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Transcript of the Testimony of Larry Adams

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CONFIDENTIAL STATEMENT UNDER OATH

OF

LARRY ADAMS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, June 30, 2010, beginning at 1:03 p.m.

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

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

Today is June 30th, 2010. We're here to conduct an interview of Larry Adams. I am with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. Also present are several people with the State of West Virginia, and I ask that they state their appearance for the record, starting with Pat.

ATTORNEY MCGINLEY:

Patrick McGinley, the Governor's independent investigation team.

ATTORNEY O'BRIEN:

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

MR. FARLEY:

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

ATTORNEY WILSON:

There are a few other people in the room with the accident investigation teams. Members of the Mine Safety and Health Administration Accident

1 Investigation Team and all members of the State of
2 West Virginia Teams participating in the investigation
3 of the Upper Big Branch Mine explosion shall keep
4 confidential all information that is gathered from
5 each witness who voluntarily provides a statement
6 until the witness statements are officially released.
7 MSHA and the State of West Virginia shall keep this
8 information confidential so that other ongoing
9 enforcement activities are not prejudiced or
10 jeopardized by a premature release of information.
11 This confidentiality requirement shall not preclude
12 investigation team members from sharing information
13 with each other or with other law enforcement
14 officials. Everyone's participation in this interview
15 constitutes their agreement to keep the 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 pursuant to Section 103(a) of the Federal Mine
23 Safety and Health Act and by the West Virginia Office
24 of Miners' Health, Safety and Training. We appreciate
25 your assistance in this investigation.

1 Mr. Adams, you may have a personal
2 attorney or representative present with you during the
3 taking of this statement. Do you have a
4 representative?

5 MR. ADAMS:

6 No.

7 ATTORNEY WILSON:

8 Your statement is completely voluntary.

9 You may refuse to answer any question. You may
10 terminate your interview at any time. Also you may
11 request a break at any time. This is not an
12 adversarial proceeding, so formal Cross Examination
13 type questions will not be permitted, but each of the
14 parties will be allowed to ask follow-up questions.

15 MR. ADAMS:

16 Okay.

17 ATTORNEY WILSON:

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

1 permitted by law. That means that if a judge orders
2 us to turn over your name or if some other law
3 requires us to reveal your identity, we may have to do
4 so.

5 Also, there may be a need to use the
6 information that you provide to us or other
7 information that we may ask you to provide in the
8 future in other investigations or hearings into or
9 concerning the explosion. Do you understand your
10 right to give a confidential statement?

11 MR. ADAMS:

12 Yes. And I would rather it be kept
13 confidential.

14 ATTORNEY WILSON:

15 All right. Thank you. After the
16 investigation is complete, MSHA will issue a public
17 report detailing the nature and the causes of the
18 fatalities in the hope that greater awareness about
19 the causes of accidents can reduce their occurrence in
20 the future. Information obtained through witness
21 interviews is frequently included in those reports.
22 We will be interviewing other individuals, and so we
23 ask that you not discuss your testimony with anyone
24 outside this room. A court reporter will be recording
25 the interview, so please speak loudly and clearly. If

1 you do not understand a question asked, please ask
2 that the question be rephrased. Please answer each
3 question as fully as you can, including any
4 information that you may know from someone else.

5 Again, I would like to thank you in
6 advance for your appearance here today. We appreciate
7 your assistance in the investigation. Your
8 cooperation is critical in making the nation's mines
9 safer. After we have finished asking questions, we
10 will provide you with an opportunity to provide any
11 other information that you believe to be relevant, or
12 you may also make a statement at that time.

13 If at any time after the interview you
14 recall additional information that you believe might
15 be useful, please contact Norm Page, who is MSHA's
16 lead accident investigator. His contact information
17 is in the letter that we sent to you on June 18. And
18 I'll give you another copy of that letter for your
19 records. Before we swear you in, John, is there
20 anything you'd like to add?

21 MR. O'BRIEN:

22 Yes. Larry, on behalf of the Office of
23 Miners' Health, Safety and Training, I'd like to
24 inform you that under West Virginia Code, you have
25 certain rights against potential discrimination. What

1 I have here is some information in case you would
2 experience some discrimination, that you could contact
3 these folks. I would like to let you know that you do
4 have 30 days from the time of the discrimination to
5 file a claim. Also, I'd like to give you a business
6 card, one from Terry Farley, who's one of our lead
7 investigators, and Bill Tucker, who is our other lead
8 investigator.

9 MR. ADAMS:

10 Okay.

11 MR. O'BRIEN:

12 If you have any questions, please contact
13 them.

14 MR. ADAMS:

15 Thank you.

16 MR. FARLEY:

17 Bob, one small item here concerning
18 confidentiality. I want to make sure he understands
19 that, from our perspective, at the end of the
20 investigation, when all of our information becomes
21 available under the Freedom of Information Act, that
22 there can be no confidentiality as far as the
23 transcripts are concerned. But in the meantime, we're
24 not going to go out and hold a press conference.

25 MR. ADAMS:

1 Uh-huh (yes).

2 MR. FARLEY:

3 I just want to make sure you understood
4 that.

5 MR. ADAMS:

6 Okay.

7 ATTORNEY WILSON:

8 Okay. Pat, is there anything you would
9 like to add?

10 MR. MCGINLEY:

11 I'd simply like to say, Mr. Adams, that
12 what we're here about, and we all agree on this, is
13 that 29 dead men --- the widows and children and
14 families want to know what happened, and that's what
15 we're trying to do. So to the extent to which you can
16 probe your memory and give us honest and truthful
17 answers will be --- will help not only us but those
18 families.

19 MR. ADAMS:

20 Yes.

21 ATTORNEY WILSON:

22 Okay. Mr. Adams, would you please state
23 your full name?

24 MR. ADAMS:

25 Larry Francis Adams.

1 ATTORNEY WILSON:

2 And I'll ask that you face the court
3 reporter, and she will swear you in.

4 -----

5 LARRY ADAMS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
6 AS FOLLOWS:

7 -----

8 ATTORNEY WILSON:

9 Pass it on to Erik Sherer to begin the
10 questioning.

11 EXAMINATION

12 BY MR. SHERER:

13 Q. First of all, I want to thank you for coming down.
14 Your assistance is going to be invaluable in this
15 investigation. Could you tell us your address and
16 telephone number, please?

17 **(b) (7)(C)**
18

19 Q. Thank you. Are you appearing here today
20 voluntarily?

21 A. Yes.

22 Q. Have you been interviewed by anyone from Massey or
23 their attorneys concerning this accident?

24 A. No.

25 Q. Thank you. Have you been interviewed by anyone

1 else?

2 A. No.

3 Q. Okay. Thank you. How many years of mining
4 experience do you have?

5 A. About 43.

6 Q. Forty-three (43). I'm in awe. That's a long
7 time. Could you give me just a real rough outline of
8 where that experience took place and what you've done?

9 A. Well, I first started at the Harris No. 1 Mine in
10 '67. And they put me on the longwall there, and I was
11 a little shaky, you know, at this top falling in ten
12 feet behind you, ---

13 Q. Sure.

14 A. --- so I quit there and went to the Horton No. 4
15 Mine. And I worked there ten years and was laid off.
16 And from there I went to Armco No. 8, Robin Hood. I
17 was fired from there. I was a section foreman. I was
18 fired for --- they said a conflict in work procedures,
19 but I don't think that was the main reason. The main
20 reason was because I associated with union men, and
21 they didn't allow that.

22 Q. Sure.

23 A. I left there and went to Bethlehem, Bethlehem
24 Steel at Van and worked there until '96, when it shut
25 down. And I left there and went to Massey then.

1 Q. Okay.

2 A. And I worked at probably three or four different
3 Massey mines.

4 Q. Okay. You mentioned you were a section foreman.
5 Has most of your career been as a section foreman?

6 A. Yes.

7 Q. Okay.

8 A. Well, no. I can't say most of it. I really only
9 bossed for maybe ten years or so ---

10 Q. Okay.

11 A. --- at the most.

12 Q. Okay. So you have your foreman's papers. Do you
13 have any other State or Federal certifications?

14 A. I only have the shot firer man, and Eastern sent
15 me to become an EMT, and my first-aid card.

16 Q. When were you employed at Upper Big Branch Mine?

17 A. I first started there in, I believe, '98 as a
18 contractor, and I worked for three or four years
19 before I was hired.

20 Q. So you were hired by the company in 2001?

21 A. About that, yeah.

22 Q. Were you employed at Upper Big Branch immediately
23 prior to the explosion?

24 A. Well, I retired from there in August.

25 Q. August of?

1 A. '08.

2 Q. '08. Okay. What was your duties at Upper Big
3 Branch?

4 A. Mostly fire bossing.

5 Q. Okay.

6 A. I did have a crew of men for sometime. It's been
7 at least two years ago. I was taking care of all the
8 red hats, and I had them shoveling belts and building
9 stoppings. I build all those barricades there at UBB.

10 Q. Okay.

11 A. Just different things with the red hats, ---

12 Q. Sure.

13 A. --- taking care of them, trying to show them the
14 right way to do things.

15 Q. Sure. Sounds like primarily outby-type work.

16 A. Yeah. And then, of course, I had to fire boss
17 every once in a while while I had the red hats with
18 me.

19 Q. Sure.

20 A. And actually I had to take them with me.

21 Q. And when you say you fire bossed, specifically,
22 what did you fire boss? Did you do weekly exams?

23 A. Just the belts on, you know, on a daily basis.

24 Q. So you just mainly did belts?

25 A. Yeah.

1 Q. Okay.

2 A. For a short while, while they were still working
3 the south side, I walked the airways then.

4 Q. Okay. Thank you. You say --- you mentioned that
5 you were a contractor initially. Which contracting
6 firm did you work for?

7 A. LowPlaces over at --- over near Montgomery.

8 Q. You did that for approximately two or three years?

9 A. Yeah.

10 Q. Which shift did you normally work at UBB?

11 A. I would say that I worked the evening shift
12 mostly. When I left there I was on a swing shift. We
13 worked 12 hour on the day and then --- we worked four
14 days and then two days off and then we worked four
15 12-hour days on the evening and midnight.

