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Transcript of the Testimony of Steve Gration

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STATEMENT UNDER OATH

OF

STEVE GRATION

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, July 23, 2010, beginning at 8:03 a.m.

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

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P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Polly Anna Hampton. Today is July 23rd, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. We are here at the interview of Steve Gration. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they now state their appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY HAMPTON:

There are also other members of the accident investigation teams present in the room today. Mr. Sherer will be doing the initial component of the questioning today.

All members of the Mine Safety and Health Accident Investigation Team and all members of the

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

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

1 You may have a personal attorney present
2 during the taking of this statement or a personal
3 representative, if MSHA has permitted it. Your
4 statement is completely voluntary. You may refuse to
5 answer any question and you may terminate your
6 interview at any time or request a break at any time.
7 Since this is not an adversarial proceeding, formal
8 Cross Examination will not be permitted. Just so that
9 the record is clear, do you have a personal
10 representative with you here today?

11 MR. GRATION:

12 No.

13 ATTORNEY HAMPTON:

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

1 we may do so. Also, there may be a need to use the
2 information you provide to us or other information we
3 ask you to provide in the future in other
4 investigations, too, or hearings about the explosion.
5 Do you understand?

6 MR. GRATION:

7 Yes.

8 ATTORNEY HAMPTON:

9 Do you have any questions?

10 MR. GRATION:

11 No.

12 ATTORNEY HAMPTON:

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

23 A court reporter will record your
24 interview, so please speak loudly and clearly. If you
25 don't understand a question, please ask that person to

1 rephrase it. Please answer each question as fully as
2 you can, including giving us information you have
3 learned from somebody else. I would like to thank you
4 in advance for your appearance here. We appreciate
5 your assistance in this investigation. Your
6 cooperation is critical in making the nation's mines
7 safer.

8 After we have finished asking questions,

9 you will then have an opportunity to make a statement
10 or to provide us with any other information that you
11 think is important. If at any time after the
12 interview you recall additional information that you'd
13 like to share with us, please contact us at the
14 information that was provided you in the letter that I
15 handed you earlier. Norm Page has his phone number
16 and e-mail in there, so you can contact us that way.

17 Any statements given by miner witnesses

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

1 MR. FARLEY:

2 Mr. Gration, I'd like to advise you that

3 the West Virginia Coal Mine Health and Safety

4 Regulations also provide protection against potential

5 discrimination for participating in these type

6 interviews. And I'd like to pass along some contact

7 information to you for the West Virginia Board of

8 Appeals, they hear complaints about discrimination

9 from miners, and also my business card with a phone

10 number and a phone number for Mr. Bill Tucker, who is

11 our lead underground investigator. And certainly, you

12 can give us a call if you have any such problems. And

13 I would want to caution you that should you have some

14 kind of problem, you need to file a complaint within

15 30 days of when it happened. Okay?

16 MR. GRATION:

17 Okay.

18 ATTORNEY HAMPTON:

19 Could you please swear in the witness?

20 -----

21 STEVE GRATION, HAVING FIRST BEEN DULY SWORN, TESTIFIED

22 AS FOLLOWS:

23 -----

24 ATTORNEY HAMPTON:

25 Okay.

1 EXAMINATION

2 BY MR. SHERER:

3 Q. Good morning, Mr. Gration.

4 A. Good morning.

5 Q. We appreciate you coming down this morning. What
6 we're trying to do is first determine the
7 circumstances and events that led up to this
8 explosion, because the family members, the friends and
9 the coworkers deserve some closure on this. The
10 second thing we're trying to do is, again, determine
11 what contributed to this explosion so that we can help
12 prevent those in the future. This is the worst mining
13 disaster we've had in about 40 years now, and we need
14 to prevent it in the future. Will you please spell
15 your name --- or please state your name and spell your
16 last name?

17 A. Steve Gration, G-R-A-T-I-O-N.

18 Q. Thank you. What's your address and telephone
19 number, please?

20 A. (b) (7)(C) . Phone
21 number is (b) (7)(C)

22 Q. Okay. Are you appearing here today voluntarily?

23 A. Yes.

24 Q. Has anyone interviewed you or talked to you about
25 the explosion?

1 A. I had to go through two interviews with the Massey
2 lawyers.

3 Q. Okay. Do you recall roughly when those occurred?

4 A. What was --- the last one was roughly three to
5 four weeks ago, and the first one was three weeks
6 before that.

7 Q. Okay. Where did those take place at?

8 A. The first one was at Revolution's mines and the
9 second one was at Elk Run's main office.

10 Q. Okay. Could you tell us what sort of things they
11 asked you?

12 A. Just --- the first one, first interview, just
13 different questions about the event, what shift I
14 worked, where I worked at the mines. And they
15 stressed that they were lawyers for the company, they
16 weren't there for us, ---

17 Q. Sure.

18 A. --- and just basically information --- if we had
19 any information that happened that night, you know.

20 Q. Sure.

21 A. And the second one, they was really concentrating
22 on water sprays, methane monitors, stuff like that.

23 Q. Sure. Well, I think you're going to hear some
24 very similar questions from us today.

25 ATTORNEY HAMPTON:

1 Right before we move on for this line of
2 questioning, I just want to follow up on something you
3 told me in the hallway. Is it right that they've
4 asked you to contact them after you have the interview
5 with us here today?

6 A. The person I ride to work with, me and him work
7 together. He just come through this interview, and
8 they're questioning him, trying to get him to come
9 and, I guess, give information of what was going on in
10 this interview. And we just don't want to talk to
11 them. We've talked to them twice, and we told them
12 that's it, because they're not for us, they're for the
13 company, so I don't think we should have to talk to
14 them no more.

15 ATTORNEY HAMPTON:

16 Okay. And that was somebody who
17 interviewed this week, Robert Hale?

18 A. Yes.

19 ATTORNEY HAMPTON:

20 Okay. Have they reached out to you to
21 see ---

22 A. No.

23 ATTORNEY HAMPTON:

24 --- if you would come back and talk to
25 them?

1 MR. SHERER:

2 Okay. Thank you.

3 BY MR. SHERER:

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

5 A. Thirteen (13) and a half.

6 Q. Thirteen (13) and a half. Have you worked with
7 Massey that entire time period?

8 A. For 12 years of it.

9 Q. Okay. Who did you start with?

10 A. Massey.

11 Q. Okay. So somewhere in the middle you ---?

12 A. I left about after eight years and went to Speed
13 Mining for a year-and-a-half and then come back.

14 Q. Okay. Did you work for Pete Hendricks?

15 A. Yes.

16 Q. Oh, okay. I understand Pete's back from Illinois
17 now?

18 A. Yeah. I haven't got to see him yet since he's
19 come back, but I was about to go to Illinois up there
20 with him, but come back to Massey.

21 Q. Where are you currently employed?

22 A. At Logan's Fork right now.

23 Q. Okay. When did you start at UBB, just roughly?

24 A. '97.

25 Q. Okay. So you're an old man. What's your current

1 job title?

2 A. Maintenance foreman.

3 Q. Maintenance foreman. Are you salary or hourly?

4 A. Well, it's a little bit of both. It's salary,
5 non-exempt. I'm guaranteed 40 hours a week. But if I
6 work over 40, I get paid overtime.

