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Transcript of the Testimony of **Delbert Bailey**

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STATEMENT UNDER OATH

OF

DELBERT BAILEY

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 Thursday, July 29, 2010.

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2

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

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I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Hampton	7 - 12
5	STATEMENT	
6	By Mr. Farley	12
7	WITNESS: DELBERT BAILEY	
8	EXAMINATION	
9	By Mr. Sherer	13 - 67
10	EXAMINATION	
11	By Mr. Farley	67 - 78
12	EXAMINATION	
13	By Attorney McAteer	79 - 101
14	RE-EXAMINATION	
15	By Mr. Farley	101 - 104
16	RE-EXAMINATION	
17	By Mr. Sherer	104 - 105
18	RE-EXAMINATION	
19	By Mr. Farley	105 - 106
20	RE-EXAMINATION	
21	By Attorney McAteer	106
22	RE-EXAMINATION	
23	By Mr. Sherer	106 - 107
24		
25		

I N D E X (cont.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

RE-EXAMINATION

By Attorney McAteer

107 - 108

CLOSING STATEMENT

By Attorney Hampton

108 - 109

DISCUSSION AMONG PARTIES

109 - 110

CERTIFICATE

111

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4	One	Map	32*

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
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21
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23
24
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* Exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY HAMPTON:

4 My name is Pollyanna Hampton. Today is
5 July 29th, 2010. I am with the Office of the
6 Solicitor, U.S. Department of Labor. With me is Erik
7 Sherer, an accident investigator with the Mine Safety
8 and Health Administration, MSHA, an agency of the
9 United States Department of Labor. Also present are
10 several people from the State of West Virginia, and I
11 ask that they now state their appearance for the
12 record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 ATTORNEY MCATEER:

20 Davitt McAteer, with the Governor's
21 independent team.

22 ATTORNEY HAMPTON:

23 There are also other members of the team
24 in the room with us today. All members of the Mine
25 Safety and Health Accident Investigation Team and all

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

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 do appreciate
25 your assistance in this investigation.

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

11 MR. BAILEY:

12 No, I do not.

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 any other law enforcement

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

6 MR. BAILEY:

7 Pretty much.

8 ATTORNEY HAMPTON:

9 Okay. Do you have any questions? Was
10 that a no?

11 A. No. No.

12 ATTORNEY HAMPTON:

13 Okay. I just want to make sure you're
14 saying yes or no for the court reporter's sake. Okay?

15 A. No.

16 ATTORNEY HAMPTON:

17 All right. After the investigation is
18 complete, MSHA will issue a public report detailing
19 the nature and causes of the fatalities in the hope
20 that greater awareness about the causes of accidents
21 can reduce their occurrence in the future.

22 Information obtained through witness interviews is
23 frequently included in these reports.

24 Since we will be interviewing other
25 individuals, we do request that you not discuss your

1 testimony with any other person. A court reporter
2 will record your interview, as you can see, so please
3 speak loudly and clearly. And if you don't understand
4 a question, please ask the questioner to rephrase the
5 question so that we make sure that you understand it
6 before you answer it. And please answer each question
7 as fully as you can, including giving us information
8 that you might have learned from another source.

9 We would like to thank you in advance for
10 your appearance here. We appreciate your assistance
11 in this investigation. Your cooperation is critical
12 in making the nation's mines safer. After we have
13 finished asking questions, you will then have an
14 opportunity to make any statement that you would like
15 or to clarify any of the answers that you've given in
16 case there's something else that you would like to
17 tell us. And as I mentioned before we went on the
18 record, you have Norman Page's contact information in
19 case there's anything you would like to tell us
20 further after we finish the interview here today.

21 Any statements given by miner witnesses
22 to MSHA are considered to be an exercise of statutory
23 rights and protected activity under Section 105(c) of
24 the Mine Act. If you believe any discharge,
25 discrimination or other adverse action is taken

1 against you as a result of your cooperation with this
2 investigation, you are encouraged to contact MSHA
3 immediately and file a complaint under Section 105(c)
4 of the Act. Terry?

5 MR. FARLEY:

6 Mr. Bailey, on behalf of the Office of
7 Miners' Health, Safety and Training, we want to advise
8 you that the West Virginia Mine Health and Safety
9 Regulations also provide protection against
10 discrimination for miners who participate in these
11 type of interviews. I'm going to pass along some
12 contact information here for the West Virginia Board
13 of Appeals. They hear complaints from miners about
14 potential discrimination. Also, I will include my
15 business card, and there's a phone number right here
16 for Mr. Bill Tucker. He's our lead underground
17 investigator. Should you experience any problems,
18 feel free to give us a call. I would caution you if
19 you have a problem with discrimination, you would need
20 to file a complaint within 30 days of the date of the
21 offense.

22 MR. BAILEY:

23 Okay.

24 MR. FARLEY:

25 All right, sir.

1 ATTORNEY HAMPTON:

2 Do you have any questions before we
3 begin?

4 MR. BAILEY:

5 No.

6 ATTORNEY HAMPTON:

7 Okay. Could you please swear in the
8 witness?

9 -----

10 DELBERT BAILEY, HAVING FIRST BEEN DULY SWORN,
11 TESTIFIED AS FOLLOWS:

12 -----

13 EXAMINATION

14 BY MR. SHERER:

15 Q. I want to thank you for coming down here this
16 afternoon, Mr. Bailey. This is very important, to get
17 the information and try to figure out what led up to
18 the cause of this accident. We got two basic goals.
19 One is to provide some closure for the family and the
20 friends and the coworkers of the victims. The other
21 is to try to prevent this sort of event from ever
22 happening again.

23 A. Uh-huh (yes).

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

25 A. Thirty-five (35). This December will make me 35.

1 Q. Can you please state your full name for the
2 record?

3 A. My name is Delbert Ray Bailey, Sr.

4 Q. And your address and telephone number, please?

5 A.(b)(7)(C) Phone
6 number is (b)(7)(C)

7 Q. Okay. When did you go to work for the Massey
8 organization?

9 A. 1993.

10 Q. '93.

11 A. May. It was in May, ---

12 Q. Okay.

13 A. --- I think.

14 Q. That's close enough for --- 1993, I can just
15 barely remember it myself.

16 A. Uh-huh (yes).

17 Q. What about --- when did you go to work at Upper
18 Big Branch; do you recall?

19 A. It was either the end of '97 --- I believe it was
20 '97.

21 Q. Okay. So you've pretty much been at big Branch
22 since they got started?

23 A. When they started the wall is when I started.
24 Whenever the wall was started, I started a few months
25 before the wall.

1 Q. Okay.

2 A. And when the wall was started up, that's --- I was
3 assigned to the longwall.

4 Q. Had you worked on longwalls prior to that?

5 A. No.

6 Q. So you probably have been there at every panel
7 they've mined at this mine?

8 A. Yes.

9 Q. Okay. What was your job title at UBB?

10 A. My title was longwall assistant maintenance
11 manager.

12 Q. Okay. Who did you report to? Who was your ---?

13 A. Danny Laverty.

14 Q. Danny Laverty. We spoke to Mr. Laverty yesterday.
15 He seems to be a very knowledgeable individual. Did
16 you have anybody who reported to you?

17 A. No.

18 Q. Were you salary or hourly?

19 A. They called it salary, nonexempt, which meant that
20 I got paid by the hour.

21 Q. Okay.

22 A. Could I back up?

23 Q. Sure.

24 ATTORNEY HAMPTON:

25 Oh, absolutely.

1 BY MR. SHERER:

2 Q. Sure.

3 A. Some of the guys that worked on this longwall
4 section, sometimes they would come to me and report
5 some things to me, and I'd relay it then to Danny.

6 Q. Sure. That's good. That's the way it ought to
7 work. Did you have a particular shift that you worked
8 on?

9 A. Dayshift.

10 Q. Dayshift. Were you primarily on the wall itself
11 or did you have like outside duties or both?

12 A. My primary --- primarily I was outby.

13 Q. Okay.

14 A. Outby.

15 Q. Okay. And what did you do outby?

16 A. Maintained the haulers, the outby equipment,
17 checked --- maintained the COs along the beltline,
18 made preparations for the next longwall setup, and
19 made preparations for the next longwall tear-down.

20 Q. Okay. It sounds like a lot of stuff to do.

21 A. It was. And then if they needed help up on the
22 face of the longwall, if they had a big problem, I
23 would go up and help them.

