



**SARGENT'S  
COURT  
REPORTING**

**Quality Work. Quality People.**

**Transcript of the Testimony of David Taraczkozy**

**Date:** July 20, 2010

**Case:**

**Printed On:** July 26, 2010

Sargent's Court Reporting Services, Inc.

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

DAVID TARACZKOZY

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 Tuesday, July 20, 2010, beginning at 1:03 p.m.

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

1                   A P P E A R A N C E S

2

3 POLLY ANNA HAMPTON, ESQUIRE

4 U.S. Department of Labor

5 Office of the Regional Solicitor

6 1100 Wilson Boulevard

7 22nd Floor West

8 Arlington, VA 22209

9

10 JOHN O'BRIEN

11 Safety Inspector

12 West Virginia Office of Miners' Health,

13 Safety and Training

14 Welch Regional Office

15 891 Stewart Street

16 Welch, WV 24801-2311

17

18 TERRY FARLEY

19 West Virginia Office of Miners' Health,

20 Safety and Training

21 1615 Washington Street East

22 Charleston, WV 25311

23

24

25

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

2

3     PATRICK C. MCGINLEY

4     West Virginia Independent Investigation

5     West Virginia University College of Law

6     P.O. Box 6130

7     Morgantown, WV 26506-6130

8

9     ERIK SHERER

10    Mine Safety and Health Administration

11    1100 Wilson Boulevard

12    Arlington, VA 22209-3939

13

14    BARRY KOERBER, ESQUIRE

15    West Virginia Office of Miners' Health,

16    Safety, and Training

17    1615 Washington Street East

18    Charleston, WV 25311

19

20    DAVID J. HARDY, ESQUIRE

21    Allen, Guthrie & Thomas, PLLC

22    500 Lee Street East

23    Suite 800

24    Charleston, WV 25301

25            COUNSEL FOR PERFORMANCE COAL

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Hampton	6 - 12
5	STATEMENT	
6	By Mr. Farley	12 - 13
7	WITNESS: DAVID TARACZKOZY	
8	EXAMINATION	
9	By Mr. Sherer	13 - 63
10	EXAMINATION	
11	By Mr. Farley	64 - 85
12	EXAMINATION	
13	By Mr. McGinley	85 - 110
14	CLOSING STATEMENT	
15	By Attorney Hampton	111 - 112
16	CERTIFICATE	113
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBIT PAGE	
2		PAGE
3	NUMBER	IDENTIFIED
4		
5	NONE OFFERED	
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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

1  
2 -----  
3 ATTORNEY HAMPTON:

4 My name is Polly Anna Hampton. Today is  
5 July 20th, 2010. And we are going to be conducting  
6 the interview of David Taraczkozy. I am with the  
7 Office of the Solicitor, U.S. Department of Labor.  
8 With me is Erik Sherer, an accident investigator with  
9 the Mine Safety and Health Administration, MSHA, an  
10 agency of the United States Department of Labor. Also  
11 present are several people from the State of West  
12 Virginia, and I ask that they now state their  
13 appearance for the record.

14 MR. FARLEY:

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

17 ATTORNEY KOERBER:

18 I'm Barry Koerber, Assistant Attorney  
19 General, representing the Office of Miners' Health,  
20 Safety and Training.

21 MR. O'BRIEN:

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

24 MR. MCGINLEY:

25 Patrick McGinley, with the Governor's

1 independent investigation team.

2 ATTORNEY HAMPTON:

3 There are also several members of the  
4 investigation teams in the room with us today. Mr.  
5 Sherer will be conducting the initial part of the  
6 questioning.

7 All members of the Mine Safety and Health  
8 Accident Investigation Team and all members of the  
9 State of West Virginia Accident Investigation Team  
10 participating in the investigation of the Upper Big  
11 Branch Mine explosion shall keep confidential all  
12 information that is gathered from each witness who  
13 voluntarily provides a statement until the witness  
14 statements are officially released. MSHA and the  
15 State of West Virginia shall keep this information  
16 confidential so that other ongoing enforcement  
17 activities are not prejudiced or jeopardized by a  
18 premature release of information. This  
19 confidentiality requirement shall not preclude  
20 investigation team members from sharing information  
21 with each other or with other law enforcement  
22 officials. Your participation in this interview  
23 constitutes your agreement to keep this information  
24 confidential.

25 Government investigators and specialists

1 have been assigned to investigate the conditions,  
2 events and circumstances surrounding the fatalities  
3 that occurred at the Upper Big Branch Mine-South on  
4 April 5th, 2010. The investigation is being conducted  
5 by MSHA under Section 103(a) of the Federal Mine  
6 Safety and Health Act and the West Virginia Office of  
7 Miners' Health, Safety and Training. We appreciate  
8 your assistance in this investigation.

9 You may have a personal attorney present  
10 during the taking of the statement or you may have  
11 another personal representative, if MSHA has permitted  
12 it, and you may consult with this attorney or  
13 representative at any time. Your statement is  
14 completely voluntary. You may refuse to answer any  
15 question and you may terminate your interview at any  
16 time or request a break at any time. Since this is  
17 not an adversarial proceeding, formal Cross  
18 Examination will not be permitted. However, your  
19 personal representative may ask clarifying questions  
20 as appropriate. So the record is clear, do you have a  
21 personal representative with you here today?

22 MR. TARACZKOZY:

23 Yes, I do.

24 ATTORNEY HAMPTON:

25 And could that representative please

1 introduce himself?

2 ATTORNEY HARDY:

3 Yes. I am David Hardy from Allen Guthrie  
4 & Thomas. And personal representative, miner's  
5 representative, whatever the term is, I'm appearing  
6 here with Mr. Taraczkozy in that capacity.

7 ATTORNEY HAMPTON:

8 You are not his attorney?

9 ATTORNEY HARDY:

10 No, I'm not his attorney.

11 ATTORNEY HAMPTON:

12 Okay. And you are an attorney for  
13 Performance Coal Company?

14 ATTORNEY HARDY:

15 Indeed, I am. And I reviewed Mr.  
16 Wilson's May 7, 2010 letter about what the ground  
17 rules would be, and there was some ambiguity about  
18 whether --- what role the --- at what point a witness'  
19 job duties would allow for a company attorney to be  
20 present. So rather than debate that, I discussed it  
21 with Mr. Taraczkozy, and we decided that I would  
22 appear as his personal or miner's representative.

23 ATTORNEY HAMPTON:

24 Okay. All right. Your identity and the  
25 content of this conversation will be made public at

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

16 MR. TARACZKOZY:

17 Yes.

18 ATTORNEY HAMPTON:

19 Do you have any questions?

20 MR. TARACZKOZY:

21 No.

22 ATTORNEY HAMPTON:

23 After the investigation is complete, MSHA

24 will issue a public report detailing the nature and  
25 causes of the fatalities in the hope that greater

1 awareness about the causes of accidents can reduce  
2 their occurrence in the future. Information obtained  
3 through witness interviews is frequently included in  
4 these reports. Since we will be interviewing other  
5 individuals, we request that you not discuss your  
6 testimony with any person aside from a personal  
7 representative or an attorney.

8 As you can see, a court reporter is here.

9 She will be recording the interview, so please speak  
10 loudly and clearly. If you don't understand a  
11 question, please ask the person to rephrase it.  
12 Please answer each question as fully as you can,  
13 including any information you have learned from  
14 someone else. I would like to thank you in advance  
15 for your cooperation here. We appreciate your  
16 assistance in this investigation. Your appearance is  
17 critical in making the nation's mines safer. After we  
18 have finished asking questions, you will have an  
19 opportunity to make a statement and provide us with  
20 any other information that you think is important. If  
21 at any time after your interview you recall additional  
22 information or have anything else you'd like to tell  
23 us, please contact Norman Page at the contact  
24 information given to you in the letter that I just  
25 handed to you. His telephone number and e-mail

1 address I believe is in there.

2 Any statements given my miner witnesses

3 to MSHA are considered to be an exercise of statutory

4 rights and protected activity under Section 105(c) of

5 the Mine Act. If you believe any discharge,

6 discrimination or any other adverse action is taken

7 against you as a result of your cooperation with this

8 investigation, you are encouraged to immediately

9 contact MSHA and file a complaint under Section 105(c)

10 of the Act.

11 MR. TARACZKOZY:

12 Okay.

13 ATTORNEY HAMPTON:

14 Terry?

15 MR. FARLEY:

16 Oh, excuse me. David, on behalf of the

17 Office of Miners' Health, Safety and Training, I'd

18 like to advise you that the West Virginia Coal Mine

19 Health and Safety Regulations also protect miners

20 against potential discrimination which may result in

21 participating in these type interviews. With that in

22 mind, I'd like to pass along some contact information

23 to you. It's simply the mailing address for the West

24 Virginia Board of Appeals, which hears discrimination

25 complaints. Also I've included my business card with

1 my phone number. And also there's a phone number  
2 there for Mr. Bill Tucker, who is the lead underground  
3 investigator. Should you have any such problems, you  
4 can certainly give us a call. I would caution you,  
5 though, that in the event that you had a problem, you  
6 would need to file a complaint within 30 days.

7 MR. TARACZKOZY:

8 Okay, sir.

9 MR. FARLEY:

10 Thank you.

11 ATTORNEY HAMPTON:

12 Any questions before we begin?

13 MR. TARACZKOZY:

14 No, ma'am.

15 ATTORNEY HAMPTON:

16 Could you please swear in the witness?

17 -----

18 DAVID TARACZKOZY, HAVING FIRST BEEN DULY SWORN,

19 TESTIFIED AS FOLLOWS:

20 -----

21 EXAMINATION

22 BY MR. SHERER:

23 Q. First of all, I want to thank you for coming down  
24 here this afternoon.

25 A. Yes, sir.

1 Q. We've got two things we're trying to do. We're  
2 trying to determine what happened in the mine for the  
3 families and the friends and the coworkers of the  
4 victims. They all need and deserve some closure. The  
5 second thing we're trying to do is determine what led  
6 up to this event so we can prevent it in the future.  
7 So any help you can give us would be greatly  
8 appreciated.

9 Would you please state your ---?

10 MR. SHERER:

11 Did you go through that?

12 ATTORNEY HAMPTON:

13 I didn't, no.

14 MR. SHERER:

15 Okay.

16 BY MR. SHERER:

17 Q. Please state your name and address for the record.

18 A. My name is David Taraczkozy, and I live at (b) (7)(C)  
19 (b) (7)(C)

20 Q. Are you appearing here today voluntarily?

21 A. Yes, sir, I am.

22 Q. Thank you. Can you give me a rough idea of your  
23 coal mining experience?

24 A. This coming December 19th will make me 38 years in  
25 the coal mines underground.

1 Q. Okay. Roughly, where have you worked? Has it all  
2 been with UBB?

3 A. No, sir. I started at Westmoreland Coal Company  
4 at Eccles, for four or five years there. And then I  
5 went to Maple Meadow Mining in Fairdale, where I  
6 worked for 21 years. After the closing of Maple  
7 Meadow, I worked at what is now Speed Mining, at the  
8 time it was PG&H, for three weeks. I left there and I  
9 went to Baylor Mines in Medalton for three weeks.  
10 Quit there and went to work for Joe Phillips in Boone  
11 County at Banner Coal. We worked that out, and then  
12 we went to Josephine in Raleigh County. And I worked  
13 for Joe for seven years. Onced Joe sold out, I left.  
14 I went to work in Boone County at IO Coal Mines for  
15 three months. And then on 12/6 of '05 I started with  
16 Massey.

17 Q. Okay. When did you go to work at UBB, roughly?

18 A. Okay. I started out at Marsh Fork Eagle for  
19 Massey, and we worked it out, if I'm not --- and I'm  
20 not exact on this date, ---

21 Q. Sure.

22 A. --- February of '07.

23 Q. Okay.

24 A. So February of '07 we were transferred to UBB.

25 Q. Okay. So you've been at UBB ---

1 A. Three-and-a-half ---.

2 Q. --- about three years?

3 A. Three, three-and-a-half years.

4 Q. Okay. What's your normal duties at UBB? What was  
5 your job title?

6 A. I am an underground chief electrician.

7 Q. Are you the only underground chief electrician?

8 A. No, sir. I'm one of four.

9 Q. Did you have a specific area of the mine that you  
10 were responsible for?

11 A. Yes, sir, I do.

12 Q. What was that, please?

13 A. My responsibilities was the barrier section and  
14 the portal section. And the portal section,  
15 approximately two weeks before the accident we had  
16 shut it down and were setting up a mini-longwall at  
17 the Ellis punch-out. So I would have been in charge  
18 of that section also.

19 Q. Okay. Were you in charge of like the power  
20 distribution systems and such over a specific area of  
21 the mine also?

22 A. Yes, somewhat. Yes, sir, on my side from the UBB  
23 side up to Ellis.

24 Q. Okay. So roughly the southern portion of the  
25 mine?

1 A. Yes, sir.

2 Q. How about the shifts that you worked? You  
3 mentioned there was four chief electricians. Was  
4 there like a day and a night chief electrician for  
5 certain portions or how did that work?

6 A. They're called maintenance foreman on other  
7 shifts, but on the dayshift I was responsible for  
8 barrier, portal. Rick Nicolau was the chief  
9 electrician underground responsible for the head and  
10 tailgate sections. Virgil Bowman is called the mine  
11 chief. He takes care of COs, outby belts, any other  
12 help that we need. On the longwall, Danny Lafferty  
13 was the chief. Bobby Goss was maintenance  
14 superintendent, I suppose. So there were several  
15 different areas and several different people  
16 responsible for them.

17 Q. It sounds like a complicated setup because there's  
18 a lot of maintenance involved in most coal mines?

19 A. Lost of maintenance at this coal mines. It's a  
20 very large mines.

21 Q. It is. It's a very large mine. Have you served  
22 in that capacity the entire time that you were at UBB?

23 A. Yes, sir.

24 Q. Okay. How many people did you have reporting to  
25 you?

1 A. Approximately four on the midnight, on eight ---  
2 would have been eight. Two more is --- approximately  
3 16.

4 Q. Sixteen (16) persons reported to you. Were those  
5 all electricians?

6 A. Yes, sir.

7 Q. Okay. So you're in charge of all the electrical  
8 equipment and maintenance for that specific portion of  
9 the mine?