16 Q. Sounds like a rough schedule?

17 A. It was.

18 Q. When you were fire bossing, was there any
19 particular part of the mine that you did the belts in?

20 A. Well, the last year or so, while we were on the
21 12-hour shifts, I was mostly on the Ellis belts.

22 Q. Okay. Could I get you to mark those on the map,
23 please.

24 A. They're not on here.

25 Q. Okay. Let me get a --- well, do you mind ---

1 A. Okay.

2 Q. --- going to this bigger-scale map?

3 MR. SHERER:

4 Would you hand me a Sharpie, please, Pat?

5 MR. MCGINLEY:

6 Sure. These ---.

7 MR. SHERER:

8 These are good enough.

9 BY MR. SHERER:

10 Q. Why don't we do it in blue?

11 A. All right. I don't remember what entry the
12 beltline was in.

13 Q. This red line here ---.

14 ATTORNEY WILSON:

15 Wait one second. Let's go off the
16 record.

17 OFF RECORD DISCUSSION

18 ATTORNEY WILSON:

19 We're back on the record.

20 BY MR. SHERER:

21 Q. Okay. We're looking at a 1 to 200 scale map that
22 starts at Ellis Portal. And I'm going to ask Mr.
23 Adams to highlight the belts that he examined with a
24 blue marker.

25 A. I have one here.

1 Q. Okay.

2 A. It was primarily this Number Six and Number Seven
3 belt in Ellis. That's primarily where I worked, where
4 I spent the shift. But there was times that I had to
5 go all the way to the Glory Hole and walk from the
6 Glory Hole out to the Ellis punchout. Or I'd walk
7 from the Ellis punchout to the Glory Hole.

8 MR. MCGINLEY:

9 Can you mark --- draw a line where Six
10 and Seven ---

11 A. Okay.

12 MR. MCGINLEY:

13 -- are there, and then write those
14 numbers?

15 BY MR. SHERER:

16 Q. Just write that on the map here, please.

17 WITNESS COMPLIES

18 A. Number Six and Number Seven.

19 BY MR. SHERER:

20 Q. Okay.

21 A. I believe that's the way they had those numbered.
22 It was either Six and Seven or Five and Six.

23 Q. Okay. And this one is now --- it's noted on the
24 map as Number Four.

25 A. That's the North Number Four.

1 Q. Okay. Did you ever examine this belt?

2 A. Yes.

3 Q. Okay. Would you mind marking this one also?

4 A. Okay.

5 WITNESS COMPLIES

6 BY MR. SHERER:

7 Q. Okay.

8 MR. MCGINLEY:

9 For the record, you want to identify ---

10 what was the name for that?

11 A. This was the Number Four belt.

12 MR. MCGINLEY:

13 And let the record show Mr. Adams is

14 marking Number Four on the map next to that belt.

15 ATTORNEY WILSON:

16 We'll mark this map as Adams One.

17 (Adams Exhibit One marked for

18 identification.)

19 BY MR. SHERER:

20 Q. Let's just set this one off to the side for a
21 minute. And this map should take up right where that
22 one ended.

23 A. Uh-huh (yes). Okay. I'd walk the Number Five
24 belt. And at times I had to go up the Number six
25 belt, several times. And only once or twice I'd have

1 to go up the Number Seven belt.

2 Q. Okay. And I ask you to identify those belts,
3 please.

4 A. Okay.

5 WITNESS COMPLIES

6 ATTORNEY WILSON:

7 The witness is writing Number Five, Six

8 and Seven on what has been marked as Adams Two
9 Exhibit.

10 (Adams Exhibit Two marked for
11 identification.)

12 MR. MCGINLEY:

13 And let the record show that the witness

14 has marked each of those belts with a straight line
15 and the numbers Five, Six and Seven are near them.

16 Maybe you can draw a line from each of these to that,
17 just a straight line to the belt to make sure that
18 when someone is reading the map they'll know with
19 precision where each is located.

20 WITNESS COMPLIES

21 MR. MCGINLEY:

22 Thank you, sir.

23 A. Uh-huh (yes).

24 BY MR. SHERER:

25 Q. Okay. So you primarily examined the two belts out

1 near the Ellis Portal?

2 A. Yeah.

3 Q. Roughly, how long is that distance; do you know?

4 A. The --- identified it as Number Seven, Ellis
5 Seven. It was about 1,200 feet long, 1,200, 1,300
6 feet. The other Ellis belt was probably 2,000 feet.

7 Q. Okay. So a total of about 3,200 feet ---

8 A. Something like that.

9 Q. --- of belt to maintain and examine. Did you
10 shovel that belt?

11 A. Yes.

12 Q. Were you responsible for rock dusting that belt?

13 A. I rock dusted when we had rock dust.

14 Q. Okay.

15 A. I wasn't primarily responsible for it.

16 Q. Okay. Did you do any other work on the belts?

17 A. I changed rollers, pumped water, greased the belt
18 heads and tails, just general maintenance on the belt.

19 Q. Sure. And what size were those belts; do you
20 recall?

21 A. The Ellis belts were five feet across and then the
22 North belts were six feet.

23 Q. Okay. When you examined the belts, how did you
24 record any hazardous conditions that you may have
25 observed on those belts?

1 A. Well, if I found stuck rollers, I normally dropped
2 them.

3 Q. So you fixed them right when you found them?

4 A. Yeah, especially the bottom rollers. If there's a
5 stuck roller on top, you know, there wasn't much I
6 could do for it. All I could do was report it because
7 those belts ran constantly.

8 Q. Okay. Those were the main belts coming out of the
9 mine?

10 A. Yeah.

11 Q. So all of the tonnage from the northern portion of
12 the mine passed over those belts?

13 A. Yes.

14 Q. What happened if those belts were down for any
15 period of time?

16 A. Well, they would normally --- if I was on the
17 midnight shift at the time, they would normally send
18 Glenn Ullman. He was pretty much the midnight shift
19 foreman. They would send him and maybe a crew of men
20 out there.

21 Q. Okay. Do you know if Mr. Ullman had to report
22 that downtime?

23 A. I would say that he did. I don't know for sure.

24 Q. Okay. Did you ever --- do you recall hearing him
25 call that out of the mine or talk to the dispatcher or

1 someone about the belts being down?

2 A. No, I don't.

3 Q. Okay. What about other problems with the belts?

4 Did you have some method of, like you were talking

5 about the troughing rollers or the upper rollers, if

6 there was a problem with them, you would report that

7 condition. Who did you report that to and how did you

8 report it?

9 A. I reported it in the fire boss book, and I

10 reported it to Glenn and usually the general mine

11 foreman.

12 Q. Okay.

13 A. There was times that we shut the belts down and

14 changed those rollers, those trough rollers, but that

15 wasn't very often.

16 Q. Did you ever notice those rollers getting hot?

17 A. Yeah.

18 Q. Did you ever notice those rollers smoking?

19 A. Yeah.

20 Q. What would you do in that case?

21 A. Drop them.

22 Q. Drop them. Okay. What about if it was an upper

23 roller?

24 A. Well, if it was an upper roller --- lots of times

25 we had chain hoists with us, and we would shut the

1 belt off and pull the trough roller out.

2 Q. Okay. Did you report any other hazardous
3 conditions in the belt books?

4 A. Well, if the belt needed dusting or cleaning,
5 anything of that nature, I always put it in the book.

6 Q. Okay. Did you check those books before you went
7 into work on your shift?

8 A. Yes.

9 Q. Did you ever notice that you put hazardous
10 conditions in the books --- did you notice if they
11 were noted as corrected when you came out the next
12 shift?

13 A. I've looked to see if they have been corrected
14 because sometimes, you know, you might put a violation
15 or a hazardous condition in there and it might stay
16 two or three days ---

17 Q. Two or three days.

18 A. --- and never been marked corrected or anything
19 else.

20 Q. Okay. Do you recall who countersigned those
21 books?

22 A. I think Andy --- I can't think of his last name
23 now. He was --- he's a young guy. He was the general
24 mine foreman after Bill Harless left.

25 Q. Okay. So he countersigned and was basically

1 responsible for correcting those hazardous conditions?

2 A. Yeah. Andy Kolson was his name.

3 Q. Okay. Thank you. Do you recall any incidents in
4 particular that this stayed in there for some period
5 of time that you were concerned about?

6 A. Just at times there would be quite a bit of
7 spillage under the belts, and it would stay there for
8 some time. I shoveled on the belts when I could and
9 as much as I could, but there was times that I just
10 --- I couldn't get it all.

11 Q. Sure. Did you have access to any mechanical
12 equipment like a Bobcat or something to ---?

13 A. No.

14 Q. It was just all manual ---?

15 A. Manual labor.

16 Q. Were those belts ever gobbled off?

17 A. Oh, yes, especially this tail here that I've
18 marked the Ellis Number six, where the North Number
19 Four belt dumped onto Ellis Number Six. And maybe you
20 want to change that. I think that was Number Five and
21 this was Number Six here. Do you want me to go ahead
22 and just mark this?

23 Q. Yes, if you would, please.

24 A. Okay. I'm changing this Six to a Five and the
25 Seven to a Six.

1 MR. MCGINLEY:

2 And can you identify that?

3 A. That's on the Ellis belts.

4 MR. MCGINLEY:

5 And we have marked this as an exhibit.

6 Exhibit One.

7 ATTORNEY WILSON:

8 That's on Exhibit One.

9 MR. MCGINLEY:

10 Exhibit One. Thank you.

11 A. This is all --- okay. I'm sorry. What was your
12 question again?

13 BY MR. SHERER:

14 Q. I was asking you have you ever noticed any gobbled
15 off?

16 A. Yeah. Right here, where the Number Four belt
17 dumped onto the Ellis Number Five, several times we
18 had to shut the belts off and we got as high as ---
19 when I was on dayshift, we'd call Dino's men off of
20 the section up in the north to come down and help us
21 get that cleaned up. I mean, it would take like four
22 hours to get that shoveled and cleaned.