7 Q. Oh, okay. Now, do you have people that work for
8 you?

9 A. I have two shield techs that work for me. One is
10 a red hat, Blake Acord, and a black hat that works for
11 the company, Tracy Slentz.

12 Q. Oh, okay. Tracy, I'm sorry?

13 A. Slentz, S-L-E-N-T-Z.

14 Q. Okay. Thank you. And you're responsible for
15 directing those people, I would imagine?

16 A. Yes, getting --- making sure the work gets done on
17 the roof supports.

18 Q. Now, who do you report to?

19 A. Danny Lafferty.

20 Q. Okay. And what's his title?

21 A. He's the longwall maintenance foreman.

22 Q. Do you know who Mr. Lafferty reports to?

23 A. Bobby Goss.

24 Q. What's that last name?

25 A. Goss, G-O-S-S.

1 Q. G-O-S-S. What's his title?

2 A. He's the longwall --- Massey --- he works for
3 Massey Coal Services, in charge of the longwall.

4 Q. Okay. And does he report to somebody; do you
5 know?

6 A. I don't know who he would report to.

7 Q. Is Massey Coal Services --- what's Massey Coal
8 Services?

9 A. I guess it's just a branch of Massey that their
10 higher-ups all come out of Massey Coal Services, like
11 their longwall managers and maintenance managers at
12 the command center.

13 Q. So it's kind of a centralized high-level
14 management group?

15 A. Yes.

16 Q. Okay.

17 MR. FARLEY:

18 Is it fair to call them the corporate
19 headquarters?

20 A. Yes.

21 MR. SHERER:

22 Thank you, Terry.

23 BY MR. SHERER:

24 Q. Okay. What shift did you work normally?

25 A. Midnight shift.

1 Q. Midnight shift. That's primarily a maintenance
2 shift, isn't it?

3 A. Yes.

4 Q. What time would you normally start that shift?

5 A. We started underground 11 o'clock.

6 Q. Okay. What time did you normally get back out on
7 the surface?

8 A. 7:30 to eight o'clock in the morning.

9 Q. Do you have any Federal or State mining
10 certificates?

11 A. I'm a mine foreman, EMT and electrician.

12 Q. Okay. What does your normal duties entail?

13 A. If we come in and there's a shift prior, we check
14 with their electricians and jack setters to see if
15 they've had any trouble with the shields. And if
16 they've not left a note for Danny Lafferty or anybody,
17 we just troubleshoot the shields, work on leaks and
18 bypasses and electrical faults.

19 Q. Sure. Okay. So do you do preventative
20 maintenance on shields?

21 A. Yes, just --- it's routine --- just routine
22 maintenance.

23 Q. I got a question for you. Do you know what a JANA
24 box is?

25 A. JANA box?

1 Q. JANA box.

2 A. JANA unit?

3 Q. Yeah. Uh-huh (yes).

4 A. Yes.

5 Q. What's that, please?

6 A. It's in the shearer. It's like the brains of the
7 shearer. A computer inside the shearer.

8 Q. Okay. Do you recall if there was a spare unit on
9 or near the longwall?

10 A. Yes, sir. We always kept a spare on top of the
11 power center at the mule train.

12 Q. Oh, okay. Now, I understand there was several
13 remote controls used on the longwall?

14 A. There was one for the head end and one for the
15 tail end, and there was two or three spares for each
16 end at the power center, at the mule train.

17 Q. Oh, okay. Thank you, because we found several of
18 those underground, and we were just trying to figure
19 out what --- where they were and where they came from.

20 A. There should have been a spare JANA unit. There's
21 a JANA unit zero and JANA unit one. There should have
22 been a spare of each of those at the power center.

23 Q. Okay. Thank you. What about the shields, how
24 were they activated?

25 A. It's called a CIU. It's as little computer on the

1 front of the shields, and it works just the shield to
2 the left or to the right of it, just one shield at a
3 time.

4 Q. Okay.

5 A. Or you could set it up for the shearer to pull
6 them in, and it would pull it in more than one.

7 Q. Okay. That's what I refer to as shearer
8 initiation?

9 A. Yes.

10 Q. How did the shields communicate to each other? Is
11 there some ---?

12 A. It had a shield-to-shield cable. It's like a 12
13 pin cable in it, and it's --- just each CIU is
14 connected with it. If you broke the circuit, it would
15 just end right there and it would go all the way to
16 the last shield, the last CIU at 176.

17 Q. And if that circuit was broken at any point, you
18 could still operate the shields manually?

19 A. Just from that point up to where the circuit was
20 good.

21 Q. Oh, okay.

22 A. You could do it hydraulically manually. You
23 couldn't do it electrically.

24 Q. Okay. Was there any sort of shield position
25 information sent up the network to, say, the headgate

1 or anything like that?

2 A. At the headgate box there was as master control
3 unit, a power supply and an additional monitor that
4 you could look at.

5 Q. Okay.

6 A. And he could look and see which shield was moving
7 or where the --- basically where the shield was mining
8 at.

9 Q. Okay. Great.

10 A. But it was a really old system that --- it's not
11 going to tell you, you know, exactly what shield is
12 coming. You can just tell by dots and stuff, and it's
13 got numbers, but ---.

14 Q. Do you know if there was any memory associated
15 with that information, either short term or long term?

16 A. Probably some kind of short-term memory, but I
17 wouldn't think any long term.

18 Q. Okay. That's one of the things we're trying to
19 figure out right now. We're still trying to determine
20 what happened, where it happened, all that sort of
21 good stuff.

22 Let me tell you what we know about the longwall
23 face. And this is changing a bit as we get more
24 information. We know the shearer was on the tailgate
25 end and it was just cutting out into the tailgate

1 itself. Both of the drums were extended. It looks
2 like they were probably cutting Four. We know there's
3 a big crack down there. You've probably seen the
4 photos in the news media.

5 A. Uh-huh (yes).

6 Q. We know that the first victims were about
7 mid-face. We know that the rest of the victims were
8 up around the headgate. We know that the --- there
9 wasn't any coal on the pan line. We know that the
10 water had been cut off at the headgate side.

11 Q. Do you have any idea of what could have been going
12 on when that happened?

13 A. With the line being empty and the water shut off
14 and the men that far away from the shearer, it seems
15 like to me that they were walking off the line to, I
16 don't know, maybe quit early. The belts could have
17 went off or something happened outby or ---.

18 Q. Sure.

19 A. Because there --- you know, if nothing like that
20 would have happened, they would have been at the tail
21 of the shearer at that time.

22 Q. Sure. That's what we were pondering over. It's a
23 big question mark. Let me tell you one more. We know
24 that during the day Monday there was a lot of problems
25 with the hinge pin on one of the ranging arms. We

1 know that was a continuing maintenance problem. We
2 know that the wall had just run in a few little short
3 spurts that day. We know that it cranked up about 15
4 or 20 minutes prior to the explosion. And that's
5 about all we know. Does that suggest anything?