10 A. Yes, sir.

11 Q. Okay. And you had 16 electricians that you  
12 directed?

13 A. Yes, sir.

14 Q. Did you have the ability to hire and fire those  
15 electricians?

16 A. No, sir.

17 Q. Did you discipline those electricians?

18 A. If --- well, and not only an electrician, but if  
19 someone is doing something wrong and I see it, then I  
20 can bring those persons outside and hand them over to  
21 the superintendent. And they may ask my opinion or  
22 may not to what happens. But as far as saying you're  
23 fired, no, sir.

24 Q. Okay. Sure. But you primarily directed those 16  
25 people?

1 A. Yes, sir.

2 Q. Now, who did you report to?

3 A. Paul Thompson.

4 Q. Paul Thompson. What's his title, please?

5 A. Paul Thompson is the maintenance superintendent at  
6 our coal mines.

7 Q. Is he the only maintenance superintendent?

8 A. Bobby Goss over the longwall, but that was  
9 separate from our miner sections.

10 Q. So he was the maintenance superintendent. Now,  
11 who did he report to; do you know?

12 A. Keith Hainer.

13 Q. Keith Hainer?

14 A. Yes, sir.

15 Q. Now, what was his title, please?

16 A. He is in charge of all electrical for Massey  
17 Energy.

18 Q. Okay. Was there a dotted-line relationship  
19 between you and/or your supervisors to the mine  
20 management, like the general mine foreman or  
21 superintendent?

22 A. As far as working together, is that what you ---?

23 Q. Yeah.

24 A. Very good working conditions between me and the  
25 superintendent and mine foreman on that side of the

1 mines.

2 Q. Okay.

3 A. We would talk back and forth about what needed to  
4 be done. They would come tell me what needed to be  
5 done, and I would take care of that. Or if I seen  
6 something, you know, that we had to set up for that  
7 night to do the job that required their help, then  
8 they would help me do that.

9 Q. Okay. I call it a dotted-line relationship, but  
10 you call it just working together?

11 A. Yes, sir.

12 Q. And basically, you kept the mining equipment  
13 running for the production people?

14 A. Yes, sir.

15 Q. Tell me about the electrical maintenance. Do you  
16 guys have a --- like a preventative maintenance  
17 program?

18 A. Yes, sir, we do. We have PMs that we distributed  
19 every day that the section electricians who's on the  
20 coal production has his own list on the day shift.  
21 The evening shift has as list of particular equipment  
22 that he takes care of. The midnight shift has a lot.

23 Q. Now, as I understand it, the midnight shift is  
24 primarily for maintenance?

25 A. Yes, sir.

1 Q. How long does that shift last?

2 A. They went underground I think at 11 o'clock, but  
3 they were still producing coal for another hour or so.  
4 And I'm going to say from --- the underground crews  
5 started going underground at six o'clock in the  
6 morning, so 12 o'clock until --- six hours ---

7 Q. Okay.

8 A. --- would be a fair guess on that.

9 Q. So you probably did a lot of your preventative  
10 maintenance during that time period ---

11 A. Yes, sir.

12 Q. --- and fixed any breakdowns that would occur  
13 during the production shifts?

14 A. Yes, sir.

15 Q. How did you schedule the work, just in general?

16 Did you get like work orders or work requests from the  
17 production side of the mine or did you have like a  
18 whiteboard or ---? How did you determine what needed  
19 fixing basically?

20 A. They would come by in the evenings and tell me,  
21 you know, this needed fixed or that needed fixed. I  
22 am underground a whole lot on my sections, and then I  
23 would check my equipment and they will tell me this.  
24 I'll see something that needs fixed, and I'll make a  
25 note of it. And then in the evenings, the last thing

1 I do is make out a list for my maintenance foreman on  
2 the midnight shift ---

3 Q. Okay.

4 A. --- to do that night.

5 Q. So it was basically your knowledge and observation  
6 plus a request from the production side?

7 A. Production, the foreman and also the section  
8 electrician.

9 Q. Okay.

10 A. And occasionally we would have an operator come by  
11 and say, you know, I'm having a problem with this. I  
12 need it looked at. So a whole lot of verbal  
13 communications.

14 Q. Sure. Now, did you take care of the surface  
15 facilities also?

16 A. No, sir.

17 Q. Did you take care of like the mantrips and the  
18 rides and motors and such?

19 A. No, sir. We have a man --- well, he just retired,  
20 but Roger Kantley took care of all the rides. If I  
21 came downstairs in the mornings and I didn't have a  
22 whole lot going on on my sections and he had a lot of  
23 work to do, I would help him work on mantrips or try  
24 to find him a man to help him. But Roger was the  
25 person that was in charge of mantrips.

1 Q. Okay. Did you have some fixed point where your  
2 responsibility for the electrical system took over  
3 someplace between the --- say, the surface substation  
4 and the underground distribution center --- or system?

5 A. Where it started underground.

6 Q. So the mine portal basically?

7 A. Yes, sir.

8 Q. Okay. Were you in charge of maintaining the power  
9 system at Ellis Portal?

10 A. I was in charge up to Ellis Switch, as I said,  
11 maybe two weeks before the accident, when we shut the  
12 portal section down. Billy Graham, our midnight  
13 foreman, he did the high-voltage checks, moving the  
14 boxes around where we needed them moved to. As far as  
15 myself going in and taking high-voltage cable out and  
16 putting it in, no, I didn't do that very much, unless  
17 maybe on this Ellis section, where they weren't  
18 running yet, if we had to hook up a power box, I  
19 would.

20 Q. Sure.

21 A. Had it been there, I would have helped do that.  
22 But not a whole lot of high-voltage work, unless we  
23 had a ground or something that, you know, knocked the  
24 power outside.

25 Q. Sure. Now, did Billy Graham report to you?

1 A. Billy Graham reported to me and to Rick Nicolau  
2 and Paul Thompson. He was just ---.

3 Q. He just did all the ---?

4 A. He was mine-wide, Billy was, on the midnight  
5 shift. And he had people that worked for him, which  
6 --- well, the entire hoot owl.

7 Q. Sure.

8 A. He could direct anybody. If I wrote a note for a  
9 mine maintenance foreman on the midnight shift to do  
10 something, ---

11 Q. Sure.

12 A. --- something happened on the evening shift or  
13 Billy could say, no, we're not going to do this  
14 tonight, you know, I need your people here. So he had  
15 that kind of control to make sure that everything was  
16 ready by 6:00 a.m. in the morning.

17 Q. Okay. Thank you. I appreciate helping me  
18 understand the electrical system of this mine. Every  
19 mine is different.

20 A. Yes, sir, it is.

21 MR. FARLEY:

22 Excuse me. Was Billy's authority limited  
23 to maintenance?

24 A. I know that I can go on a section and, even if  
25 you're running a shuttle car, I can tell you, you

1 know, stop running the shuttle car, get off and do  
2 this. We normally don't do that.

3 MR. FARLEY:

4 Okay.

5 A. You understand what I'm saying?

6 MR. FARLEY:

7 Yes.

8 A. We try to stay in our ---

9 MR. FARLEY:

10 Okay.

11 A. --- area. Now, if I need help, you know, I'll  
12 tell the section boss, I need to shut your shuttle car  
13 down. I need your operator to come over and help me  
14 for a little while, something like that. But as far  
15 as trying not to step on each other's toes, I don't  
16 like them getting in my business, and I don't like to  
17 get into theirs.

18 MR. FARLEY:

19 Okay. Sorry.

20 MR. SHERER:

21 No problem.

22 BY MR. SHERER:

23 Q. And that's common in all mines. The maintenance  
24 has to work with the production people.

25 A. Yes, sir.

1 Q. Did you ever discuss taking out particular  
2 production equipment belts or maybe a miner section or  
3 such for maintenance work? Did you try to schedule  
4 that or did you just get it all on the midnight shift?

5 A. It was all done on the midnight shift. We were  
6 there to run coal on the dayshift and evening shift.

7 Q. Okay.

8 A. Six days one week, five days the other.

9 Q. Now, tell me about the Ellis Portal installation.  
10 You said you had been working on that for about two  
11 weeks prior to the explosion. Can you give me just a  
12 rough idea what you were doing up there?

13 A. Not very much, but I'll tell you what I can. I  
14 didn't --- during that two-week period I was on the  
15 barrier section a lot and working on a scoop that we  
16 had. Rick Nicolau portals at the Ellis punch-out, ---

17 Q. Sure.

18 A. --- so he was helping me take --- him and Paul  
19 Thompson was taking the equipment in, and it was like  
20 13 or 14 breaks that they had to tram the miners and  
21 shuttle cars and feeder in.

22 Q. Sure.

23 A. And they pretty much took care of that. Wayne  
24 Persinger was over there a lot, and he was sort of  
25 directing what was going on. He would call me in the

1 evenings. And the electricians off of the portal  
2 section, he would tell me what they needed to do that  
3 night, and I would send them over there.

4 Q. Sure.

5 A. I was there --- Virgil Bowman and I, the other  
6 chief on the dayshift, a couple of times --- they were  
7 cutting --- they had the Ellis belt cut in two, the  
8 one going outside.

9 Q. Sure.

10 A. They had cut it on the midnight shift. It was  
11 supposed to have been --- we were cutting out a head  
12 hole. It was supposed to have been cut out and the  
13 belt put back together in time for production, but it  
14 wasn't. It was like 11 o'clock that day when we got  
15 finished. And Virgil and I was there for that. They  
16 cut the head hole out. We helped them put the belt  
17 back together and got the mines back to running. And  
18 then another time we were over there and we had to  
19 take a belt starter box loose for them, take the tails  
20 and everything in and out of that. I walked around  
21 and looked at some of the equipment, but had not spent  
22 a whole lot of time out of the two weeks there.

23 Q. Okay. Now, if I understand this operation  
24 correctly, you guys probably do a lot of setting of  
25 belt drives and moving belt and setting up sections?

1 A. Yes, sir.

2 Q. Was there anything unusual about the Ellis portal  
3 section that sticks out in your mind?

4 A. No, sir. As I said, I hadn't spent a whole lot of  
5 time over there, but --- other than watched them cut  
6 that head hole out and put the belt back together,  
7 took the belt starter loose. I walked over and looked  
8 at the feeder that they were trammung in. And that  
9 was about the extent of my time over there.

10 Q. Okay.

11 A. Onced it become a section, I would have been  
12 there ---

13 Q. Sure.

14 A. --- almost every day, but it wasn't there yet.

15 Q. Sure.

16 A. I focused my time on the barrier section.

17 Q. Sure. Nothing sticks out as being exceptional or  
18 different?

19 A. No, sir.

20 Q. Okay. How about the barrier section? You said  
21 that you were spending a lot of time down there.  
22 Anything unusual down there in the week or two before  
23 the explosion?

24 A. I had a young electrician on that section, but the  
25 crew from barrier --- the old barrier section, which

1 was like 40 breaks outby the new barrier section, and  
2 the crew that I had there, they had --- after we  
3 finished that up, they had --- they took them to the  
4 --- up to the tailgate.

5 Q. Okay.

6 A. And that was the --- that was the men that was on  
7 the mantrip. And this new barrier crew, they had  
8 brought them from another mines and we hadn't had them  
9 very long, so ---.

10 Q. So you were just working, trying to get those  
11 folks up to speed?

12 A. Yes, sir. And the electrician --- I had a real  
13 good worker, but wasn't very knowledgeable yet. So I  
14 tried to spend as much time with him as I could.

15 Q. Sure.

16 A. And then I had a scoop off of that section that I  
17 had in the shop that we were --- the week before the  
18 accident, that we were replacing the center section  
19 in. So me and two other electricians was doing that a  
20 lot, too. So as I said, that was one of the reasons I  
21 didn't get to the other section very much.

22 Q. Sure. What about methane, was there any methane  
23 down that barrier section?

24 A. If there was, I never detected it on my detector.

25 Q. Okay. How about the methane monitors on the

1 equipment, did you ever see any readings on the miner?

2 A. I have never seen a methane monitor gas off at  
3 that coal mines since the time that I've been there.

4 Q. Okay. Never seen one that just failed?

5 A. Yes, we've had water get in the sensors or  
6 something, and they will flash back and forth, back  
7 and forth, yes, sir.

8 Q. What does a methane monitor do when it fails?

9 A. It will flash up a different code. We have a big  
10 readout, and depending on what's wrong with it, and  
11 then there's a list of codes that is on a piece of  
12 tape underneath it, which helps you a whole lot to  
13 troubleshoot it or whatnot.

14 Q. Okay.

15 A. Nine times out of ten, if there's something wrong  
16 with one of the methane monitors, it will be a wet  
17 sensor or a sensor that's shorted out and gone bad, in  
18 my experience with them.

19 Q. Have they ever just failed from the vibration or  
20 anything like that?

21 A. It's unreal how they do. I mean, I don't  
22 understand how they work as well as they do, beaten  
23 around and all. But yes, sir, they have failed before  
24 and had to have the sensors replaced, recalibrated.

25 Q. Did you ever recalibrate one of those methane

1 monitors?

2 A. Yes, I have.

3 Q. Did you use one gas or two gases?

4 A. Used one gas and one zero air.

5 Q. Okay. So two calibration gases. One was just  
6 zero?

7 A. Zero air, yes, and then a mixture of 2.5.

8 Q. Okay. 2.5 percent methane?

9 A. Yes.

10 Q. Okay. Did you carry a methane monitor?

11 A. Yes, sir, I did.

12 Q. Do you recall what particular model that was?

13 A. I believe a Solaris.

14 Q. A Solaris, that's what an MSA?

15 A. I don't know.

16 Q. That's okay. Did you keep that at the mine or did  
17 you take it home with you?

18 A. Stayed at the mines.

19 Q. Stayed at the mines. So you had a place to  
20 recharge it?

21 A. Yes, sir.

22 Q. How about the monthly calibration, did you do  
23 that?

24 A. No, sir. It was done on the midnight shift.

25 Q. Okay. So you'd just leave the detector for the

1 midnight shift to do?