23 Q. Okay. Can I get you to circle that area with an
24 orange marker, please?

25 A. Okay.

1 WITNESS COMPLIES

2 A. And we have found a few times that it was gobbled
3 out so bad that smoke was just rolling from it.

4 Q. Okay. And would you just print gobbled out over by
5 this, please?

6 WITNESS COMPLIES

7 BY MR. SHERER:

8 Q. Thank you. And Dino, that was Dean ---

9 A. Dean Jones.

10 Q. --- Jones.

11 A. He was one of the victims of the accident.

12 Q. Thank you. And so you say it was backed up so
13 bad, frictional heating was causing smoke to roll out?

14 A. Uh-huh (yes).

15 Q. When it was really bad like that you say you'd
16 shut the belt down and get people, if you needed help,
17 to clean it up. What about just accumulations that
18 weren't quite bad enough to be an immediate hazard,
19 but you just couldn't keep up with them shoveling them
20 yourself?

21 A. I would usually call one of the other fire bosses
22 to come and help me.

23 Q. Okay.

24 A. Or sometimes I could get one of the guys changing
25 rollers, because they normally had a couple of men

1 changing rollers almost every night. I'd usually get
2 one of them to come and help me.

3 Q. Okay.

4 A. But when I started my shift, I went to this
5 tailpiece, this Ellis Number Five tail, usually about
6 the first thing, check it, and I'd go down and check
7 the Ellis Number Six tail ---

8 Q. Okay.

9 A. --- because they were so bad to gob out.

10 Q. Sure. And you mentioned that you rock dusted when
11 you had dust available?

12 A. Yes.

13 Q. Did you ever notice any accumulation of coal dust
14 or particularly float coal dust on these belts?

15 A. Yes, occasionally.

16 Q. Were those accumulations there when you first came
17 on the shift?

18 A. Yes. Yeah.

19 Q. Did you ever notice any that had not been written
20 in the exam books?

21 A. I don't really remember. Probably so, but I
22 really don't remember.

23 Q. Okay. So what would you do when you came on the
24 shift and you found a significant amount of float
25 dust?

1 A. Well, like I say, when I came on the shift, I'd
2 check these tails to make sure the rollers were free
3 and no serious accumulations of coal. And if there
4 was anything there, I'd shovel it up and then I'd rock
5 dust.

6 Q. Sure.

7 MR. MCGINLEY:

8 When you say check these tails, can you
9 identify ---?

10 A. The Number five and the Number Six Ellis tails.

11 MR. MCGINLEY:

12 Thank you.

13 BY MR. SHERER:

14 Q. And when you say tails, I assume you're referring
15 to the tailpiece of the belt where it transfers to the
16 next ---

17 A. Yes.

18 Q. --- belt?

19 A. Yes.

20 Q. Thank you. Was there anything in particular about
21 these belts that caused you problems?

22 A. When they first put this Ellis Number Five belt
23 in, the tail was out of line and we had some problems
24 there for the first week or two. This head of the
25 Number Five belt, the drive --- or the snub roller,

1 not really the drive, where the A frame and snub
2 roller set out here, dumping onto the Number six belt,
3 one of the people from top management there at the
4 mine was in a big hurry to get that head set, and he
5 never let them anchor it right, ---

6 Q. Oh, geez.

7 A. --- and it pulled out one evening and we were
8 there for some time re-anchoring that head and getting
9 it lined up.

10 Q. And when you say top management was in an
11 excessive hurry to get that in, do you recall who that
12 was?

13 A. He was vice-president. He's a young guy. I think
14 he went down to Marfork. I'm not sure.

15 Q. Okay. Does the name Chris Blanchard ring a bell?

16 A. Well, I know Chris, ---

17 Q. Okay.

18 A. --- but it wasn't him.

19 Q. Okay. Thank you.

20 A. He worked under Chris, though, this guy that I'm
21 talking about.

22 Q. Whitehead?

23 A. Whitehead, Jason Whitehead.

24 Q. Okay. Thank you. Was that sort of thing common
25 in this mine; do you know? Was everything --- were

1 things commonly done in a rushed manner?

2 A. No. When they put those beltlines in, they were
3 put in right, the four-foot belts --- I mean, the
4 six-foot belts. I'm sorry.

5 Q. Okay. So that was just an unusual condition?

6 A. Yeah, it was.

7 Q. Okay. Do you recall what caused this time
8 pressure to put that belt in? Was there any
9 particular thing going on?

10 A. Yeah. They wanted to drop the North Number Three,
11 Two and One belt ---

12 Q. Okay.

13 A. --- and drop the south belt.

14 Q. Okay. So this was --- was this soon after they
15 developed the Ellis Portal?

16 A. Fairly soon, yes.

17 Q. Okay. And prior to that you had been dumping on
18 the belts that conveyed the coal out of the southern
19 part of the mine?

20 A. Yeah.

21 Q. Okay.

22 A. Out to the silo.

23 Q. Okay. Was there any way that you record things
24 that needed to be done to the belts, maintenance-wise
25 or otherwise, aside from the exam books, like a

1 whiteboard or a notepad or anything like that?

2 A. We had a whiteboard in the fire boss room and had
3 a listing of all the different belts. And if you
4 found bad rollers, you know, making a noise where the
5 bearing was going out, something like that, you put it
6 on that whiteboard.

7 Q. What about like a lot of accumulations under the
8 belt, would you put that on the whiteboard?

9 A. No. We put that in the books.

10 Q. Okay. Have you ever been told not to put things
11 in the books?

12 A. When I first started there as a contractor, I
13 wasn't really told to not put things in the book, but
14 when you were filling the book out it was frowned on
15 if you put anything other than none observed.

16 Q. Okay. You said that was frowned on when you were
17 a contractor. Do you think that that same frowning on
18 was continued after you went to work for UBB?

19 A. No, I don't think so. And it didn't really matter
20 to me then. I didn't care.

21 Q. How about other fire bosses, do you know if they
22 experienced similar situations?

23 A. I would say they did. I'm not sure.

24 Q. Okay. When you say frowned on, did anybody
25 specifically tell you you shouldn't do that?

1 A. No, they didn't say that --- come right out and
2 say that, but if you wrote up something on the belt,
3 they made sure that you was the one that corrected it.

4 Q. Okay. So that's kind of a punitive approach to
5 recording hazardous conditions?

6 A. Yeah.

7 Q. You mentioned that you worked with some crews of
8 red hats. Was there any particular place in the mine
9 where you worked with those crews?

10 A. No. That's when Rick Hodge was superintendent.
11 And whatever belts needed the closest attention,
12 that's the ones that they sent me to.

13 Q. Okay.

14 A. It was normally up in the Long Branch area. There
15 was a section they called Long branch. That was when
16 the MSHA inspector Sigmon was coming there. And he
17 normally went up into Long Branch, and he busted them
18 big time on those four-foot belts because they were
19 spilling so bad. There was six belts just on that one
20 section.

21 Q. Okay. Do you recall where that was located in the
22 mine?

23 A. Yes. I could show you on the bigger map there.

24 Q. Yes, if you would, please.

25 A. It was all of this area here. I don't see any MMU

1 number on it. All this in here.

2 Q. Okay.

3 A. This was all Long Branch.

4 Q. Okay.

5 MR. SHERER:

6 The witness is describing the entries

7 that go down from the area immediately inby the Ellis

8 Portal, cut over to the west. I don't see any

9 particular description on the map, but the entries

10 that would ---.

11 ATTORNEY WILSON:

12 Erik?

13 MR. SHERER:

14 Yeah.

15 ATTORNEY WILSON:

16 Let me interrupt you because I think this

17 area is shown on Exhibit One.

18 MR. SHERER:

19 Yes, you're absolutely right, Bob.

20 BY MR. SHERER:

21 Q. Could I ask you to mark that on --- that area.

22 A. Okay.

23 Q. Let me give you a different color here.

24 A. All right.

25 Q. Let's try green.

1 A. Okay.

2 Q. Just draw a line down through that area that you
3 call Long Branch.

4 WITNESS COMPLIES

5 A. All of this, this ---.

6 ATTORNEY WILSON:

7 All of this would be the parallel North
8 Mains?

9 A. Yeah. Uh-huh (yes). And then there's a belt came
10 up through here. Now, this area out in here, when
11 they were mining it I was never out in there.

12 MR. SHERER:

13 So the witness has drawn four, five ---
14 five belts through the area from the parallel North
15 Mains ---

16 A. Six belts.

17 MR. SHERER:

18 --- six belts, okay, over to the east and
19 eventually connecting up with the --- near the Ellis
20 Portals.

21 A. Uh-huh (yes).

22 BY MR. SHERER:

23 Q. And that's the area you refer to as Long Branch?

24 A. Yeah.

25 MR. MCGINLEY:

1 Let the record show that he's drawn a
2 green line through the center of each of these
3 entries.

4 BY MR. SHERER:

5 Q. Could I ask you to just write Long Branch
6 somewhere?

7 A. Okay.

8 WITNESS COMPLIES

9 MR. MCGINLEY:

10 And Mr. Adams, you indicated there was an
11 area you did not go to, and it appears on Exhibit One
12 to be the area to the left of the green markings in
13 the area of Long Branch. Is there a name for that?

14 A. They called all of it Long Branch.

15 MR. MCGINLEY:

16 But beyond which you indicated with green
17 lines you did not go; isn't that correct?

18 A. No.

19 MR. MCGINLEY:

20 That's correct?

21 A. That's right.

22 BY MR. SHERER:

23 Q. Okay. And you indicated that Inspector Sigmon
24 encountered numerous violations in this area?

25 A. All these belts were four-foot belts, and they

1 generally spilled a lot.

2 Q. Okay. But most of the violations related to the
3 spillage?

4 A. Yes.

5 Q. So you had a crew of red hats in there shoveling
6 on those belts. Did you also perform the fire boss
7 exams for those belts?

8 A. No. Charlie Semenske fire bossed all these belts.
9 Of course, at times he would have a doctor's
10 appointment or something like that, and I may have to
11 fire boss them.

12 Q. Sure. Do you know if Mr. Semenske recorded those
13 spillages in the belt books?

14 A. I'm almost positive that he did because he would
15 get a little angry over it.

16 Q. Okay. Did he get angry because those spillages
17 weren't corrected?

18 A. Yeah. Charlie pretty much expected them to be
19 cleaned up as soon as he found them. And there was
20 times, if the spillage was really bad like on one of
21 the heads, we would have to go clean it then.