24 Q. Sure. Okay. Were you on the --- on or around the
25 wall on April the 5th?

1 A. No, sir.

2 Q. Where were you that day?

3 A. I was on Cranberry River, fishing.

4 Q. When was the last shift you worked prior to the
5 event?

6 A. That Saturday.

7 Q. Okay. We understand that the mine was down on
8 Sunday ---

9 A. Yes, sir.

10 Q. --- because of Easter. Were you on some sort of
11 rotation?

12 A. No, sir.

13 Q. Just take some time off?

14 A. That was a scheduled day off. I took --- I was
15 --- they ran coal seven days a week. I chose to take
16 Sunday and Monday off.

17 Q. Sure.

18 A. And Danny, he took Friday and Saturday off. So
19 that way we worked five days and off two.

20 Q. Sounds like a good accommodation.

21 A. A good choice.

22 Q. Extremely fortuitous choice. Let's talk about the
23 Saturday you worked. First of all, does anything
24 stick out to you, anything --- was anything different
25 on that Saturday?

1 A. No, not really. Pertaining to what, though? I
2 mean, how do you ---?

3 Q. That's --- anything in your mind that just seems a
4 little different. Did you smell something that was
5 different?

6 A. I was not underground Saturday.

7 Q. Oh, okay. Oh, okay.

8 A. Yeah, I was not underground Saturday.

9 Q. So you worked on the surface?

10 A. Yeah. Danny was off that day. And then I was
11 late for work that day, so I did not go in with them.
12 And then I stayed outside and --- I did go
13 underground, but I went underground to put a track ---
14 help put a track together.

15 Q. Okay. And where was that track at?

16 A. It was on the Ellis side. It was about six or
17 seven breaks underground, maybe ten breaks
18 underground.

19 Q. Okay.

20 A. It was where they was trying to set up for a new
21 section and it was broke.

22 Q. Yeah, we've talked to I think the guy that broke
23 the track the other day. I can't remember his name.
24 He was a miner operator. Kenneth Thompson, I think
25 that's who it was. So you were just a few crosscuts

1 underground?

2 A. Just --- and that was just for 30 minutes.

3 Q. Okay. Did you have any problems putting the track
4 back together?

5 A. I didn't, but they were having problems because
6 evening shift couldn't get underground, so I went
7 underground and they was having problems bolting
8 together, and then I just helped them bolt together.

9 Q. Sure.

10 A. I knew they was having problems, but I didn't know
11 what kind of problems they were having, so I went down
12 to assist.

13 Q. Just having problems lining up the rail?

14 A. Yeah.

15 Q. Do you recall anything that was --- where you were
16 working at, could you hear the mine phone?

17 A. On the rail, when I was working on the rail, or
18 just outside?

19 Q. Just outside.

20 A. Yeah, I could --- not all the time, because
21 sometimes I was outside on the yard.

22 Q. Sure.

23 A. And sometimes I was back up in the office.

24 Q. Okay. And when you're in the office, can you hear
25 the mine phone?

1 A. Yes, sir.

2 Q. Did you overhear anything that seemed unusual?

3 Was there any problems reported?

4 A. I don't remember that.

5 Q. When you went to the Ellis Portal to help repair
6 that break in the track, how was the ventilation where
7 you were working on that track?

8 A. I don't know. Nothing different. It didn't ---
9 nothing different.

10 Q. That's what we're looking for. We're just trying
11 to piece this thing together. Now, when was the last
12 shift that you worked underground?

13 A. Thursday.

14 Q. Thursday, okay. Now, did you work the entire
15 shift underground?

16 A. Yes, sir.

17 Q. Okay. Did you notice anything unusual on
18 Thursday?

19 A. No, sir.

20 Q. Okay. What about the ventilation, was it about
21 the quantity of air on and around the wall that you
22 were used to?

23 A. On Thursday?

24 Q. Uh-huh (yes).

25 A. Uh-huh (yes), about the same.

1 Q. Did you notice if it was hot or cold or what was
2 the temperature like in there?

3 A. It seemed the same.

4 Q. Okay. Now, about where did you work on Thursday?
5 You mentioned you worked outby. This map should cover
6 the area I would think.

7 A. Thursday I put an electric motor in the forklift.
8 The forklift was located one break outby the mule
9 train.

10 Q. Okay. So up on the headgate?

11 A. Up on the headgate, ---

12 Q. Okay.

13 A. --- the longwall headgate, one break outby the
14 mule train.

15 Q. Okay.

16 A. And I was there all day doing that with Josh
17 Napper. I was training Josh and Adam. If I ever
18 needed any help I would ask Timmy Davis or Harold
19 Lilly if I could use one of these guys to help me
20 because they wanted to be electricians.

21 Q. Sure.

22 A. So whenever I needed any help doing anything like
23 that, I would get one of them, and we would talk and
24 I'd show them things.

25 Q. Sure.

1 A. So that's what we done that Thursday.

2 Q. Okay. Did you make it down to the headgate of the
3 wall itself?

4 A. No, sir.

5 Q. Okay. Did you go further inby than just where
6 that forklift was?

7 A. I went up around the mule train, just --- the
8 biggest part of the time I was around this area. We
9 had fixed it and we had got the forklift to where it
10 trammed, and I trammed it inby one break, and then we
11 put it on charge and I had to do some work, some more
12 work to it. I had to adjust the tram. I was fixing
13 the alarm, back-up alarm on it.

14 Q. Sure.

15 A. About all day I was just right here. I don't
16 remember going no farther than here and around the
17 mule train.

18 Q. Okay. Sure. Now, how did you get into this area?
19 I assume you rode a mantrip in most of the way. Do
20 you recall where you got off the mantrip at?

21 A. That day --- a lot of times the mantrips were full
22 and I couldn't get on the mantrip because it would be
23 too crowded or I would catch Dino's crew in or
24 somebody else in, and then I would ride up to the
25 mouth of the longwall, and then I'd walk up to my

1 working area.

2 Q. Sure.

3 A. That day, I can't remember.

4 Q. Okay. We all have a lot of days like that. We
5 just go through the, you know, the same old things,
6 and sometimes things stick out and sometimes they
7 don't. And there's no problem with that. I mean, if
8 you ask me what I was doing five years ago, I'd really
9 have to scratch my head and think about it, so that's
10 okay.

11 A. But I know I got there.

12 Q. Oh, sure. Probably done it thousands of times at
13 this mine.

14 A. I had done it quite a few times.

15 Q. Sure. But nothing that you can recall was out of
16 the ordinary?

17 A. No, sir.

18 Q. Okay. Let's talk about this area right at the
19 mouth of the longwall. I assume you came by the
20 Mother Drive?

21 A. Uh-huh (yes).

22 Q. There's four sets of doors shown here.

23 A. Uh-huh (yes).

24 Q. Now, we understand that the two most inby doors
25 were installed fairly recently. Do you recall seeing

1 those doors?

2 A. Yes, sir.

3 Q. Do you know about when they were installed?

4 A. I can't give you an exact date, and I can't give
5 you an exact week, but I will give you an estimate.

6 Q. Sure.

7 A. Maybe a month ---

8 Q. Okay.

9 A. --- or a month-and-a-half before.

10 Q. Okay.

11 A. I really am not --- you know, I know they've been
12 there and I've walked through them a few times. It
13 may be two months.

14 Q. Okay. Now, we understand that those doors were a
15 bit unusual in that there was an open space by them,
16 do you recall that, an opening?

17 A. Yes, sir.

18 Q. Could you describe that to us, please?

19 A. Going in it would be on the --- it was on the left
20 side. I remember seeing a hole there, like maybe it
21 may have been a --- I remember seeing a hole there.

22 Q. Sure. Now, we think those doors were both doors
23 and regulators. Does that sound about right?

24 A. That sounds about right.

25 Q. Do you recall if they were almost all the way

1 blocked up and there was just a little space at the
2 top or were they about halfway blocked up or ---?

3 A. I'm thinking they was about halfway.

4 Q. Okay. That helps. Now, we understand that a
5 company, I think it was Strata, had been doing some
6 work near the takeout on the headgate side.

7 A. The pull-out area.

8 Q. Yeah, the pull-out area. Do you recall if they
9 had finished that work and removed their equipment?

10 A. They were finished. I don't know if all the
11 equipment was removed.

12 Q. In particular ---?

13 A. I didn't see no more equipment up there, but I
14 didn't walk around and investigate and see what ---.

15 Q. Sure.

16 A. But they pulled the air compressor out, which was
17 our air compressor. They didn't pull --- you know,
18 the air compressor got pulled out.

