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**Transcript of the Testimony of Gene Martin**

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**Case:**

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Phone: 814-536-8908

Fax: 814-536-4968

Email: [schedule@sargents.com](mailto:schedule@sargents.com)

Internet: [www.sargents.com](http://www.sargents.com)

STATEMENT UNDER OATH  
OF  
GENE MARTIN

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 Thursday, June 17, 2010, beginning at 6:00 p.m.

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POLLY ANNA HAMPTON, ESQUIRE  
United States Department of Labor  
Office of the Regional Solicitor  
1100 Wilson Boulevard  
22nd Floor West  
Arlington, VA 22209

JERRY VANCE  
Mine Safety and Health Administration  
Educational Field Services  
Eastern Field Office  
604 Cheat Road  
Morgantown, WV 26508

CELESTE MONFORTON, MPH, DRPH  
West Virginia Independent Investigation  
2100 M. Street, NW  
Suite 203  
Washington, D.C. 20037

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

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Mine Map

21\*

\*exhibit not attached

## P R O C E E D I N G S

1  
2 -----  
3 ATTORNEY HAMPTON:

4 Let's go on the record. My name is Polly

5 Anna Hampton. Today is June 17th, 2010. I am with  
6 the Office of the Solicitor, U.S. Department of Labor.  
7 With me is Mr. Jerry Vance, an accident investigator  
8 with the Mine Safety and Health Administration, MSHA,  
9 an agency of the United States Department of Labor.

10 Also present are several people here from the State of  
11 West Virginia, and I ask that they state their  
12 appearance for the record right now.

13 MR. O'BRIEN:

14 John O'Brien with the West Virginia

15 Office of Miners' Health, Safety and Training.

16 MS. MONFORTON:

17 And I'm Celeste Monforton with Governor

18 Manchin's special team.

19 ATTORNEY HAMPTON:

20 Okay. There are also several members of

21 the investigation team also present in the room today.

22 Mr. Vance will be conducting the initial part of the  
23 questioning.

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 is 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 of Miners'  
24 Health, Safety and Training. We appreciate your  
25 assistance in this investigation.

1 You may have a personal attorney present  
2 during the taking of this statement, or another  
3 personal representative if MSHA has permitted it.  
4 Your statement is completely voluntary. You may  
5 refuse to answer any question and you may terminate  
6 your interview at any time or request a break at any  
7 time.

8 Since this is not an adversarial  
9 proceeding, formal Cross Examination will not be  
10 permitted. Just so the record is clear, do you have a  
11 personal representative here with you today?

12 MR. MARTIN:

13 No.

14 ATTORNEY HAMPTON:

15 All right. Your identity and the content  
16 of this conversation will be made public at the  
17 conclusion of the interview process and may be  
18 included in the public report of the accident unless  
19 you request that your identity remain confidential or  
20 your information would otherwise jeopardize a  
21 potential criminal investigation. If you request us  
22 to keep your identity confidential, we will do so to  
23 the extent permitted by law. That means that if a  
24 judge orders us to reveal your name or if another law  
25 requires us to reveal your name or if we need to

1        reveal your name for other law enforcement purposes,  
2        we may do so.

3    Also, there may be a need to use the  
4        information you provide to us or other information we  
5        may ask you to provide in the future in other  
6        investigations into and hearings about the explosion.

7        Do you understand or do have any questions?

8    MR. MARTIN:

9    No. I understand.

10    ATTORNEY HAMPTON:

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

21    A court reporter will record your  
22        interview. Please speak loudly and clearly. If you  
23        do not understand a question asked, please ask me or  
24        whoever's asking the question to rephrase it. Please  
25        answer each question as fully as you can, including

1 any information you have learned from someone else.  
2 I'd like to thank you in advance for your  
3 appearance here. We appreciate your assistance in  
4 this investigation. Your cooperation is critical in  
5 making the nation's mines safer.

6 After we have finished asking questions,  
7 you will have an opportunity to make a statement and  
8 provide us with any other information you believe to  
9 be important. If at any time after the interview you  
10 recall any information that you believe might be  
11 useful, please contact Norman Page at the telephone  
12 number or e-mail address provided to you in the  
13 letter.

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

23 MR. O'BRIEN:

24 On behalf of the State of West Virginia,  
25 I'd just like to make sure you know under West

1 Virginia code, you do have some protection against  
2 discrimination. If you would encounter such  
3 discrimination, you can contact the Board of Appeals  
4 at that number or you can call one of the two lead  
5 investigators, Bill Tucker or Terry Farley.

6 MR. MARTIN:

7 Okay.

8 MR. O'BRIEN:

9 Also, just to let you know, if you do  
10 file, you have to do that within 30 days.

11 MR. MARTIN:

12 Okay.

13 ATTORNEY HAMPTON:

14 Thank you. Okay. Would you swear in the  
15 witness?

16 -----  
17 GENE MARTIN, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
18 AS FOLLOWS:

19 -----  
20 EXAMINATION

21 BY MR. VANCE:

22 Q. Please state your full name and spell your last  
23 name.

24 A. Gene Edward Martin, M-A-R-T-I-N.

25 Q. Please state your home address and telephone

1 number.

2 A. (b) (7)(C)

3 (b) (7)(C)

4 Q. Are you appearing here today voluntarily?

5 A. Yeah.

6 Q. Has anyone made any promises to you for giving  
7 statements or offered you any rewards in exchange for  
8 making a statement?

9 A. No.

10 Q. Has anyone threatened you or warned you not to  
11 provide any statements?

12 A. No.

13 Q. Has anyone from the company or a person that's  
14 representing the company talked to you concerning the  
15 explosion?

16 A. Yeah, a lawyer, company lawyer.

17 Q. When was this and where?

18 A. It was at Marfork Office, and I don't know the  
19 date. It's been about three weeks ago, I suppose.

20 Q. Did you receive any direction on how to give your  
21 statement here?

22 A. No, no.

23 Q. Who conducted the interview?

24 A. I can't remember his name. It was two guys that  
25 were lawyers.

1 Q. Lawyers. Do you know they was lawyers for?

2 A. They were Massey lawyers.

3 Q. Massey lawyers. Did the company representatives  
4 suggest that you contact them after this interview?

5 A. No.

6 Q. Okay. How many years of mining experience have  
7 you got?

8 A. About 35.

9 Q. Thirty-five (35). Did you ever work for David  
10 Stanley Contractors from Mountaineer Safety?

11 A. No.

12 Q. No? Give us a brief description of your mining  
13 history.

14 A. I went to work for Westmoreland Coal Company in  
15 '73. I was with them ten years or so. Went to Slab  
16 Fork Coal Company, for five years, went back to  
17 Westmoreland until '82. I was a section foreman there  
18 at that time. From there I just worked for small  
19 mines here and there. I'd have to get out records to  
20 remember everything I've done.