22 Q. Do you recall any instances where those spillages
23 were in place for several days?

24 A. No, not really.

25 Q Okay. What about the rock dust in there while you

1 had those spillages? Were there any areas that needed
2 dusting?

3 A. Yes.

4 Q. Do you recall how long that condition may have
5 existed?

6 A. The best I remember, seems me to me like it would
7 go for maybe a week or so.

8 Q. Was the reason for rock dusting just the spillage
9 of the coal itself or was there any float dust
10 accumulations along the way?

11 A. There was a lot of float dust.

12 Q. A lot of float dust.

13 MR. MCGINLEY:

14 We're talking about the Long Branch?

15 A. Yeah, the Long Branch section.

16 MR. SHERER:

17 The Long Branch area.

18 BY MR. SHERER:

19 Q. When you were fire bossing and maintaining the
20 northern belts, the five-foot belts ---

21 A. Six foot.

22 Q. --- six-feet, thank you, did you ever notice any
23 float dust in those areas?

24 A. Not on the actual belt entry. They normally kept
25 those ---.

1 Q. Pretty well dusted.

2 A. The belt entry and the track entry, they kept
3 those pretty well dusted.

4 Q. Did you ever notice any float dust in any of the
5 adjacent entries?

6 A. Yeah.

7 Q. Neutrals?

8 A. Neutrals looked like they had never been dusted at
9 times.

10 Q. Okay. How long an area would some of those areas
11 that needed dusting be?

12 A. For the entire length of the belts.

13 Q. And we're talking, roughly, two miles of belt in
14 there?

15 A. Roughly. Maybe a little more than that.

16 Q. Okay. Do you recall when those areas may have
17 been dusted? Would they go for like a month and then
18 be dusted or ---?

19 A. Actually, to be truthful about it, like on
20 this --- say the North Number Four belt, well, it's
21 not on this map, but it's like here on this North
22 Number Four belt ---

23 MR. MCGINLEY:

24 On Exhibit Two.

25 A. --- I could go over into these neutral entries to

1 the right of the belt because there was a few places
2 where we'd have a pump or big water holes. They
3 looked like they had never been dusted. And I don't
4 remember them ever dusting them.

5 BY MR. SHERER:

6 Q. Could we have you indicate where those entries
7 were at, roughly, with a pink marker?

8 A. Okay. It would be all three of these entries.

9 WITNESS COMPLIES

10 A. Well, now, part of that is intake, and I wasn't in
11 there that often, but it was like this on the Number
12 Five North belt and on the Number Four North belt.

13 MR. SHERER:

14 Okay. And the witness has marked a wavy
15 pink line over the area that he noticed extensive
16 float dust on Exhibit Two.

17 BY MR. SHERER:

18 Q. Were there any other areas on these maps that were
19 like that?

20 A. Yeah. These neutral entries on the --- the return
21 and the intake entries on the Ellis Number Five
22 belt ---.

23 MR. MCGINLEY:

24 Uh-huh (yes). Pointing to Exhibit Number
25 One.

1 MR. SHERER:

2 Yes.

3 A. And these entries here on the Ellis Number Six
4 belt.

5 BY MR. SHERER:

6 Q. Could I have you mark those with pink also?

7 A. All right. I'm going to mark all three on the
8 Ellis Number Five ---

9 Q. Sure.

10 A. --- and the neutral entries on the Ellis Number
11 Six.

12 Q. Okay. Could I get you to note float dust
13 somewhere?

14 A. I have to write slow because I shake so bad.

15 Q. Sure. No problem. I don't shake too much, but I
16 still have to write slow. And on this other map,
17 please, Exhibit Number --- is that Two?

18 MR. MCGINLEY:

19 That's Two, yes.

20 A. Now, you said to volunteer information?

21 BY MR. SHERER:

22 Q. Sure.

23 A. I was telling you guys that I used to walk
24 airways. I walked the intakes and returns. I never
25 did know of them dusting intakes and returns.

1 Anyplace you'd go in that mine up until the last year
2 or so that I worked there, there was no dusting.
3 You'd go into the return in the north and you could
4 see where it had been dusted. But the intake, I used
5 to walk from the fan to the North Mains and it was
6 black as coal.

7 Q. Oh, geez. And in the north, where you say it was
8 dusty, was that near a producing section?

9 A. It was the return coming back down this side here.

10 Q. Okay.

11 A. Coming down these entries here, I think it is.

12 Q. Okay. And that's the south side of the Number
13 Five North belt on Exhibit Two.

14 MR. MCGINLEY:

15 Do you want to mark that maybe with a
16 different color just so we can distinguish that?

17 MR. SHERER:

18 Okay. Sure. We're running out of
19 colors. These yellow colors don't show up too good,
20 but let me try.

21 BY MR. SHERER:

22 Q. Okay. Could you mark that area with this yellow
23 marker, please?

24 A. Okay. That would be the return on Number Five and
25 Six belt. Both of these entries are return.

1 Q. Do you recall why those entries --- particular
2 entries may have been dusted?

3 A. No, not really.

4 MR. MCGINLEY:

5 Maybe use this pen and it will show up
6 better. And let the record show the witness is
7 marking these areas with a squiggly line in pen on
8 Exhibit Two.

9 A. I was trying to do that straight.

10 MR. MCGINLEY:

11 And it's over on top of the yellow marker
12 that he drew along those belt entries.

13 MR. SHERER:

14 Thank you.

15 BY MR. SHERER:

16 Q. Did you tell anybody in management about this
17 float dust problem?

18 A. Yeah. I talked to the superintendent and mine
19 foreman both. But now this has been several years ---

20 Q. Sure.

21 A. --- since I walked those airways.

22 Q. Sure. Who were the superintendent and mine
23 foreman at that point in time?

24 A. At that time I think the mine foreman was Dempsey
25 Petree and the superintendent was Wendell Wills.

1 Q. Did you ever record the float coal dust in any of
2 the examination books?

3 A. I put it in the weekly exam books.

4 Q. You did put it in the weekly exam books. Did you
5 ever go back and check to see if those conditions had
6 been marked as abated?

7 A. No. They were never abated.

8 Q. Okay. So they were in the books for long periods
9 of times?

10 A. Long periods of time.

11 Q. And would Mr. Wills and Mr. Dempsey --- did they
12 countersign those books?

13 A. I don't know which one of them countersigned them.
14 I'm not sure.

15 Q. Okay. Now, you mentioned that you left Upper Big
16 Branch in 2008?

17 A. Yes.

18 Q. Was there any particular reason that you left this
19 mine?

20 A. Well, as I told you, we were on 12-hour shifts.
21 John Neely was the other fire boss, and Brian Collins.
22 There was three fire bosses to fire boss the whole
23 mine. Now, that's north and south, Ellis, the whole
24 shebang.

25 Q. Sure.

1 A. That's a big area to cover for three fire bosses.

2 Q. Okay.

3 A. They transferred Brian to another mine. I didn't
4 know a thing about it. I went to work and me and John
5 Neely was the only two fire bosses there. I told Andy
6 Colson about it, and he said, well, you have three
7 fire bosses. I said, no. I said, Brian is not here.
8 He said, oh, yeah, they transferred him. I said,
9 well, that only leaves two fire bosses. And he says,
10 well, just have to do the best you can. He said, I
11 can't help you. I took my spotter out of the case and
12 I took my rescuer off and I said, here, buddy, it's
13 yours. I said, now you've only got one fire boss.
14 You better get somebody to help him.

15 Q. So you quit at that point in time?

16 A. Right then.

17 MR. MCGINLEY:

18 Who were you talking to at that point?

19 A. Andy Kolson, the mine fireman.

20 BY MR. SHERER:

21 Q. So you thought that the mine was too big for three
22 fire bosses?

23 A. Oh, Lord, yeah. It busted our guts for three fire
24 bosses to fire boss. Of course, on the dayshift they
25 always had five fire bosses, ---

1 Q. Okay.

2 A. --- because the dayshift is when the inspectors
3 were normally there.

4 Q. Sure. Do you recall that there were times that
5 you couldn't fire boss the entire belt system?

6 A. No. I had walked from the North Number Four Head
7 all the way down North Three, Two and One and out to
8 South belt, all the way out to the silo. I have
9 walked that myself.

10 Q. That's a long way to walk in one shift.

11 A. Better believe it.

12 Q. Do you feel like you did an adequate job while
13 you're doing that?

14 A. I did the best I could.

15 Q. Okay. Do you feel like you didn't have enough
16 time to examine for hazards and correct those hazards
17 if you found them?

18 A. You didn't have time to correct any hazards that
19 you found. And you went down through there so fast
20 that you really couldn't, you know, really make a
21 good, thorough examination. And that happened twice.
22 I mean, the deal where there was two fire bosses, that
23 happened twice. The first time I told them if it ever
24 happened again, that I'd like my spotter and my
25 rescuer on the desk and they could have it. And when

1 it happened the second time, I gave it to them.

2 Q. Okay. You mentioned that Brian Collins left the
3 mine. Do you know why that happened?

4 A. Oh, they needed a boss. Brian had some experience
5 bossing for them. They needed a boss over at Horse
6 Creek, I don't know what they call that mine, and I
7 think they transferred him over there.

8 Q. Okay. Do you know if --- or have you heard
9 talking to any of the miners that remained in the
10 mine? Did that situation continue, the inadequate
11 personnel, manpower, to examine this mine?

12 A. I haven't really talked to anybody since I left
13 down there.

14 Q. Okay.

15 A. Just what few guys stopped over the house, asking
16 me what happened.

17 Q. Okay. Sure. Did you ever run into any
18 concentrations of methane while you were doing your
19 fire boss runs?

20 A. Occasionally you get two or three-tenths,
21 something like that.

22 Q. Okay. Were there any high points along the areas
23 that you examined that you had to use an extended
24 probe or something to get up into?