19 Q. Sure.

20 A. And I believe all of their equipment was gone.

21 Q. Okay. Do you recall seeing any barrels sitting
22 around after they had moved out of there or tanks,
23 barrels. I'm not sure exactly what they used.

24 A. No, sir.

25 Q. Okay. Now, we understand that they shot this glue

1 material into the --- primarily into the roof. Do you
2 recall seeing any that dripped out anywhere?

3 A. Yes, sir, but it was kind of --- it was dried on a
4 screen that we had on the top.

5 Q. Okay. Was there a little bit of it, a lot of it?
6 Do you recall?

7 A. I just remember seeing it. I was --- you know,
8 the amount I don't know. It wasn't no whole lot, you
9 know.

10 Q. Sure. It wasn't such that you said, man, that
11 stuff is all over the place or anything like that?

12 A. No, it wasn't like that.

13 Q. Okay. Good. Okay. Let me ask you some general
14 questions about the wall. We understand that sometime
15 back possibly in late October or maybe on through
16 November there was a lot of water that came in. Do
17 you recall that?

18 A. Yes, sir.

19 Q. Can you describe what you saw to us?

20 A. It ran like a pretty good size creek down the
21 face. And we had to pump it off of the face. We
22 would pump it over into Number Three and Number Two
23 entry inby.

24 Q. Okay. Now, was it coming out of the face or was
25 it coming out of the roof or the floor? Do you recall

1 where the water was coming from?

2 A. I don't remember it coming out of the top. I
3 don't remember it running out of the face. I remember
4 it running on the bottom, down the pan line, down the
5 jack line ---

6 Q. Oh, okay. Sure.

7 A. --- on the ground.

8 Q. So you just recall it running on the floor and, I
9 guess, that's where you pumped it from?

10 A. Yeah. And there were holes, dips, in the
11 bottom.

12 Q. Sure.

13 A. The water had built up and we had to pump it
14 before we'd go through it.

15 Q. Now, do you recall if the water got to the point
16 where it shorted out anything on the longwall, flooded
17 the tail drive or the head drive or anything?

18 A. No, I don't recall it shorting anything out.

19 Q. Okay. So it was just water and you had to pump it
20 to keep it from doing that probably?

21 A. Yes, sir.

22 Q. Was the wall down for an extended period of time
23 when that happened?

24 A. Yes. We had to pump a lot of water and move it
25 down, pumping it.

1 Q. Was it a day or two days?

2 A. They would end up maybe starting up and running a
3 pass a day, and they would try to run while they was
4 pumping water.

5 Q. So it just ran past it. It doesn't sound like
6 they ---.

7 A. They pumped more water than they ran coal.

8 Q. Sure.

9 A. But we had to work together to get past that.

10 Q. Once you got past that, was there any more
11 problems with water? Do you recall?

12 A. We had water, but we didn't have no problems.

13 Q. Okay. Just about every wall has a little water on
14 it.

15 A. Uh-huh (yes).

16 Q. If you would, Mr. Bailey, think about a week or so
17 prior to the explosion. Was there --- first of all,
18 were you up around the wall any during that week
19 period of time?

20 A. Tuesday.

21 Q. Okay, Tuesday. Was the conditions and the
22 production on Tuesday about normal?

23 A. Yes, sir.

24 Q. Okay. Did you hear anything during that week or
25 so prior to the explosion? Just maybe people that you

1 rode with or talked to , did they say that there was
2 any particular problem?

3 A. No.

4 Q. Okay. Now, let's talk about the ventilation
5 during that week. Was it about the same? Did you
6 notice any changes during that week?

7 A. Tuesday.

8 Q. Okay.

9 A. Me and Timmy Davis at the beginning of the
10 dayshift --- Timmy was --- had been moved, and I don't
11 know what his job title was, to outby to make
12 preparations for the longwall teardown.

13 Q. Sure.

14 A. So he was taken off of production and Mikey Webb
15 was the production foreman. The crew had went ahead
16 of us. I don't --- can't remember if we came onto ---
17 rode down with one of the other crews and then walked
18 up. Anyhow, we got there, and me and him was walking
19 inby the mule train and the air was not right. Timmy
20 said, this air ain't right, and I noticed it ain't
21 right. There was no air hitting us in the back, like
22 it normally does. We walked up to the last open
23 crosscut. Timmy said, I need to check on this air. I
24 said, okay, I'm going to go down the face to make sure
25 everything is all right because Luke was on vacation,

1 and I was going to --- on dayshift and if Randy had
2 any problems I would be there to help. I was going to
3 go on the face and make sure everything was okay.

4 Q. Sure.

5 A. We were going to have a good day. We got to the
6 last open break, where the check curtains are. I
7 looked over at the Number Three entry and this curtain
8 was blowing outby, and I remember seeing mist blowing
9 out around it.

10 Q. Okay.

11 A. So I walked on down and got on the face and walked
12 down. They hadn't started up yet. And I thought, I
13 need to go help Timmy because all he's got is two red
14 hats. You can't --- you know, you can't do much with
15 two red hats.

16 Q. Sure.

17 A. So I turned to come back out, and on the way back
18 out the air picked up. So I walked on over toward
19 Number three, and Timmy was walking toward me inby and
20 he said he fixed the air. And I looked at this
21 curtain and it was blowing inby, like it should be.
22 What he done I do not know. He just said, I got the
23 air fixed.

24 Q. Okay. And he ---?

25 A. And that was all that was said about that, but it

1 was right.

2 Q. Okay.

3 ATTORNEY HAMPTON:

4 Could you actually circle where the

5 curtain is that you just told us had been blowing

6 outby and then after Timmy fixed it, it was blowing

7 inby?

8 WITNESS COMPLIES

9 MR. FARLEY:

10 You said Tuesday; right?

11 A. Yes, sir, Tuesday.

12 ATTORNEY HAMPTON:

13 Okay. The witness just circled that in

14 blue. Could you make a little arrow into the open

15 area here and just write curtain?

16 A. That C stands for curtain.

17 ATTORNEY HAMPTON:

18 Oh, okay. I just want to make sure that

19 we know which curtain it is that we're talking about.

20 Thanks.

21 A. I didn't notice this one. You know, I just ---

22 what it is, he turned to go that way and I looked that

23 way. That's what I seen.

24 BY MR. SHERER:

25 Q. Sure.

1 ATTORNEY HAMPTON:

2 And I'm going to mark this as Exhibit

3 Number One, Bailey, July 29th, 2010.

4 (Bailey Exhibit One marked for
5 identification.)

6 BY MR. SHERER:

7 Q. Now, you said you walked on down and you --- I
8 can't recall if you said you actually walked down the
9 face a little bit or not?

10 A. Yes, sir. I turned down to the face and I thought
11 I'd better go back and help Timmy.

12 Q. Okay. Now, about how long do you think it took
13 you from when you parted company with Mr. Bailey ---
14 or Mr. --- what is his last name?

15 A. Timmy Davis.

16 Q. Mr. Davis. Excuse me. When you parted company
17 with him until when you walked down and turned back
18 around and you came back up and met up with him.

19 A. Five, ten minutes, ----

20 Q. Okay.

21 A. --- you know, from the time I parted to the time I
22 met him, because I had to walk around and, you know,
23 I'd stop there and thought a little bit and then
24 turned around and went back.

25 Q. Did you anywhere --- when you walked down there

1 and back, did you --- you said you stopped and thought
2 about it for just a little bit.

3 A. But there was no air here neither, ---

4 Q. Okay.

5 A. --- you know.

6 Q. Sure.

7 A. I needed to go back and help him.

8 Q. Did you stop anywhere else along that walk?

9 A. I don't recall stopping.

10 Q. So you went about three, four, maybe five breaks
11 and walked back?

12 A. I parted with him right here.

13 Q. Could you just --- let's get another color marker.

14 ATTORNEY HAMPTON:

15 Okay. I'm going to hand you the green
16 marker.

17 BY MR. SHERER:

18 Q. If you would just highlight that path you walked
19 and back.

20 ATTORNEY HAMPTON:

21 Actually, ---.

22 A. This was on Tuesday. Is this the same path
23 or ---?

24 BY MR. SHERER:

25 Q. Yeah.

1 ATTORNEY HAMPTON:

2 Before you do that, there is green, I

3 see. I didn't notice that there was before. Let me
4 give you yellow so that it's clear which path you
5 walked.