21 I went to work for Massey in '94 at Upper Big  
22 Branch. Okay. I was with them a little over 15  
23 years. I worked there as a continuous miner operator  
24 the first eight years. Then I took an outside utility  
25 job running the end loader outside. About two years

1 ago I took a job as a fire boss, belt man fire boss.  
2 And I was on that very little, though. They had  
3 trouble filling in --- getting somebody to do the job  
4 outside actually, to keep up and keep violations down  
5 and everything. So they asked me to come back  
6 outside, and so I was employed as a fire boss, but  
7 mainly I worked outside as a loader operator.

8 Q. And have you been there for the last three years  
9 standing?

10 A. Yeah. Yes.

11 Q. Are you presently employed?

12 A. Yes.

13 Q. Whereabouts?

14 A. I still work for Performance Coal. They changed  
15 me over to the Ellis Eagle mine, but I'm still on  
16 Performance payroll.

17 Q. When did you start there?

18 A. November 28th, 1994.

19 Q. I mean at the present mines.

20 A. Oh, at this mine. I went over there on the 18th  
21 of April of 2010.

22 Q. What's your job title there?

23 A. Belt man fire boss.

24 Q. Okay. The following questions are just going to  
25 be concerning UBB, Upper Big Branch mines. They won't

1 be concerning your past mining history, just Upper Big  
2 Branch.

3 A. Will it be the whole time at Big Branch?

4 Q. Yes, at Upper Big Branch mines. Yeah. What's  
5 your first assignment at Upper Big Branch?

6 A. Continuous miner operator.

7 Q. Continuous miner operator? And you said that was  
8 in '94?

9 A. Yes.

10 Q. Okay. Did you receive Massey Initial Training ---  
11 Massey Initial Training when you started?

12 A. They tested me to see if I could do the job, if I  
13 was good --- a good enough operator to hire.

14 Q. Do you know what their MIT --- called Massey  
15 Initial Training, it's called M.I.T.?

16 A. No, I didn't have that.

17 Q. What's your job title on April 5th, 2010?

18 A. I was mine foreman/fire boss was my official  
19 title.

20 Q. And what shift did you work?

21 A. Dayshift.

22 Q. Dayshift. Who's your immediate supervisor?

23 A. Gary May.

24 Q. Gary May. What was the last shift you worked  
25 prior to April 5th, 2010?

1 A. I was working the day before and that day.

2 Q. Okay. You worked on the 4th?

3 A. Let's see. April 5th, what day of the week was  
4 that? Monday?

5 ATTORNEY HAMPTON:

6 I think it was Monday.

7 A. Oh. No, I didn't work Sunday. I don't know if I  
8 worked the Saturday or the --- I think it was coming  
9 off the holiday. So Easter --- that was Good Friday.  
10 So Thursday would have been my last shift.

11 MR. VANCE:

12 Thursday.

13 ATTORNEY HAMPTON:

14 Can we actually take a quick break right  
15 now?

16 MR. VANCE:

17 Sure.

18 SHORT BREAK TAKEN

19 ATTORNEY HAMPTON:

20 Okay. We can go back on the record.

21 BY MR. VANCE:

22 Q. Who was your immediate supervisor that day?

23 A. Gary May.

24 Q. Gary May. Could you give us a little brief  
25 description of your duties on April the 5th, beginning

1 of the shift to the end of it?

2 A. Okay. First thing in the morning I emptied trash  
3 cars to get a --- the trash cars are also supply cars.  
4 Dump the trash, get the cars ready, start loading  
5 supplies to be taken into the mines. There's always  
6 deliveries coming in, maybe roof bolts. I don't know  
7 what came in that particular day, but there's always  
8 deliveries of old roof bolts, what have you.

9 So I unload trucks, load the supply crews.

10 Usually there were three different crews would be  
11 going underground, a couple supply crews going to the  
12 miner sections and had that belt crew working on belt  
13 setups. They would usually take a car of equipment or  
14 something in, you know, whatever you was going to need  
15 that day.

16 Q. And you say you loaded the supply motors, loaded  
17 them up from supply cars for them to take underground?

18 A. Yeah.

19 Q. All right. How many cars did they generally take  
20 underground at a time?

21 A. They generally just pulled one.

22 Q. Pulled one?

23 A. Each motor. I mean, a motor crew would pull the  
24 one car. That was the common practice. I mean, not  
25 always but most of the time.

1 Q. Okay. Were you trained in emergency response plan  
2 at the mines?

3 A. No.

4 Q. And do you know who the responsible person is on  
5 your shift?

6 A. Gary May.

7 Q. Gary May; okay. And when was the last time that  
8 you was underground at the mines?

9 A. Christmas week.

10 Q. Christmas week?

11 A. That would've been '09, just before vacation.

12 Q. And what was your duties then?

13 A. Mine foreman/fire boss. I filled in for some of  
14 the guys so they could take Christmas vacation. I  
15 decided I would work part of Christmas vacation, and I  
16 did that so other guys with families could be off.

17 Q. And what areas did you fire boss?

18 A. I worked the dayshift. Let me think now. Fire  
19 boss man gets strange. The best I can remember I came  
20 in at 6:00 in the morning and worked ten-hour shifts.

21 Q. And what area of the mines did you fire boss?

22 A. Over on the east side.

23 Q. East side. Where's the east side located at?

24 A. That would be towards silo, Three section.

25 Q. Three section. And Three section is what was

1 called the barrier section?

2 Q. Do you have another name for that Three section?

3 A. No. I think that was called that portal section.

4 Would it be the portal section?

5 Q. Could you show us on a map?

6 A. Sure, sure. It's on the left side of the mine.

7 Where is the --- here. Okay. Over here, down here

8 (indicating).

9 Q. Could you mark the area that you pre-shifted  
10 during that section?

11 A. Let's see. They were already up here and moved  
12 this way up here.

13 Q. Okay.

14 A. I don't remember exactly where they were at that  
15 time. It would be somewhere in this area.

16 Q. Okay. And what's your route of travel, please?

17 ATTORNEY HAMPTON:

18 Okay. The witness is marking in pink

19 marker on the scale 1 to 500 map that will be marked

20 as Exhibit Number One, Martin, 6/17/10.

21 (Martin's Exhibit Number One marked for  
22 identification.)

23 A. I'm not sure. This is the portal section.

24 MR. VANCE:

25 Portal section; okay.

1 A. Okay. This is the portal section here ---.

2 ATTORNEY HAMPTON:

3 The witness labeled the first area with  
4 the term approximate, and then highlighted with pink  
5 marker the area that he's discussing that he  
6 pre-shifted; is that correct?