6 A. No. If they were down over a hinge pin, I mean,
7 it could have been anywhere on the line that they
8 could have fixed that. It wouldn't have to be
9 necessarily on the head to fix that, because you could
10 have fixed it anywhere. Running 20 minutes, I would
11 say they probably weren't on the head, that they was
12 on the tail when this happened, ---

13 Q. Sure.

14 A. --- because I think the conditions was pretty hard
15 at that time.

16 Q. I understand they were cutting a bit of rock out
17 of that wall. What have you heard? What do you know?
18 Well, first of all, what --- do you --- did you take
19 off over that long weekend? That was Easter weekend.

20 A. Yeah. I was off Friday night and Saturday
21 night, ---

22 Q. Okay.

23 A. --- which the mines was idle Saturday ---

24 Q. Oh, okay.

25 A. --- or Sunday, I mean. Sorry. Then we come back

1 Sunday night.

2 Q. So you worked the shift immediately preceding the
3 explosion?

4 A. Yes.

5 Q. Did anything seem unusual that night?

6 A. No. It was just like any other night, just a
7 regular night. We went in after they had fire bossed
8 and went up to the section and --- they had --- the
9 maintenance crew for the shearer had a note to change
10 the head end CIU, CIU blade. And me and Blake, my red
11 hat, we went working on shields and we worked from the
12 head all the way to the tailgate.

13 Q. Okay.

14 A. And I had a methane detector with a spotter with
15 me and just normal stuff all night. And the tailgate
16 didn't --- some bumping was carrying on quite a bit,
17 like it was taking weight.

18 Q. Okay.

19 A. But I mean that's normal for the longwall every
20 now and then.

21 Q. Sure. The wall had been sitting idle for at least
22 a day?

23 A. Yes.

24 Q. So possibly some of the bumping stresses were
25 riding up?

1 A. Yeah.

2 Q. Did you smell anything unusual?

3 A. No.

4 Q. Did your eyes burn any?

5 A. No.

6 Q. What about the air along the face, how was that?

7 A. There was quite a bit of air on the face, because
8 me and my men, we work on the shields and we get
9 soaking wet usually from emulsion and stuff and
10 changing the hoses, and you just about freeze by the
11 time you get off the line with all the air.

12 Q. Sure. Do you get out into the tailgate?

13 A. No.

14 Q. Were you up next to the tailgate?

15 A. Yes. I was at 176 Shield.

16 Q. What were the conditions like on the tailgate?

17 A. It was low, but it was --- it was nothing but
18 dropped fall and just bumping carrying on, but
19 everything else was clear.

20 Q. Okay. Did you have any way to determine which way
21 the air was moving on the tailgate? See any dust?

22 A. It was --- you could just feel the air hitting you
23 in the face if you was facing up towards the head.

24 Q. Okay. So it was going outby?

25 A. Yes.

1 Q. Okay. Was there a curtain in the tailgate?

2 A. Not that I can recall.

3 Q. Okay. Do you recall if there was a curtain in the
4 headgate?

5 A. Yes.

6 Q. Okay. Was it tied or was it kind of loose?

7 A. It was tied tight to the top and against the
8 Number One Shield.

9 Q. Let's go back to the tailgate. Do you recall if
10 they were cutting top or bottom?

11 A. At what time?

12 Q. At the tailgate, where the ---.

13 A. When it was found?

14 Q. Uh-huh (yes).

15 A. What I have been told is that the shearer was ---
16 when it gets real hard, like the conditions were, they
17 can't cut --- they'll cut out on the top in normal
18 conditions and then back up and cut the bottom.

19 Q. Uh-huh (yes).

20 A. But when it's real hard like that, the shearer
21 won't tram real good, so they'll usually cut like the
22 middle and the bottom to cut out and then back up and
23 scrap the top to make it high enough that they have
24 to. And I would assume --- what I've been told, it
25 looked like that they was cutting the bottom, the

1 middle. They hadn't even really cut all the way out
2 yet.

3 Q. Okay. That sounds about right. Do you know how
4 high they have to cut, what the total seam --- or the
5 total cut height has to be to turn that CIU around?

6 A. Not officially, just an estimate, probably 60
7 inches.

8 Q. Okay. So at least five foot?

9 A. Yes.

10 Q. Just an estimate is fine, I guess. About how
11 thick is the coal down there in the tailgate?

12 A. Probably 40 inches.

13 Q. Okay. So they're cutting probably 20 inches of
14 rock?

15 A. Yes.

16 Q. And they say the conditions were tough. Do you
17 mean sandstone?

18 A. I have heard the operators talking about that the
19 tail was turned into sandstone top. And I know that
20 up at the headgate --- because our maintenance crew
21 had to cut a little bit of height to change the
22 heading CAU, and they said the top of the headgate was
23 sandstone top.

24 Q. Okay. What about before that, near the tailgate?

25 A. I haven't heard whether it was hard or not.

1 Q. Okay. Was there a middleman in the coal seam; do
2 you recall?

3 A. Not that I recall.

4 Q. Okay. Just good, clean coal. When you were down
5 on the tailgate side, did you notice what condition
6 the pan line was in at the tail drive?

7 A. Just --- everything looked normal. It was just
8 level. The face was pretty level. The tail drive was
9 starting to get a little low.

10 Q. Okay.

11 A. The shields was starting to get a little bit lot.
12 But when they had drove that panel up, the tailgate in
13 that area from --- because it was getting near the end
14 of the panel, they told us that it was going to be low
15 for a while until we got near the pulled-out area.

16 Q. Was there any water up near the tailgate?

17 A. None that I seen that night.

18 Q. Okay. Did you notice any water along the face
19 anywhere?

20 A. No. We had had water trouble before, but none in
21 the last few weeks.

22 Q. Okay. What about the britby and the cables, do
23 you remember what sort of shape they were in?

24 A. They actually were in pretty good shape because we
25 had just changed the cable and --- the whole britby,

1 cable and waterline and all and replaced everything,
2 just an estimate, three weeks before this happened.

3 Q. Okay. So they shouldn't have had any problem with
4 that?

5 A. No. Everything was fairly new on that.

6 Q. Okay. What about the shearer drive, have you had
7 any problems with that recently that you're aware of?

8 A. None that I'm aware of. The shearer --- I don't
9 even remember them ever, you know, being even in the
10 panel --- of the shearer dust panel.

11 Q. Okay. The hinge pin that we're talking about, do
12 you recall any problems with that?

13 A. They have had --- they have had that same hinge
14 pin come out two, maybe three times. This was a
15 different design than the shearers we've had before.
16 It was a longer pin and they made an extra ear for it
17 to support because we've had the ear --- one of the
18 ears break off of the shearer at a different mines,
19 and this is some new design. And even with the type
20 of locks that's not supposed to come loose. For some
21 reason this long pin was the only pin that we had
22 trouble with.

23 Q. Okay. How long did it take to fix that in
24 general?

25 A. Anywhere from 45 minutes to maybe two, three

1 hours. It depends on if you lost anything and then
2 you had to go outside to get more parts or, you know,
3 just different circumstances, it would take longer.