25 A. No.

1 Q. What about just the conditions of the mine? Were
2 the roof and ribs, floor, in good shape?

3 A. We had trouble with the ribs. We had some trouble
4 with the top, you know, the top sloughing out between
5 the bolts in certain areas of the mine.

6 Q. Okay. What about floor heave, did you ever notice
7 much of that?

8 A. Yes, especially on the south side. When they were
9 working that, the bottom was pushing up really bad.

10 Q. Did you ever notice methane coming out of the
11 floor?

12 A. No.

13 Q. Okay.

14 A. Now, on the --- what would be the tailgate of the
15 longwall, the bottom was hooved real bad way back ---
16 way back in here, from probably about 40 Break all the
17 way up.

18 Q. Okay.

19 A. The bottom was hooved bad in places.

20 Q. Okay.

21 MR. SHERER:

22 And the witness is referring to the
23 Tailgate One North from 40 Break on in.

24 BY MR. SHERER:

25 Q. Again, do you recall if any methane came out of

1 those areas where the floor was hooved?

2 A. No, I don't. I showed you the wrong area here.

3 this was the tailgate area. This is where the floor
4 hooves real bad. In fact, it was hard to get a motor
5 and cars up through there. The cars would come
6 uncoupled from the motor, and you had to really watch
7 what you were doing.

8 Q. Okay. Do you ever recall anybody talking about
9 hearing methane coming out of that floor when it first
10 hooved?

11 A. Well, I've heard a lot of guys talk about it, but
12 they were mostly young men. And you know, ---

13 Q. Sure.

14 A. --- yourself, you can hear air just bubbling up
15 out of the bottom and out of the waterholes sometimes.

16 Q. Sure.

17 A. And you can hold a spotter right over top of it
18 and not get any reading at all.

19 Q. Okay. But there were never any large
20 concentrations of methane coming out that you're aware
21 of?

22 A. Not that I'm aware of.

23 Q. Okay. Was there any water associated with that
24 hooving?

25 A. No, I don't think so. I think it's where all this

1 here in the north, down, you know, Headgate 11, 12,
2 13, 14, all that had been mined out and there was just
3 so much weight on it that it was pushing the bottom up
4 everywhere.

5 Q. Okay. When you were fire bossing up to the time
6 when you quit, were the primary production sections in
7 the mine continuous miners or did they have a
8 longwall?

9 A. Continuous miners.

10 Q. Okay.

11 A. They, I think, had just got ready to get the
12 longwall fired up when I quit.

13 Q. Okay. Do you recall why they took the longwall
14 out of this mine for a period of time?

15 A. I don't think they had any panels drove up.

16 Q. Okay.

17 A. And there was several panels down at Logan's Fork,
18 where they took the longwall to, that they wanted to
19 get out of there. There was two or three panels down
20 there, I think.

21 Q. That had already developed down in that other
22 mine?

23 A. Yeah.

24 Q. Okay. When you were working in the mine, was the
25 ventilation adequate?

1 A. No.

2 Q. Can you elaborate on that, please?

3 A. Well, when I walked the airways, ---

4 Q. Yes.

5 A. --- I'd go in down here at the fan.

6 Q. The UBB fan?

7 A. The UBB fan. I'd go five breaks in there, and I
8 had the areas marked off in three or four entries. I
9 took an air reading in all three entries and added it
10 together. I would usually get about close to 600,000
11 feet of air.

12 Q. Cubic feet per minute.

13 A. Cubic feet. Get way up in the north and you just
14 didn't have anything.

15 Q. Okay. Any place in particular you recall that
16 that was a problem?

17 A. It would had to have been way up in the north. I
18 don't know how the air was on the working sections.
19 I've heard lots and lots of talk about the guys just
20 not having any air.

21 Q. Do you recall any talk about methane problems
22 associated with that lack of air?

23 A. Not right off.

24 Q. Okay. Thank you. When you were working in the
25 mine, did you ever hear somebody saying there was

1 inspectors on the property or we have company or ---

2 A. Yes.

3 Q. --- something like that?

4 A. Yes.

5 Q. Was that a common occurrence?

6 A. Yes.

7 Q. Do you think every time an inspector came on the
8 property they were announced?

9 A. Yes. In fact, the guard at the main gate would
10 get on the radio and say so and so inspector from MSHA
11 or from the State Department is on the property.

12 Q. Okay. And somebody would relay that
13 underground ---

14 A. Yeah.

15 Q. --- on the mine phone?

16 A. They would normally say we have company.

17 Q. Okay. Were there any other phrases they would use
18 like it's a cloudy day outside or something like that?

19 A. No, not that I --- not that I recall.

20 Q. Okay. Do you know if they made changes to the
21 ventilation while miners were underground?

22 A. Yes.

23 Q. Was that common?

24 A. No, but it did happen a few times.

25 Q. Okay. Did you ever hear of people running the

1 miner without the ventilation curtains in place?

2 A. Yes.

3 Q. Again, was that common?

4 A. It used to be. Like I say, the last few years I
5 was there, I didn't go on the sections any.

6 Q. Okay.

7 A. But years ago, when I was a contractor and I would
8 have to fire boss on the weekends, it wasn't nothing
9 unusual to go up on a section and no curtains would be
10 up at all.

11 Q. Okay. Thank you. Did you ever hear of methane
12 monitors being bridged out or putting Walmart bags
13 over the sensors or something like that?

14 A. No. I've heard of it, but I don't know of it.

15 Q. Do you think miners felt confident reporting
16 safety problems at this mine? Do you think they ever
17 suffered from retaliation or ---?

18 A. No, I don't think so.

19 Q. Did you ever report any problems?

20 A. Well, again, when I was walking the airways, I
21 walked the north return. And I don't know if you all
22 are familiar with the section of the mine or the area
23 of the mine, but around, say, 40 Break up to about 57
24 Break you only had this one walkway in the return and
25 the top was really bad. There was one area where ---

1 it was at 49 Break, I counted 36 roof bolts hanging
2 down. They were hanging down 18 to 24 inches. So you
3 know there's no support there whatsoever. It went
4 like that for ever and ever. And this one smart alec
5 foreman that was down there told me that I should
6 carry six-by-eight headers over there and support that
7 top myself, and it was about 14 to 16 foot high.

8 Q. Oh, geez.

9 A. But that's what I was told to do.

10 Q. Sure. Do you recall who that foreman was?

11 A. Benny Pressley. He's retired now.

12 Q. Sure. Thank you. When you first heard of the
13 explosion at this mine, what did you think may have
14 been the cause of that explosion?

15 A. Excessive gas.

16 Q. Any particular reason you thought that?

17 A. No. I knew that they had had problems a few times
18 with the mine gassing off. You all probably have it
19 in your records where we gassed off before and had to
20 shut the mine down for two or three days. And it's my
21 feeling that the top of the mountain was going to come
22 off just any time.

23 Q. And when you say the top of the mountain was going
24 to come off ---?

25 A. They were going to have a heck of an explosion.

1 Q. Okay.

2 A. I told all the fire bosses that. The men working
3 for me, I told them that. I told management what I
4 thought. Of course, they didn't like that, but ---
5 and they didn't agree with me, but I told them that
6 the top of the mountain is going to come off some day.

7 Q. And this was about the time that you quit in 2008?

8 A. Yeah.

9 Q. Have you talked to any of the miners since then?

10 MR. MCGINLEY:

11 I'm sorry. Was there an answer to that?

12 A. I said yes.

13 MR. MCGINLEY:

14 Thank you.

15 BY MR. SHERER:

16 Q. Have you spoken with any of the miners since that
17 period of time and did they have any concern?

18 A. I don't really recall talking with anyone in
19 particular. There's been a few guys that stopped by
20 my house, you know, to ask me what happened. I just
21 told them I didn't know.

22 Q. Sure. Did you hear anybody talking, like at the
23 barber shop or something, of problems in the mine?

24 A. No.

25 Q. Thank you, Mr. Adams. That's all the questions

1 I've got.

2 EXAMINATION

3 BY MR. O'BRIEN:

4 Q. I appreciate if you'll bear with me because I may
5 repeat some things, ---

6 A. Okay.

7 Q. --- bounce around here. For my benefit, when did
8 you say you first started at UBB? What year?

9 A. I started there about '98, '97, '98.

10 Q. '97, '98, okay. And you retired --- left there in
11 August of '08?

12 A. '09.

13 Q. '09. Have you worked anywhere since?

14 A. At the house. That's about all.

15 Q. Okay. I'd like to refer to the two exhibit maps.
16 Now, I noticed that you marked on both exhibits blue
17 lines that --- you were showing belts there,
18 beltlines; right?

19 A. Uh-huh (yes).

20 Q. As of when?

21 A. These in the blue lines were beltlines that I had
22 to walk sometime. I walked the North Seven, Six, Five
23 and Four and Ellis Five and Six. I didn't walk this
24 Number Seven belt that often, but pretty often,
25 especially on the midnight shift, where we had very

1 few fire bosses, I would have to walk the Number Six
2 North, Five North, Four North and Ellis.

3 Q. And the way you have it marked is the way they
4 were when you left in '09, ---

5 A. Yes.

6 Q. --- August of '09?

7 A. Yes.

8 Q. That's why they were in August of ---?

9 A. Yes.

10 Q. Okay. You had mentioned some areas in the neutral
11 and in other places where it was really, really dusty.
12 What about the track entries?

13 A. Track entry and belt entry was normally pretty
14 well dusted.

15 Q. Track and belt, pretty well dusted?

16 A. Yeah.

17 Q. All right. You said you escorted red caps or
18 supervised red caps. How many red caps did you have
19 at one time?

20 A. Five.

21 Q. Five?

22 A. (Indicates yes).

23 Q. You were mentioning that there was times that coal
24 would build up on the belt and actually smoke. Was
25 there any fires on the belts?

1 A. Not that I know of, but the area that I mentioned
2 was the Ellis Tail, where the North Number Four belt
3 dumped on it.

4 Q. Okay.

5 A. It would gob out quite a bit.

6 Q. Was there ever any glowing embers or just ---
7 where did the smoke come from, I guess?

8 A. No. It was just smoke from --- you know, the coal
9 was wet, and naturally those rollers are hot and
10 turning into coal, it's going to create smoke. But as
11 far as embers or anything burning, I never did see
12 anything.