2 A. That --- the calibration kit for the methane  
3 monitor stays on the power center.

4 Q. No. I'm talking about your personal Solaris.

5 A. Oh, I'm sorry. Virgil would do it.

6 Q. Okay. It's good to have a Virgil.

7 A. Yes.

8 Q. Did you do a daily bump test of that detector?

9 A. No, sir, I did not.

10 Q. Okay. Can you help me out with some nicknames?

11 A. Yes.

12 Q. Do you know an electrician that's called snowman?

13 A. Yes.

14 Q. Who is that, please?

15 A. Well, he was --- before they switched the sections  
16 all around, he was an electrician on midnight shift on  
17 the barrier section. He worked for me. Terry  
18 Claypool was the maintenance foreman. But then, when  
19 they went to barrier section, snowman sort of filled  
20 in as the --- the new barrier section, Snowman filled  
21 in as a crew leader for me.

22 Q. Okay. And what was Snowman's real name?

23 A. Keith Snow.

24 Q. Keith Snow, okay. That makes sense. Do you know  
25 an electrician nicknamed Doughnut?

1 A. Yeah. That's me.

2 Q. Okay. Thank you. I was wondering who Doughnut  
3 was for a long time. It's good to meet you?

4 A. You, too.

5 Q. You wasn't who I had in mind, though.

6 A. Okay.

7 Q. I was thinking more of the glazed doughnut type.

8 A. Actually, it was a jelly-filled one. We went to  
9 --- when I was growing up, we went to Beckley to the  
10 theater, a bunch of us did, altogether, and we bought  
11 them at the corner pastry shop and got tired of eating  
12 them. We were on the balcony and we were throwing  
13 them at people down below. And a guy with a  
14 flashlight --- I was way in the back. He shined the  
15 light in my eyes and said, okay, Doughnut, let's go.

16 Q. It's amazing how people get nicknames in the coal  
17 mine. That's a good one. Okay. What about the  
18 ventilation on the barrier section, how was that? Do  
19 you recall?

20 A. It seemed --- one day that I was up there and they  
21 were not running on the left. They had been running  
22 on the right. I was over there. And then they quit  
23 running on the right and I went over there and Jack  
24 said, I --- I said, what's wrong? He said he shut the  
25 section down because his air was messed up. And so I

1        went to the telephone and hollered at Gary May and  
2        told him that, you know, Jack was having ventilation  
3        troubles. And he came down there and they was working  
4        on it, and I went outside. And then they stayed in  
5        between shifts, I believe. And then maybe an hour  
6        after the shift they came out and said they had it  
7        okay, so ---. Other than that, we had several  
8        inspectors up there and I don't think that we had a  
9        whole lot of problems with it.

10       Q. Okay. That's good. You mentioned Jack. Who was  
11       that, please?

12       A. Jack Martin was the dayshift section foreman on  
13       that section.

14       Q. Do you have any idea what they did about the air?

15       A. No, sir, I don't.

16       Q. Do you recall about when that incident happened?

17       A. The date, no.

18       Q. Just roughly.

19       A. I have no idea. I just --- you know, the section  
20       was maybe a month --- maybe a month into the section.  
21       I have no idea about the date.

22       Q. Okay. That's fine. Now, you mentioned that this  
23       was the new barrier section. I guess there was an old  
24       one.

25       A. Uh-huh (yes).

1 Q. When did you start up this new barrier section,  
2 just roughly?

3 A. Maybe two months before the accident.

4 Q. Okay. So a little after the first of the year?

5 A. Uh-huh (yes).

6 Q. So a month after that would be sometime February,  
7 maybe sometime early March?

8 A. Yeah.

9 Q. Okay. What about the general mine ventilation,  
10 did you ever notice any problems wherever you went in  
11 the mine or did you hear anybody complain about  
12 ventilation?

13 A. Before --- before they put the fan in up there on  
14 the head end of the ---.

15 Q. At Bandytown?

16 A. Yeah, before they --- they would have air  
17 problems, I think. I would hear them talking about,  
18 you know, they didn't have enough air here and we need  
19 more air there, and they'd work two or three hours on  
20 ventilation before they loaded coal and whatnot.

21 Q. And that's when they were trying to ventilate the  
22 northern portions of the mine from the fans down at  
23 UBB?

24 A. Yes, before the longwall started.

25 Q. Yeah. That's a long way to push that air.

1 A. It was.

2 Q. Did you maintain those fans down at the UBB  
3 Portal?

4 A. No.

5 Q. Or that's the surface. Okay. What about methane  
6 in the mine, in general, have you ever heard anybody  
7 complaining about methane?

8 A. I had heard fire bosses and whatnot talk about  
9 finding gas up on the northern end, you know, six,  
10 seven, eight-tenths.

11 Q. Okay. Did you ever hear of another section  
12 gassing off?

13 A. No, sir.

14 Q. Did you ever hear of anybody having to shut down  
15 production because of excessive methane?

16 A. No, not methane. They've shut the sections down  
17 over --- over air, ---

18 Q. Okay.

19 A. --- but I've never heard of them holler out and  
20 say, you know, we've got methane, we've got to shut  
21 down. No, sir, I've never heard that.

22 Q. Okay. Have you ever heard of methane outbursts or  
23 inundations at this mine?

24 A. No, sir.

25 Q. Okay. How about methane feeders?

1 A. No, sir.

2 Q. Okay. What about water? Was water a problem  
3 anywhere in this mine?

4 A. On this northern end up here, where that --- where  
5 they put the fan in?

6 Q. Uh-huh (yes).

7 A. Yeah, they had a lot of water up there. I guess  
8 it would have been this headgate section.

9 Q. Where it continues out to the Bandytown fan?

10 A. Uh-huh (yes).

11 Q. Do you recall if the water ever roofed out? Did  
12 anybody ever talk about that?

13 A. No. I know that we helped build some bridges  
14 outside, metal bridges with legs and all on them, you  
15 know, for up there when they were ---

16 Q. Okay.

17 A. --- cutting overcasts and undercasts. The water  
18 was building up, so they built bridges to get across  
19 this and that.

20 Q. Okay.

21 A. And I know that they put air pumps up there.

22 Q. Okay.

23 A. And they run continuously, so I'm sure there's  
24 lots of water.

25 Q. Now, let me ask you about the air pumps. We know

1       there was a compressor at Bandytown that drove those  
2       pumps. Do you know if it was an electrically-driven  
3       compressor or diesel driven?

4       A. It was diesel driven. And they had been changing  
5       over up there. It may be electric now, but it was ---  
6       they had generators.

7       Q. Okay. So it was a diesel gen set driving the  
8       electric compressor?

9       A. Uh-huh (yes).

10      Q. Do you know who would have been in charge of that  
11      facility?

12      A. Yes, sir.

13      Q. Who was that?

14      A. Paul Thompson.

15      Q. Paul Thompson?

16      A. Yes, sir.

17      Q. Okay. Do you recall anybody talking about trouble  
18      they were having up there in the week or so before the  
19      explosion?

20      A. No, sir. No, sir, I don't.

21      Q. Okay. We certainly appreciate letting us know who  
22      was in charge of that. We've been trying to find that  
23      out for quite a while.

24      A. Paul set it all up and installed the fan and all.

25      Q. Okay. Good. And there was also an electric pump

1 up there, wasn't there?

2 A. A turbine pump on the surface?

3 Q. Yes.

4 A. Yeah, I think there is out past the fan a hundred  
5 yards or something.

6 Q. Okay. Were you involved in any of that setup?

7 A. No, sir. Until this accident, I had never been to  
8 the Bandytown fan.

9 Q. Okay. I understand it's quite a journey to get  
10 over there?

11 A. It is. It takes about 45 minutes from the mines.

12 Q. That's a big mine.

13 A. It is.

14 Q. Did you ever hear anybody joking about not having  
15 enough air on one of the sections or any of the  
16 sections?

17 A. Well, as I said before, when they were driving the  
18 headgate section up, you know, we had inspectors in  
19 and they wrote violations on low air, ---

20 Q. Sure.

21 A. --- and then, you know, they would call it out,  
22 we're down, we're working on ventilation.

23 Q. Now, who ---?

24 A. I don't know if it was a joke, but ---

25 Q. Sure.

1 A. --- you know, they had ventilation troubles there  
2 before we got the fan in.

3 Q. Now, who worked on ventilation in this mine? Was  
4 there anybody that was in charge of ventilation; do  
5 you know?

6 A. Well, I suppose that Everett Hager and Gary May  
7 was involved in it. They're the superintendents and  
8 the mine foremans. And Jamie Ferguson has worked with  
9 them on ventilation that I --- I have never been on a  
10 ventilation change. I don't work on them, but I  
11 shared an office with Jamie, and he would go over the  
12 maps, and him and Gary May would discuss ---

13 Q. Oh, okay.

14 A. --- what they were going to do and all that.

15 Q. Did you ever have to go back in after a fan  
16 stoppage or maintenance that stopped the fan, even a  
17 ventilation change, and check out their electrical  
18 equipment?

19 A. After a fan stoppage, the power would be knocked,  
20 if it was just the fan that knocked.

21 Q. Sure.

22 A. And then after the fan ran for a certain amount of  
23 time, they would go back in and fire boss the mines.  
24 And once they did that and called outside, then we  
25 would go in and reset the power back up.

1 Q. Okay. Do you recall if there was any fan stoppage  
2 in the month or so before the explosion?

3 A. I don't recall any. Not to say that there wasn't,  
4 but I don't recall it.

5 Q. Okay. Sure. We understand that the explosion  
6 took place right after a long weekend, Easter  
7 weekend, ---

8 A. Yes, sir.

9 Q. --- and that different people worked different  
10 schedules over that holiday weekend. What was the  
11 last shift you worked prior to the explosion?

12 A. Thursday.

13 Q. Thursday. Okay. So you took Friday, Saturday and  
14 Sunday off?

15 A. Yes, sir.

16 Q. And then did you come back in to work on the 5th?

17 A. Yes, I did.

18 Q. Specifically, where did you work on the 5th?

19 A. I started out in the shop. The week --- the four  
20 days before that I was installing a center section and  
21 working on the scoop in the shop. And that morning  
22 --- we were going to finish it up that day, so I  
23 worked out there on it with Derrick and Patrick  
24 probably around 9:30. And Gary May took a Federal  
25 inspector to the barrier section. Rick Foster took a

1 State inspector to the barrier section. So after I  
2 got them lined out on what I wanted them to do and  
3 all, I went to the barrier.

4 Q. Okay. Did you accompany either of the inspectors  
5 on that section?

6 A. When I got up there, Wayne Wingrove, was the State  
7 inspector. I think I went over toward him. And Larry  
8 Hedrick was on the other side, and I never did see him  
9 because by the time I got through with Wayne, they had  
10 already went outside.

11 Q. Okay. So you went to the barrier section with the  
12 inspectors. Where were you at the time of the  
13 explosion?

14 A. Coming out the drift mouth.

15 Q. So you were coming back from the barrier section?

16 A. Well, Wayne and I went around and checked some  
17 things. He wrote a violation on a scoop that needed  
18 to be washed. He wrote another violation, and I swear  
19 to my soul I cannot remember what it was. It wasn't  
20 nothing big, but ---.

21 Q. Sure.

22 A. I brought him and Rock Foster outside, and then  
23 shortly after that, the section electrician, James,  
24 called me and had a shuttle car down. I went back to  
25 the barrier section and I helped him. We done some

1 different things to the shuttle car and determined  
2 that it needed a new FD --- BFD. So I got on my  
3 mantrip, come up to the switch and I called for the  
4 road out and several different --- Woody off of --- he  
5 was at 78 Break calling for the road. He and I talked  
6 back and forth on the radio a little bit. And as I  
7 was going out the drift, it blew.

8 Q. What do you recall about the explosion? Were you  
9 --- obviously you were able to evacuate. What's the  
10 first thing that let you know that there was something  
11 going on?

12 A. The air.

13 Q. The air. Okay. What did it do?

14 A. It just all come outside.

15 Q. Okay. So a lot of wind basically?

16 A. Lots of air, yes.

17 Q. Was there any dust stirred up by that?

18 A. Yes.

19 Q. And were there any flying debris that hit you?

20 A. No. No, no debris had hit me there. The biggest  
21 thing that I noticed was the fan.

22 Q. Okay. What did the fan do?

23 A. It was like it stopped and reversed.

24 Q. Okay.

25 A. It was trying to push in. It was pushing out.

1 And it was having a whole lot more luck than the fan  
2 was. And it just --- I don't know. It's a weird  
3 noise, but it was like it was going to just blow it  
4 plum away.

5 Q. We've heard that from virtually everybody that was  
6 down there. As an electrician that understands this  
7 stuff a heck of a lot better than I do, do you think  
8 that fan actually reversed?

9 A. I think it stalled it.

10 Q. Okay.

11 A. I think it tried to run the right way, but I don't  
12 think that the air for that short amount of time  
13 wasn't letting it.

14 Q. Okay. So it just stalled it out?

15 A. Yeah.

16 Q. Did you happen to look at that fan during that  
17 period of time?

18 A. No, sir.

19 Q. Okay. Do you know if that fan has explosion doors  
20 on it?

21 A. Yes, it does.

22 Q. Do you think those things opened up?

23 A. They checked them yesterday evening, and they  
24 worked, so ---

25 Q. Okay.

1 A. --- I have no reason to doubt that they didn't.

2 Q. And it still stalled the fan out?

3 A. It was unreal.

4 Q. I imagine. What did you do immediately after the  
5 explosion?

6 A. When you come out of the north side, you go across  
7 the yard on the track and you have to go into the  
8 South Portal enough to clear your mantrip, throw a  
9 switch and go back into the shop. So I went on across  
10 the track, went into the South Portal and was going  
11 --- I got on the mine phone and Gary May and it was  
12 either Wayne Persinger or Everett Hager were talking  
13 that something was wrong. And Gary said, well, I'm  
14 getting ready to go walk in. I put my mantrip down on  
15 the spur toward the shop and then walked over toward  
16 the steps going upstairs. Rick Foster, he said, you  
17 going with me. And I said, no, you go ahead. And  
18 Rick got a mantrip and Gary May took off running  
19 toward the inside.