6 A. This was on Tuesday?

7 BY MR. SHERER:

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

9 A. I parted with him right here.

10 Q. Okay.

11 A. And I didn't go no farther than 10 or 12 shields.

12 Q. Sure. And then you turned around and basically
13 walked right back?

14 A. Yeah.

15 ATTORNEY HAMPTON:

16 Could you ---?

17 A. And then I walked on over to here to check because
18 I was going to --- I didn't know whether he went this
19 way or whether he went this way, and he was walking
20 down this way.

21 BY MR. SHERER:

22 Q. Okay. Can I get you to take another color marker?

23 MR. SHERER:

24 Hand him the orange marker or pink
25 marker.

1 ATTORNEY HAMPTON:

2 Pink. Pink will show up.

3 BY MR. SHERER:

4 Q. And draw an arrow in the direction that he was
5 walking when you met back up with him?

6 A. When I see him, he was about right here and he
7 walked right here.

8 Q. And just draw a little arrowhead on it.

9 WITNESS COMPLIES

10 BY MR. SHERER:

11 Q. Okay. So it's reasonable to think that he
12 probably walked three or four breaks at the most,
13 because that's about the distance you walked, and then
14 came back?

15 A. Yeah. I don't know where he came from. I don't
16 know what he done. I don't know if he stopped and
17 fixed this. I don't know if he went in there and
18 closed these doors. I don't know.

19 Q. Okay.

20 A. You know, these doors were there and I think Mr.
21 Lilly took these doors out Wednesday.

22 Q. Okay. Now, you're pointing to some doors just
23 inby this curtain.

24 A. Just inby the curtain.

25 Q. Okay.

1 MR. SHERER:

2 Can you give him a different colored
3 marker?

4 ATTORNEY HAMPTON:

5 Okay. Now I'm handing you the yellow ---
6 I'm sorry, the orange.

7 BY MR. SHERER:

8 Q. Would you circle those doors, please?

9 ATTORNEY HAMPTON:

10 And if you could just draw an arrow here
11 and write the word doors.

12 BY MR. SHERER:

13 Q. And say something like removed Wednesday.

14 MR. FARLEY:

15 Who is Mr. Lilly?

16 A. Harold Lilly.

17 ATTORNEY HAMPTON:

18 Does he have another first name or does
19 he always go by Harold?

20 A. H.K. Lilly.

21 ATTORNEY HAMPTON:

22 Okay. And is that L-I-L-L-Y or L-I-L-Y,
23 if you know?

24 A. I don't know.

25 ATTORNEY HAMPTON:

1 That's fine.

2 A. Now, these doors, let me explain it. I was told
3 that these doors were here. I know that these doors
4 were here prior to this.

5 BY MR. SHERER:

6 Q. Okay.

7 A. But you know, I've talked about this ---

8 Q. Sure.

9 A. --- and they said --- and I remember because
10 Thursday and Friday --- Wednesday and Thursday is when
11 I worked on that hauler. Mr. Lilly, Wednesday, said
12 he had to go put doors in, and I was needing one of
13 them little red hats to help me.

14 Q. Sure. Okay.

15 A. And he went and said he had put them doors in.

16 Q. Okay. That's great, sir.

17 ATTORNEY HAMPTON:

18 That's fine. Thank you.

19 BY MR. SHERER:

20 Q. That's plenty fine. Now, you say you talked --- a
21 couple of different questions. What did Mr. Lilly do?
22 What was ---?

23 A. He did mostly outby work.

24 Q. Okay.

25 A. Dead work. Outby dead work.

1 Q. Sure.

2 A. Whatever needed to be done, built cribs, built
3 stoppings, tear out stoppings, whatever, clean up,
4 keep things maintained.

5 Q. Just normal outby sort of work?

6 A. Yeah.

7 Q. Do you happen to know why he was up around the
8 longwall for those few days? Did he mention what he
9 was doing up there?

10 A. Harold?

11 Q. Uh-huh (yes).

12 A. No. All I remember is him putting these doors in
13 Wednesday. I didn't talk to him much. He didn't come
14 around to me when I was working.

15 MR. FARLEY:

16 You say putting them in on Wednesday or
17 removing them on Wednesdays?

18 A. He put the doors --- he installed the doors --- he
19 removed the doors, yeah. Let's get that right. He
20 took the doors out.

21 MR. FARLEY:

22 Okay.

23 A. The doors were here and he took them out and built
24 a stopping, a permanent stopping.

25 BY MR. SHERER:

1 Q. Where these doors are shown, being the orange?

2 A. Yes, sir. So he removed it on Wednesday --- on
3 --- we're getting mixed up. Let's start ---.

4 Q. Just think about it a minute and then take your
5 time.

6 A. Well, let me start with Timmy. Let's finish that
7 up before we jump on something else.

8 Q. Okay.

9 A. All right. Timmy, I don't know which way he went,
10 but when I came back I met him right here.

11 Q. Okay.

12 A. And the curtain was right, and he said he had took
13 care of the air, it's right. And I did look, and the
14 curtain was right, so we went about our business.

15 Q. Okay.

16 A. And that's --- and then ---.

17 Q. And then ---?

18 A. And then Wednesday --- well, wait. You said and
19 then.

20 Q. No, go ahead, sir. I'm sorry.

21 A. And then Wednesday is when Harold had to remove
22 them doors and put in a permanent stopping.

23 Q. Oh, okay. So he basically took these two doors
24 out and built a --- do you recall if it was a block
25 stopping or a Kennedy stopping?

1 A. I wasn't there.

2 Q. Oh, okay.

3 A. I know that he had a job back there to do, and I
4 asked him if I could use Adam, and I just remember,
5 you know, he had to do that.

6 Q. Okay.

7 A. That's all I remember him saying he had to do that
8 day.

9 Q. Okay. Sure. That's interesting. That's very
10 helpful. Now, from some of the other testimony we've
11 gotten and such, it seems like there was a lot of
12 air-related or ventilation-related changes as this
13 longwall mined up to and around this crossover. And
14 then --- and we can see that because this was a major
15 --- I guess at one time the air went down through the
16 crossover and went different directions, and there was
17 belts that came down and dumped on the longwall belt,
18 and they had to re-route a lot of this stuff.

19 A. Right. I remember them --- talking about belt
20 air, ---

21 Q. Uh-huh (yes).

22 A. --- I remember them working with air. You know, I
23 just --- I don't work with air.

24 Q. Sure. Do you recall anybody in particular that
25 was working with air?

1 A. Any particular time, just ---?

2 Q. Say a couple weeks prior to the explosion.

3 A. I can't remember anybody in particular working
4 with this air because everybody kind of kept up with
5 it.

6 Q. Okay.

7 A. You know, everybody ---.

8 Q. Okay. But you just know somebody was doing
9 something?

10 A. Yeah, because there was things that had to be done
11 on this belt. It got took out the way somebody
12 explained to me, and I can't remember whether it was
13 an inspector or who it was, something about this belt
14 air, it had to flow this way, and then after they took
15 this out, it had to flow this way. I can't remember
16 --- you know, I can't remember.

17 Q. Sure.

18 A. I now it had to be changed or something.

19 Q. Sure.

20 A. And who changed it and when they changed it and
21 how it got changed, I don't know.

22 Q. Okay.

23 A. And then prior to that, I know you all know that
24 we had the air on the tail was reversed.

25 Q. Yeah. That was about the first of March, wasn't

1 it?

2 A. Okay. I just remembered that.

3 Q. Okay. So all you know is there were people
4 working on the air. You mentioned the specific
5 incident on Tuesday, when there just wasn't enough air
6 and Mr. Davis did something to change the air and got
7 it straightened out for you. Did the rest of the
8 shift go okay?

9 A. The rest of the shift went fine.

10 Q. Okay. And did you notice anything else with the
11 air that day?

12 A. No, sir.

13 Q. Okay. That's helpful. We appreciate that.

14 A. And Tim, he may not have --- can I ---?

15 Q. Sure. This is --- we're wanting to find out
16 anything that can possibly help us. So any
17 information you got, we would appreciate.