13 Q. How were the belts running? Were they running out
14 of alignment any? Would they run up to one side or
15 the other?

16 A. The North six-foot belts always ran true. There
17 was times naturally if a chain broke and somebody
18 replaced it and didn't level the belt that the belt
19 would run off on the Ellis belts.

20 Q. So the splicing was pretty true, so they ran
21 pretty straight because of the splicing?

22 A. Yeah.

23 Q. No crooked splices, in other words?

24 A. Well, there was a few occasionally, but they
25 didn't allow that splice to stay in there. They would

1 take it out within a couple days.

2 Q. What about sprays at transfer or junction points,
3 did they have water sprays for the dust or ---?

4 A. No. I used to ask them about putting butterfly
5 valves on the heads so when the coal come across the
6 belt, it would hit a paddle and start water spraying
7 onto the belt. But they wouldn't do it.

8 Q. Did you have any belt strings along the rollers?

9 A. Yeah.

10 Q. Lots?

11 A. Yeah. There was times that string would be so bad
12 in the rollers that it would have the roller fouled.

13 Q. Did you ever see any methane layering, where you
14 found methane like in the middle of the entry, not up
15 high or not low, somewhere in between perhaps?

16 A. No. I always found it high.

17 Q. Always found it high. Have you ever heard of any
18 ignitions at UBB while you were there or any time, for
19 that matter?

20 A. I've heard guys talk, but you know, maybe about
21 seeing a ball of fire around the cutter head, miner
22 head, but I never did see anything like that.

23 Q. You never saw anything like that?

24 A. No. Of course, now I never did work on the
25 sections either.

1 Q. What kind of methane detector did you carry?

2 A. I believe it's MSA. I'm not sure. It's a four
3 gas --- had the hydrogen, carbon monoxide, methane and
4 oxygen deficiency.

5 Q. Did it ever alarm, go into alarm for any reason?

6 A. I could get in the --- a couple times I had to
7 walk the return off the north mains from 78 Break all
8 the way up to the face, and it would alarm. I'd get
9 whatever the alarm is set on, five-tenths, something
10 like that.

11 Q. So there was a methane alarm on the detector?

12 A. Yeah.

13 Q. You think they were set at five-tenths?

14 A. I think that's what they are. I'm not sure. I
15 don't remember what they were.

16 Q. You think it was an MSA detector?

17 A. I believe that's what it was.

18 Q. It was a black one?

19 A. Yeah, only about this high.

20 Q. Right.

21 MR. O'BRIEN:

22 That's all I have right now.

23 EXAMINATION

24 BY MR. MCGINLEY:

25 Q. Mr. Adams, are you familiar with the terms S1 and

1 P2?

2 A. Yes.

3 Q. What do those mean to you?

4 A. To me, S1 and P2 adds up to BS.

5 Q. Just slogans?

6 A. Yeah.

7 Q. Was there ever --- do you know anything about an
8 S1 manual?

9 A. Yeah. I think I have one or I think they gave me
10 one when I started down there.

11 Q. You think you still have that?

12 A. I don't know. My wife and I have been cleaning
13 house for the last two or three weeks, and we've took
14 all kinds of stuff to the dump.

15 Q. If you had that, would you be willing to share
16 that with us?

17 A. Sure.

18 Q. We'd appreciate that, if you would let us know. I
19 think you have the numbers of the Federal and State
20 folks. What about P2?

21 A. I didn't know much about that.

22 Q. Was there any -- well, strike that.

23 So you think S1 and P2 were more slogans and
24 public relations ---

25 A. Yes.

1 Q. --- and didn't have really any meaning to the
2 people who worked in the mine?

3 A. Yes.

4 Q. You said when you had the red hats with you, you
5 were fire bossing and the belts, some of these places
6 on the belts would gob out real bad, and you'd have
7 trouble keeping up really getting them cleaned up; ---

8 A. Uh-huh (yes).

9 Q. --- is that right?

10 A. Yes.

11 Q. Why was that?

12 A. Well, they just gob off so bad, you know. The
13 North Number Four Tail, they used to send me up there
14 first thing in the morning, and sometimes I'd have to
15 go back in the afternoon.

16 Q. Really? Well, ---.

17 A. Now, this was when they were running the belts out
18 the south. You know, it's been a few years.

19 Q. I understand. So was there something that the
20 management could have done to keep ---?

21 A. Well, there was so much water.

22 Q. Okay. Would additional crew have --- people
23 working with you enabled you to keep it cleaned up?

24 A. Maybe another crew on another shift.

25 Q. Okay. How about water? Did you encounter any

1 water either when you were fire bossing or the times
2 when you were checking the air?

3 A. Yeah, we had water problems.

4 Q. Were they severe?

5 A. At times.

6 Q. How about closer to the time that you left, in
7 2008, 2009, do you recall severe water problems?

8 A. We had a lot of water problems out in the Long
9 Branch area, water over the track and so on.

10 Q. Did you hear about water being over the --- oh,
11 you had left before the longwall was set up; right?

12 A. Yeah.

13 Q. Did you ever hear of the miners going into water
14 up to their chin?

15 A. No, but I've known of them going up --- in water
16 up to their waist or up to their chest maybe.

17 Q. You were in charge of a group of red hats and you
18 said you tried to show them the right way to do
19 things; is that right?

20 A. Yes.

21 Q. Would you send a red hat into chin-deep water ---

22 A. No.

23 Q. --- on the first day ---

24 A. No.

25 Q. --- he worked in the mine?

1 A. No.

2 Q. What do you think about if that happened?

3 A. I think anybody that would do something like that
4 is --- they're scum, because I worked for a guy --- I
5 had --- when I had the red hats working with me, I
6 laid this track up the Ellis belt. And near the Ellis
7 Number Five Tail there was a big waterhole. It was
8 over your knees. And I told him about it and told him
9 that he needed to get it pumped. He said, we don't
10 have a pump. You'll just have to lay track through
11 it. I said, that's not happening. And I went and
12 talked to Jamie Ferguson. Jamie was vice-president
13 then. And I talked to Bill Harless, and Bill was the
14 mine foreman. And they told me not to take those guys
15 into that water, and I didn't.

16 Q. Do you have a rough time frame for when that might
17 have occurred?

18 A. Pardon?

19 Q. A rough time frame for when that might have
20 occurred?

21 A. I'd say two years ago. But now the fellow that
22 told me to go into the water, take those red hats into
23 the water, he was a go-getter. I mean, he worked hard
24 and worked hard all day long. And he told me to take
25 those guys into the water, we have to lay the track in

1 the water. You guys have worked in the mines. You
2 know you can't lay track in deep water ---.

3 MR. SHERER:

4 That's just what I was going to ---.

5 A. It's nearly impossible.

6 BY MR. MCGINLEY:

7 Q. Even if he was a go-getter and worked hard, why
8 would he want people to go in and try to lay track
9 when it's nearly impossible?

10 A. He would have done it himself, but --- and he
11 expected everybody else to work just like he did.

12 Q. But it wouldn't have --- it would have been
13 problematic; right?

14 A. Yeah.

15 Q. Probably have to redo it if they ever pumped it
16 out?

17 A. Probably would. In fact, he was such a worker, he
18 didn't even take time for dinner.

19 ATTORNEY WILSON:

20 Who is this that you're talking about?

21 A. Gary May.

22 BY MR. MCGINLEY:

23 Q. Do you remember what his position was?

24 A. At the time I think he was assistant mine foreman.

25 Q. He's got another position now. Are you aware of

1 that?

2 A. I believe he's superintendent now. But now Gary
3 is a --- I'd say he's a good man to work for, but he's
4 just --- he expects you to bust yourself.

5 Q. You heard lots of talk from men who worked in the
6 mine that they were experiencing inadequate air; is
7 that fair?

8 A. All the time.

9 Q. And this would be over what period of time, just
10 ballpark? Up until the present or the whole time you
11 worked there, after you worked there?

12 A. Just about the whole time they worked there.

13 Q. Okay.

14 A. They always had plenty of air on the longwall, but
15 not on the miner sections.

16 Q. Would you expect that the pre-shift reports of air
17 readings would reflect the inadequate air?

18 A. No.

19 Q. Why not?

20 A. They just wouldn't.

21 Q. Because of what you had suggested earlier, that
22 management may have made it clear that some things,
23 that they shouldn't be writing down?

24 A. Well, the section foreman was normally the one to
25 pre-shift. And he's not going to call out and say he

1 doesn't have any air.

2 Q. Why not?

3 A. They'll tell him to stay in there and get air.

4 Q. Fix it.

5 A. Find it.

6 Q. But there must have been some problem if this was
7 an ongoing month after month problem of inadequate
8 air. Should that be reflected in the pre-shift
9 reports at some point?

10 A. Seems like it would.

11 Q. You'd think that the bosses that were filling out
12 those reports in the mine were telling management
13 outside, up to the top, Chris Blanchard, for example,
14 that they didn't have enough air?

15 A. Yeah, they were telling Chris that. I heard --- I
16 heard one time that Dino called --- well, Dino was
17 shut down.

18 Q. You're talking about Dean Jones?

19 A. Dean Jones. He was shut down all morning long
20 because of no ventilation. He was trying to find the
21 air and get it to the face, and he had his men all
22 shut down, the equipment idle, trying to get
23 ventilation to the face. And Chris Blanchard called
24 up there at 11 o'clock and told him to either start
25 running coal or get his dinner bucket and come off the

1 hill. Now, that's just the story I heard.

2 Q. You knew Dean Jones?

3 A. Yeah.

4 Q. Do you think he was a credible person?

5 A. Dean?

6 Q. Yes.

7 A. Yeah.

8 Q. So if he said we don't have enough air, you could
9 take it to the bank?

10 A. You could count on it.

11 Q. You could count on it?

12 A. Yeah. And I knew all the guys that worked on the
13 section, they were always talking about no air.

14 Q. Do you think they were credible?

15 A. Yes.

16 Q. Were they concerned about the fact they had no
17 air?

18 A. Seemed to be, yes.

19 Q. Do you think they --- did they talk about or make
20 any connection between the lack of air and, you know,
21 the possibility of an explosion?