20 Q. Okay.

21 A. So then I went upstairs. They were calling MSHA,  
22 trying to get ahold of anybody up that way. They  
23 couldn't talk to Woody and them no more. So I got on  
24 the mine phone and the intake phone and I was  
25 hollering, trying to get people to respond. Never

1 did.

2 Q. Now, we understand the barrier section evacuated  
3 after the blast. Did you talk to anybody on the  
4 barrier section?

5 A. Yeah. Jack Martin said there was a lot of dust  
6 and debris and stuff, but you know, they come out  
7 okay.

8 Q. Uh-huh (yes). Sure.

9 A. When I come through the drift it was a little  
10 after 3:00, and they weren't very far behind me.

11 Q. Okay. Good.

12 A. It was quitting time anyway, so ---.

13 Q. Did you don your SCSR during that event?

14 A. No, sir, I did not.

15 Q. Did your detector go off during that event?

16 A. If it did, I don't remember. I wasn't paying a  
17 whole lot of attention to that.

18 Q. Okay.

19 A. Not that I recall.

20 Q. Okay. I can certainly understand that. Did you  
21 notice any particular smell associated with the wind?

22 A. If I did, I don't remember it. It was just ---  
23 no, I did not.

24 Q. Sure. Now, when you got out you had been  
25 basically in the fringe of the blast. Did you notice

1 if your eyes were burning or not?

2 A. No. I went straight upstairs and got on the  
3 telephone and started hollering at people.

4 Q. And the reason we're asking that is several of the  
5 mine rescue people run into something that it caused  
6 their eyes to water and burn. We're trying to figure  
7 out what that may have been.

8 A. I was right at the --- I could see daylight. I  
9 was that close, so ---.

10 Q. Okay. Do you know if a State or Federal inspector  
11 came on the property, if that would be called out  
12 underground --- called underground?

13 A. Yes, absolutely.

14 Q. Okay. How common was that?

15 A. Very.

16 Q. You mentioned some ventilation changes that were  
17 made. Were those made when miners were underground?

18 A. The only time that I had ever been to the longwall  
19 was the day that they had just had the ventilation  
20 change and it was supposed to start running, and I  
21 took two Federal mine inspectors up there, Mike Haynes  
22 and Bahovazich or something. I don't know his name.  
23 Maybe it was Steve, his first name. He was head of  
24 ventilation or something over at Mount Hope. I don't  
25 know his name.

1 Q. Joe Mackowiak?

2 A. That's the guy. I took those two gentlemen to the  
3 longwall. We went up. They walked across it. We  
4 walked across the pan line and around over through  
5 there. And then when we come back over, the air  
6 wasn't right and that there was people working while a  
7 ventilation change, is that they said, working on  
8 other things other than the ventilation change.

9 Q. Okay.

10 A. So they told me they needed to talk to Chris  
11 Blanchard.

12 Q. Okay.

13 A. So we walked down here, there was a telephone  
14 right in here somewhere, and I called ---.

15 ATTORNEY HAMPTON:

16 Where are you pointing?

17 A. I would say this is where the headgate and the  
18 longwall started, and there was like a telephone right  
19 here, in between this block right through here  
20 somewhere.

21 MR. SHERER:

22 Okay. I'm going to try to explain this  
23 for the record. This was near the beginning of the  
24 longwall panel?

25 A. It was. They had never loaded a panel of coal

1 yet.

2 Q. Oh, okay. So they were setting up the face back  
3 at the tail --- the back end of the long --- the  
4 current longwall panel. And you indicated the phone  
5 was about two breaks outby on the headgate?

6 A. Approximately two breaks.

7 Q. Sure. So you called out. Did they issue an order  
8 about the ventilation change; do you recall?

9 A. When I called outside and got ahold of Chris  
10 Blanchard, then I gave Joe the telephone. And he had  
11 a Federal law book, and he started reading the part of  
12 the law to Chris Blanchard about people working on  
13 ventilation changes and people underground. They  
14 wrote two (d)(2) orders.

15 Q. You know you're in trouble when they pull out the  
16 law book.

17 A. Yes, sir. So then we came outside. They went  
18 upstairs. A little while after that they called  
19 everyone out from underground, and one of them went to  
20 the North Portal and one of them went to the South  
21 Portal and they hung red tags on it and they shut the  
22 mines down.

23 Q. That would have been back around September of  
24 2009?

25 A. '09, yes.

1 Q. How long was the mine down because of that; do you  
2 recall?

3 A. Four days maybe.

4 Q. Okay. Did you ever observe anybody running a  
5 miner without the ventilation curtains in place at  
6 this mine?

7 A. No, sir. Everything ---.

8 Q. Okay.

9 A. No.

10 Q. Do you have any knowledge of methane monitors ever  
11 being bridged out at this mine?

12 A. No, sir, I do not.

13 Q. Would you know how to bridge out a methane  
14 monitor?

15 A. Yes, sir.

16 Q. How would you do that?

17 A. Take the face off of the readout, pull it out and  
18 then place a jumper between two wires there.

19 Q. Okay. About how long would you guess it would  
20 take somebody to do that?

21 A. Twenty (20) minutes.

22 Q. If you did that, what would the methane monitor  
23 read out?

24 A. It would come back up probably zero or nothing,  
25 but the miner would start. You know, the lights would

1       come on. The power pack would go in.

2       Q. Now, we understand these particular miners have  
3       some way to override the circuitry, I guess, if it  
4       does gas out, so you can tram it back.

5       A. It does have a methane monitor override on it.

6       Q. Okay. How does that work?

7       A. You --- a series of toggles on your remote switch  
8       or remote box.

9       Q. Okay. Do you know what those particular toggles  
10      are?

11      A. If I had my hard hat on I could tell you. They  
12      give you stickers on how to do that. I can't  
13      remember.

14      Q. Okay. I've depended on some of those stickers.  
15      Let me ask you while we're on the subject, did you  
16      ever see any stickers that said something like \$400 a  
17      minute or \$600 a minute or something like that for  
18      like downtime?

19      A. No, sir, I haven't.

20      Q. Okay. Have you ever gotten injured at this mine?

21      A. Yes.

22      Q. Did you have to take any time off?

23      A. No.

24      Q. Did you do any light duty while you were injured?

25      A. Yes, sir.

1 Q. Was that your choice?

2 A. Yes, sir, it was. It was the day before vacation,  
3 and my son and I was changing a tram motor on a  
4 shuttle car, and the tram motor fell on my knee.

5 Q. Oh, jeez.

6 A. And I went on vacation. I did not have a doctor's  
7 release yet, and I come and sat in the office and  
8 answered the telephone, gathered up parts, whatever I  
9 could do. But no, sir, I didn't have to. I  
10 could ---.

11 Q. It was your choice?

12 A. It was my choice. I could have stayed home.

13 Q. Did you ask for light duty?

14 A. No, sir.

15 Q. You were just offered it; right?

16 A. I told them I was going to just come out and work  
17 in the office until I got my doctor's release.

18 Q. Okay. What about --- we understand that there  
19 were a couple of 1-800 numbers for reporting safety  
20 concerns or safety complaints. Are you familiar with  
21 those?

22 A. They're posted on the board, yes.

23 Q. The 1-800 number for Massey?

24 A. I've noticed the one for the State and the  
25 Federal.

1 Q. Okay.

2 A. I'm sure --- I've read something about 800, call  
3 Massey.

4 Q. Okay.

5 A. Yeah, I've seen the stickers.

6 Q. Okay. Do you know of anybody that's ever called  
7 those numbers at this mine?

8 A. No, sir, I sure don't.

9 Q. Okay. What about --- do you know anybody that's  
10 ever reported safety issues either to the management  
11 here at the mine or one of the regulatory agencies, do  
12 you know if they were ever threatened or retaliated  
13 against?

14 A. No, sir, I --- no.

15 Q. Okay.

16 A. I can go on and have --- I could go on a section  
17 if there's something that's not right or a complaint,  
18 I will pull it over and work on it and fix it.  
19 They'll scream and holler how long and how come and  
20 when you're going to have it ready. But as far as me  
21 being chewed out or threatened for shutting a piece of  
22 equipment down, in the five years that I've worked  
23 with them I've never had that problem, sir, never.

24 Q. Okay.

25 A. In fact, I've been threatened to be fired, if I

1 let --- you know, if you told me that your shuttle car  
2 didn't have no brakes ---

3 Q. Sure.

4 A. --- and I told you to run it and they found out  
5 about it, then I'm gone.

6 Q. Sure.

7 A. So no, sir, I've never encountered that problem  
8 whatsoever.

9 Q. Okay. Thank you. Did operators of equipment ever  
10 tell you about a problem like brakes or  
11 permissibility?

12 A. Yes, sir.

13 Q. Did you fix it?

14 A. Yes, sir.

15 Q. Okay.

16 A. Safety meetings, I tell every one of them on the  
17 crews I have, you know, if it's not right, park it in  
18 the breakthrough. I've got an electrician right there  
19 just dying to work on it. And if he can't fix it,  
20 I'll come and help him to, and which is really --- I  
21 don't want anybody hurt ---

22 Q. Sure.

23 A. --- and have no problem --- enjoy working on  
24 mining equipment. So you want something worked on,  
25 I'll sure jump in there and do what I can do to fix

1 it.

2 Q. Sure. Now, did the operators have a  
3 pre-operational checklist?

4 A. Yes, sir, they did.

5 Q. Did you get copies of those?

6 A. Oh, not a pre-op sticker on the equipment, but ---  
7 you're saying a piece of paper that they wrote down?

8 Q. Yeah. Some mines have a pre-op checklist.

9 A. There was there for a while floating around, that  
10 they give it to the section bosses. And really, I  
11 never paid a whole lot of attention to them because,  
12 you know, they didn't give them to me. They gave them  
13 to him. But my section's electricians would, you  
14 know, pretty much be on top of things. I had a great  
15 maintenance foreman on the midnight shift, and I mean,  
16 if there was something wrong, I pretty much knew about  
17 it already, so ---.

18 Q. Okay.

19 A. And always had good equipment, except for the  
20 three weeks on the portal section. Rick Nicolau was  
21 over that section for like a year or so, and then the  
22 reason they switched us is because it didn't make a  
23 whole lot of sense of me going from the barrier up to  
24 here or Rick going from up there to Three section  
25 across the mines, so that's the reason they split us

1 up. And for about three weeks they had that little  
2 10AAs and real old equipment and, you know, it was ---  
3 it took a full-time job to keep it running, the rock  
4 we were mining there.

5 Q. Sure.

6 A. But as I said, I only had it for like three weeks  
7 before we traded up and got 1212s and Super 10s.

8 Q. Sure.

9 A. So we were changing that out and then grading the  
10 bottom and we went from crawling around to 12-foot  
11 height.

12 Q. Sure. Now, were most of the miners in this mine  
13 1212s?

14 A. Four, six. The headgate section is 12s. The  
15 tailgate was brand new Joys, 1415s.

16 Q. Oh, okay. Sure.

17 A. On the portal there was all kinds of equipment up  
18 there trying to mine that, and it ended up with 12s.

19 Q. Okay.

20 A. And they took two 12s over to the Ellis section.  
21 The barrier section had 1415s.

22 Q. Was there some replacement life for that  
23 equipment? You say most of the time you had enough  
24 equipment. How long would you run a continuous miner?

25 A. I don't know if they ever had a 2,000 hour and

1       then take it out or nothing like that.  When we first  
2       went over there from Marsh Fork Eagle, we drove LBB up  
3       around and all, we had two old miners that come from  
4       Marsh Fork Eagle.

5       Q.  Sure.

6       A.  We had no rock, so therefore there wasn't a whole  
7       lot of trouble there.  But when you come over to this  
8       mines and we had rock and all, they'd break down.  I  
9       looked up one day and there sat two brand spanking new  
10      Joy miners that they brought.  So we took them up to  
11      Ellis and drove out and punched outside.  Then when we  
12      turned back around and drove across to Ellis Switch,  
13      it was three entries of solid rock and it tore my  
14      miners all to pieces.

15     Q.  Oh, geez.

16     A.  Then we loaded up --- we went up to the tailgate  
17     section and started it with those two miners for, I  
18     don't know, a few months, and then they got a whole  
19     brand new round of equipment for up there.

20     Q.  And did they replace those two miners ---

21     A.  The two ---

22     Q.  --- that were tore up?

23     A.  One of them we brought outside and they took it to  
24     the shop and sent it somewhere else.  And the other  
25     one we put new cutter drums, new conveyor boom, new

1 cats and everything on it, and then we were using it  
2 on the barrier section.

3 Q. Okay. So you guys had the ability to basically  
4 rebuild a miner at the mine?

5 A. We could do a lot to it. We have a crew, a line  
6 bolter crew, that comes to the mines, and we'll pull  
7 it back out of the way, block it up for them to take  
8 the pan or head off, and they'll come in and re-bore  
9 the bits, cut weather strips off and put them on in a  
10 day's time. There's a whole lot that we can do  
11 underground. It's not a complete overhaul, but it ---  
12 it's about as good a place I've ever worked for that.

13 Q. Just gets it back up to speed?

14 A. Uh-huh (yes).

15 Q. Does Massey have any central rebuild facilities?

16 A. They have the Elk Run shop.

17 Q. Okay. So you could send say a shuttle car up  
18 there and get it completely rebuilt?

19 A. Yeah. Sure could. As a matter of fact --- well,  
20 one of them did. The three big 10s that we took to  
21 the portal section, two of them came from Sidney shop  
22 and one come from Elk Run shop.