7 MR. VANCE:

8 That he pre-shifted.

9 ATTORNEY HAMPTON:

10 That he pre-shifted.

11 MR. VANCE:

12 Exactly.

13 A. I believe that's about where it was.

14 BY MR. VANCE:

15 Q. Did you, in fact, have to come through the  
16 equipment doors to get to that area on the track?

17 A. Sure. Yes.

18 Q. Have you ever found the doors open?

19 A. No. Well, if a door was malfunctioning, it may  
20 have --- be left open.

21 Q. And what would you call a malfunction?

22 A. If the power was off of it or it was broken.

23 Q. What would be your procedure if you found the door  
24 open?

25 A. To close it if I can get it closed.

1 Q. Did you ever have any trouble not getting it  
2 closed?

3 A. No, no. I always had them closed when I went  
4 through them. I never left the doors open.

5 Q. What kind of shape was the doors in?

6 A. Those doors over there were fairly new, and they  
7 were in good shape.

8 Q. Did you notice any air leakages around them or  
9 anything?

10 A. Nothing excessive.

11 Q. Okay. In the area that you examined, did you get  
12 the track and the belt or just the track or what area  
13 did you examine in that area?

14 A. Actually, when I fire bossed, the belts were idle.  
15 So I was fire bossing power. Plus they didn't operate  
16 on that side of the mine, so I went primarily to the  
17 power sources, which was the power centers, pumps, D  
18 boxes.

19 Q. Did you walk or travel by rail?

20 A. I traveled by rail.

21 Q. Traveled by rail. What's the condition you  
22 traveled in up to the ---?

23 A. They had worked on it. It was in pretty good  
24 shape.

25 Q. Okay. What was the condition of your roof and

1 ribs?

2 A. It was good.

3 Q. When you was on the belts, what did their rock  
4 dust look like?

5 A. Like any mines, it would just start getting  
6 blackened and we would whiten it up, you know? I'd  
7 report it and --- at that particular time, as best I  
8 remember, they were in pretty good shape as far as  
9 rock dust.

10 Q. Did you have a methane detector?

11 A. Yes.

12 Q. Do you have it or did you keep it at home or did  
13 they furnish it at the mines?

14 A. I carried it home. I charged it at home.

15 Q. You charged it at home?

16 A. Uh-huh (yes).

17 Q. Who calibrated it?

18 A. I calibrated it.

19 Q. You calibrated it?

20 A. Yeah.

21 Q. And how'd you do that?

22 A. On the calibration machine in my office at the  
23 mines.

24 Q. Yeah. Is it recorded --- did you record when you  
25 calibrated it?

1 A. I put it in a book, yeah.

2 Q. Put it in a book? Did you return it in when ---  
3 after the accident?

4 A. I took it with me, but --- at first they said we  
5 could take them with us, and then later they sent for  
6 it at --- when I was at Ellis Eagle, and I gave it to  
7 them to take back.

8 Q. Okay. Who did you give it to?

9 A. I gave it to the superintendent at Ellis.

10 Q. Okay.

11 A. And he just passed it on to be sent back.

12 Q. His name is?

13 A. Leon Hager.

14 Q. When you was doing pre-shift examinations, what  
15 was the highest amount of methane that you met?

16 A. I never found any methane.

17 Q. Never found any methane? Was their belts  
18 ventilated backwards?

19 A. They were.

20 Q. Did you check the velocity on the belts on when  
21 you would pre-shift them?

22 A. There was some movement. I always checked to ---  
23 I always had good movement.

24 Q. And how would you check the movement of the air?

25 A. By watching dust. I just clapped my hands,

1 watched the dust float to see ---.

2 Q. Okay. Do you know what kind of velocity is  
3 supposed to carry belt air?

4 A. All I was aware of is movement, good air movement.

5 Q. And when you found hazards on the --- did you ever  
6 find any hazards on your belt track?

7 A. Sure. I would find stuck rollers or accumulations  
8 of rock dust. I would write it up and I would correct  
9 it or somebody else would correct it.

10 Q. What would be the procedures when you --- after  
11 you wrote it up? What would be the --- when you came  
12 back the next shift, would it be corrected? Would it  
13 be there?

14 A. If it was still there, then I worked at correcting  
15 it myself.

16 Q. Okay. Did you ever notice the air reversal on the  
17 belt?

18 A. No.

19 Q. Have you encountered any floor gas or bottom  
20 hooving in those areas?

21 A. When I was a miner operator, yeah, the bottom  
22 hooved a lot. We'd be driving out toward the Hazy.

23 Q. What area was you in that you ran the miner? What  
24 section?

25 A. I was there from the beginning, so we started the

1 left portals, the ones that went toward this Three  
2 section and drove it all the way --- they called it  
3 Route 3, because I went through to Hazy. There was a  
4 punch-out over there, another set of portals. And we  
5 punched out at Hazy and then we dropped back and we  
6 drove on to another punch-out called the Irene Portal.  
7 We drove several of the headgates and tailgates on  
8 that side of the mines. Then we drove what they  
9 called Route 4 and we drove sections off of it. It  
10 was just outcrop coal mostly, and we pillared those  
11 back. And then I worked --- the last section I worked  
12 on was Headgate 11 underground.

13 Q. Headgate 11. Could you show us on a map where  
14 that is, please?

15 A. If it's marked Headgate 11, I can. If it's not, I  
16 probably can't.

17 Q. How far up in there did you mine that? Did you  
18 mine it way out?

19 A. Pretty much, yeah. As best I remember, we were  
20 pretty much close to ---.

21 Q. Where did you notice the hooving?

22 A. I didn't in this part of the mine. The part of  
23 the mine that I saw the hoove would have been ---  
24 let's see, in here ---.

25 Q. Had you ever noticed any hooving or ---?

1 A. That wasn't a bad hoove over there, no. That  
2 section was extremely hard. I remember it was so hard  
3 that we would crack the ripper heads on the miner  
4 sometimes. They run it six foot of height, so we beat  
5 the miners to death trying to get it, but it was so  
6 hard that we just --- you know, that's all you could  
7 do to get your six foot. I don't remember hooving in  
8 there.

9 ATTORNEY HAMPTON:

10 Just so the record is clear, could you  
11 please label the orange X you just drew on Exhibit  
12 Number One? I believe you said that was Headgate 11.  
13 Maybe draw an arrow off to the side.

14 A. Okay.

15 ATTORNEY HAMPTON:

16 The witness is labeling this as Headgate  
17 11. And a moment ago the witness was pointing at the  
18 area below the map, and --- I believe, indicating that  
19 that was an area where he saw hooving; is that  
20 correct?

21 A. Yeah, that was way over at the --- in the Hazy  
22 punch-out.

23 ATTORNEY HAMPTON:

24 Okay. So this is an area that is not  
25 actually reflected on Exhibit Number One? It would

1 be ---

2 BY MR. VANCE:

3 Q. It's not on?

4 ATTORNEY HAMPTON:

5 --- below it?