4 Q. Sure. Roughly, what did they have to do to fix
5 that pin?

6 A. If the pin has come out, it has these locking
7 devices on it called knee locks. There's a --- each
8 one of them has two different stages. And you have
9 --- you'd have to get a new one of them and put them
10 in from one side. And it has approximately 15 bolts,
11 and you start at one side and just go all the way
12 around, tightening. And you go around it several
13 times so you get it tight, and then you move to the
14 other side. That's after you've got the pin in place.

15 Q. Okay.

16 A. And then they have caps that bolt on overtop of
17 that.

18 Q. Okay. Do you have to jack it up or do anything
19 like that to change it out?

20 A. You would maybe have to work the arm up and down
21 to get the pin lined up to get in.

22 Q. But do you typically have to heat it up or do
23 anything like that?

24 A. No, not unless you would have to --- if the one
25 cap was on and it was welded on instead of bolted on,

1 they'd have to just cut it off.

2 Q. Okay. Did it take any special tools or equipment
3 to change that unit?

4 A. Nothing special, no.

5 Q. Okay. Thank you. What about your shields? You
6 mentioned you got started on those and you went all
7 the way down the face. Was there anything unusual
8 about the shields?

9 A. No. It was just a normal night of --- we was
10 working on bypasses, and I was still in the process of
11 training Blake. And we'd find a few things here that
12 he hadn't seen and try to show him that. But we
13 actually got done with our work early and helped the
14 maintenance crew service and bit the shearer before
15 dayshift got there.

16 Q. Do you know if they normally bit it up near the
17 headgate?

18 A. Usually that's about where they bit it up. They
19 was --- that week of --- prior to this, they had been
20 carrying bits on the shearer, and when they got to the
21 tail they would check their bits. And if they were
22 bad, they would bit up there, too.

23 Q. Okay. So it was really getting hard?

24 A. Yes.

25 Q. About how many passes would they get out of a set

1 of bits?

2 A. Some days you'd get two, but you would probably
3 spot some of them on the tail.

4 Q. Okay. When they spotted them on the tail, when
5 they were replaced, a dozen bits, two dozen bits?

6 A. Probably, just a rough estimate, maybe two dozen
7 bits on each drum.

8 Q. Okay. Were both drums running about the same; do
9 you know?

10 A. Yes, to the best of my knowledge.

11 Q. Okay.

12 A. I think we had noticed that one of the lugs was
13 even broke off of one of the drums, ---

14 Q. Okay. Sure.

15 A. --- the night we set bits the night prior to it.

16 Q. Okay. Now, was that a wet head shearer?

17 A. Yeah. It has a water jacket, they call it, on the
18 backside and it has --- whatever spray --- wherever a
19 bit is there's a spray coming out of it.

20 Q. Is the spray right behind the bit?

21 A. It's directly above it.

22 Q. Okay. Was there any auxiliary sprays on the
23 shearer?

24 A. There were spray bars --- three different --- four
25 different spray bars on the backside of the shearer.

1 There was a spray bar mounted on the head side of the
2 shearer. There was spray bars that sprayed down on
3 the face chain on each end of the shearer and spray
4 bars that sprayed down on the haulage part on each end
5 of the shearer.

6 Q. Did the shearer have a lug breaker on it?

7 A. No, sir.

8 Q. How many people normally were on the face when
9 they were cutting out at the tailgate?

10 A. On a production crew?

11 Q. Yeah.

12 A. There would be two shearer operators, a jack
13 setter, the boss and usually just one electrician
14 would be on the face somewhere.

15 Q. Now, where would those gentlemen be right when
16 they were cutting into the tailgate?

17 A. If they were cutting into the tailgate, most
18 shearer operators would be on the head side of the
19 drum, and the jack setter would be up above them,
20 waiting for them to finish cutting out, and then he
21 would do his shields.

22 Q. Okay. Now, take us through --- I know it's been
23 called by various people the shuffle. How'd they do
24 that?

25 A. The shuffle --- when the shearer makes its initial

1 cut to the tail, they'll cut out on the top and then
2 back up and cut the bottom to where everything is cut
3 out. Then they'll stop and let the jack setter pull
4 his shields in. Then the shearer --- before they
5 start back the other way, the jack setter will stop
6 pulling the shields in all the way at a certain point,
7 and then he'll start stepping those shields back, five
8 or six shields, and then he'll call the push, they
9 call it, that pushes the pan line back out. And that
10 will allow a walkway for the operators to walk up
11 through there. If the shearer comes to that point, it
12 will start cutting coal again. As the shearer cuts
13 back, they'll stop the shearer and the jack setter
14 will come back here and pull the shields in the rest
15 of the way and push the line out, and then there's
16 cutting coal again. Then they do the same process
17 over again, cutting it back onto the tail.

18 Q. About how long does that process take?

19 A. In hard conditions, hard cutting, probably 20
20 minutes. Good conditions, maybe ten minutes.

21 Q. Okay. Were there any major pieces of equipment or
22 tools that you'd have normally along the face?

23 A. No, none that I can recall.

24 Q. What about the methane sniffers? We know there
25 was one on the shearer and one on the tailgate?

1 A. Yes, I saw the ones on the face.

2 Q. Okay. So there's two. Where are the readouts for
3 those units?

4 A. The readout for the shearer is right beside the
5 JANA unit in the open panel. And then the readout for
6 the tail drive is at the headgate box.

7 Q. Okay. Is there an auxiliary readout for the
8 shearer at the headgate also?

9 A. No.

10 Q. Okay. How often were those units calibrated, do
11 you know?

12 A. Once a month. The last time that I can recall
13 that they was calibrated was probably a week to two
14 weeks before this happened. I just --- I happened to
15 be there the night that --- actually, there was two
16 federal mine inspectors there and they come to check
17 the calibration of them, make sure they was
18 calibrated. And I went and got the calibration kit
19 for the maintenance chief that night.

20 Q. Okay. And did the maintenance chief do the
21 calibration?

22 A. Yes.

23 Q. And who was that maintenance chief?

24 A. Shannon Dickens. Him and one of the Federal
25 inspectors went to the tail, and then another

1 electrician and another inspector went to the readout.

2 Q. Okay. Are you aware of any pop-offs along that
3 face?

4 A. Not on this panel, no.

5 Q. How about previous panels?

6 A. I've heard one, but it was --- the other side of
7 the mines, ---

8 Q. Sure.

9 A. --- but --- I can't remember what panel it was,
10 but it had been several years ago.

11 Q. Sure.

12 A. We had an inundation a couple of times at the
13 bleeder valve but no pop-offs.

14 Q. Were you present when normally you had those
15 inundations?

16 A. Yes.

17 Q. Could you describe them to us?

18 A. Well, the first --- the one that --- I can only
19 remember one of them real good, and the bleeder come
20 into a shield. It was actually in behind the legs of
21 the shield is where it busted through the bottom and
22 --- because the shearer was running and then all of a
23 sudden all power went off. And the detectors, the
24 methane detectors --- at that time we had one at
25 mid-face and one at the tail. And the one at mid-face

1 was one that knocked the power, and they started
2 checking. And you could hear it. You know, without
3 anything running, it sounded like a freight train
4 coming. And then --- and it took approximately about
5 a week to get it to ---.