23 Q. What about the parts inventory, did you have  
24 anything to do with that?

25 A. Yes.

1 Q. Can you give me just a real overview of how that  
2 worked?

3 A. We have part sleds on each section, and we have to  
4 check them once a week to make sure that what was used  
5 wasn't reordered back.

6 Q. Sure.

7 A. Probably not exactly what they wanted. There's  
8 lots of electrical components that they want kept on  
9 the section. And during this time of year, with the  
10 sweat and everything, ---

11 Q. Sure.

12 A. --- it's better ---

13 Q. To keep them outside.

14 A. --- to keep them outside, and you know, they just  
15 don't deteriorate that bad out there, which  
16 underground --- that's a whole lot of money to leave  
17 sitting in water.

18 Q. Sure. So you got a parts sled on the section.  
19 And I imagine that's the real common replacement  
20 parts?

21 A. Yes.

22 Q. Was there a warehouse outside where you kept the  
23 bigger parts or the less commonly used parts?

24 A. Yes, sir.

25 Q. Did you have to order specific parts for that

1 warehouse or keep up with the inventory in that  
2 warehouse?

3 A. To a degree, yes. You know, parts that we used  
4 all the time, it was my responsibility to make sure  
5 that they were there and ordered. Torque shafts, ---

6 Q. Sure.

7 A. --- cutter torque shafts, the portal section, I  
8 probably have ordered a million dollars worth. In  
9 that rock over there they would break five, six, seven  
10 of them a day.

11 Q. Oh, jeez.

12 A. I think they cost around \$400, \$500 a piece. And  
13 I'd order 30 at a time, sometimes twice a week that  
14 many.

15 Q. That's a lot of torque shafts.

16 A. Uh-huh (yes).

17 Q. What about if you use, say, a cutter head motor or  
18 something like that, was there a record of removing  
19 that from the inventory and replacing that on the ---?

20 A. We used to. They used to at that mines keep all  
21 of the spare ripper motors and all of that on  
22 consignment, but then they decided not to do that.

23 Q. Okay.

24 A. So if I brought a ripper motor down, I'd call  
25 outside and tell them to get it there now. And by the

1 time I get the old one out, nine times out of ten the  
2 truck from Joy is there with the new motor.

3 Q. Okay. So you'd just get it pretty much just in  
4 time?

5 A. Yes, sir.

6 Q. What about other components like say a controller  
7 car, would you have to --- is there a record of that  
8 car coming out of inventory?

9 A. A controller car for ---?

10 Q. A miner.

11 A. I'm trying to think of a controller car for the  
12 miner that we would keep. We kept breakers for the  
13 miners. The trees that run through the motors and  
14 all, some, not a whole lot. We kept conduit, pumps  
15 and --- as I said, once they decided to go away from  
16 the consignment, it was pretty much, you know, --- we  
17 had a ripper jack for a 1415 that belonged to us that  
18 we could go out and get, and then we'd bring the old  
19 one out and send it on to get repaired.

20 Q. So you ---?

21 A. There was a whole lot of my miner is down, I need  
22 it now.

23 Q. Sure. So there's basically two inventory systems  
24 at the mines that I'm familiar with. One is where  
25 they got an elaborate computer system that can tell

1 you how many they have on the --- parts they have on  
2 the shelf and when you take a part out it's charged to  
3 a particular piece of equipment. And it sounds like  
4 you guys didn't have that.

5 A. No. It was charged to --- when I called Greg Clay  
6 and told him I needed it, it was charged to my miner  
7 in my section.

8 Q. Okay.

9 A. But --- and he may have put it on his computer. I  
10 don't know. In our office we have --- we had a  
11 computer, and Rick Nicolau kept his parts that he  
12 changed on the computer.

13 Q. Okay.

14 A. And I'm not a computer guy, so in my desk I had a  
15 filing cabinet, and if I changed a wheel unit on a  
16 shuttle car, I would put the date and the shuttle car  
17 and all. I kept mine wrote down.

18 Q. Okay. So you had like a written record of what  
19 you changed out on each piece of equipment?

20 A. Uh-huh (yes).

21 Q. Okay. And that's the other method of inventory  
22 I've run into. Did you ever go in the warehouse on a  
23 weekly or monthly basis and say, we need to order more  
24 contactors or we need to order more this or that?

25 A. In the warehouse every day. I was in the ware ---

1       you know, ---

2       Q. Okay.

3       A. --- me and Rick, Virgil.

4       Q. Okay. So you ---?

5       A. And a lot of times splices. You know, we'd go  
6       back and look, there ain't no splices. We'd call Greg  
7       and we'd get splices.

8       Q. Okay. So you kept up with the inventory on a  
9       regular basis?

10      A. Everyone pretty much did, yeah.

11      Q. Okay.

12      A. Especially the section electrician would go down  
13      and get something. He'd come back and cussing at you  
14      because it wasn't there.

15      Q. Okay.

16      A. No, there's no computer involved with that.

17      Q. And there's --- you know, there's good and bad  
18      points. I was just trying to get an idea how you did  
19      it. Thank you. That's all the questions I've got for  
20      you.

21      ATTORNEY HAMPTON:

22      Seeing how we've been going a little over  
23      an hour, does anybody need to take a break?

24      A. I do.

25      MR. SHERER:

1 Sure.

2 ATTORNEY HAMPTON:

3 Okay.

4 MR. SHERER:

5 Thank you.

6 A. Thank you, sir.

7 ATTORNEY HAMPTON:

8 Off the record.

9 SHORT BREAK TAKEN

10 ATTORNEY HAMPTON:

11 Go back on the record.

12 EXAMINATION

13 BY MR. FARLEY:

14 Q. David, ---

15 A. Sir.

16 Q. --- did your area of responsibility include the  
17 communication and tracking system and its  
18 installation?

19 A. No, I did not work on that.

20 Q. Okay. Who did? Who was responsible for that?

21 A. Derrick Kiblinger, Patrick Lamas did it, were the  
22 installers, and they sort of --- Paul Thompson.

23 Q. They reported to Paul Thompson?

24 A. Yes.

25 Q. Okay. And if I understood you correctly, you were

1 not involved with the CO monitoring system in terms of  
2 that being part of your regular responsibility?

3 A. COs?

4 Q. Yes.

5 A. Yeah, on PMs I have a part where, you know, that  
6 you calibrated your COs for your section belts and  
7 all. Virgil and Tom took care of the COs. They did  
8 them all. But when they would come to my end of the  
9 miens and if I didn't have nothing to do, I would go  
10 help them ---

11 Q. Okay.

12 A. --- calibrate COs ---

13 Q. Okay.

14 A. --- on the beltlines.

15 Q. All right. Now, you started at UBB around  
16 February of 2007. Did your area of responsibility  
17 ever include any of the north sections of --- such as  
18 the longwall headgate and the tailgate development  
19 entries?

20 A. Yes, sir.

21 Q. Okay. When were you responsible for those areas?

22 A. Can I walk over here?

23 Q. Of course.

24 A. When we came to UBB this was drove up to here, I  
25 think.

1 Q. What is that you're pointing to?

2 A. LBB is what we called it.

3 Q. The LBB --- Lower Big Branch area?

4 A. Lower big Branch area.

5 Q. In the vicinity of the Ellis Portal, ---

6 A. Right.

7 Q. --- okay, for purposes of the court reporter here.

8 A. We drove this up and this and this, punched  
9 outside, and then drove --- turned around and drove  
10 over to Ellis Switch.

11 Q. Okay. For the benefit of the transcript, when you  
12 arrived ---

13 A. Oh, I'm sorry.

14 Q. --- in 2007, you were in what's called the Lower  
15 Big Branch area, which would include development of  
16 the Ellis Portal opening, opening from the Ellis  
17 Portal to the Ellis Switch, and from the area south of  
18 the Ellis Portal inby the Ellis Portal?

19 A. Yes.

20 Q. Okay. All right. Now, when were you --- when did  
21 you have the responsibility for the longwall and  
22 tailgate development entries during development?

23 A. Okay. When we punched out at Ellis Switch, we  
24 were finished with this LBB side. We loaded up our  
25 equipment, went inby right here at 78 Break and we

1       went --- which really I don't think then they had  
2       planned on bringing the longwall in yet or not or it  
3       was undecided, but it was called then the Number Two  
4       section.

5       Q. Okay.

6       A. All right. So ---.

7       Q. Which is now the tailgate?

8       A. Now the tailgate. Thirty-five (35) Break, right  
9       in here, in this vicinity, One section, which was the  
10      only section there before we got there, they had drove  
11      up this far. All right. They pulled them out and put  
12      them up this way, driving.

13     Q. Which would have ultimately led to the development  
14     of the so-called longwall headgate entry.

15     A. Okay.

16     Q. Okay.

17     A. So we started at 35 Break and we drove up and  
18     punched this and this through.

19     Q. Now, by this and this you mean the crossover  
20     connecting the longwall headgate and tailgate entries  
21     at the origination point of the longwall panel?

22     A. Yes, sir.

23     Q. Along with the diagonal connecting the same two?

24     A. Yes, sir.

25     Q. Okay.

1 A. Okay.

2 Q. Now, was your job title, job classification, the  
3 same then as it is now?

4 A. Yes, sir.

5 Q. Okay. All right.

6 A. And then they took most of this coal crew and they  
7 put them ---.

8 Q. When you say this coal crew, you're pointing to  
9 the tailgate entry ---

10 A. The tailgate entry, the ---

11 Q. --- personnel people?

12 A. --- Number Two --- as I said at the time, it was  
13 Number Two section is what it was called.

14 Q. Okay.

15 A. So they took 90 to 85 percent of the Number Two  
16 sections coal crew and incorporated them in with One  
17 section and commenced running seven days a week. They  
18 would get so many a month, had like three crews, three  
19 on/six off, three on/six off, whatever. The two or  
20 three that we had left over, then we took this  
21 equipment off Two section, brought it all the way back  
22 down to 35 Break and drove in front of where the  
23 longwall face would be this way.

24 Q. You mined the crossover on the --- at the mouth of  
25 the longwall, from the tailgate side ---

1 A. To the headgate.

2 Q. --- to the headgate ultimately?

3 A. And then that was it. I didn't have it anymore.

4 Q. Okay.

5 A. And this part off to the right was Nick Nicolau's.

6 Q. Okay. What do you call that area immediately  
7 outby the mouth of the longwall?

8 A. It was --- up until --- not until too long ago it  
9 was Number Two section, ---

10 Q. Okay. All right.

11 A. --- is what we called it.

12 Q. Now, I have a number of things I want to clarify,  
13 so I'll be working backwards and jumping around so  
14 just be patient with me. During your discussion  
15 earlier of continuous mining machine methane monitors  
16 you indicated that continuous mining machines used at  
17 UBB are provided with a methane monitor override on  
18 the remote control box.

19 A. Yes, sir.

20 Q. Now, assuming you needed to --- assuming you had a  
21 mining machine in a cut that goes down because of a  
22 methane monitor, now that feature would enable you to  
23 move the miner, ---

24 A. It would in --- yes, it would.

25 Q. --- okay, to a safer location to work; right?

1 A. Back it outby to supported roof.

2 Q. Okay. Which the only time you would need to do  
3 this procedure that you described where you take the  
4 face off the monitor and put a wire in there would be  
5 if you wanted to produce coal or run the ripper head;  
6 is that correct?

7 A. The only reason that I would have done it or have  
8 is because other places that I had worked, that the  
9 older miners that did not have the methane monitor  
10 override on it. And I would do that versus setting  
11 timbers all the way up the rib ---

12 Q. Sure.

13 A. --- and working under, you know, unsupported top.

14 Q. Okay.

15 A. I have at other coal mines, not at Massey, but I  
16 have stuck the jumper in there, backed the miner out  
17 20 feet, 25 feet, to where it was under roof bolts,  
18 repaired it, took it out, recalibrated it and put it  
19 back into coal.

20 Q. But as we said, if your machine is equipped with  
21 that override system, ---

22 A. You don't have to jump it.

23 Q. --- there would be no reason to be putting wires  
24 in it; right?

25 A. No. No, because the only reason that you --- the

1       only reason that you would --- I don't know that you  
2       would want a jumper. Like I said, if you jumpered it,  
3       absolutely, you could mine coal with it, ---

4       Q. Okay.

5       A. --- I mean, if you were a fool.

6       Q. But the override system would not enable you to  
7       mine coal?

8       A. No, because the override system, you can't start  
9       the cutter heads. You can start the pump motor and  
10      you can tram it ---

11      Q. Okay.

12      A. --- and that's all you can do, straight back,  
13      repair it and put it back into coal.

14      Q. Okay. All right. Now, as you described it, your  
15      area of responsibility did not include the longwall on  
16      April 5th; is that correct?

17      A. That is correct.

18      Q. Now, even though your area of responsibility did  
19      not include the longwall, did you have occasion to  
20      visit the longwall at UBB while it was in production?

21      A. Twice.

22      Q. When were you there?

23      A. When the two inspectors --- before it started  
24      loading coal and they shut it down, the mines down.

25      Q. And that would have been about September of last

1 year?

2 A. Yes. Yeah, that's about when it started,  
3 September '09, okay, then. And Keith Stone, a Federal  
4 mine inspector, maybe two days before his closeout the  
5 first quarter of this year, I took him from UBB to the  
6 barrier section and he abated the violation. We went  
7 on up to like 105 Break to abate a violation, and then  
8 he wanted to go to the Mother Drive belt to abate two  
9 violations. So we went to the head first. And there  
10 was a violation that another inspector had wrote,  
11 helping Keith that quarter, and I think it was ten  
12 inches of gob in and around the head area with water  
13 and all and certain parts of the mother belt that  
14 needed to be cleaned and rock dusted. So when we got  
15 to the head, the ten inches of gob had not been  
16 cleaned up. In fact, there was 20 more inches. And  
17 Keith put an order on the belt and shut the belt down.  
18 And then after that we walked the mother belt up to  
19 the --- that thing, what you call it, on the longwall,  
20 the head thing over here on this side?