6 A. It's not on this map.

7 BY MR. VANCE:

8 Q. Okay.

9 A. See, I've been out of the face for several years.

10 I've been out of there a long time. They've done a

11 lot of mining. This area up in here where this

12 happened, I think maybe I was up there one time.

13 ATTORNEY HAMPTON:

14 What do you mean by this area up here?

15 A. The area up toward the explosion --- I assume it's

16 where the explosion took place.

17 BY MR. VANCE:

18 Q. How long was that since you been up there?

19 A. It would have been probably six to eight months

20 ago.

21 Q. Eight months ago.

22 A. I took land people up there one day, just went up

23 and came out.

24 Q. You took what up?

25 A. The people from the land company wanted to go up

1 and see the sections, and they didn't have anybody to  
2 take them in and they asked me to take them. I took  
3 them up to the left miner section.

4 Q. Which miner section are you pointing to?

5 A. Let's see. Like I say, I was only there once, so  
6 I'm not real familiar with it.

7 Q. Headgate 22, and this was tailgate section or the  
8 headgate section?

9 A. We went to both of them, went to the tailgate  
10 section and the headgate section.

11 Q. Okay.

12 ATTORNEY HAMPTON:

13 Could you label the exits that you're  
14 drawing in orange on Exhibit Number One?

15 WITNESS COMPLIES

16 ATTORNEY HAMPTON:

17 The witness is labeling Exhibit One with  
18 the terms tailgate section and headgate section.

19 BY MR. VANCE:

20 Q. And you said that was, approximately, how long  
21 ago?

22 A. About six to eight months ago.

23 Q. Six to eight months ago.

24 A. There's nothing remarkable about it to make me  
25 remember, you know. Just the in and out.

1 Q. You've run a miner up on the section, the 11  
2 Headgate there. Did you ever notice any methane on  
3 your methane monitor on your miner?

4 A. Not that I can remember.

5 Q. Not that you remember? And that'd be --- did you  
6 ever run the miner and the methane monitor was bridged  
7 out on it?

8 A. Over on the --- driving toward Hazy there were a  
9 few times.

10 Q. Few times?

11 A. Yeah, a few times. I don't remember exactly how  
12 many. Now, that would get to one percent, and my  
13 light would flash at one percent and I shut the miner  
14 off.

15 Q. Okay. What'd you do when --- after you cut the  
16 miner off?

17 A. I'd wait for the methane to clear, check my  
18 curtains, add ventilation, whatever we needed to do to  
19 clear the way.

20 Q. How deep was the cut that you're taking at that  
21 time?

22 A. Thirty (30) foot cuts.

23 Q. Thirty (30) foot cuts? Did you scrubber them?

24 A. Yes.

25 Q. Have a scrubber on them?

1 A. Yeah.

2 Q. Who did the ventilation checks for you at the  
3 mine, your air readings? Did you do them or ---?

4 A. Section foreman.

5 Q. Section foreman?

6 A. Do you mean when I'm fire bossing or when I was  
7 running the miner?

8 Q. When you were running the miner.

9 A. The section foreman took care of it.

10 Q. And you took your own gas checks; right?

11 A. Yes.

12 Q. Okay. When you was fire bossing there, where did  
13 you take your air readings on your --- did you take  
14 any air readings when you was fire bossing?

15 A. Yeah, I would take air readings on the intake, and  
16 when I did the faces, I took my last open break  
17 readings and behind the curtains.

18 Q. And was there always sufficient air there?

19 A. Yeah, there was good air.

20 Q. Sufficient air.

21 A. Yeah.

22 Q. So there was good air over there. Was it always  
23 going in the proper direction?

24 A. Yes, it was.

25 Q. Okay. When's the last time you traveled the

1 primary escapeway?

2 A. Primary escapeway, which would be the intake. I  
3 walked the intake, you know. I fire bossed the intake  
4 on that side of the mine that I worked in. I never  
5 traveled it any other part of the mines.

6 Q. Okay.

7 A. I mean not in recent memory, not for years. On  
8 Headgate 11, I'm sure I traveled it out through  
9 there ---

10 Q. Yeah.

11 A. --- sometime in the years gone by, but ---.

12 Q. Did management ever review ventilation plan or  
13 change ventilation plan with you?

14 A. No, not with me.

15 Q. Did you ever review the bulletin board and check  
16 ventilation plans, revisions?

17 A. No.

18 Q. Do you know where the bulletin board was?

19 A. I'm sorry.

20 Q. Do you know where the bulletin board was located?

21 A. Yeah. Yeah, there were plans hanging there. They  
22 had their dust plans and their ventilation plans and  
23 all. I didn't spend a lot of time reading them.

24 Q. You didn't spend no time reading them? Did anyone  
25 ever discuss with you citations that was written at

1 the mine?

2 A. No.

3 Q. On or around March 10 the ventilation change was  
4 conducted on the longwall and other sections. Did you  
5 know --- could you tell us the problem with the  
6 ventilations they've had?

7 A. I didn't know they did. I wasn't in there and  
8 nobody discussed it with me. I was outside. I mean,  
9 they had no reason to discuss it with me. I saw the  
10 inspectors come and go. They were there practically  
11 every day, and I knew they were having ventilation  
12 problems, but I didn't know what the problems were.

13 Q. Have you ever discussed safety concerns with  
14 management?

15 A. No. I mean, if I had a safety meeting, if I knew  
16 of a tripping hazard. One time they had dug a hole  
17 behind a building and the pressure pump was around  
18 that way, I mean, for instance, and I mentioned that  
19 we need to cover --- fill that hole up or cover it up,  
20 because somebody goes around through there in the dark  
21 after dark to go to the pressure pump, they're going  
22 to fall in this hole. And they brought a ventilator  
23 up and filled it up. But you know, just small stuff  
24 like that is all.

25 Q. What was the attitude of employees concerning

1 reporting hazards to management?

2 A. I think they took it serious. I mean, I never  
3 heard them tell anybody that, you know, no or  
4 reprimand anybody for reporting a hazardous  
5 conditions. Have you ever called the Massey 800  
6 number or MSHA's 800 number?

7 A. I haven't.

8 Q. Have you ever, ever been told not to report to  
9 work because the mine ventilation was down?

10 A. No, because I worked outside and even when they  
11 pulled the guys out of the mines over the ventilation,  
12 then I still worked.

13 Q. You still worked?

14 A. My job was still there, you know.

15 Q. On March the 9th there, how did you know they had  
16 a ventilation problem in the mines?

17 A. March the 9th?

18 Q. Uh-huh (yes). Around March the 9th.

19 A. Just word of mouth. Just hearing talk around the  
20 bath house.

21 Q. Management?

22 A. No, it was mostly Roger Cantley, the outside shop,  
23 shop guy. He talked to everybody coming and going,  
24 and I found him to be a real good source to find out  
25 what was going on. He said I just stopped and talked

1 to Roger, you know.