6 Q. Do you recall roughly which shield that was?

7 A. It was around mid-face. I don't remember, recall,
8 exactly which shield.

9 Q. Okay. About mid-face. Do you recall where in the
10 panel you were? Were you near the setup? Were you at
11 mid-panel?

12 A. Approximately mid-panel.

13 Q. Do you recall which panel that was?

14 A. Not right off. Just a rough guess, maybe Headgate
15 14.

16 Q. Okay. And that was 2004?

17 A. Sometime in that area, yes.

18 Q. Okay. Now, were you actually on the wall when
19 that happened?

20 A. I worked on the wall, yes.

21 Q. Okay. Where were you at in relationship to that
22 bleeder?

23 A. I had --- wasn't there at that particular --- at
24 the time it happened. I had come in on it.

25 Q. Okay.

1 A. I had come in on the midnight shift.

2 Q. Okay. So you came in later?

3 A. Yeah. I come in to help with the ventilation work
4 to get rid of it.

5 Q. Okay. Do you recall anybody talking about what
6 happened right before they had that? Was anything
7 unusual?

8 A. No.

9 Q. They just mined long and also methane bursts ---

10 A. Yes.

11 Q. --- as far as you know?

12 A. To the best of my knowledge, yes.

13 Q. Tell me about the current panel about the week or
14 so prior to the explosion. Does anything stand out as
15 being unusual?

16 A. No, other than, you know, conditions starting to
17 get harder. It was just a pretty normal --- the face
18 chain was starting to wear out, and they was starting
19 to put plates in it. The night prior to this
20 explosion, they put some plates in that night.

21 Q. Okay.

22 A. But other than that, it was just routine
23 maintenance.

24 Q. What about the way the coal was coming off the
25 face? Do you know if --- now, sometimes you'll start

1 running into joints or whatever and you'll get bigger
2 chunks falling down and you see kind of a smooth
3 area in the face. Do you recall anything like that?

4 A. No, I don't recall anything like that.

5 Q. How was the top acting over the shields or the
6 shield tips?

7 A. Just bumping and carrying on. If I can remember
8 right, I think that probably a week or two before that
9 it was --- it would flake out some towards the tail in
10 front of the shield tips, because we was --- had done
11 a tail spark, turned it one night. And then after we
12 had done that, it started getting worse, the tail
13 entry falling out some, shale falling out.

14 Q. Okay. What about the cave, where was that at?
15 Was it up tight or ---?

16 A. I don't understand what ---.

17 Q. The cave behind the shields.

18 A. Where we had come in that night, where they set
19 all --- without running Saturday, it was tight up to
20 the shields.

21 Q. Okay. Now, when you were working in and around
22 the shields, you mentioned earlier that you had your
23 detector with you. Did you notice what sort of
24 readings you were getting on it up there?

25 A. No. I think that just the time looking at it and

1 everything, the highest I've ever seen anything was
2 like maybe .1.

3 Q. Okay. And you got no alarms or anything?

4 A. No. And we worked from the head all the way to
5 176.

6 Q. Do you recall any odd bubbling in the floor? Any
7 little pools of water, bubbles coming up?

8 A. No.

9 Q. What about when the face was sitting? You
10 mentioned you were getting some bumps, particularly
11 toward the tail end. Any other unusual sounds?

12 A. No. It was a pretty normal night.

13 Q. Okay. When you got out that morning, did you talk
14 to the oncoming crew?

15 A. Yes.

16 Q. What did you tell them?

17 A. Just --- mostly just --- the electricians always
18 ask me if there was anything that I didn't get to they
19 need to look at. And the first person I talked to
20 that morning was Rick Lane, the boss. And he just
21 talked about his grandson.

22 Q. Okay.

23 A. He just got to bring him home probably two weeks
24 before that happened.

25 Q. Oh, jeez. Let me ask you some general questions.

1 Do you think the ventilation was adequate in this
2 mine?

3 A. On the longwall part there was --- we had plenty
4 of air, yes.

5 Q. Had the air changed over the recent month or two?

6 A. The air had got a little less because they was, I
7 guess, sending more air to the miner section.

8 Q. Okay.

9 A. But it had dropped some.

10 Q. Okay. Do you recall if the miner sections were
11 having ventilation problems?

12 A. I don't recall. They --- we never talked to
13 anybody from the miner section hardly.

14 Q. Okay. What about methane, did you hear of any
15 methane problems at this mine?

16 A. None that I'm aware of. I know we didn't have any
17 on the longwall.

18 Q. Sure. How about water? You talked about the
19 water along the face and the water --- and you
20 mentioned water had been a problem in the past.

21 A. Yes.

22 Q. Do you know if there were still problems with
23 water anywhere?

24 A. I had heard that they were --- water was still a
25 pretty --- pretty significant water behind us. I know

1 we had times up on the face that there was pretty good
2 bits of water. We would --- you'd be at the tail
3 working and come up to the head, and by the time you'd
4 get up there, it would get pretty deep.

5 Q. Sure. Now, let me ask you about something we
6 think happened maybe a little bit before Thanksgiving.
7 Do you recall a lot of water coming into the face?

8 A. We did have water coming --- I don't know what
9 time, but it was coming off the top, in between the
10 shields, around mid-face, somewhere in that area. It
11 was like a waterfall. I mean, you know, a pretty
12 steady stream coming at you. You would get wet when
13 you walked through it. And it seemed like that went
14 on for, I don't know, three, four days, maybe a week,
15 and then it just left us.

16 Q. Did it you leave you because it was back in the
17 gob or did you --- did it just quit running?

18 A. I guess --- we just assumed we just finally got
19 past it.

20 Q. Okay. Did you have to set any pumps or anything
21 along the face?

22 A. There were some pumps set on the face at one time.
23 Around 120 Shield, I remember a couple pumps being
24 there. Because there was a big swag there, and once
25 they quit running you'd have to --- they'd have to run

1 the pumps or you wouldn't be able to get down through
2 there.

3 Q. How high did the water get? Did it come halfway
4 up the back door?

5 A. I've seen it at the top of the back doors.

6 Q. Oh, jeez. That's a lot of water.

7 A. Yes.

8 Q. Did they issue waders?

9 A. Huh? Yeah, they had waders up there if you needed
10 them.

11 Q. They issued scuba gear.

12 A. Well, actually that one night we had a shield that
13 had a --- the ram jack is what makes the shields go
14 back and forth. And we had one of them bad that had
15 to be changed, and it was right in the middle of the
16 water. And we shoveled for two hours, just five of
17 us, just to get down to the shield, and had to move
18 the pumps around and wash and everything to get the
19 ram out, and we got it done. It made dayshift
20 probably 20 minutes late that day to get it done.
21 There wasn't no dry piece on the three of us that
22 night.

23 Q. Do you recall if that was before or after
24 Thanksgiving?

25 A. I don't recall when --- exactly when it was.

1 Q. Does that time period sound about right?

2 A. Probably, yeah. I know we worked straight through
3 --- the only vacation we got was summer vacation. We
4 worked straight through until this summer.