18 A. He may not have done nothing. It may have
19 corrected itself.

20 Q. Okay. Did he say --- I think you mentioned you
21 said he said he had gotten it straightened out.

22 A. That's just what he said.

23 Q. Okay.

24 A. That's what he said. So he may have did something
25 back here. I don't know.

1 Q. Okay.

2 A. You know, I don't know what he done. I don't
3 know ---

4 Q. Sure. I understand that, too.

5 A. --- what would cause this to blow back this way
6 around this curtain. Why would this air not be
7 hitting in the back like it's supposed to?

8 Q. That's a real good question. And I'll be quite
9 honest with you, I don't have a clue right now.

10 A. It was just that day. That's the only --- I seen
11 it.

12 Q. Yeah. Sure.

13 MR. FARLEY:

14 Is it possible you don't --- you didn't
15 actually see where he went?

16 A. I ---.

17 MR. FARLEY:

18 He could have gone in any direction; is
19 that correct?

20 A. He went ---.

21 ATTORNEY HAMPTON:

22 Let's use the pink because we had used
23 the pink earlier to show where Timmy Davis was
24 walking.

25 A. Okay. This is me in the yellow.

1 BY MR. SHERER:

2 Q. Uh-huh (yes).

3 ATTORNEY HAMPTON:

4 Uh-huh (yes).

5 A. Okay. This is Timmy, the pink. We parted right
6 here. I went this way, to the left, and Timmy went to
7 the right. And whether he went inby or outby, I don't
8 know. I went over to the face.

9 ATTORNEY HAMPTON:

10 Thank you.

11 BY MR. SHERER:

12 Q. We appreciate that information, Mr. Bailey. This
13 is another piece of the puzzle. It may be a real
14 important piece. It may not be. Right now we just
15 don't know. Now, it does say that something in this
16 general area had the ability to both cut back on the
17 quantity of air going to the face of the wall and it
18 changed the direction of air coming out of this
19 headgate area. But what it was and everything, we're
20 going to have to dig deeper basically.

21 A. I wonder how long this was like this before Timmy
22 caught it.

23 Q. I don't know.

24 A. This crew here hadn't got here yet ---

25 Q. Okay.

1 A. --- because they come in 30 minutes after we do.

2 Q. And you're looking at the crew for the 22
3 Tailgate?

4 A. Yeah, the 22 Tailgate.

5 MR. FARLEY:

6 Would the doors indicate on the map that
7 you marked in orange that were ultimately removed ---?

8 A. Could they have been open that day?

9 MR. FARLEY:

10 Yeah, could they have been open that day?

11 A. On Tuesday?

12 MR. FARLEY:

13 Yes, sir.

14 A. Could have been, you know. I don't know.

15 MR. FARLEY:

16 Was the purpose of those doors to
17 separate the return air coming from the miner sections
18 from the longwall intake?

19 A. The purpose of these doors was this crew came in
20 from here. Before this longwall got down to here,
21 this is how they got over to their face, and they
22 would come out here and get their supplies.

23 BY MR. SHERER:

24 Q. Okay. So those doors were for access for the 22
25 Tailgate crew?

1 A. Yeah, when they started up.

2 Q. Okay.

3 A. But then, you know, you got to have --- you got to
4 maintain your ventilation. You know, the doors have
5 to be to ventilate.

6 Q. Sure. Now, we do know sometime around this
7 general time, I don't know --- I can't recall the
8 exact date, the 22 Tailgate section was having
9 problems with belt air and they actually had to come
10 back up to the --- where they were putting in a Mother
11 Drive for the next panel, to straighten that up. So
12 that may be related, may be unrelated. But according
13 to the time, that probably wasn't the event that may
14 have influenced that curtain down there, because you
15 said they were about 30 minutes behind you, and we
16 understand it took them a fair amount of time after
17 they got on the section to find this door up near the
18 new Mother Drive. That's the only thing I recall that
19 was going on in that same general area. And like I
20 say, it may have been close to that day, it may not
21 have been. You'll just have to look it up.

22 A. All right. I don't know about that.

23 Q. Yeah. Sure. And that's something we're going to
24 have to check on, but we do appreciate that, this
25 information. This may be very helpful and may be just

1 one of those odd things that happens.

2 Now, you say that the rest of the day was fairly
3 uneventful. Who was the boss on the longwall that
4 day?

5 A. Mikey --- Mike Webb.

6 Q. Okay. Was he aware of this issue with the air?
7 Did you say anything to him?

8 A. No, I did not.

9 Q. Okay. Do you know where he was at when this was
10 taking place?

11 A. I didn't see him.

12 Q. Okay.

13 MR. FARLEY:

14 You didn't see him at all that day or you
15 just didn't see him at that time?

16 A. No, I seen him --- I didn't see him at that time.
17 I don't know where he was. This all took place maybe,
18 you know, like five, ten minutes, ---

19 BY MR. SHERER:

20 Q. Sure.

21 A. --- and then it was forgot about.

22 Q. Sure. You got the air and went on and probably
23 ran coal the rest of the day.

24 A. Yes, sir.

25 Q. Okay. Do you recall anything unusual on that

1 Tuesday?

2 A. No.

3 Q. Okay. Now, I think you mentioned you had worked
4 on a hauler.

5 A. Forklift.

6 Q. A forklift, okay. Did you work on the forklift on
7 Wednesday?

8 A. Yes, sir. I took the motor out Wednesday.

9 Q. Okay. And you put it back in on Thursday?

10 A. Yes, sir.

11 Q. And that was several breaks outby, near the mule
12 train as best I can remember?

13 A. Yes, if I can figure out exactly where the mule
14 train was at.

15 Q. Yeah, just a general location is good enough.

16 A. I think the mule train at that time was maybe two
17 or three breaks inby the doors on the track entry.

18 Q. Okay. So you were out pretty close to the mouth
19 of the headgate?

20 A. Yes.

21 Q. Okay. Now, we talked about a lot of different
22 things. Thinking back on that time period, was
23 anything else unusual that week?

24 A. No, sir.

25 Q. Okay. Now, have you been interviewed by the

1 company or attorneys associated with the company about
2 this incident?

3 A. About this particular incident right here
4 or ---?

5 Q. Now, just the ---

6 A. The explosion?

7 Q. --- explosion. Yes, sir.

8 A. Yes, sir.

9 Q. When was that?

10 A. I don't know the exact date, but it was after the
11 funerals and people started coming back to work.

12 Q. Where did that take place at?

13 A. At the mine site. In the trailer they have set up
14 at the mine site.

15 Q. Okay.

16 A. And then I went one time later down to what they
17 call the Massey building and talked to Pete Hendricks.

18 Q. What did Pete talk to you about?

19 A. What I thought happened.

20 Q. Okay. What do you think happened?

21 A. At the time that I talked to Pete I thought maybe
22 the air had got reversed again ---

23 Q. Okay.

24 A. --- and Timmy didn't catch it or somebody didn't
25 catch it. I thought maybe that could have happened

1 again.

2 Q. Sure. It's a possibility. I've known Pete a long
3 time. Did he have any opinions that he had expressed
4 to you?

5 A. He was worried about the methane monitor.

6 Q. Did he mention anything specific about the methane
7 monitor?

8 A. Where it was located at and whether it was bridged
9 out or not.

10 Q. Have you talked to anybody who said that it may
11 have been bridged out?

12 A. No.

13 Q. Have you ever heard of anybody putting a bag over
14 the methane monitor on the longwall?

15 A. No.

16 Q. Now, do you know if anybody did any work back in
17 the tailgate area, knocking down a stopping, anything
18 like that prior to the explosion?

19 A. Just when the --- they were shut down when the air
20 was reversed on the tail, they was trying to get the
21 air right back there, knocking out stoppings.

22 Q. And that was several weeks prior to the explosion?

23 A. Yes, sir.

24 Q. Do you have any Federal or State mining
25 certificates?

1 A. I got my mine foreman's papers and my electrician
2 papers and my EMT papers, but that's all I have.

3 Q. That's plenty. That's a lot of papers. How about
4 floor heave, did you notice anyplace where the floor
5 was heaving either on the headgate or the tailgate?

6 A. The headgate in the Number Two entry heaved bad.
7 You couldn't walk down through there, and I was
8 scared, so I didn't go back through there.

9 Q. I don't blame you. Did that occur from about the
10 time the wall started up or do you recall any
11 particular place where it started getting bad?

12 A. Around in October is when I really noticed it
13 getting bad. It would be around 15 plus double zero.

14 Q. And that's about Break Number 65 or so?

15 A. Yeah. And I'm not real for sure, but that's ---
16 they was having problems pumping water. They was
17 pumping water and had a pump cable going down through
18 there. And I remember trying to get that pump to run,
19 and it was too bad to go, so I think that's when they
20 came up with the air pumps. Well, first they ran
21 cables down this entry then.