2 Q. Do you recall what he said about it?

3 A. Not really, no.

4 Q. All right. And have you ever reported a condition  
5 or hazard to management and come to work the next day  
6 and it not being corrected?

7 A. No. Doubt if they corrected anything ever  
8 reported, as far as I can remember.

9 Q. Are you aware of or know of any time that the  
10 mines had to be evacuated because of a hazardous  
11 condition?

12 A. Yeah, I do remember one time. They had us come  
13 out of the mine. They didn't tell us why at the time,  
14 but I found out later it was they had had a pop off or  
15 a fire --- an ignition on the longwall.

16 Q. And when was this?

17 A. I can't tell you that. It's been years.

18 Q. Approximate.

19 A. I would say ten years ago.

20 Q. And what area of the mines was that in?

21 A. It was one of the headgates going toward Hazy, on  
22 that side, as I remember. And I can't say for sure.

23 Q. Can't say for sure?

24 A. No. I really can't remember anything.

25 Q. And then do you know what management did to

1 correct the problem?

2 A. No. I never was on the longwall.

3 Q. Okay. And you say that the only time you was on  
4 the Tailgate 22 was when you took the landowners down;  
5 correct?

6 A. Yeah, that's the only time I remember being up  
7 there.

8 Q. Okay. Have you ever been in the area called the  
9 Glory Hole?

10 A. Glory Hole. I never was to the Glory Hole. I've  
11 been past there that one time, but I never was over to  
12 the Glory Hole. I never saw it.

13 Q. Did you ever have any concerns about the  
14 ventilation just prior to the accident at the mines?

15 A. When I was working underground, the ventilation  
16 was good. I didn't have any problem with ventilation  
17 then. But I was outside a long time. Seven years, a  
18 lot of things change. That mine grew a lot, and like  
19 I say, I just heard the rumors that there were  
20 ventilation problems. I'd hear --- heard one time  
21 somebody say that the air was reversing in the return.

22 Q. Which area of the mines was that?

23 A. Over in the tailgate or headgate sections of the  
24 mine, you know.

25 Q. Can you approximate when that was?

1 A. I can't say a date. It's been a few months ago.

2 Q. Months ago? And did management do anything about  
3 that?

4 A. They were working on it. And then on the yard,  
5 one thing I did see was the number of airlock doors  
6 that were coming in, track doors, the big doors. I  
7 would say there were 20, 25 sets of doors came in, and  
8 they went into the mines. I'm assuming they put them  
9 up somewhere. That was part of the plan they was  
10 working on.

11 Q. Do you know what area of the mines they took the  
12 airlock doors to?

13 A. They went toward the headgate area ---  
14 headgate/tailgate area. Heard people say there were  
15 14 sets of doors you had to go through to get to the  
16 headgate section.

17 Q. What was the management's attitude toward safety  
18 versus production?

19 A. Massey expected you to produce. They would value  
20 anything they could value to help with safety as far  
21 as equipment or they would provide you with some  
22 gloves, glasses, anything you needed. But they had to  
23 produce. They expected you to produce. I never had  
24 anybody tell me to do something that I felt was really  
25 unsafe, that I can remember, which I'm the kind of guy

1 that I would stand up to them real fast if they did,  
2 and they knew it. And so they didn't push me.

3 Q. Did you ever hear anyone discuss that they was  
4 concerned about their safety at the mines?

5 A. Not that I remember.

6 Q. Has MSHA or the State ever conducted inspections  
7 while you was there on the property?

8 A. Yes.

9 Q. Did you have any warning that they was coming to  
10 the mines?

11 A. Well, yeah. They would let you know that somebody  
12 was on the property or coming to your section.

13 Q. How did they let them know and who?

14 A. Well, being outside man, when I was outside I knew  
15 because they would announce them when they came  
16 through the gate, the front gate. The guy at the  
17 front gate would announce on the radio that so-and-so  
18 from MSHA en route to UBB, and he'd state the time.  
19 Which he did the same thing for the guys from the oil  
20 company came or anybody else. When they came to the  
21 gate, he would announce them and state the time and  
22 say where they were headed, generally.

23 A. When an inspector went underground, was people  
24 notified underground they was going in the mines?

25 A. When I worked on a section we always knew when

1 they were coming. They called on the radio or on the  
2 mine phone and tell us that had an inspector coming  
3 our way.

4 Q. And what would you do then?

5 A. Well, you'd beef up your ventilation and try to  
6 make sure that you was legal.

7 Q. Okay. So you had time to prepare for it?

8 A. Yes.

9 Q. Do you recall any particular time this has  
10 occurred, that you ---?

11 A. No, not particular time. I've worked the mines 35  
12 years, so I've been doing that for 35 years, you know?

13 Q. When you was on the section, did they do anything  
14 to change the ventilation before the inspector got  
15 there?

16 A. If your line curtains were back, they would put it  
17 up. I don't know of them changing any regulators,  
18 anything like that. The air was always on the  
19 section, but you may have the curtains out or  
20 something where ---.

21 Q. Did you notice any change of velocities when you  
22 was on the other sections on your section?

23 A. I didn't. Not that I noticed.

24 Q. Did you have any reservations about talking to the  
25 inspectors when they was on the property?

1 A. I don't fully understand that question.

2 Q. Did it bother you to talk to them, talk to the  
3 inspectors?

4 A. No.

5 Q. What did you think management's attitude was when  
6 you did speak to an inspector?

7 A. I never noticed anything. They never said  
8 anything to me about talking to them.

9 Q. Did you ever talk to an inspector about safety  
10 concerns at the mines?

11 A. I might have. I probably have, but I don't  
12 remember any particular instance.

13 Q. Do you know of anybody raising any concerns about  
14 the ventilation at the mines at any time?

15 A. I heard it mentioned around the bath house, you  
16 know? People would say, it's really hot up there or  
17 --- you know, insinuating that there wasn't enough air  
18 maybe.

19 Q. And particular section?

20 A. No. That's not a recent thing, either. You know,  
21 it's always been like that. There's always somebody  
22 that says there's not enough air. Sometimes it is  
23 hot.

24 Q. How often would they complain about it?

25 A. I don't know.

1 Q. What was the workforce's views on management at  
2 Upper Big Branch Mine?

3 A. Well, generally my view was that they gave too  
4 much power to the president there at the mine. They  
5 liked the young presidents, they liked the young guys,  
6 the guys with the diplomas, and they ruled over  
7 everybody, you know? And the old superintendents, the  
8 old mine foremans, they didn't have a lot of input, as  
9 I saw it, other than to carry out orders, whatever  
10 they were told to do.

11 Q. And what was your --- what is your impression of  
12 management personally? Any personal management, do  
13 you have an impression?