5 Q. Oh, jeez.

6 A. I think it was --- around Thanksgiving time we had
7 a fall, so it would have probably been after
8 Thanksgiving.

9 Q. Tell me about that fall.

10 A. We had a fall in the track, which is our main
11 intake, and it was in between the face and the mule
12 train. So they had to bring a miner up there to clean
13 it up. We was probably down probably a good week
14 while we cleaned it up and re-bolted.

15 Q. Did you work on that cleanup?

16 A. I was up there. All I was up there for is if ---
17 if they had trouble with anything, we had to work on
18 it.

19 Q. Do you recall roughly how big that fall was?

20 A. It was just approximately maybe half a break. It
21 was at an intersection. I do remember part of it
22 being at an intersection.

23 Q. Did the entire intersection fall in?

24 A. The entire track entry, nothing in the
25 intersection came in.

1 Q. Okay. So it was --- the fall ended about at the
2 edge of the intersection?

3 A. Yes.

4 Q. So only about half a break. Was it inby the --- I
5 guess it wouldn't have been outby the face?

6 A. Yes, outby the face.

7 Q. Okay. Do you recall roughly how thick that fall
8 was, how high it was?

9 A. Probably, roughly, 15 feet.

10 Q. A big fall. Did it damage the stage loader?

11 A. It was in the --- it wasn't in the belt entry. It
12 was in the track entry.

13 Q. Oh, in the track entry.

14 A. The only thing that got damaged was toolboxes. It
15 crushed several of them. I was at the tail actually
16 when it happened. You could tell --- smell the glue
17 and the dust coming down the face when it happened.

18 Q. Oh, jeez. Now, we understand that there was some
19 --- they were gluing the --- one of the entries,
20 probably the head entry, the headgate entry, belt
21 entry, a few weeks prior to the explosion. Do you
22 recall seeing that?

23 A. Yes. They would ride in with us on the midnight
24 shift. Some nights it might be three of them and some
25 nights six of them.

1 Q. Okay.

2 A. And they just --- different times and different
3 --- I don't know what all areas they glued, but I know
4 they --- the last part they glued was supposed to be
5 the pull-out area.

6 Q. Okay. Do you recall if that was just a normal
7 sort of preventative thing or were they having
8 problems up there?

9 A. That was the first time I've seen them glue like
10 that other than if something was covered up. That's
11 the first time I've ever seen them that they come in
12 and glued like that.

13 Q. Do you recall if they had finished up prior to the
14 explosion?

15 A. Yes.

16 Q. A week before, two weeks before?

17 A. Roughly two or three weeks before.

18 Q. Do you recall if they cleaned up all their
19 equipment and drums and that sort of stuff?

20 A. To the best of my knowledge, all that was took
21 out.

22 Q. Was there any of the glue running out around like
23 bolt plates or anything like that; do you recall?

24 A. Not that I seen. Most of them --- most of that
25 that they done was outby.

1 Q. Sure. Was there anything, any chemical or solvent
2 or anything like that used up on the --- or around the
3 wall prior to the explosion; do you know?

4 A. None that I'm aware of, no.

5 Q. A lot of the mine rescue people had just an
6 intense burning in their eyes once they got down
7 around the wall, particularly the little --- what used
8 to be --- they called it the Two section just outby on
9 the wall, right in this area here. This is the
10 section --- the rooms are immediately outby the
11 stopping point on the wall.

12 A. That would have been the area where they was last
13 gluing at, the pull-out. Where it says longwall stop,
14 that was --- they were --- that was the last place
15 that they glued.

16 Q. Okay. Thank you. Anything else you can tell us
17 about that wall?

18 A. It was no different than any other wall that I've
19 been on. I mean, it was --- this mines, you ran a lot
20 of coal. But when the conditions got hard, it got
21 hard, but you usually come out of it.

22 Q. Had the coal run been going about the same as you
23 considered typical the week or so prior to the
24 explosion?

25 A. Yes.

1 Q. Okay. Did you ever hear anybody call in the mine
2 and say there were inspectors coming in?

3 A. Yes.

4 Q. How common was that?

5 A. I guess it was common, just normal.

6 Q. You probably didn't see too many inspectors on the
7 hoot owl, I'd imagine.

8 A. We had our share of them, but I --- I didn't deal
9 with them mostly because where I was, the shields, the
10 other maintenance people dealt with the inspectors.

11 Q. Sure. Do you recall any ventilation changes
12 within a month or so prior to the explosion?

13 A. The night that I told you that the methane
14 detectors was calibrated and the two Federal
15 inspectors was there, that particular night the
16 maintenance chief went down the Mother Drive to ---
17 with the two Federal inspectors, and they said they
18 wanted to walk the belt and everything. That night
19 there they was making a ventilation change, and they
20 made everybody leave the mines at 4:30 that morning.

21 Q. Okay. How about little ventilation changes, did
22 those occur?

23 A. Not that I'm aware of. I mean, they --- there was
24 several nights that everybody stayed outside when they
25 made a ventilation change.

1 Q. Sure. Now, we've heard various reports that they
2 may have been making some ventilation changes over
3 that long weekend, particularly when the mines were
4 shut down.

5 A. I've heard the rumor about that, but I don't know.

6 Q. Sure. Now, let me ask you about some doors. We
7 understand there were a lot of doors in this mine.

8 A. Too many.

9 Q. Too many. Why would you say that?

10 A. When you have to get out and open 14 sets of
11 doors, you're pretty wore out by the time you get to
12 work.

13 Q. Okay. I imagine so. Were those doors easy to
14 open, hard to open?

15 A. Most of them was easy to open.

16 Q. Were there any that had quite a bit of pressure
17 against them?

18 A. No, none that had pressure.

19 Q. Were those doors in good shape?

20 A. For the most part, most of them was. You had some
21 that was bent up, looked like they had been hit. One
22 set you had to lift up on some to shut. Other than
23 that, the rest of them looked like they're supposed
24 to.

25 Q. When they got banged up or bummed up pretty bad,

1 did they replace them or fix them?

2 A. They was reported. And if they was so bad you
3 couldn't open them like that, they would replace them,
4 yes.

5 Q. Okay. Now, let me ask you about some doors
6 somewhere near the Mother Drive or somewhere near the
7 longwall headgate. We understand there had been some
8 doors built and there was an open place.

9 A. There were four sets of doors on the longwall.
10 Near the mouth of about Ten Break or so there was the
11 first set that had always been there, and they were
12 solid doors, solid walls on both sides. Probably two
13 or three weeks before this happened, they had put two
14 more sets up. But if you were coming up towards the
15 longwall from the Mother Drive, the first one you
16 would come to had no wall at all on the left side.
17 And then the second one you come to had a wall maybe
18 two blocks high on the left side.

19 Q. That's odd. Do you know why they build them like
20 that?

21 A. Don't even know if there's a purpose for it, other
22 than maybe using it as a regulator for the miner
23 section, the Tailgate 22 or something maybe, because
24 they were behind us.