21 MR. SHERER:

22 Stage loader?

23 BY MR. FARLEY:

24 Q. Stage loader?

25 A. We walked up the belt to there and back out.

1 Q. Okay. One more thought on the methane monitor  
2 override system. Were all the continuous mining  
3 machines at UBB equipped with that feature?

4 A. Mine is.

5 Q. When you say yours, what ---?

6 A. Barrier and portal.

7 Q. So the barrier and portal section continuous  
8 miners were equipped for that?

9 A. I am positive that the tailgate section is brand  
10 new miners. I know they've got it.

11 Q. Okay.

12 A. And Rick Nicolau's 12s on the headgate are four  
13 years old maybe. I'm going to say, yes, sir, not a  
14 hundred percent, but pretty close to it.

15 Q. Okay. All right. Now, on the day of the  
16 explosion, on April 5th, even though it's not your  
17 area of responsibility, are you aware of the longwall  
18 being down at any time during that day?

19 A. I heard someone say that it had been down until  
20 like 2:30.

21 Q. Now, when you say you heard someone say that, can  
22 you elaborate on that? Who did you hear say that and  
23 what did you know on that day about it?

24 A. They call out every 30 minutes off the wall ---

25 Q. Okay.

1 A. --- to the dispatcher.

2 Q. Okay.

3 A. And just --- I don't remember who or --- you know,  
4 who. I just remember someone saying that the wall had  
5 been down for a long time, two or three hours.

6 Q. Do you recall when you heard that on April 5th?

7 A. It was sometime during --- up on the barrier  
8 section.

9 Q. Okay.

10 A. You know, someone had said that up there.

11 Q. Do you recall what the nature of the problem was  
12 on the longwall?

13 A. No, sir, I do not.

14 Q. Don't know a whole lot about a longwall. Like I  
15 said, I never seen one other than that time I walked  
16 across, and never have worked on one.

17 Q. Now, obviously your area of responsibility  
18 included the barrier section and the portal section  
19 and so forth. When they had a problem, you'd go  
20 running?

21 A. Yes, sir.

22 Q. Now, if the longwall experienced a problem where  
23 they were going to be shut down, who goes running to  
24 the longwall, or who would at that time?

25 A. Well, Danny Lafferty or Bobby Goss and Dilbert

1 Bailey. They were the --- Dilbert's a maintenance  
2 foreman on the dayshift on the longwall.

3 Q. Okay. Who was the longwall coordinator?

4 A. Jack Roles.

5 Q. Okay. All right. Now, do you have any idea who  
6 or if any persons would have visited the longwall on  
7 April 5th, prior to the explosion, and of course,  
8 lived to tell about it?

9 A. No, sir, I don't know. I know Virgil Bowman and  
10 Tom Sheets were up there in that area working on a new  
11 belt up here or somewhere. I know they were up there.  
12 Everett Hager, the superintendent on that side, told  
13 me later on that he was on the head and the tailgate  
14 sections that day.

15 Q. Okay.

16 A. I don't really --- the longwall, they portal over  
17 on the other side. Don't see them very much.

18 Q. Okay.

19 A. And as I said, I just don't --- I wished I did ---  
20 I always wanted to go see it run, but I never did get  
21 the opportunity. I just --- I have no knowledge of  
22 the longwall.

23 Q. Did Mr. Hager tell you --- Mr. Hager, as you say,  
24 he told you he had been on the head and tail side that  
25 day.

1 A. Yes, sir.

2 Q. Did he tell you why he was there?

3 A. He's like me. He goes underground all the time.  
4 that's his side, and he's up there.

5 Q. Okay.

6 A. But he did also tell me that he didn't detect no  
7 gas up there them days, you know, that --- he and I  
8 were talking about it, and he said, hell, I was on  
9 both sections. He said, I didn't pick up nothing, you  
10 know.

11 Q. When you say he was on --- and you say he said he  
12 was on both sections?

13 A. Yeah. He had been to the headgate and the  
14 tailgate sections that day.

15 Q. Now, let me make sure I didn't misunderstand you.  
16 You said he was on the head and the tail. Did I  
17 interpret --- did you mean he was on the headgate side  
18 of the longwall and the tailgate side of the  
19 longwall ---

20 A. No, the new ---.

21 Q. --- or do you mean he was on the tailgate and  
22 headgate mining sections?

23 A. Yeah, the mining sections. He didn't have nothing  
24 to do with the longwall either.

25 Q. Okay.

1 A. Everett's ---.

2 Q. All right. So he did not tell you that he visited  
3 the longwall?

4 A. No, he didn't visit the long ---. The headgate  
5 section, I'm sorry, and the tailgate section --- or  
6 the tailgate section and the headgate --- the miner  
7 sections.

8 Q. Okay.

9 A. He was on both miner sections that day.

10 Q. Okay. I want to make sure I didn't misunderstand  
11 you.

12 A. Right.

13 Q. And he told you that he didn't detect any methane  
14 when he was there?

15 A. Yes, sir, that's what he said.

16 Q. Did he say he was in the faces, in the working  
17 faces?

18 A. Yes, sir.

19 Q. Okay.

20 A. Yeah. He said he went all over the sections.

21 Q. Okay. Now, on April 5th, you indicated that you  
22 were coming very close to the drift when the explosion  
23 occurred. Before you left the barrier section, did  
24 you happen to overhear any communications on the mine  
25 phone from any of the --- from the longwall Tailgate

1 22 section or Headgate 22 section calling to the  
2 portal with any production reports, anything like  
3 that?

4 A. No, sir. We had the two-way radios that we carry,  
5 the leaky feeder system. And you can switch a channel  
6 around, I think, to hear the mine phone, and we didn't  
7 do that.

8 Q. Okay.

9 A. We was working on that left shuttle car, and it  
10 was in the track entry. So once I found out what was  
11 wrong with it, I went down the track and I talked to  
12 James Woods, coming off of the tailgate section. And  
13 he was at 78 Break, trying to get the road out.

14 Q. Okay. In the time that you worked at UBB, from  
15 February of 2007 up to April 5th, did you ever  
16 participate in any major equipment moves, meaning ---  
17 when I say major equipment move, I mean you either  
18 tram or load something like a continuous miner or a  
19 shuttle car or a roof bolter on a flatcar and  
20 transport it into the mine?

21 A. Yes, sir.

22 Q. Okay. How often would you participate in those  
23 kind of moves?

24 A. I took --- with Gary May I took a whole brand new  
25 round of equipment from outside of UBB to the --- this

1 tailgate section here.

2 Q. Okay. Now, when you made those equipment moves,  
3 were those equipment moves made with people working  
4 inby the same split of air?

5 A. We made them on shift, yes. I don't know if it  
6 was the same split of air. Gary May would fire boss  
7 it and we'd check motors, we'd load them up and we'd  
8 go.

9 Q. Okay. But were there people working inby on that  
10 section as you were traveling toward it?

11 A. Yes.

12 Q. Were you in an isolated --- an intake airway  
13 separate from the intake airway ventilating the  
14 section where these people were working?

15 A. We were on the track, ---

16 Q. Okay.

17 A. --- so we would --- we'd bring it from outside to  
18 78 Break and then we'd switch over onto this side, the  
19 tailgate side, and we would tram down to Ten Break,  
20 and we unloaded it at Ten Break. And then from Ten  
21 Break up to probably in this area right here is where  
22 we got the new miners at, where we switched out.

23 Q. And when you say this area here, are you pointing  
24 to ---

25 A. Right in here.

1 Q. --- about Number 95, 96 area, in the tailgate  
2 entry side?

3 A. Yes, sir. And then we would tram it up the  
4 neutral, from 10 Break up to here.

5 Q. Okay. Now, in addition to Mr. may, who else would  
6 have worked with you on that?

7 A. Bruce Bickers, the motorman, ---

8 Q. Okay.

9 A. --- two or three, and I don't know their names.  
10 We had several contractors at our mines that worked  
11 outby for Gary may and doing different things, and  
12 they would help us some. Jeremy Woods, an employee  
13 there, he would help us.

14 Q. Okay. Now, can you give me a time frame? When  
15 did you do this?

16 A. Shoot, I'm not much good on times, but if the  
17 longwall was ready to run in September ---

18 Q. 2009.

19 A. --- 2009 and we were at 95 Break approximately, it  
20 would have probably been somewhere around May.

21 Q. 2009?

22 A. 2009. Because we switched miners out and used the  
23 new shuttle cars and the new miners to go this  
24 direction and this direction. So I'm guessing May of  
25 '09.

1 Q. Now, as you were transporting this equipment,  
2 where you were pulling it on a flatcar or trammng it,  
3 the air that was passing over the equipment as you  
4 were moving it, was it going to the section where  
5 people were working?

6 A. I'll be honest with you, I never really paid a  
7 whole lot of attention to it. I just --- the air, I  
8 just --- we loaded it up.

9 Q. Okay.

10 A. We got in the motors and we had a mantrip inby us  
11 and one outby us, and we went to the sections.

12 Q. Okay. All right. Now, would Mr. May have been  
13 the person responsible for the move?

14 A. Yes, sir.

15 Q. Okay. And then we trammed the 12s from outside  
16 the portal section.

17 Q. Would that have been done in the same manner?

18 A. No. We trammed this equipment ---

19 Q. Okay.

20 A. --- on its own power.

21 Q. Okay.

22 A. We didn't haul any of it.

23 Q. The 12s that you trammed, would that have been  
24 done with people working inby on the coal sections?

25 A. Yes.

1 Q. Okay. What was the time frame on that move?

2 A. That would have been maybe December or January,  
3 approximately, of '09 and '10.

4 Q. This year, too, meaning?

5 A. Yes. Yes, January --- or yeah, December and  
6 January.

7 Q. Okay. All right.

8 A. Or maybe earlier. When we brought the old miners  
9 outside, I had to antifreeze them, so it was just  
10 before winter. When I brought the little 10s out, ---

11 Q. Okay.

12 A. --- I had to pump them full of antifreeze. So it  
13 probably was earlier than that, October, November.

14 Q. Okay. I'll change directions here. On April 5th,  
15 after the explosion, did you take any notes?

16 A. No, sir, I did not.

17 Q. Okay.

18 A. I was there all night, but I didn't take any  
19 notes.

20 Q. Okay. You were in the UBB office complex after  
21 the explosion; correct?

22 A. For a little while, yes.

23 Q. Did you go elsewhere?

24 A. Yes, sir.

25 Q. Where did you go?

1 A. And I don't know the times, but Elizabeth  
2 Chamberlin, the head safety director for Massey  
3 Energy, and Jack Martin, the section boss on the  
4 barrier section, come running down the steps,  
5 hollering we need first aid supplies. Jack went and  
6 got his pickup truck off the parking lot. Where we  
7 had shut the portal section down and was bringing  
8 everything out, there was a bunch of first-aid kits  
9 there, boxes, that we use. We threw everything that  
10 we could find out of there in the motor pit, into the  
11 back of Jack's truck, and he, Elizabeth and myself  
12 drove to Ellis Portal.

13 Q. Now, what time was this when you and Elizabeth and  
14 Jack went to Ellis Portal?

15 A. It was daylight still yet, but I don't --- I don't  
16 remember the times, but it was daylight.

17 Q. When Elizabeth arrived, did she arrive on  
18 helicopter?

19 A. It didn't take her and Chris Adkins very long to  
20 get there. Someone said that they did. I personally  
21 didn't see them land or whatnot. It didn't take them  
22 very long that they were there.

23 Q. A couple more things here to clarify. Earlier in  
24 your interview you were talking about the belt near  
25 the Ellis Portal being separated while you were

1 cutting ---

2 A. Head hole.

3 Q. --- head hole channel, whatever. I didn't catch  
4 the day. When was that work being done? Was that  
5 April 5th or was that before?

6 A. No, it wasn't April the 5th. It was before.

7 Q. Okay.

8 A. And it ---.

9 Q. Days, weeks?

10 A. Well, it wasn't the week before. I only worked  
11 four days the week before the explosion, and I was  
12 outside on the scoop every day. So it wasn't then, so  
13 I'm thinking it was the week before that.

14 Q. Okay.

15 A. Almost positive that it was, so ---.

16 Q. Okay.

17 A. And it was a Sunday night because they had more  
18 time. The longwall or --- they had more time to shut  
19 the belt down and try to get it finished before the  
20 dayshift come. And Sunday night was the most amount  
21 of time that the midnight had to work on. As a matter  
22 of fact, I think they come in early to do it. So it  
23 would have been a Sunday night, a Monday shift for me.

24 Q. Okay. Now, would there have been a project  
25 ongoing in the vicinity of the Ellis Portal on April

1 5th involving the mining machine and cutting a belt  
2 channel or an overcast or something of that nature?

3 A. There very well could have been. Very well could  
4 have been. I don't know. I wasn't --- the only  
5 section that I went to that day was the barrier. So  
6 as I said, it's very well possible.

7 Q. Okay.

8 EXAMINATION

9 BY MR. MCGINLEY:

10 Q. I have some clarifying questions and some  
11 additional questions to ask you. What mining  
12 certificates do you hold?

13 A. I have a West Virginia electrical certificate, and  
14 I have an underground mine foreman's papers.

15 Q. Anything else?

16 A. That's it. Just a regular underground card.

17 Q. What did you do at Marsh Fork Eagle?

18 A. I was the chief electrician.

19 Q. At UBB, you're the chief electrician. When did  
20 you work?

21 A. I worked the dayshift. I would get at the mines  
22 at 15 'til 6:00 and work until whenever. Most days it  
23 was four o'clock I was outside, but if something was  
24 broke down I would stay.