14 A. What do you mean? And the time of the accident  
15 or ---?

16 Q. Before, anytime at the mines, what was your  
17 feelings towards management?

18 A. I got along really well with all if them. I think  
19 they had good mine managers there, basically. Now,  
20 Mr. Blanchard, I didn't care too much for him. He was  
21 a little too overbearing. He didn't use the  
22 experience of the people around him, I didn't think.  
23 I thought that he pushed too hard, too hard for  
24 production and just overall. He was too much of a  
25 pusher.

1 Q. How did the section supervisors concerns about it?

2 A. Most of them disliked him quite a bit. I can  
3 remember they mentioned nasty-grams coming across the  
4 computer. He was pretty blunt. He would call them  
5 in. They said that he would threaten to fire them and  
6 he would fire somebody at the drop of a hat. I mean,  
7 he --- they fired several guys there, bosses. Bosses'  
8 contractors come and went really fast. The guys like  
9 me, the guys who were hard in the company, hourly  
10 people, we were pretty steady, but yeah, I saw several  
11 foremen dismissed.

12 Q. Do you know what the reason they was fired?

13 A. The boy they called Hammer, and I don't know his  
14 real name, they --- one night he shut down the section  
15 because he felt like his section needed to be worked  
16 on to make it --- to get the ventilation and  
17 everything right on his section. He shut the section  
18 down for two hours one night. And the next day, as I  
19 remember, Mr. Blanchard fired him.

20 Q. Do you know what section that was he was on?

21 A. I don't remember. It was one of the miner  
22 sections.

23 Q. One of the miner sections.

24 A. But they did hire him back later. They brought  
25 him back as a fire boss. And then he ended up going

1 back to bossing for them again.

2 Q. They brought him back to UBB?

3 A. Yeah, yeah.

4 Q. Did you ever have your vacation cancelled at UBB?

5 A. If I did, it was a long, long time ago. They  
6 usually let me have my vacations. I don't remember  
7 them canceling mine. We did have a longwall move  
8 going. That was in the early days, probably in '96,  
9 '95 or '96. And they asked us to work through  
10 vacation and they may just take their vacations away.  
11 I know a lot of the guys, they did cancel their  
12 vacations and stuff, but they didn't do anything like  
13 that generally.

14 Q. Is there anything else that you thing that we  
15 should know about the --- concerning the accident that  
16 we haven't brought up today?

17 A. No. I'm really blindsided by this thing. I don't  
18 have any idea what's happening up there.

19 Q. On April 5th, the day of the accident, where was  
20 you at the time of the accident?

21 A. I was on the supply yard at UBB Portal.

22 Q. Okay. And approximately, what time did the  
23 accident occur?

24 A. I don't remember. I'm thinking it was about 1:30;  
25 is that right? 2:30? Must've been 2:30 because it

1 was shift change. The mantrip was on the way outside.

2 Q. Did you notice any motors came out the mines  
3 before the mantrip?

4 A. Yeah, a supply motor came out.

5 Q. A supply motor? And do you know who was operating  
6 it?

7 A. Bruce Vickers.

8 Q. Who?

9 A. Bruce Vickers.

10 Q. And how long before the mantrips come out that  
11 evening up there?

12 A. I would say another one, 30 minutes.

13 Q. And do you know where he was came from, what part  
14 of the mines?

15 A. As I understand it, he was up on the headgate.

16 Q. On the headgate. Okay.

17 A. On 22 section.

18 Q. And did he say anything after the accident  
19 concerning that he seen or smelled or anything  
20 unusual?

21 A. No, not to me he didn't.

22 Q. All right. He didn't mention nothing being out of  
23 the ordinary?

24 A. Uh-uh (no).

25 Q. Okay. Did you see anybody go underground after

1 the accident?

2 A. Yeah, Rick Foster the mine --- one of the mine  
3 foremen. I saw him go into the drift mouth, the drift  
4 mouth.

5 Q. Did you see anyone else go in there later?

6 A. Anyone go in later?

7 Q. Yeah.

8 A. No. No, I don't remember anyone else going in  
9 there.

10 Q. What time did you leave the mines that evening?

11 A. I didn't go home that evening. I stayed at the  
12 mines and took air readings. I was there until about  
13 one o'clock at night.

14 Q. And you spent time up at UBB Portal?

15 A. Yeah.

16 Q. Did you see anybody don any SCSRs through the  
17 night while you was there?

18 A. No.

19 Q. Do you know how they was accounting for the people  
20 that was going in and out of the mines?

21 A. After the accident?

22 Q. Yeah.

23 A. No, I don't know. That was probably going on up  
24 in the office before the accident. You know, all of  
25 the section bosses in the morning would give the

1 dispatcher a list of names of everybody that he was  
2 taking in his mantrip. And so that's how they knew  
3 who was in the mines. That's how they counted who all  
4 was missing. But afterwards, I was outside, checking  
5 drift mouths, and I was taking air readings every 15  
6 minutes, so I don't know what went on upstairs.

7 Q. And you say the --- we're going back to the last  
8 question. You say that the section foremans gave the  
9 dispatcher a list of the men when they went  
10 underground?

11 A. That was a practice, yes.

12 Q. Yeah. Did you ever use the tracking system they  
13 had there? Did you ever use it underground?

14 A. I had one ---

15 Q. Okay.

16 A. --- on my belt. I never had to turn it on.

17 Q. Did they give you training on it?

18 A. Well, yeah, just briefly. They said, you know,  
19 you mash the button, release it and we --- it's to  
20 check it, and if you hold the button down, then that's  
21 going to tell us that you need help.

22 Q. Did you have a radio with --- did you ever have  
23 the radio with you?

24 A. Yeah.

25 Q. And did it work?

1 A. Yeah, that worked okay.

2 MR. VANCE:

3 All right.

4 EXAMINATION

5 BY MR. O'BRIEN:

6 Q. First of all I'd like to thank you for helping us  
7 out here.

8 A. Okay.

9 Q. You mentioned earlier that you'd heard some folks  
10 talk about some of the sections being hot, and that's  
11 in reference to methane?

12 A. Temperature.

13 Q. Temperature.

14 A. Temperature.

15 Q. Have you ever heard them referring to hot as lots  
16 of methane?

17 A. No.

18 Q. Okay.

19 A. I didn't. And you know, I know they got pretty,  
20 pretty heavy concentrations of methane at their  
21 exhaust fans, but that always puzzled me, because you  
22 didn't see that methane like that in the working  
23 areas. That was just really rare, you know? Like I  
24 said, a couple times over on Hazy side I would see the  
25 light blink on my miner, which indicated one percent

1 methane.

2 And there were times that you'd see maybe a little  
3 bit of bubbling in the water in a waterhole. And I've  
4 held my methane detector right down to it and it would  
5 be methane, but it would be such a tiny amount if you  
6 held it right to it, you might get one or two percent.  
7 But then it just dissipated and it was gone. As soon  
8 as you came up away from it, you'd get zero percent.