25 Q. Do you know who built those doors?

1 A. That I do not know.

2 Q. So you just came in the mine one day and there
3 they were?

4 A. Yeah. I'm off on the weekends. I come back and
5 it was there.

6 Q. Okay. Do you recall which weekend those doors
7 were constructed?

8 A. No, not right off. Like I said, maybe two weeks
9 to maybe a month before this happened they just showed
10 up.

11 Q. Anything else unusual on the wall that happened
12 say within a month prior to the explosion?

13 A. No.

14 Q. Did you ever hear of mining taking place without
15 ventilation curtains?

16 A. No, not to my knowledge.

17 Q. Did you ever hear of methane monitors being
18 bridged out?

19 A. No.

20 Q. Do you know if miners were subjected to
21 retaliation or threats for reporting safety issues or
22 other safety-related concerns?

23 A. None that I've --- you know, none that I've been
24 around. I mean, I'm sure it's probably happened, but
25 I don't see --- I have never seen that.

1 Q. Where were you at when the explosion happened?

2 A. At home. I had been home three or four hours.

3 Q. What was the first thing you thought when you
4 heard about the explosion?

5 A. I couldn't believe it.

6 Q. Did you try to think about what might have caused
7 it?

8 A. Yeah. And then I actually went --- tried to get
9 to the mines, and they wouldn't let me in.

10 Q. Sure. When you thought about what might have
11 happened, what was your first theory?

12 A. That they hit a bleeder.

13 MR. SHERER:

14 I certainly thank you for your
15 information. That's all the questions I've got on
16 that. I'll hand you over to my colleague here.

17 EXAMINATION

18 BY MR. FARLEY:

19 Q. Okay. Just, if you would, be patient with me
20 because I'm going to basically clarify some things.
21 And it will seem like I'm jumping back and forth, so
22 just bear with me if you don't mind. Were any
23 chemicals being added to the water supply for the
24 longwall spray system?

25 A. No.

1 Q. When you worked at Speed Mining, you said you had
2 to work on the longwall there, too?

3 A. Yes.

4 Q. As I understand it, Speed Mining also mines in the
5 Eagle seam; ---

6 A. Yes.

7 Q. --- is that correct? Were the conditions there in
8 any way similar to those at UBB?

9 A. A lot of them was similar, but they --- they had
10 to deal with a lot more gas wells and stuff at that
11 mines than they do at UBB.

12 Q. Now, since the UBB explosion, we've had a couple
13 of incidents at Speed where we had something on the
14 order of a bleeder or a floor outburst involving
15 methane.

16 A. Okay.

17 Q. Anything like that occur while you worked at
18 Speed?

19 A. No. No, I never seen no trouble at all with
20 methane at that mines when I worked there.

21 OFF RECORD DISCUSSION

22 BY MR. FARLEY:

23 Q. So if I understood you right, you didn't
24 experience anything ---

25 A. No.

1 Q. --- quite like that when you were at Speed? At
2 UBB on the longwall, did you have an open or a closed
3 bottom pan line?

4 A. I was closed.

5 Q. Okay. Now, the shields on the UBB longwall, the
6 shields or the shearer, could any of the activity on
7 those seals or shearer be monitored from anywhere on
8 the surface at UBB?

9 A. No. We used to have that technology at UBB before
10 we left, fiber optics, but they have not been
11 installed since we come back to that mine.

12 Q. Okay. Was there any ability to control or operate
13 from anywhere other than the longwall face area on the
14 surface or ---?

15 A. No.

16 Q. Okay. Now, you indicated that there was a methane
17 sniffer on the shearer and at the tail. Was it on the
18 tail drive or ---?

19 A. Yes. It was underneath the covers of the tail
20 drive.

21 Q. Okay. Now, in the week or so prior to April 5th,
22 any problem with the longwall system's water sprays?
23 Any changes in water pressure or anything stopped up?

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

25 Q. Okay. There was some discussion here earlier

1 about a floor outburst in 2004, if you recall. After
2 that outburst, were there any special precautions that
3 were implemented afterwards, any changes in procedure
4 that you can recall?

5 A. Not that I recall, no.

6 Q. No new safety rules or let's do this or that?

7 A. No, because the way it happened, I mean,
8 everything worked like it was supposed to do. And I
9 don't --- I mean, I don't know any other way to say
10 it, but not that I recall that they changed anything.

11 Q. Now, that event, the most recent one --- well, the
12 one in 2004, excuse me, was it your impression that
13 what occurred just simply overwhelmed the
14 ventilation ---

15 A. Yes.

16 Q. --- system for the longwall that day?

17 A. Because when it came in --- I wasn't there when it
18 actually happened. I had just come back from vacation
19 and they called me to come in when this happened, and
20 I come in, but they --- the people that was on the
21 face at that time said that, you know, it sounded like
22 a steam engine coming. It was so loud, just a real
23 loud noise. And it was --- they said it was probably
24 a whole four inches --- six inches around it, coming
25 up through the bottom, through a shield. And then I

1 think they said that they was getting readings up to
2 15, 20 some percent, but they wasn't calling it ---
3 later on they told us it wasn't methane, it was some
4 other name they called it, ethylene or something.

5 Q. Methane.

6 MR. SHERER:

7 Ethylene.

8 A. Said it had the same characteristics of methane,
9 but it was a higher percentage.

10 BY MR. FARLEY:

11 Q. Who told you that? Who do you recall hearing that
12 from?

13 A. Just the talk. I can't remember who it was, but I
14 know that they talked about burning up several
15 spotters when this happened.

16 Q. Okay. Are you familiar with an underlying coal
17 seam at UBB, the one that underlays the Eagle seam
18 called the Lower Eagle seam?

19 A. No.

20 Q. Okay. The rumor that you heard about the Easter
21 weekend ventilation change, anywhere in particular you
22 heard that?

23 A. It just surfaced. Probably a few days after the
24 explosion, that's when I first started hearing it,
25 just that --- well, we were all --- a lot of us would

1 go down to the mines and then try to see the families
2 and stuff like that. Then you hear people just
3 around, talking about it.

4 Q. Okay. But if I asked you to give me dates, names,
5 times and places, can you do that?

6 A. I never heard no names or who or what. I just
7 heard that somebody was supposedly in the mines that
8 Easter Sunday messing with ventilation. But you know,
9 we worked that night. We couldn't tell no difference
10 in anything.

11 Q. Meaning the ventilation?

12 A. Yes.

13 Q. Okay. Well, speaking of the ventilation, I think
14 you've indicated earlier that in the weeks preceding
15 the explosion on April 5th that you had noticed some
16 reduction in the amount of air moving across the
17 longwall face; is that correct?

18 A. Yes.

19 Q. Now, Erik was talking about things earlier we
20 know. Now, if --- assuming the pre-shift and on-shift
21 report books are accurate, in reading them they
22 indicate that the cubic feet per minute of air on the
23 longwall face early in March was over 100,000.

24 A. Yeah. I remember the fire boss and stuff and, you
25 know, we knew it was a lot of air, but we didn't know

1 that they had called out --- I remember them calling
2 out a hundred and some thousand the last open break.

3 Q. Somewhere 115,000, something like that.

4 Q. Now, the entries in the book toward the end of the
5 month or second half of the month reflect numbers
6 55,000 to 60,000, in that general area. Does that
7 seem reasonable to you?

8 A. Yes. I've heard that being called out, yes. The
9 air across this longwall face has been pretty steady,
10 but it hadn't been as bad at the end up at the head.
11 Usually on the longwall, as you get closer to the
12 pull-out you lose some of your air usually.