22 A. Well, I don't know that.

23 Q. That's one of the reasons there are requirements
24 for certain velocity of the air to dilute the float
25 dust or methane; is that right?

1 A. Uh-huh (yes). Yes.

2 Q. Would you say most miners understand that ---

3 A. Most do, yes.

4 Q. --- there's a connection between inadequate air
5 and ---

6 A. Most do.

7 Q. --- explosive potential? Yes?

8 A. Yes.

9 Q. So this problem on the continuous miner sections,
10 this was ongoing, continuous for months or even years?

11 A. Even years. I mean, you might go for a month or
12 two and have good air on the section. You might go
13 for a month or two and not have any air. But
14 practically all the time that Dino was driving this
15 headgate panel, the men complained of no air.

16 Q. Now, when you say this headgate panel you're
17 talking about headgate ---?

18 A. Right here. It would have been the --- it's now
19 the tailgate for the longwall, but Dino drove this,
20 his crew, and they complained practically all the time
21 of not having enough air.

22 Q. The tailgate for the longwall that was running at
23 the time of the explosion, ---

24 A. Right.

25 Q. --- that's what you're referring to? And did you

1 actually hear any of them complain about no air?

2 A. Sure, because like I say, I knew all those guys.
3 I worked with some of them at other mines.

4 Q. I understand. So you really had a feeling when
5 you heard about the explosion what you thought was the
6 cause. You said gas, but ---.

7 A. I was in Tennessee when the explosion happened. I
8 happened to see it on CNN or something or other. And
9 I was there with my wife and in-laws. And my
10 father-in-law said, well, you said all the time that
11 the top of the mountain was going to come off.

12 Q. Was there a connection between your prediction of
13 the top of the mountain coming off and an explosion?
14 Was that related to the lack of air as well as the
15 history you indicated of methane bursts?

16 A. Yes.

17 Q. That's not a good mix, is it, ---

18 A. No.

19 Q. --- history of methane bursts and lack of
20 ventilation?

21 A. It's not a good mix at all.

22 Q. So is that what you thought happened?

23 A. It's what I still think happened. Of course, you
24 know, I haven't been in the mines ---

25 Q. Sure.

1 A. --- or anything like that.

2 Q. That's why we're here, to try to piece everything
3 together. And everybody that talks to us truthfully
4 is --- that takes us a distance toward finding out
5 what the truth is and determining responsibility.

6 A. Uh-huh (yes).

7 Q. So we do appreciate very much your candid
8 responses.

9 A. All right.

10 Q. So let's assume, for the sake of argument, that
11 Dean Jones --- the story about Dean Jones calling out,
12 saying we don't have enough air, I have to shut this
13 section down. It's been down for a couple of hours,
14 and his job is threatened. Would you expect that he
15 would have written down in the fire boss --- or in the
16 pre-shift reports or would we find that occasion
17 identified in the reports?

18 A. I think Dino would.

19 Q. Is there some possibility he might not have, do
20 you think, given what you've said about ---?

21 A. Well, that's possible, too.

22 Q. It wouldn't be for a lack of concern for his men?

23 A. No. No. Dino was --- I think he was trying to be
24 a good, safe foreman.

25 Q. And did you ever talk to him specifically about

1 the issue of ventilation or safety?

2 A. Not that I recall.

3 Q. He had a reputation as one who cared about his
4 men, and rather than be a slogan, he wanted to put
5 safety first?

6 A. Dino was a guy that cared about his men. And from
7 what I knew of Dino, he always tried to do everything
8 right.

9 Q. Do you know of anyone who was working with him up
10 in the area where the explosion occurred the preceding
11 year or so that wasn't there at the time of the
12 explosion, that was fortunate enough not to be working
13 that day, that would have specific experience with the
14 problems we've been discussing here?

15 A. No. I think Dino had his crew of men for quite
16 some time.

17 Q. I'm just thinking if somebody had a day off or
18 they had been shifted somewhere for --- you haven't
19 heard anything about that?

20 A. No, not that I can think of.

21 Q. You've said there were a couple of times when air
22 changes were made when there was production going on
23 in the mine. You recalled a couple of times like
24 that.

25 A. I've heard of changes being made.

1 Q. And you've heard it because people knew that
2 wasn't the right thing to do?

3 A. They knew that it wasn't supposed to be done at
4 all.

5 Q. Why would management do that?

6 A. I don't know.

7 Q. Do you have any sense of that?

8 A. I did hear --- and like I say, I just heard it,
9 I don't know, I don't even remember who I heard it
10 from, that they had air problems on Dino's section the
11 Friday preceding the explosion, and Chris Blanchard
12 went in and made some sort of an air change.

13 Q. Do you know --- go ahead.

14 A. And I believe it was Dino's section. But I know
15 they had the --- or I heard they had the longwall down
16 that day, that Friday, and had sent the men home.

17 Q. You know it would be extraordinarily helpful if at
18 some point after this interview is over if you can
19 think of where you might have heard that or now, for
20 that matter, because that's a matter of concern.

21 A. Yeah.

22 Q. Obviously, we'd like to look into it. It doesn't
23 necessarily mean it's true. But if it is, we'd
24 certainly want to inquire about it.

25 A. Uh-huh (yes).

1 Q. So if you can help us out there or you know
2 somebody that can, that would be --- that would get us
3 down the road to where we'd like to go. If it didn't
4 happen, then we'll cross that off the list.

5 A. Yeah. Folks, I am cold. Can I go outside for a
6 little while?

7 Q. Sure.

8 ATTORNEY WILSON:

9 Let's go off the record.

10 SHORT BREAK TAKEN

11 ATTORNEY WILSON:

12 Back on the record.

13 BY MR. MCGINLEY:

14 Q. You were working at UBB in 2003 and 2004; is that
15 correct?

16 A. Yes.

17 Q. What shift --- were you working swing shift then
18 or ---?

19 A. I'm not sure if I was working swing shift then or
20 not.

21 Q. Okay.

22 A. One time before, when Bill Potter was president,
23 he had us working swing shifts.

24 Q. Well, that's what I'm talking about, the time when
25 Bill Potter was president. Did you know one time in

1 2003, in the summer of 2003 and then again in February
2 of 2004, there were methane outbursts at the longwall,
3 at least one of those occasions the mine shut down for
4 a couple of days? Did anybody talk about that or were
5 you there?

6 A. I was probably there. There was one time along
7 that period of time that the mine was down for a
8 couple days, and I went over to --- across Blue
9 Pennant Mountain, over to --- I think they call it
10 Jarrells Branch, at that fan, ---

11 Q. Uh-huh (yes).

12 A. --- and I had to stay there and take a gas reading
13 and CO reading every hour.

14 Q. I see. That was while men had been pulled out of
15 the mine?

16 A. Yes.

17 Q. So they were really trying to determine whether it
18 would be safe to go back in?

19 A. Yes.

20 Q. Did at any safety meeting or otherwise that the
21 bosses or management explain what had happened with
22 regard to the methane outburst at the longwall and
23 talk about signs to be aware of so that you know how
24 to get out if there was another occurrence?

25 A. Not that I remember.

1 Q. Did they talk about anything with regard to those
2 outbursts?

3 A. Well, you know, the guys working just heard
4 through the grapevine what had happened, and we pretty
5 well knew, I guess, because so many inspectors were
6 there. But as far as having a safety meeting on it,
7 not that I remember.

8 Q. And you weren't sure exactly what had happened or
9 were it happened?

10 A. Not exactly.

11 Q. You said that there was at least one occasion, I
12 think you were working on the other side of UBB, you
13 said when MSHA Inspector Sigmon busted them big time
14 on the six-inch belts?

15 A. On the four-foot belts.

16 Q. Oh.

17 A. They were section belts.

18 Q. I'm sorry. I wrote it down wrong. Okay.

19 A. Just about every time that Sigmon came there he
20 made it a point to check those four-foot belts on the
21 Long Branch section.

22 Q. You used the term busted them. I'm wondering why
23 you used that term.

24 A. Well, he wrote them up. And he --- Sigmon was ---
25 seemed to me like he was really dedicated to his job,

1 and if he found something, he wanted it fixed.

2 Q. Usually, you know, you hear the term busted in
3 terms of violations of law. Is that what you meant?

4 A. Yes.

5 Q. So why would management --- I mean, was this idea
6 that you could continually violate the law and you
7 would risk getting busted, was that a mentality you
8 felt was present in the mine, at least in some ---
9 with regard to some aspects of mine safety?

10 A. Yeah, I thought it was.

11 Q. That's inconsistent with S1?

12 A. Yes.

13 Q. Is it consistent with production? I mean, there's
14 some correlation between production ---.

15 A. Well, everybody had the idea that production came
16 before safety.

17 Q. Notwithstanding the slogans S1 and S2?

18 A. Yeah. Right.

19 Q. And did you observe situations where people would
20 be reprimanded by bosses or management because they
21 hadn't met production quotas?

22 A. No. Normally when a boss had to meet with, say,
23 the superintendent or the mine foreman, the doors were
24 closed.

25 Q. What about when --- after those doors were opened

1 and the boss would come back in the mine, would he be
2 telling miners, you know, I've been told we don't have
3 enough production, we've got to ramp it up, ---

4 A. Well, ---

5 Q. --- something like that?

6 A. --- I don't know that because ---.

7 Q. You didn't work on production?

8 A. Like I say, I didn't work in production.

9 Q. Did you ever hear that?

10 A. I probably have, but I can't say.

11 Q. That's fine. There in Long Branch --- was it Long
12 Branch where you said the neutral entries at times
13 looked like they had never been rock dusted?

14 A. Yes.

15 Q. There were two or more miles ---

16 A. Yes.

17 Q. --- that looked like had never been rock dusted?

18 A. Yes.

19 Q. How does that happen? What's ---?

20 A. I don't know. I never could understand that
21 myself, why the inspectors, State and Federal both,
22 were in those airways and they didn't write up the
23 dust situation, the rock dust situation.