22 Q. And you're talking about the Number Three?

23 A. Number Three entry. And then after a while coming
24 on, we pumped water and pumped water.

25 Q. Okay. Now, when you noticed the floor heave, was

1 that about the time all the water came in on the wall?

2 A. I can't remember.

3 Q. Okay. How deep did this water get back in the
4 headgate; do you recall? Was it boot deep or knee
5 deep or ---?

6 A. I didn't go back there in it. I just --- they had
7 other people, contractors, going back there and
8 setting pumps, and I didn't go back there.

9 Q. Okay. What about the other conditions in the
10 headgate? How was the roof?

11 A. The roof seemed fine. Right there at the headgate
12 area the roof stayed good. But inby that ---.

13 Q. It started to fall out?

14 A. I don't know.

15 Q. You just didn't get back there.

16 A. I know they was setting crib over in Number three
17 entry all the way. I just never did have to go back
18 through there.

19 Q. Okay.

20 A. But I know the bottom had hooved all the way out
21 through here, following us all the way up. It was
22 bad. I just didn't go back there.

23 Q. Now, where was that heaving in relationship to the
24 actual face? Would it start up within a break or two
25 once the face had paced an area?

1 A. Yeah. About two breaks inby --- well, here. In
2 the last part --- I just never did go back through
3 there. I don't know. But I know back here, around
4 February, about, you know, this time period right
5 here, that I had to go back there. It's just one ---
6 three or four breaks inby the curtain, the last open
7 break, and then it would kind of start up a little
8 bit. And the farther back you'd get, the worse it
9 got. And then one day you'd go back there, it would
10 be a little bit worse.

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

12 A. And the next day it was a little bit worse. And
13 then just too bad, that's as far as I'm going. I'm
14 not going back there.

15 Q. Sure. Now, when you say it got too bad, was it
16 maybe half the height of the entry?

17 A. Half the height of the entry, the ribs were
18 falling in. You just --- you don't go back in those
19 areas.

20 Q. Sure. Sure. I understand that. Now, did you get
21 down on the tailgate much?

22 A. Yes, sir.

23 Q. Yes.

24 A. Yes, sir.

25 Q. Okay.

1 A. But I didn't go inby.

2 Q. Okay. In the portion of the tailgate you
3 observed, what were the conditions like down there?

4 A. In the tailgate entry it was good all the way up
5 to the face and then you get up to the face and it
6 was --- you know, inby right there at the shield it
7 would always look normal, fall in.

8 Q. Did you get over in some of those entries past the
9 tailgate entry?

10 A. The track entry.

11 Q. Okay.

12 A. It looked good ---

13 Q. Okay.

14 A. --- all the way back through. They had a pump
15 where they would travel this.

16 Q. Okay. So it probably wasn't heaving up too bad
17 then?

18 A. No.

19 Q. Okay.

20 A. Probably right in the track entry, but ---.

21 Q. Did you ever take the track entry back inby the
22 face?

23 A. No.

24 Q. Okay.

25 A. Wait a minute. What are you talking about, here?

1 Q. No, on the tailgate.

2 A. Walk, just go inby?

3 Q. Uh-huh (yes).

4 A. Not very far.

5 Q. Okay.

6 A. Just, you know, ---.

7 Q. Do you recall anything unusual over there as far
8 as roof falls, rib rolls, floor heave?

9 A. No.

10 Q. Okay. Now, what was the general conditions of the
11 coal seam in the mining face? Do you recall the last
12 time you were in there was everything --- did it look
13 okay? Was there --- the coal seam getting thin or was
14 anything happening?

15 A. I never noticed that.

16 Q. Okay.

17 A. I never noticed. The last day I was up there was
18 Tuesday, and I had a sideboard that was bent in and I
19 was straightening the sideboards out, changed a few
20 phones on the face, and I troubleshot the forklift,
21 and that's when I determined that the motor was going
22 down, and I ordered a motor.

23 Q. Okay.

24 A. But while I was up here, the coal seam, I didn't
25 pay no attention to it.

1 Q. Okay. Would you ever pay attention to the britby
2 assembly and the high-voltage line and the waterline?

3 A. Yes. I was straightening out the sideboards and
4 the britby. All that looked good, and I was making
5 sure the sideboard that the britby runs in was not too
6 close to where it wouldn't clear, and I made all of
7 them right.

8 Q. Okay. Was that something that you commonly had to
9 work on, was those sideboards?

10 A. Yes, sir, had to keep up with it.

11 Q. Would stuff falling off the face bend them up
12 or ---?

13 A. Pulling the jacks in, stuff falling off the face
14 in the jack line. They'd pull a jack in, hit a rock,
15 the rock would hit the sideboard and bend the
16 sideboard in.

17 Q. Oh, okay. Now, do you recall what condition that
18 that cable was in? Was it an old cable, a new cable?

19 A. It was fairly new.

20 Q. Okay. Do you know if they had been having any
21 problems with that cable?

22 A. No, sir.

23 Q. Okay.

24 A. We had prior --- we had changed that cable out.

25 Q. Do you recall about when they had changed it out?

1 A. No.

2 Q. But you had during this current panel?

3 A. Yes, sir.

4 Q. Okay.

5 A. It got damaged so bad and we changed it out. As
6 far as I know, the cable and the britby up there now
7 looks good.

8 Q. Okay. Would that change-out have occurred within
9 one or two weeks of the time of the explosion?

10 A. I can't recall.

11 Q. Okay. Let me tell you what we know about the
12 face.

13 A. Okay.

14 Q. And I'm going to ask you to help us out here
15 because there's a lot of questions that we've got. We
16 know that the shearer was pretty close to being cut
17 out. It may have actually been cut out on the
18 tailgate.

19 A. Okay.

20 Q. It was approximately three or four feet from the
21 end of the rack.

22 A. Okay.

23 Q. But we understand that that may be the normal time
24 that they would stop and turn the callips around and
25 cut back. We knew that it had been pushed up and was

1 ready to make the cut back across the face. We think
2 that the power had been manually disconnected on the
3 shear, the visual disconnects were withdrawn.

4 A. Okay.

5 Q. And it doesn't look like that was because of
6 anything that happened in the explosion. We think
7 that was done prior to the explosion. We also know
8 that the water had been cut off on the face.

9 A. Okay.

10 Q. Again, we think --- we're pretty sure that was
11 prior to the explosion, and we understand that was
12 normal to cut the water any time a shearer went down.

13 A. Right.

14 Q. We know that the nearest victims to the tail side
15 were about mid-face.

16 A. Okay.

17 Q. The rest of the victims were up near the headgate.
18 We know that the pan line was empty.

19 A. Okay.

20 Q. And we know that we haven't --- you know, the
21 explosion, if it occurred on the tail side of the
22 wall, could have blown the coal out of the pan, but we
23 haven't found any coal anywhere around that area that
24 looks like it was blown out of the pan. It looks like
25 it was run off and conveyed out ---

1 A. Okay.

2 Q. --- because the stage loader was pretty much empty
3 also.

4 A. Uh-huh (yes).

5 Q. That's about all we know. We know the drums were
6 extended. They were --- it looked like they were
7 ready to start cutting, but we think that the shearer
8 was down. We don't know whether the pan was running
9 or not.

10 A. If the water was off, the pan's not running.

11 Q. Well, we don't know whether the pan was running or
12 not. The pan was --- they had not pulled the visible
13 disconnects on the tail drive, so the pan could have
14 been on or off. We just don't know right now. Can
15 you think of any reason people would be in those
16 positions and the equipment would be in that --- those
17 positions also?

18 A. It was quitting time, and you said that --- and
19 the shearer may have been down. These guys here, the
20 operator may have been walking off the face. And I
21 know just about what you told me. I know that.

22 Q. You've heard it from other people.

23 A. And the britby was stretched out real tight. They
24 may have had a problem right there at mid-face.

25 Q. That's kind of what we're thinking right now.

1 A. And they may have turned it off. And then these
2 guys here, it was quitting time, they were leaving,
3 and they was going to go down here and maybe assist
4 with whatever problem they had, ---

5 Q. Sure.

6 A. --- you know, if they --- I don't know.

7 Q. Yeah. That's what we're trying to figure out
8 right now. Now, we do know that the wall didn't run
9 much that entire day and they had a problem with a
10 hinge pin.