9 Q. When you were taking air readings the day of the  
10 event, did you see a significant change in the amount  
11 of air coming out?

12 A. I was taking readings on the east side portals,  
13 and there was practically --- there was a slight  
14 fluctuation, but very little. Everything --- each  
15 reading was almost exactly the same.

16 Q. Okay. Did you have a radio in your end loader?

17 A. Yeah.

18 Q. Could you hear conversations going on underground,  
19 people talking underground back and forth or ---?

20 A. No, I had the surface radio.

21 Q. Surface radio.

22 A. I didn't have an underground radio.

23 Q. Being around the shop or just listening to guys  
24 talk, whatever, did you hear anybody ever talk about  
25 any major problems with methane or ventilation

1 problems or anything like that?

2 A. No. And I'll have to say that on that 22 section  
3 crew, they were a lot of experienced men up there.

4 ATTORNEY HAMPTON:

5 Uh-huh (yes).

6 A. And they were good men, and they would've spoke  
7 up. I mean, if they felt like there was a problem  
8 there, they would let people know. I mean Bill  
9 Haynes, Joe Marcum, they were seasoned coal miners.  
10 If they thought there was a big problem up there,  
11 somebody would've knowed about it. I mean, everybody  
12 would've knowed about it. Those guys wouldn't have  
13 held it back.

14 BY MR. O'BRIEN:

15 Q. Any time in the last year or so, roughly the last  
16 year, other than supply --- have you had to load any  
17 abnormal amounts of ventilation supplies, like Kennedy  
18 stoppings, blocks, B bonds, anything like that at one  
19 --- one particular time that --- ventilation supplies?

20 A. That would happen when they were making section  
21 moves. You know, they had to build all those  
22 stoppings, so we would go through several truckloads  
23 of blocks, and of course man doors and everything, but  
24 other than that, I don't remember anything particular.

25 Q. Nothing out of the ordinary?

1 A. No. No, just day to day use, you know.

2 Q. Okay.

3 A. It all ran pretty much the same, but if we saw a  
4 section move coming up, you know, I would help the  
5 purchasing agent. I watched out for supplies on the  
6 yard. And if I knew a section move was coming up, I  
7 would let him know a couple days --- a couple weeks  
8 ahead of time so he could get maybe an extra five or  
9 six truckloads of blocks up here so you would have  
10 block when the move goes down, you know. However, I'd  
11 let him know, you know, about the doors. I'd take a  
12 requisition every morning of what I needed on the  
13 yard, roof bolts, rock dust, oil, what we need.

14 MR. O'BRIEN:

15 Okay.

16 EXAMINATION

17 BY MS. MONFORTON:

18 Q. Mr. Martin, I'm going to take advantage of ---  
19 take the opportunity to talk with you because you've  
20 worked in mines for 35 years, so you've been around.  
21 And what I'm interest in knowing is, in all your  
22 years, what makes for good mine management, like at  
23 all the places you've worked? What are the qualities  
24 that you see in a good mine manager, superintendents  
25 and other things?

1 A. What you need is somebody who can see in advance.  
2 As your mine is developing, you need somebody who  
3 knows that, say, we're going to mine this all the way  
4 up here, but we're going to have a section down here.  
5 Once we get up here, we're going to drop back. We're  
6 going to start this section here. So as we advance  
7 through here, we need to cut out for our belt heads,  
8 we need to round the corners where our track will be  
9 going in here. We need to get all of our preparations  
10 made as we go back, and then that way the move will be  
11 smooth and easy. When you drop back, everything will  
12 be ready to go. And you know, that's planning ahead.

13 Q. Uh-huh (yes).

14 A. I like to think of just the infrastructure of the  
15 mine. When you're developing and you know you've got  
16 sections ahead of you, you need to get enough height,  
17 to keep enough height so you're going to be able to  
18 get the kind of equipment that you're going use in  
19 that area in and out of the mines without roofing ---.

20 A. Uh-huh (yes).

21 Q. And a lot of times it means biting a bullet and,  
22 you know, a slow production to get the heighth or to  
23 make the improvements to the mines, to the dewatering  
24 systems, what have you, ---

25 A. Uh-huh (yes).

1 Q. --- to make sure that you can do that. And lots  
2 of times the management gets pushed, I guess that's  
3 why, you know, and they will skimp. They will leave  
4 it too low and they'll say, we'll go back later  
5 and ---

6 A. Uh-huh (yes).

7 Q. --- try to --- we'll go back later and cut the  
8 corners and do this. And it's really hard to do.  
9 Once your belt lines, track, everything's in there,  
10 it's too late. Then you can't go back, you know.  
11 It's really hard to do that.

12 Q. Thank you very much for that, that insight. So  
13 you worked outside for about the last seven or eight  
14 years?

15 A. Seven years.

16 Q. Seven years. So when did Mr. Chris Blanchard  
17 arrive at the mine? Like, how many years ago?

18 A. Okay. I'm guessing he's been there longer than  
19 any president we had. They changed them out like  
20 every two years.

21 Q. Okay.

22 A. So I think he's been there probably three or four  
23 years.

24 Q. Three or four years. And can you say in all of  
25 your experience, did you notice change in the way the

1 mine was running after he came?

2 A. Well, I was outside, so I didn't see firsthand,

3 ---

4 Q. Right.

5 A. --- so you know, like I say, anything I tell you  
6 would be what I heard somebody else say. But, yeah,  
7 they got a little frustrated at times, and just for  
8 the very things I just mentioned.

9 Q. Uh-huh (yes).

10 A. He would leave --- leave it too low. I mean if  
11 you did take height, the production wasn't coming. He  
12 would say, we're not running a rock mine. This is a  
13 coal mine. Get the coal and go, so ---.

14 Q. Okay.

15 A. And it wears coal miners. I mean, just the  
16 average miner, he knows we got trouble down the road,  
17 you know, so ---. But I wasn't underground, so really  
18 I didn't see all the --- too much firsthand.

19 Q. And my last question is about for younger miners  
20 that are coming in. You have a lot of experience and  
21 you said you and some of the men who were killed that  
22 had a lot of experience, they would speak up for  
23 themselves. What advice would you give for younger  
24 miners these days to --- what should they be doing,  
25 looking out for?

1 A. Follow the example of the older miners, because  
2 the young guys don't know. They don't know what to  
3 complain about, and they really don't know where the  
4 hazards are. And it's the older miners who take care  
5 of 'em, you know? That's what it's all about.