13 Q. Okay. How long have you been a maintenance
14 foreman at UBB?

15 A. Since I come back from Speed Mining.

16 Q. Okay.

17 A. I guess six, seven years ago.

18 Q. Okay. You don't mind me asking any particular
19 reason for why you came back to UBB from Speed Mining?

20 A. Well, when Mr. Hendricks left Speed Mining, the
21 people that was running it then started making us work
22 seven days a week and lying to us, and I just didn't
23 care for it and come back to UBB.

24 Q. Okay.

25 MR. FARLEY:

1 I don't think I have anything else right
2 now.

3 RE-EXAMINATION

4 BY MR. SHERER:

5 Q. I got one additional question. When you were
6 working back around the shields, sometimes you could
7 feel the air coming in and out. Did that seem about
8 the same that shift --- last shift you worked?

9 A. Yeah, it was --- like I said, everything seemed
10 just like a regular shift.

11 Q. Okay. Thank you.

12 ATTORNEY HAMPTON:

13 Okay. On behalf of MSHA and the office
14 of Miners' health, Safety and Training, we'd like to
15 thank you for appearing and answering our questions
16 today. Your cooperation is very important to the
17 investigation as we work to determine the cause of the
18 accident. We do request that you not discuss your
19 testimony here today with any person other than an
20 attorney, if you were to retain one. After
21 questioning other witnesses, we may call you to see if
22 we have any follow-up questions. And again, if at any
23 time if you have additional information you'd like to
24 share with us, please contact us at the information
25 given to you in the letter.

1 So now at this point, if you have any
2 answer that you would like to go over again or
3 anything else you'd like to clarify, if there's any
4 other information you'd like to tell us that we
5 haven't already discussed, you can do so right now.

6 A. Just the only thing, this is the only panel that
7 I've ever been on the way that --- that was ventilated
8 this way that --- none of the other ones has ever been
9 ventilated this way.

10 RE-EXAMINATION

11 BY MR. SHERER:

12 Q. Can I ask you what you mean by ventilated this
13 way?

14 A. That your main intake being in the track entry.
15 Every panel, even at Speed and everywhere else I've
16 --- we were at other mines, and this mines, until we
17 come back, had --- your main intake was in the Number
18 Three entry.

19 Q. Sure.

20 A. And this one, it's going right over the mule
21 train.

22 Q. Sure. Do you think that had a harmful effect?

23 A. I don't know if that was any --- helped caused
24 this explosion or anything like that, but I know there
25 was some of us that had concerns with this ventilation

1 because you had air coming up the belt that's isolated
2 and you had intake in Number Two, and Number Three was
3 a return --- miner section return. Well, our concern
4 before --- I guess they made some changes was if you
5 had a fire at the Mother Drive, we didn't have nowhere
6 to go.

7 MR. FARLEY:

8 I think we've heard the same concern from
9 someone else previously.

10 A. And I think they had changed some of it, I guess,
11 to correct that.

12 BY MR. SHERER:

13 Q. Are you aware of the technical study panel that
14 led up to that?

15 A. No.

16 Q. Okay. The miner accident in 2006 required MSHA
17 and NIOSH and the mining industry and academia to form
18 an independent panel that's called the Technical Study
19 Panel. They had, I think, four or more public
20 hearings across the country. And basically the focus
21 of that was the use of belt air. And the Technical
22 Study Panel came back, and their recommendation was to
23 move away from the belt air. They recognize there's a
24 few applications for --- you have to have in
25 particular the two-entry longwall gate roads out west.

1 A. Uh-huh (yes).

2 Q. And that was implemented in a regulation that MSHA
3 had to run, that they're required to run a regulation.
4 That regulation was promulgated, I think, late 2008.
5 so that's the issue on belt air. We required
6 everybody, except for those very few operations that
7 absolutely had to have it to move away from it. It's
8 probably something in the long run that mines will
9 adapt to, but it's --- it has been problematic
10 implemented at this mine. We don't know why.

11 A. I just --- I mean, I didn't know if it was that or
12 the management they had there now, because it's
13 difference since we come back. When we left we had
14 different management, and we never had no ventilation
15 trouble at all.

16 Q. Who was in charge of ventilation prior to when you
17 left?

18 A. Wendell Wills.

19 Q. Wendell Wills.

20 A. He was the superintendent.

21 Q. Was he good with ventilation?

22 A. Probably the best there was, that I've seen.

23 Q. Okay.

24 A. We never had no ventilation trouble at all at that
25 mines.

1 Q. Okay. Who's in charge of ventilation now; do you
2 know?

3 A. I guess Everett Hager. He's the superintendent.

4 Q. Do you ever hear Mr. Hager discussing ventilation?

5 A. I try not to talk to Mr. Hager. He'd come in one
6 door, I'd go out the other door.

7 Q. Why is that?

8 A. You couldn't talk to him because he'd just cuss
9 you instead of talk to you.

10 Q. So you think if you had a problem with, say, the
11 ventilation, would you go talk to him about it?

12 A. I would.

13 Q. Even though he'd cuss you?

14 A. Yeah.

15 Q. Do you think the other miners would do that?

16 A. I don't know. There's other ones that I'm sure
17 that they would talk to.

18 Q. Okay.

19 A. I believe Wayne Persinger, you could talk to him.

20 Q. Now, who was Mr. Persinger?

21 A. He is, I guess, the vice-president there now. He
22 wasn't when we first come back there, but you know, I
23 don't know he came. A month maybe prior to this
24 happening or something where --- but we had a ---
25 Jamie Ferguson was the vice-president when we first

1 set up there.

2 Q. Okay. Did Mr. Persinger get involved in
3 ventilation; do you know?

4 A. Yes, he worked on it.

5 Q. Did things get better once he started working on
6 it?

7 A. Like I said, we really never seen no change on the
8 longwall other than the numbers in the left open
9 break, but we never --- it never was detected.

10 Q. Sure. Do you recall the velocity measurements on
11 the longwall?

12 A. I remember when we first started, you know, the
13 hundred and some thousand and even on the tail because
14 I had to --- I took air readings up there before.
15 Usually 175 or something like that you'd have to have
16 at the tail. They'd be up to 300 or 400 on the tail.

17 Q. And that's feet per minute?

18 A. Yes.

19 Q. Did you take any of those velocity readings prior
20 to the explosion?

21 A. No, I hadn't took none until just at the start of
22 the panel.

23 Q. Do you recall hearing anybody else calling out
24 those numbers or taking those numbers?

25 A. Not specific numbers, no, but close enough.

1 Q. Thank you.

2 ATTORNEY HAMPTON:

3 Anything else?

4 MR. FARLEY:

5 I don't think so.

6 ATTORNEY HAMPTON:

7 Okay. Again, we would really like to

8 thank you for your cooperation here. Off the record.

9 * * * * *

10 STATEMENT UNDER OATH CONCLUDED AT 9:18 A.M.

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1 STATE OF WEST VIRGINIA)

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4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

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

12 That the proceeding is herein recorded fully
13 and accurately;

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



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22 *Alicia R. Brant*
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