24 Q. Is that because --- especially because it went on
25 and on and on for a long period of time?

1 A. Yes.

2 MR. MCGINLEY:

3 I don't have any further questions.

4 ATTORNEY WILSON:

5 Erik?

6 RE-EXAMINATION

7 BY MR. SHERER:

8 Q. I've got a few follow-up questions. You mentioned
9 that you were aware of the gas outbursts on the
10 longwall at UBB in 2003 and 2004.

11 A. Along that period of time.

12 Q. Are you aware of any other gas outbursts at UBB?

13 A. No, not really --- yeah. I think it's when I was
14 still a contractor. Larry Brown was the section
15 foreman on the longwall. And we were working midnight
16 shift, and Larry found a lot of gas on the face of the
17 longwall. And I think we were using those Explorer
18 spotters then. And he burned his spotter up.

19 Q. Okay.

20 A. I think they would go to 15 percent, and he burned
21 his spotter up. I was --- the best I remember, I was
22 about 1,500 to 1,900 feet from the face. I was on the
23 beltline, and I had heard on the phone what was going
24 on, and I found nine-tenths that far from the face on
25 the beltline.

1 Q. Do you recall which panel that may have been in?

2 A. It was along about --- I'd say about Headgate 15,
3 somewhere along there, 14 or 15.

4 Q. Do you recall roughly what time period that was?

5 A. The time of the night or ---?

6 Q. No, time of the year and ---.

7 A. Oh.

8 Q. Say ---.

9 A. I know I was a contractor, and I worked as a
10 contractor for about three years, I guess.

11 Q. Starting in ---?

12 A. '97 and '98.

13 Q. So it was somewhere in the range of '97 up to
14 about 2000?

15 A. Yeah.

16 Q. Do you recall if it was soon after you started as
17 a contractor or after you had been there a few years?

18 A. I had been there for probably a couple years
19 because when I started there, the longwall was on
20 Headgate Seven, over on the south side.

21 Q. So you think it was around Panel 15?

22 A. Somewhere along there.

23 Q. Okay.

24 A. Fourteen (14) maybe.

25 Q. And roughly '98, '99 would be the time frame?

1 A. Probably.

2 Q. Okay. Thank you. You also mentioned that you
3 worked at an adjoining mine, the Harris No. 1 Mine?

4 A. Yes.

5 Q. Do you know if that mine suffered from gas
6 outbursts?

7 A. Not while I was there. Of course, I was only
8 there for about three months.

9 Q. Oh, okay.

10 A. And when they put me on the longwall, that scared
11 me out.

12 Q. Okay. One thing you were talking about was how
13 the miner section never had enough air or they had ---
14 they suffered from low air occasionally. Do you know
15 if they switched air around in those sections when
16 inspectors were on the property?

17 A. I've heard that they did. I've heard that the
18 mine foreman would run to a regulator when he knew the
19 inspector was going on the section.

20 Q. So ---.

21 A. I don't know that to be true.

22 Q. Do you think it was a rob Peter to pay Paul
23 situation?

24 A. Yeah.

25 Q. So they would increase air on one section and

1 decrease air on another section?

2 A. Uh-huh (yes). Yes.

3 MR. SHERER:

4 Thank you. That's all the questions I've
5 got.

6 ATTORNEY WILSON:

7 Do you recall who you heard that from?

8 A. No, I don't. It's --- you know, it's been some
9 time.

10 MR. O'BRIEN:

11 I have a few.

12 RE-EXAMINATION

13 BY MR. O'BRIEN:

14 Q. You were telling us about someone had told you
15 about Dean Jones talking about didn't have enough air
16 on the section. About when was that; do you remember?

17 A. It was before I retired is about all I can tell
18 you.

19 Q. So it happened before you retired?

20 A. Yes.

21 Q. Do you recall who told you --- who it was that
22 told you that?

23 A. No. I wouldn't have the least idea.

24 Q. What was the last time that you personally talked
25 to Dean Jones?

1 A. Probably a week or two before I retired, you know,
2 just idle chitchat. Dino was --- you know, he was a
3 friendly guy that everybody got along with and ---.

4 Q. Headgate 22, was it operating when you left in
5 2009?

6 A. Twenty-two (22), now is that where they had the
7 explosion? That's this new ---?

8 MR. SHERER:

9 It's the new headgate.

10 MR. O'BRIEN:

11 New headgate.

12 A. No, I don't think they --- yeah, I think --- I
13 think Dino had just started driving 22 or they were
14 setting up for it.

15 BY MR. O'BRIEN:

16 Q. So you think it was operating?

17 A. I think they may have started production. I'm not
18 sure.

19 Q. Okay.

20 A. I retired August 17th, on a Tuesday.

21 Q. Did you ever do a pre-shift examination on a
22 continuous miner section?

23 A. Yes, I did.

24 Q. Did you ever find anything abnormal, out of place?

25 A. Lack of ventilation.

1 Q. When you say lack of ventilation, was --- can you
2 be more specific?

3 A. Wasn't any curtains on the section.

4 Q. Oh. What about the amount of air? Was it --- did
5 it comply with the roof and dust control plan?

6 A. Not in the last open break. You know, you
7 couldn't --- you couldn't get a decent reading in the
8 last open break.

9 Q. Do you recall possibly what that might have been,
10 roughly?

11 A. Sometimes your anemometer would barely turn.
12 Sometimes you would get 3,000 or 4,000 feet.

13 Q. Do you recall which section or sections that may
14 have been on?

15 A. No. That's been sometime ago.

16 Q. Okay.

17 MR. O'BRIEN:

18 Thank you.

19 ATTORNEY WILSON:

20 Any follow-up?

21 RE-EXAMINATION

22 BY MR. MCGINLEY:

23 Q. With regard to lack of ventilation, you said in
24 response to some of my questions that you were hearing
25 continuously that the men --- I don't know whether it

1 was just Dino's crew or others were --- complained in
2 the last couple of years about lack of ventilation.

3 Is that ---?

4 A. It was mostly Dino's crew.

5 Q. Okay.

6 A. While they still had a crew in the Long Branch
7 area, I don't recall ever hearing those men talk about
8 not having ventilation.

9 Q. Okay. So when they moved over and started up the
10 longwall again at UBB, that's the time period you're
11 talking about or before that, as they're setting up
12 for the longwall?

13 A. Well, before the longwall moved back over there is
14 when they were still working on the Long Branch area.

15 Q. I see.

16 A. They had a crew in there that they had brought
17 from another mine and then they had Dino's crew
18 driving what is the tailgate for the longwall now.

19 Q. The current tailgate --- or the tailgate for the
20 current longwall. So the reports you were hearing
21 from the people who worked on Dino's crew was --- you
22 were hearing that while you were still working at ---

23 A. Yes.

24 Q. --- UBB? And for how --- and I'm just --- I'm not
25 trying to pin you down at all, but can you give us a

1 rough estimate about, you know, how long before you
2 left you had been hearing these concerns of people on
3 Dino's crew, lack of adequate air?

4 A. It seemed like Boone Payne, one of the victims,
5 seems like I had talked to him just a week or so
6 before, maybe two weeks before I retired, because I
7 knew Boone pretty well. We were good friends. And
8 Boone was a fellow that always said exactly what he
9 thought. It didn't matter who was around. He would
10 tell Blanchard what he thought or he would tell
11 anybody else what he thought.

12 Q. And did he indicate to you that he had told
13 Blanchard and other bosses ---?

14 A. No, he didn't say anything like that. He just ---
15 you know, he would talk about how they just didn't
16 have any air up there.

17 Q. Was he concerned about it?

18 A. Well, you would think that he would be, but ---

19 Q. Did he ---?

20 A. --- still he went ahead and worked.

21 Q. You understand why they did that, or do you?

22 A. No, I don't. I think I would have been fired
23 because I've got a bad habit of saying what I think,
24 too.

25 Q. So there's absolutely no doubt in your mind, at

1 least in the period when you were there, Dino's crew,
2 there wasn't adequate air, you were hearing that
3 constantly; is that right?

4 A. A lot of the times.

5 Q. Did you remain friends with any of the ---?

6 A. I was friends with just about all of the guys that
7 were killed, except the three young boys that had just
8 started.

9 Q. Did you maintain any kind of communications with
10 any of those folks after you left?

11 A. No. In fact, I never saw any of them after I
12 left.

13 Q. Did you hear any --- from anyone else that worked
14 in the mine after you left that they continued to have
15 ventilation problems?

16 A. No. I talked to one guy that still works down
17 there while I was in the hospital. I broke my leg and
18 hip a month after I retired, and this one fellow that
19 worked on --- as a fire boss on a different shift, he
20 stopped to see me and --- but he never mentioned
21 anything about the mine.

22 Q. So your direct knowledge and hearing people on ---
23 the men on Dino's crew talking about inadequate air
24 went up to and ended at the time you left UBB in
25 August of 2009?

1 A. Yes.

2 Q. Thank you.

3 ATTORNEY WILSON:

4 All right. Mr. Adams, on behalf of MSHA

5 and the Office of Miners' health, Safety and Training,

6 I want to thank you for appearing and answering

7 questions today. Your cooperation is very important

8 to the investigation as we work to determine the cause

9 of the accident. Again, we request that you not

10 discuss your testimony with anyone because we will be

11 interviewing additional people. If after questioning

12 other witnesses we have any follow-up questions, we

13 may contact you.

14 A. Sure.

15 ATTORNEY WILSON:

16 And in the meantime, if you do think of

17 any additional information or if you find a copy of

18 that S1 manual, please contact either MSHA or the

19 State at the contact information that was provided.

20 Before we go off the record, I do want to

21 provide you with an opportunity, if there's anything

22 else you would like to add at this time or if you

23 would just like to make a statement. If there's

24 anything that you want to say, you can do that now.

25 A. No, there's nothing I can think of.

1 ATTORNEY WILSON:

2 Okay. Then again, thank you for your
3 time and your cooperation in this matter.

4 A. You're welcome.

5 ATTORNEY WILSON:

6 We'll go off the record.

7

8 * * * * *

9 CONFIDENTIAL STATEMENT UNDER OATH

10 CONCLUDED AT 3:11 P.M.

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CERTIFICATE

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



Alison Salyards