25 Q. Were you on call at all?

1 A. Yes, sir.

2 Q. How often would you come in on shifts other than  
3 dayshift?

4 A. As far as being called at the house, the  
5 maintenance foreman on the evening shift may call and  
6 ask me a question about something, whether I had a  
7 part or not. Very seldom did I ever have to go home  
8 and leave my house and go back. That didn't happen  
9 very often. Lots of times setting new belt head,  
10 moving the section, I would come back out and work the  
11 midnight shift to get that set up and then whatever it  
12 took the next day to get it running. And then once  
13 they started loading coal, I would go home. But my  
14 normal shift is 6:00 in the morning until 4:00 in the  
15 evening.

16 Q. You were talking about a time when Jack was having  
17 ventilation trouble. That was Jack ---?

18 A. Jack Martin, the section foreman on the barrier  
19 section.

20 Q. You said the air was messed up?

21 A. (Indicates yes).

22 Q. You have to answer yes or no.

23 A. Oh, I'm sorry. Yes. He didn't have enough air to  
24 mine on the right side of the section.

25 Q. And approximately when did that occur?

1 A. I'm sorry.

2 Q. I'm not looking for a day. How about a year?

3 A. Well, that would have been this year, 2010.

4 Q. Okay. How about a month, give or take a month?

5 A. I'll say March, maybe the first part of March.

6 I'm not ---

7 Q. That's fine.

8 A. --- exactly clear. It was this year.

9 Q. So how long was that section shut down; do you  
10 recall?

11 A. For that particular instance, on the air on the  
12 right side?

13 Q. Yes.

14 A. Two hours before quitting time and an hour after,  
15 three hours.

16 Q. So can I assume that that would be --- there would  
17 be some record of that in the production reports or  
18 elsewhere?

19 A. Yes. Yes, there should be, yeah.

20 Q. Who would have written that down?

21 A. Well, Jack Martin would have wrote that up at the  
22 end of the day on his production report. They have to  
23 list all of the times that they change places and  
24 everything has to be accounted for. And the right  
25 side wasn't loading coal for two hours, so that's

1 where it would have had to have been.

2 Q. And that would have had to have been called out  
3 when that ---?

4 A. On the fire boss report?

5 Q. No, no. No, when he found there wasn't adequate  
6 air and the miner wasn't operating, they weren't  
7 producing coal?

8 A. I went to the telephone and hollered at Gary May  
9 and told him that Jack didn't have enough air and  
10 needed help.

11 Q. And I think you said help came fairly quickly?

12 A. Uh-huh (yes). Yeah, Gary May and Berman Cornett,  
13 I think they were working around --- LBB Switch was 10  
14 or 15 breaks away from the section was all. They were  
15 there pretty quick, within maybe 10 to 15 minutes.

16 Q. And you said that other than that, you didn't  
17 think there were other ventilation problems that you  
18 recall or something like that. I'm just trying  
19 to ---.

20 A. On the barrier section, no, sir, I didn't --- I  
21 wasn't aware of any ventilation troubles up there or  
22 --- had several inspectors visit that section on  
23 several different occasions, and nothing sticks out in  
24 my head where they shut the section down for low air  
25 or anything like that. Not to say that they didn't.

1 I don't remember it, so you know, it wasn't really ---  
2 ventilation I don't think on that section was a big  
3 issue.

4 Q. What about ventilation --- strike that.

5 Speaking of after the Bandytown fan went in, are  
6 you aware of any ventilation problems other than the  
7 one you just mentioned involving Jack Martin, anywhere  
8 in the mine?

9 A. No, sir, I wasn't. I mean, I just never heard  
10 anybody talking about, you know, not having enough air  
11 anymore after that or anything. I just assumed that  
12 everything up on that end was okay. Didn't hear a  
13 whole lot of trouble. Still, you know, you got  
14 violations for this or that up through there.

15 Q. Did you know there were any violations written for  
16 inadequate air after the Bandytown fan went in?

17 A. I wasn't aware of that, no, sir. I didn't keep up  
18 a whole lot with the ventilation, unless I happened to  
19 be traveling with the inspector. Once they split us  
20 up, I didn't travel up in there a --- I think when I  
21 went up there with Keith Stone was the first time I  
22 had been up there in a log time, so ---.

23 Q. Were you aware at some point that UBB was getting  
24 quite a few MSHA violations and (d) orders in 2009,  
25 carrying over in 2010?

1 A. Yes.

2 Q. Were you aware that the Massey management came out  
3 --- sent some folks out to see what they could do to  
4 reduce those sorts of problems, somebody from outside  
5 of Performance and UBB?

6 A. I don't remember anyone. I mean, not to say that  
7 there wasn't. I don't remember anybody coming up  
8 special doing anything. But as I said, too, where we  
9 had the Ellis punch-out and the bath house and all  
10 over there, people can go over there and go in and out  
11 and we'd never see them and never know anything about  
12 them.

13 Q. Well, I'm just thinking about did anybody come to  
14 you from outside and Massey sent them to talk to you  
15 about any possible safety problems ---

16 A. No, sir.

17 Q. --- or violations?

18 A. No, not that I can recall. No one did.

19 Q. You just mentioned the time you were with an MSHA  
20 inspector, Keith ---

21 A. Snow.

22 Q. --- Snow. And at some point you found --- he was  
23 going back to lift --- abate an order that was written  
24 for ten inches of ---

25 A. He was going to ---.

1 Q. --- gob and then you found 20 more inches.

2 A. He went to abate a violation.

3 Q. Right.

4 A. It wasn't an order when they wrote it. It was  
5 just a violation.

6 Q. And then he wrote it as an order after ---

7 A. Yes, sir.

8 Q. --- he found twice as much there as when he  
9 originally wrote the violation?

10 A. Yes, sir.

11 Q. And do you recall whose responsibility it was to  
12 abate that violation? Probably several people, I  
13 assume.

14 A. I would imagine that it --- being the mother belt  
15 for the longwall, that it would be Jack Roles. He's  
16 the longwall coordinator, and the longwall is his  
17 responsibility and all. I would --- that's who I  
18 would blame, you know what I mean.

19 Q. How many times in your experience since you've  
20 been at UBB do you know of management from a section  
21 foreman on up that were disciplined or fired because  
22 of safety issues?

23 A. That's a tough one.

24 Q. If any. I mean, maybe you don't know of any.

25 A. Gary May was suspended for three days.

1 Q. And why was that?

2 A. Because on the portal section, where we were going  
3 from the low vein equipment to the high vein, we were  
4 in the process of switching the equipment out. The  
5 1212s we had to grade and take more height for, ---

6 Q. Right.

7 A. --- but still, at the same time, had to use the  
8 small equipment, shuttle cars and whatnot, to get the  
9 coal to the feeder. We didn't have any canopies on  
10 the equipment, and the inspector came up and wrote  
11 five or six (d) orders on every piece of equipment up  
12 there that didn't have a canopy on it. And I think  
13 Gary May got suspended three days because of that.

14 Q. Do you know of any other instances other than that  
15 when the management people were disciplined or ---?

16 A. I can't recall right offhand or none of it sticks  
17 out in my head.

18 Q. What about non-management personnel, miners, who  
19 got disciplined or fired because of safety issues?

20 A. Once again, on the portal section --- and I don't  
21 remember their names because they made up crews from  
22 other mines and brought them there and they'd work a  
23 while and you never did get a chance to learn  
24 everybody. Had two roof bolt operators that didn't  
25 walk the roadways run through curtains and tore a

1 scoop up. And Gary May and I brought them outside and  
2 they were disciplined. They were given three days  
3 off, subject to discharge.

4 Q. And were they subsequently discharged?

5 A. No, sir. They were allowed to come back after the  
6 three-day suspension.

7 Q. Do you know of any other suspensions or firings of  
8 non-management personnel in the time you've been at  
9 UBB?

10 A. No, sir. I can't recall any of it that I can  
11 remember.

12 Q. Now, you indicated that before you went to your  
13 present assignment, barrier section, so forth, that  
14 you had responsibility --- overall responsibility for  
15 the tailgate section driving up to the Bandytown fan?

16 A. Yes, sir.

17 Q. You took some new equipment up there?

18 A. Yes, sir.

19 Q. What were the conditions like there?

20 A. Real nice up through there. It was a nice  
21 section. Five-and-a-half, six foot high. Outby,  
22 after we drove up through there, around 90 --- 85  
23 Break, 86, we had some bottom hooving. But overall,  
24 it was good coal loading sections up through there.

25 Q. Again, I'm not trying to pin you down on days or

1 even months, I'm just trying to get some approximate  
2 time when you had the responsibility for that --- for  
3 the electrical up in that Tailgate 22 section there.  
4 Timing, do you have any sense of that?

5 A. Well, as I said, the longwall started in  
6 September. It would have had to have been the early  
7 part of '09, January, February, March, April, those  
8 months through.

9 Q. Right. Actually, I think I recall you had  
10 mentioned May, but I --- so somewhere in that time  
11 frame, January through May. Was it for very long? I  
12 mean, were you assigned that area for that whole  
13 period or a month?

14 A. Yes. I was --- from the point of leaving LBB to  
15 35 Break on the tailgate side of the longwall, I was  
16 in charge of the electrical equipment all the way up  
17 to where we cut the longwall across in front of the  
18 longwall face and we cut the angle into the headgate  
19 section. And then when we moved back down at 35, 36  
20 Break, in front of the longwall face we drove a panel  
21 across, over to the headgate side. And then that's  
22 when I took over on the south side, and Rick Nicolau  
23 then took responsibility for this up here.

24 Q. I see. So what did you hear about methane up in  
25 that Tailgate 22 when you were --- you had

1 responsibility for that area? Did anybody report  
2 methane, to your knowledge?

3 A. If they did, I wasn't aware of it. I mean, as I  
4 said, I was up there and I never did see the miners  
5 gas off as the miners was mining coal. I didn't --- I  
6 never seen that. They may have had methane called out  
7 on the fire boss report.

8 Q. Were those miners the miners that had the  
9 bypass ---?

10 A. Methane monitor override?

11 Q. Yes.

12 A. Yes, sir. They were brand new miners.

13 Q. Those are the ones you were talking about that you  
14 brought up there?

15 A. Yes. My time at UBB, I had four brand spanking  
16 new miners. As I said before, the two that we drove  
17 LBB at the Ellis punch-out, we started the tailgate  
18 section with those two miners, and then they brought  
19 two more brand spanking new miners. We put them up  
20 there, new shuttle cars, new roof bolters. I had the  
21 same feeder that I always had, but basically I had a  
22 whole brand new round of equipment. And those two  
23 miners were equipped with methane monitor overrides on  
24 those.

25 Q. How far had the longwall advanced before you went

1 to your present assignment; do you recall? Or had it  
2 begun?

3 A. I was trying to remember. It would have been this  
4 short panel right here.

5 ATTORNEY HAMPTON:

6 Which panel are you referring to?

7 A. The cut-through from the head side of the longwall  
8 between the tailgate and the headgate entries. And  
9 the longwall was running when we cut that through  
10 there, and it's --- I'm going to say a month is  
11 probably all that it took us to drive that across. It  
12 wasn't a very long panel at all.

13 BY MR. MCGINLEY:

14 Q. What about water problems that occurred in that  
15 tailgate 22 section there when you were responsible  
16 for the electrical out there?

17 A. When we drove the tailgate up, no, sir, we didn't  
18 have --- once place up at 93 Break, we hit a dip and  
19 we had water on our section. But once we went through  
20 that, we didn't have water troubles. On the tailgate  
21 side of the straight cut-across or the angle we had no  
22 water problems. I think that all the water problems  
23 occurred way up there on the top end of the headgate  
24 section, wherever it finished up at. I worked on the  
25 bridges outside. But as far as going up there and

1       witnessing the water and all, I did not see that but  
2       heard people talking about it. But no, sir, not on  
3       the tailgate side, we had no water problems.

4       Q. Where were the bridges going?

5       A. Up where the headgate finished --- the headgate  
6       section finished, and it was going to be the returns  
7       and ---

8       Q. Near the fan?

9       A. --- airways up through the --- near the fan.  
10      Probably so, yeah, I would say. There was air, but  
11      I'm thinking that that's where it was at.

12     Q. How many bridges did you make?

13     A. I think we built ten.

14     Q. Ten?

15     A. Ten. Three feet wide, about four foot high, about  
16     ten foot long.

17     Q. And what was the purpose of those?

18     A. They were going to put those --- they had --- if  
19     I'm not badly mistaken, they went up there after we  
20     finished mining and they were putting in the air  
21     shaft, they were cutting big old channels to get the  
22     water to run to the air pumps so that they wouldn't  
23     have to have any electric pumps up in there while the  
24     longwall was being mined, and it was all designed to  
25     pool the water up in one place. But it was also a

1 place where the intake and escapeways and had to still  
2 be walked weekly, so those bridges was put there so  
3 that they could walk their intake airways and returns.

4 Q. And did you learn at some point that there was ---  
5 some of the entries up there had roofed out with  
6 water?

7 A. I had never heard anyone say that I wasn't aware  
8 that they were roofed out. I didn't know.

9 Q. You never heard that?

10 A. I didn't hear that, no, sir. As I said, I never  
11 seen it and didn't talk to a whole lot of people about  
12 it up there.

13 Q. Are you aware of any other water problems at UBB  
14 other than in the section that you were responsible  
15 for in the last year, say from 2009 to April of 2010?

16 A. We had places --- I don't know if you called them  
17 water. I suppose. But after this, I don't know if  
18 they were problems or not. We had places that we had  
19 pumps that we had to set, and the airway examiners and  
20 fire bosses and all would take care of those pumps,  
21 you know, and pump water down --- if in LBB, up toward  
22 the barrier section there was a dip in the track, and  
23 there would be water built up there, throughout the  
24 mines places like that.

25 Q. Did the longwall ever have to shut down because of

1 excessive water; do you know?

2 A. I don't know that they did, no, sir.

3 Q. You said you knew that there were ventilation  
4 problems before they put the Bandytown fan in; is that  
5 right?

6 A. Yes.

7 Q. What kind of ventilation problems were there?

8 A. Just low air. They didn't have enough air.

9 Q. Where would that have been?

10 A. On the head and tailgate sections both they would  
11 have to, you know, work their ventilation, tighten  
12 their curtains up and --- to get enough air to mine  
13 with.