6 MS. MONFORTON:

7 Thank you very much.

8 ATTORNEY HAMPTON:

9 Can we just take a two-minute break?

10 Let's go off the record.

11 SHORT BREAK TAKEN

12 ATTORNEY HAMPTON:

13 Let's go back on the record.

14 RE-EXAMINATION

15 BY MR. VANCE:

16 Q. On the day of the accident, did you know of the  
17 longwall being down?

18 OFF RECORD DISCUSSION

19 A. No, I didn't know that, not that I can remember.

20 BY MR. VANCE:

21 Q. When you was outside, do you ever hear CO alarms  
22 go off?

23 A. Alarms going off all the time out there. I can't  
24 tell if it's a telephone. You know, they got that  
25 loud thing that beeps across the yard to let you know

1 the phone's ringing. And then the emergency ---. But  
2 when the fans would go off, you know, I'd hear the  
3 alarms going of, you know, for the fans and stuff like  
4 that.

5 Q. You didn't know if it was a CO alarm or the  
6 telephone? Did it have any different sounds?

7 A. No, not that I know of. I mean, that thing went  
8 all the time. It got to the point you just blocked it  
9 out. I mean, it's the most annoying sound in the  
10 world, but it went off constantly, I mean. And I mean  
11 most of it's telephone, I suppose.

12 Q. And you was working there in 2004; correct?

13 A. Yes, sir.

14 Q. Did you know anything of the floor outburst then  
15 on the longwall?

16 A. I don't know, not that I remember. What did you  
17 call it, a floor outburst?

18 Q. Outburst, yeah. Was there any methane coming from  
19 the floor, do you remember?

20 A. The floor? Unless that's when they had that  
21 ignition up there. I remember they had an ignition,  
22 but I don't remember what it was.

23 Q. Can you think of approximately when it was, the  
24 ignition?

25 A. Now, that was before I came outside, so it had to

1        been probably --- it was probably ten --- eight to ten  
2        years ago.

3        Q. When you was running the miner, did you wear a  
4        dust ---?

5        A. Yes.

6        OFF RECORD DISCUSSION

7        BY MR. VANCE:

8        Q. Did you ever see him take a dust pump and hang it  
9        in the intake when he was going to dust?

10       A. Yeah, back in the early days.

11       Q. In the early days. How early was that? How late  
12       was that?

13       A. Oh, gosh, maybe in ---. Well, see, I got --- to  
14       go to Charleston over that, because I'm a certified  
15       dust sampler. They had a big investigation there, and  
16       I don't remember what year that was, but after that,  
17       they didn't do that anymore. Before that, they would,  
18       yeah, they would hang them on the intake.

19       Q. When they took dust on the section, did they do  
20       anything to the ventilation system, sweep it up or  
21       make it better?

22       A. Keep all your ventilation up, yeah. Don't let the  
23       line curtains get back. When I was a miner operator,  
24       if they put a dust pump on me, they would make me  
25       stand behind the line curtain, pretty much. I stood

1 behind the line curtain and just cut a little square  
2 out to sit and look through to load my shuttle cars,  
3 you know. I was keeping it in good air.

4 Q. You said that Chris Blanchard come to the mines  
5 quite often there; correct?

6 A. He called a lot more than he came up there, but he  
7 came pretty regular.

8 Q. When he came, what would he do?

9 A. I usually --- the only time I would see him would  
10 be when he was traveling between the office and the  
11 motor barn, going to get a ride, and I'd see him go  
12 underground.

13 Q. Underground? Do you ever know of them making a  
14 ventilation change while he was there?

15 A. No, I don't know.

16 Q. Have you ever heard of them making a ventilation  
17 change during the shift while men was underground?

18 A. No.

19 Q. And then on the day, did you --- the day of the  
20 accident, did you load any extra supplies or anything  
21 that they sent --- sent to the longwall or ---?

22 A. Not that I remember. Just a normal day, as I  
23 remember.

24 Q. Did anyone else come from the mines besides Chris  
25 Blanchard, upper management?

1 A. I'd see Jason Whitehead.

2 Q. And what was his position?

3 A. I think he was assistant to Chris Blanchard.

4 Q. Uh-huh (yes). And how often did he come?

5 A. He didn't come that much the last few months. He  
6 was there a lot about a year and a half ago when they  
7 was putting that belt across that Ellis, from UBB  
8 Portal to Ellis. He was there a lot for that, but  
9 then they transferred him somewhere and he had just  
10 came back. I don't think he'd been back very long  
11 before this accident happened.

12 Q. How many rock dust crews do they have at the  
13 mines?

14 A. Rock dust crews? They had a crew on the hoot owl  
15 that pulled the track duster pretty much every night.

16 Q. Uh-huh (yes). And how much dust would they use a  
17 night?

18 A. They was supposed to put down two loads. I think  
19 most of the time they got one load. It was a double  
20 pod track duster.

21 Q. How much dust did it take to load that double pod?

22 A. I don't know the specifications on it.

23 Q. Did they have bulk dusters ---?

24 A. It had a tank, a bulk tank.

25 Q. Had a tank, okay.

1 RE-EXAMINATION

2 BY MR. O'BRIEN:

3 Q. Just one more question. Talking about rock dust,  
4 what kind of bag dust? Did you have 50-pound bags or  
5 super bags or both or ---?

6 A. Forty (40) pound bags and super bags.

7 Q. How many truckloads a day would you say you get in  
8 there? Would you get it in every day or about how  
9 much would you get in?

10 A. I'd get usually roughly two loads of super dust  
11 and not quite as many trucks of bag dust, 40-pound  
12 dust. It lasted a little bit longer. I'd get at  
13 least one load a week. That'd be like one load this  
14 week and two loads next week.

15 Q. The bag dust?

16 A. The 40-pound bag dust.

17 Q. Yeah. And how often did you get the two loads of  
18 super bags, one a week or ---?

19 A. They were two, two loads a week.

20 Q. Two loads a week. Okay.

21 A. Roughly.

22 MR. O'BRIEN:

23 All right. Thank you.

24 A. Yeah, that's 26 --- that was 26 ton per load.

25 ATTORNEY HAMPTON:

1 Okay. On behalf of MSHA and the Office  
2 of Miners' Health, Safety and Training, I want to  
3 thank you for appearing and answering questions today.  
4 Your cooperation is very important to the  
5 investigation as we work to determine the cause of the  
6 accident. We request that you not discuss your  
7 testimony with any person aside from a personal  
8 representative or an attorney.

9 After questioning other witnesses, we may  
10 call you if we have any follow-up questions. And if  
11 at any time you have any additional information  
12 regarding the accident that you would like to provide  
13 to us, please contact us at the contact information  
14 that we gave you in the letter.

15 If you wish, you may now go back over any  
16 answer that you've given us or make any statement that  
17 you feel was not covered yet at this point. Is there  
18 anything else that you would like to tell us?

19 A. No.

20 ATTORNEY HAMPTON:

21 Okay. Again, we'd like to thank you for  
22 your cooperation.

23 A. Okay.

24 ATTORNEY HAMPTON:

25 Off the record.

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EXAMINATION CONCLUDED AT 7:16 P.M.

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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*