel employed  
by the parties hereto, or financially interested in  
this action.



*Cynthia Piro Simpson*