11 A. Right.

12 Q. We think that the wall started back up --- it was
13 called out sometime around 2:30 to maybe 2:40.

14 A. It started up that late?

15 Q. Uh-huh (yes).

16 A. I didn't know that.

17 Q. That's what we understand. We don't know what
18 they did. We don't know if they were just finishing
19 up on that tail end. We just don't know right now.

20 A. Where was the shearer at when they were down?

21 Q. We understand most of the day it was up near the
22 headgate.

23 A. And they had a problem with the hinge pin?

24 Q. Hinge pin, yeah. So they were up --- most of the
25 day they were up around the headgate, working on that

1 hinge pin. We think they made at least one pass
2 across the face.

3 A. That's pretty quick.

4 Q. Well, what we don't know, and we're --- we don't
5 know --- like I say, we know it was down most of the
6 day. We don't know, did they get the hinge pin kind
7 of straightened out and get it down the face? Did
8 they have another stoppage for whatever reason? Maybe
9 they needed to tighten something up or something.

10 A. I don't know.

11 Q. Yeah. And we don't either. I'll be quite honest
12 with you, we're still trying to put this picture
13 together. But we appreciate your input. That's
14 helpful.

15 A. What was interesting to me what you all were
16 talking about was the strata people. They didn't have
17 nothing in there that could have exploded, did they?

18 Q. Well, I don't think it would be explosive.

19 A. I don't remember seeing nothing that they had
20 left. I don't remember seeing ---.

21 Q. The glue that they use is a polyurethane glue.
22 It's fairly flammable up until the point where it
23 sets. The chemicals themselves are --- we've had
24 problems in other mines. The Desert Robert Mine,
25 we've had some problems with that back in the early

1 '90s. We had about 50 drums of that chemical that
2 caught on fire.

3 A. That's the first I ever heard of anything about
4 the glue until today. That just made me think, made
5 me wonder.

6 Q. Yeah, that's just something we're --- we got some
7 information on and we're trying to follow up on. We
8 don't think it was an issue.

9 A. Okay.

10 Q. One of the problems that we do know happened
11 during the rescue attempt is the people in this area
12 near the mouth of the longwall, both on the headgate
13 and tailgate, in this little area mined at the downby
14 side of the wall, in this area there was people going
15 bare-faced during the rescue attempt and their eyes
16 really burned. There's some chemical, and we don't
17 know what that was.

18 A. Huh.

19 Q. And that may be related to this glue and may not.
20 We just don't know.

21 A. Do you all --- who do you all think --- do you all
22 think it happened right here, the ignition?

23 A. We're still checking on that. Our flames and
24 forces people have been all the way across the face
25 now, and they're checking some of the other parts of

1 the mine right now. Until they get the full picture,
2 we just don't know. I can say that it --- what I have
3 seen of the mine, it's very chaotic. Forces came from
4 many different directions. Certain parts of the mine
5 you'll see the pie pans up on the roof and they'll be
6 totally intact, not bent at all. You'll go to the
7 next entry and they'll be bent one way. You go to the
8 next entry, they'll be bent another way, which
9 indicates different explosive fronts went through the
10 mine at different times. And it is a very complicated
11 layout, so that --- you would expect something like
12 that, just looking at explosion propagators. Anyway,
13 we're talking to a lot of people, Mr. Bailey. We
14 appreciate your input. And we're just trying to put
15 these pieces together. Every little bit helps.

16 Let me ask you just a few more questions, if you
17 don't mind. We've been going about an hour and 20
18 minutes. Do you need to take a break?

19 A. No.

20 Q. I'll ask you just these last few questions, if you
21 don't mind. When you were working underground, did
22 you ever hear anybody call in to say that there were
23 inspectors on the property?

24 A. Yes, sir.

25 Q. How common was that?

1 A. Give me a minute.

2 Q. Sure.

3 A. I didn't hear it, you know, a whole lot of time,
4 but I know that it has been done.

5 Q. Okay.

6 A. And if there was an inspector coming underground,
7 maybe the belt head man may holler up or maybe someone
8 else ---

9 Q. Uh-huh (yes).

10 A. --- on outby. But by the time he got there,
11 before he got there, we would know.

12 Q. Sure. Okay.

13 A. Sometimes he would make it up there without us
14 knowing it.

15 Q. Would you say half the time the inspectors would
16 make it up there without you knowing about it or about
17 --- just roughly?

18 A. I've never sat down and figured out how many times
19 they've been up there and how many times I knew about
20 it and how many times I didn't. I wouldn't know.

21 Q. Okay. Just wondering. No problem. Did you ever
22 get pulled out of the mine for ventilation changes?

23 A. Yes, sir, not --- well, when the air was reversed
24 back here and they had to take care of this problem.

25 Q. And that's when MSHA put an order on it, I think?

1 A. Right.

2 ATTORNEY HAMPTON:

3 That's the March, the beginning of

4 March, ---

5 A. It's whenever ---.

6 ATTORNEY HAMPTON:

7 --- the reversal we talked about earlier?

8 A. Uh-huh (yes).

9 BY MR. SHERER:

10 Q. What about when MSHA wasn't on site, was there
11 ever any ventilation changes made with people
12 underground?

13 A. At the --- the ventilation change that I can
14 remember was when the longwall started and everybody
15 was out, except for the ones working on the
16 ventilation.

17 Q. Okay. So the people --- certified people that ---

18 A. Yeah.

19 Q. --- had to keep up with the mine ---? Okay. Ever
20 hear of mining taking place without ventilation
21 curtains?

22 A. Without ventilation ---?

23 Q. Curtains in place.

24 A. On this particular here, this panel here? On the
25 longwall, no.

1 Q. Not on the longwall, but it would probably be on
2 the development sections.

3 A. No.

4 Q. Now, I'm just answering --- most of your questions
5 is pertaining to just this right here.

6 A. Okay. You know, in years past, ---

7 Q. Sure.

8 A. --- you know, ---.

9 Q. Yeah. And we're primarily concerned with the ---

10 A. Okay.

11 Q. --- events that led up to the explosion.

12 A. All right.

13 Q. What about --- do you think miners would express
14 safety concerns? Were they --- if I was a miner and I
15 thought there wasn't enough air on the section or
16 there was a problem with methane or the roof or
17 anything, would I be likely to complain to anybody in
18 management if I was a miner at UBB prior to the
19 explosion?

20 A. I would let somebody know.

21 Q. Okay. Have you ever let anybody know?

22 A. I haven't been in a situation where I had to. You
23 know, I haven't encountered ---.

24 Q. Okay.

25 MR. SHERER:

1 That's all the questions I've got.

2 ATTORNEY HAMPTON:

3 Can we just take a quick bathroom break?

4 MR. SHERER:

5 Sure.

6 SHORT BREAK TAKEN

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. Mr. Bailey, now, frankly, everything I have will
10 be to clarify things, so I may be jumping around and
11 going backwards at times, so be patient with me,
12 please. This year, 2010, in your position as an
13 assistant maintenance manager for the longwall at UBB,
14 on the average, how often would you say you would go
15 underground every day --- each week? Excuse me.

16 A. Every day.

17 Q. Every day?

18 A. Every day. I would go every day. There is one or
19 two days I would miss. Mainly when Danny was off I
20 may stay outside in case they needed a part or
21 something, ---

22 Q. Okay.

23 A. --- but not very often. I was generally
24 underground. But ---

25 Q. Okay.

1 A. --- for some reason, I've never been late for
2 work, and I don't know why, but Friday and Saturday I
3 was late for work both days, like maybe 10, 15
4 minutes, and the crew had done gone underground. I
5 don't know why.

6 Q. Okay. But when you went underground because ---
7 if I understand you correctly, almost every day, it
8 was usually somewhere up around the longwall, maybe
9 outby the face but in the vicinity of the longwall?

10 A. Yes, sir. Yes. I was usually between the mother
11 drive and the mule train.

12 Q. Okay. Now, during the current year, in 2010, did
13 you ever go to any of the other sections for any
14 reason?

15 A. I would go to Headgate 22 and get a part, a
16 fitting or something that I didn't have over here that
17 I needed.

18 Q. Okay.

19 A. I had walked over there. And then one time I went
20 up here to the --- where the glory Hole area is at. I
21 went up there one time to get a part and then I walked
22 down around this way, walked to the wall. I rode in
23 with them, got a part and then I walked to the wall.