14 Q. Would that be --- would you expect that to be  
15 documented in either the production or the pre-shift  
16 reports?

17 A. I would think, but I don't know that to be a fact.  
18 I'm sure that it was.

19 Q. It went on for a considerable amount of time  
20 before the fan went on?

21 A. I don't know the exact amount of months, days or  
22 nothing like that, but you know, it was a problem  
23 until they hit the Bandytown fan.

24 Q. So over a course of some months. You just don't  
25 know what the months were?

1 A. Right.

2 Q. You said you shared an office with Jamie Ferguson?

3 A. Yeah, for a while I did. Yes, sir.

4 Q. When would that have been? Again, I'm not looking  
5 for exact dates. I'm just --- generally.

6 Q. Probably the latter part of last year and first  
7 couple of months of this year.

8 Q. The latter part of 009, February --- I'm sorry,  
9 January, February 2010, approximately?

10 A. Yeah. I don't know exactly when he come and when  
11 he left.

12 Q. I'm not looking for that. I'm just ---.

13 A. Right. But yes, sir, I did.

14 Q. And you heard Everett Hager and Jamie Ferguson  
15 talking about ventilation problems?

16 A. Mostly Gary May.

17 Q. And Gary May. Where was his office?

18 A. Well, they weren't ventilation problems.

19 Q. Okay.

20 A. I heard them discussing ventilation changes and  
21 what they had to --- so many stoppings to knock out  
22 and so many stoppings to build and you need to do ---  
23 get this ready and that ready and that sort of stuff.

24 Q. And was that a topic of sort of ongoing discussion  
25 during the period of time you shared the office there

1 with Mr. Ferguson?

2 A. It wasn't an everyday thing, you know, just  
3 whenever they were having a ventilation change or ---  
4 and ever how often that was, if they needed one. If  
5 they was moving a section here or there, they would  
6 discuss ventilation.

7 Q. Were ventilation changes ever explained to you  
8 that affected the area of your responsibility?

9 A. No, sir.

10 Q. Were there any ventilation changes that affected  
11 the area of your responsibility? Now we're talking  
12 about the barrier section and ---.

13 A. There was --- I'm sure that they did some on the  
14 weekends and maybe on the midnight shifts. Almost had  
15 to have been before we could have started the section.  
16 But you know, as far as going over it with me, no,  
17 sir, they didn't do that.

18 Q. So that same would be true with regard to  
19 ventilation changes for the other side of the mine?

20 A. Yes, sir. I just happened to be in the room when  
21 they were talking about that part of it. It wasn't  
22 directed towards me.

23 Q. I understand. You mentioned the time before the  
24 longwall started up that a couple of MSHA people were  
25 inside the mine, Mike Haynes and Joe Mackowiak, and

1 you said the ventilation wasn't working. That  
2 resulted in shutdown for a few days.

3 A. Yes, sir.

4 Q. What was there that you observed about the  
5 ventilation at that time, before they put the red tags  
6 on the portals?

7 A. They said that the air was going the wrong  
8 direction across the longwall face.

9 Q. So it was at the longwall face was where the  
10 problem was at that time?

11 A. Yes, sir.

12 Q. But the whole --- was production of the whole mine  
13 shut down?

14 A. We were running coal on that day. We were running  
15 coal on barrier and portal sections.

16 Q. Up until the order shutting it down, or did you  
17 continue producing? Were you allowed to?

18 A. No, sir. They pulled everyone out of the coal  
19 mines and red tagged both portals. No one was allowed  
20 to go into the mines. They came up with a different  
21 air plan or something. I don't know what they did.  
22 But then once they did that, the only people that was  
23 allowed to go into the coal mines was the ones working  
24 directly with the ventilation change.

25 Q. Let me switch over. You said you were injured at

1 some point, the day before you were scheduled to go on  
2 vacation?

3 A. Yes, sir.

4 Q. And what time of year would that have been?

5 A. July.

6 Q. What kind of injury did you suffer? A (b)(7)  
7 injury, did you say?

8 A. Yes, sir. I --- my son and I was changing a tram  
9 motor out on a shuttle car. I was come-alonging it up  
10 to drop it down after we had taken the pins out, and I  
11 didn't have it hooked good enough and my (b)(7) got under  
12 the bolter in the wrong place and it fell on it.

13 Q. So how long did you work in the office after that?

14 A. I went on vacation that next day. I was off for a  
15 week. And I came back and I had a doctor's  
16 appointment three weeks after that. So I was outside  
17 on vacation and in the office for a total of a month.

18 Q. And what was the diagnosis?

19 A.(b)(7)(C) . And I was lucky that there was a hole  
20 there, because when they pushed (b)(7)(C) down,  
21 it didn't break anything, just pushed it on out.

22 Q. Is it still bothering you?

23 A. No, sir.

24 Q. Did you have to do any physical therapy ---

25 A. No, sir.

1 Q. --- in relation to that? You said that there were  
2 a whole lot of times when miners were down and you'd  
3 get a call, I need it now. I assume it means fixed or  
4 parts; is that right?

5 A. Yes, that's what I said. I don't know if it was  
6 down all the time or not. But if there was a big  
7 component down on a miner, then I would order it and  
8 have it shipped directly there. Most of the time,  
9 when it's not just in regular ordering, if I order  
10 shuttle car splices to keep in the supply house, I  
11 fill out a request form and Greg sends it to a  
12 purchasing agent or whatever in the company somewhere,  
13 Chris Blanchard okays it, and then we get it within  
14 three or four days. Breakdowns, emergencies, I can  
15 tell him to order it right now. I don't have to go  
16 through Chris Blanchard or anyone, you know, to get  
17 approval. I can get my part right real quick.

18 Q. What would qualify as an emergency in terms of  
19 getting parts?

20 A. A ripper jack down on a miner, a conveyor motor  
21 down on a miner, anything that keeps the miner down  
22 that we don't have a part to fix is an emergency.

23 Q. Anything else that you can think of?

24 A. Yeah, anything. I mean, had a belt head motor  
25 down that kept the belt from running ---.

1 Q. Anything that stopped production?

2 A. Anything that stops production is an emergency.

3 Q. What about non-emergencies? You had this process  
4 where you would make a request for parts, but you  
5 didn't have the final say. You had to go through the  
6 purchasing agent; is that right?

7 A. Yes. I'm sorry.

8 Q. And did the purchasing agent have the final okay  
9 on ordering parts?

10 A. No, sir. All he did is he filled out a request  
11 form and sent it to the Marfork office, and there they  
12 okayed with Chris Blanchard, and then it was sent back  
13 to him. He called on the phone, ordered the parts.  
14 Within a day or two they were there.

15 Q. Were there --- did there ever come a time when you  
16 would order parts and that would be vetoed by somebody  
17 above you?

18 A. Yes.

19 Q. How often would that occur?

20 A. Tools mainly, you know. If we ordered a lot of  
21 tools, Chris Blanchard would deny those.

22 Q. Were they tools you needed?

23 A. They were tools that --- yes, sir. We didn't  
24 order anything we didn't need, I don't think. But a  
25 lot of times it would be denied. And then we'd go

1 back and reorder not so many for the same man, for the  
2 electrician, a new electrician. You know, I may make  
3 ka whole big list and it would be denied. So then  
4 what I'd do is I'd go ordering 10 or 12 things, and it  
5 would go through. And then a week or so later I'd  
6 order a few more things, and eventually we get them.

7 Q. Did you ever talk to Mr. Blanchard or any of your  
8 supervisors about why you would be denied --- this is  
9 an example, tools that you needed?

10 A. No more than I had to, no, sir, I did not talk to  
11 Chris Blanchard.

12 Q. Did you talk to anybody else above you?

13 A. Well, Paul Thompson. And he said, well, just keep  
14 on sending it through. We'll get them. Shuttle car  
15 cables, miner cables, bolter cables, no problem.

16 Q. Production related?

17 A. Production related. We needed a cable, we ordered  
18 it. The next day or two it was there. As I said,  
19 emergency parts, pot down on the miner, ripper head,  
20 nothing, it was there. If we didn't have it, Joy  
21 didn't have it, somebody down at Route 3 did, and we'd  
22 go get it. It was the --- as I said, the tools and  
23 things like that that, you know, didn't always get ---

24 Q. Right.

25 A. --- pushed through.

1 Q. Let me switch gears a little bit here. You're  
2 talking about the methane detector and the continuous  
3 miner had the override setup. Any other equipment  
4 have that override setup?

5 A. No. The only other thing, on the miner sections  
6 we --- at one time we had a roof bolter that had a  
7 methane monitor on it but didn't have an override on  
8 it.

9 Q. I see. You mentioned the conversation that you  
10 had with Everett Hager about his trip up to the  
11 headgate and tailgate sections on April 5th.

12 A. Yes, sir.

13 Q. And he said he didn't pick up any gas when he was  
14 up there, and he was all over those sections; is that  
15 right?

16 A. That's what Everett told me.

17 Q. When did that conversation take place?

18 A. I ---.

19 Q. Again, I'm not trying to pin it down. You know,  
20 time's passed, memory ---.

21 A. Two months ago.

22 Q. Have you talked about the explosion or the  
23 causes --- the possible causes with Mr. Hager, other  
24 than that time?

25 A. Not really, no, I haven't, just that part --- we

1 were talking one day and we was --- you know, and I  
2 mentioned to him, I said --- I told him, I said,  
3 Everett, I find it hard to believe we mined coal all  
4 day --- you were up there, the mine foremans was up  
5 there, outby electricians, all of those fire bosses.  
6 If there would have been a gas problem all day,  
7 somebody would have picked it up. No one picked up  
8 any gas that I was aware of before that explosion.  
9 And there was a lot of people up there, supply crew.  
10 Everybody carries a methane detector. If someone  
11 would have found five percent of methane, they would  
12 have screamed it out. But there was a lot of people  
13 and nobody finding no gas, and I was just --- well,  
14 Everett, where did it come from?

15 Q. I'm sure a lot of people are wondering that.

16 A. Yeah. And it doesn't make any sense to me. I  
17 don't know. And I certainly hope that when it's all  
18 said and done that there is --- here's where it  
19 started and here's why.

20 Q. Well, that's what we're trying to figure out, ---

21 A. Right.

22 Q. --- and we appreciate you being here.

23 A. Because you know, I'd feel a whole lot better  
24 about going to work in that mines or any other mines  
25 knowing that this is what did it. I don't really want

1 to go back to work not having an idea, especially at  
2 that coal mines, why they did that.

3 Q. That's understandable. We're all, you know,  
4 working to try to put the pieces together and see if  
5 we can figure out what happened.

6 A. But as we was having that conversation, that's  
7 when he told me, he said, well, that day I was on both  
8 miner sections in the faces and nothing --- around  
9 feeders and all, he said, and I never detected no gas  
10 of that magnitude. So you know, as I said, I don't  
11 know where it came from.

12 Q. Are you familiar with the terms S1, P2, M3?

13 A. Yes.

14 Q. What do they mean?

15 A. S1 is safety first. P2 is production second. And  
16 the other one, maintenance third or whatever.

17 Q. Are there manuals that relate to each of those  
18 concepts?

19 A. Yes, there is.

20 Q. Have you seen the M3 manual?

21 A. I probably seen it laying around somewhere. Have  
22 I never read it all the way through, no, sir, I have  
23 not.

24 Q. How about the P2 manual?

25 A. No, sir. I hear about it a whole lot, but I've

1 never read either one of them.

2 Q. What about s1, is there an S1 manual?

3 A. I'm sure there is and I'm sure that it was handed  
4 to us when we were hired in.

5 Q. But you don't --- you never really used it?

6 A. Everybody hollers, you know, S1, P2, and they let  
7 you know that this is S1 and this is not. I have  
8 never read the manuals all the way through.

9 Q. Okay. Other than safety first, what does S1 mean,  
10 if you know?

11 A. That's what I always thought it was, safety first.

12 Q. That's it.

13 A. That's what I thought, yes, sir.

14 MR. MCGINLEY:

15 All right. I don't have any other  
16 questions. Thanks for your patience.

17 A. Thank you, sir.

18 ATTORNEY HAMPTON:

19 Terry, do you have any follow-up?

20 MR. FARLEY:

21 No. Oh, excuse me. I do want to advise  
22 you, Mr. Taraczkozy, that while we may be finished  
23 here today, there's some possibility that we may need  
24 to talk to you again at a later date.

25 A. Yes, sir, any time.

1 ATTORNEY HAMPTON:

2 Okay.

3 MR. MCGINLEY:

4 Off the record. Oh, you have to have a  
5 statement. That's right.

6 ATTORNEY HAMPTON:

7 On behalf of MSHA and the Office of  
8 Miners' Health, Safety and Training, I want to thank  
9 you for appearing and answering questions today. Your  
10 cooperation is very important to the investigation as  
11 we work to determine the cause of the accident. We do  
12 request that you not discuss your testimony with any  
13 other person aside from a personal representative or  
14 an attorney. After questioning other witnesses, as  
15 Mr. Farley just indicated, we might call you for  
16 follow-up questions. And if at any time you have any  
17 additional information you'd like to share with us,  
18 please contact us at the information that was given to  
19 you in this letter. Norm Page's phone number and  
20 e-mail address are in there.

21 At this point, if you would like, you can  
22 now go back over any answer that you've given. Or if  
23 you have any additional information you'd like to  
24 share with us, you can say so now. Is there anything  
25 else you'd like to tell us?

1 A. No, sir --- ma'am. I'm sorry.

2 ATTORNEY HAMPTON:

3 That's okay. All right. Again, thank  
4 you for your cooperation in this matter. We really  
5 appreciate it.

6 A. Thank you.

7 \* \* \* \* \*

8 STATEMENT UNDER OATH CONCLUDED AT 3:30 P.M.

9 \* \* \* \* \*

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

1 STATE OF WEST VIRGINIA )

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

CERTIFICATE

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

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

That the proceeding is herein recorded fully and accurately;

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



*Alison Salyards*