24 Q. Okay. Now, this area down here, where the 22
25 Headgate belt dumps onto Seven North, now we

1 understand there was a construction project ongoing
2 there ---

3 A. Yes, sir.

4 Q. --- at the time of the explosion; is that correct?

5 A. Yes, sir.

6 Q. What specifically was happening there, if you
7 know?

8 A. When I was up there, what I seen was them cutting
9 out to install this belt head.

10 Q. Okay. And when you were there, did you see any
11 stoppings, doors, et cetera, any ventilation controls
12 that appeared to be damaged or removed or not in their
13 normal place?

14 A. I was only up there one time. What I would have
15 seen that time would have been normal to me because I
16 wouldn't have known, you know.

17 Q. Okay.

18 A. I was just there one time.

19 Q. All right. Okay. We had some conversations here
20 about ventilation, particularly in the area here
21 around the longwall. Now, let me qualify what I'm
22 going to ask you. I know you're not the mine foreman,
23 you're not the superintendent, you're not the man
24 responsible for ventilating. Now, with that said,
25 this map that you marked, which would be Exhibit One,

1 and it shows the ventilation controls in the immediate
2 vicinity of the longwall headgate, is that --- to the
3 best of your knowledge, is this map accurate? Does it
4 accurately reflect what you encountered the week
5 before the explosion in terms --- when I say
6 accurately, I mean are these stoppings as indicated,
7 these doors, these curtains and so forth in the place
8 that you recall them being?

9 A. That looks pretty --- that looks about right. A
10 lot of this stuff, I just kept my head down pretty
11 well and done my job.

12 Q. That's why I qualified my question. I know you're
13 a maintenance man.

14 A. Right. But as we were retreating, these stopping
15 lines were here, you know, all the way down through
16 here, and we maintained that.

17 Q. You're pointing to the ---

18 A. Inby the ---.

19 Q. --- crosscuts between the Number Two and Number
20 Three and the longwall headgate entries?

21 A. Yeah, inby --- where this belt head was set to
22 drive this other section off to the right, inby that
23 area there. Like from when we first started the wall
24 all the way down. Like right here. See these
25 stoppings right here, that's the way it was.

1 Q. Now, you're pointing to the stopping line as shown
2 on the map in the longwall headgate entries in the
3 vicinity of 65 to 75 Crosscut?

4 A. Right.

5 Q. Okay.

6 A. But now, see, it's not showing on up through here.

7 Q. When you say up through here, you're indicating
8 from approximately 50 Crosscut in the longwall
9 headgate entries in the direction outby?

10 A. Yes, sir.

11 Q. Just for clarification purposes, I know we've been
12 talking about ventilation. We've been talking about
13 the map, and I just wanted to ask you, to the best of
14 your knowledge, is it accurate?

15 A. Those stoppings are there. Well, they were.

16 Q. Okay.

17 A. They're not on this map. I don't know if they
18 took them out. Would it be on that map? Ain't this
19 --- does this do the ---?

20 Q. I don't know.

21 A. I don't know.

22 Q. I don't know. That's why I asked some questions.

23 A. Yeah. But them stoppings --- those stoppings were
24 there. That's right. This is right, because where I
25 worked on the forklift, there were no stoppings there.

1 That's right. This is right. I'm talking right here
2 between 55 and 65 on the longwall, this is right.
3 That's the way I seen it the last day I was
4 underground. That's the way it is.

5 Q. This map would reflect that the Number Four and
6 Five entries were return air coming from the miner
7 sections, it would appear, return air moving in the
8 outby direction. Is that the way you recall it
9 being ---

10 A. Yes, sir.

11 Q. --- the last week before the explosion?

12 A. Yes, sir.

13 Q. Okay. All right. Another ventilation question.
14 Based on my reading of the longwall pre-shift/on-shift
15 report book for the month of March this year, the
16 entries in the examination book around the first week
17 in March indicate a quantity of air in cubic feet per
18 minute at the longwall face of about 115,000 cubic
19 feet per minute. Now, toward the middle --- the
20 latter part of the month, that airflow had been
21 reduced to something in the vicinity of 55,000 to
22 60,000 cubic feet per minute. Now, during your almost
23 daily visits to the longwall area, did you notice any
24 significant change in the quantity of air passing
25 through the headgate entries going toward the

1 longwall?

2 A. It seemed to me like when this longwall started
3 up, we had a lot of air. I mean, the air was better
4 on this panel I thought than other panels at the
5 beginning. And we always had air whipping around the
6 headgate and down the jack line. How much, I don't
7 know. I never did measure it. But it was always good
8 air to me.

9 Q. Okay.

10 A. Tuesday, the last day that I was up there, I went
11 all the way to the tail. It seemed to me like it was
12 more dustier than normal. If that was because the air
13 was reduced, I don't know. I don't measure it. But
14 it seemed --- that Tuesday I could tell that there was
15 a difference in the air. And when I walked off the
16 face, I know there was a lot of air after, you know,
17 Timmy got things straightened up and we ---.

18 Q. Okay. When you say when you went across the
19 longwall face it seemed a little more dusty than
20 usual ---?

21 A. When I was down on the tail, you know, I just ---
22 you know, I was just doing my job and, you know, it
23 was kind of dusty here. And I didn't think nothing
24 about it until after this, you know, more dusty.

25 Q. When you were there --- when you were at that

1 location, toward the longwall tailgate, where was the
2 shearer cutting at that time?

3 A. On the tail because I stayed on the outby side of
4 the shearer, you know, because I follow them to the
5 tail.

6 Q. Right. Okay. Were they cutting bottom or top at
7 that time?

8 A. Cutting both.

9 Q. Okay.

10 A. You know one end cut the top, the other one cut
11 the bottom.

12 Q. All right. Okay.

13 A. They wouldn't --- they would just --- they was
14 just there cutting out and doing their shuffle.

15 Q. At that time did you notice any sparks coming from
16 the shearer as it was cutting?

17 A. No, I didn't.

18 Q. Okay.

19 A. I was concentrating on what I was doing.

20 Q. I understand. And I hope I'm not repeating this
21 question. You have been at UBB since about --- you
22 started at Massey in 1993; is that correct?

23 A. Yes, sir.

24 Q. When did you start at UBB again?

25 A. '97.

1 Q. You were there a pretty good while. Do you recall
2 any methane outbursts, inundations on any of the
3 previous longwall panels at UBB?

4 A. For me, one time.

5 Q. What do you recall?

6 A. I was on the evening shift and getting close to
7 the shift change. Hoot owl was coming up. The
8 shearer was coming to the head and it cut off, so they
9 couldn't get the shearer to start. Finally somebody
10 noticed, well, look at the methane monitor. And then
11 it was gassed off and they took out their detector and
12 it --- I don't know the percentage of gas they got,
13 but there was gas. And then the line finally went
14 off. And anyway, we could hear a hissing sound and
15 then you could smell it. The hoot owl boys was coming
16 on the line because the line was off. That's when
17 they would take over and start doing their work. And
18 when they came on the line, I stopped them all. Some
19 of them had strikers on their sides. I took their
20 strikers and I taped the end of them and I said, let's
21 get off the face. So we got off the face and went
22 down to the mule train and knocked the power.

23 Q. Now, can you tell me when this event occurred?

24 A. No. They were down --- they had let bleed off and
25 they hung curtains. And I don't know --- I can't

1 remember how long it was before we started back up. I
2 just remember that incident and that's what I done and
3 that's what we done. I don't know if we all got out
4 of the mine. I don't know. I can't remember.

5 Q. Could that have been in 2003 or 2004 or farther
6 back? When I say farther back, meaning earlier in
7 time.

8 A. It could have been around 200 --- it could have
9 been around 2003, maybe a little bit earlier.

10 Q. Do you recall which longwall panel you were
11 working at at the time?

12 A. No, I don't.

13 Q. Do you recall how long the longwall was out of
14 action because of that event?

15 A. No.

16 Q. Do you recall any changes in operating procedures
17 after that event? When I say operating procedures, I
18 mean regarding procedures on the longwall face,
19 particularly pertaining to ventilation.

20 A. I can't recall.

21 Q. Okay. Now, the event that you do recall, which
22 could have been in 2003, where, as best you can
23 recall, was the methane coming from? Was it coming
24 from the floor or the face, the gob? Just where was
25 it coming from?

1 A. It was behind the jack line, and I'm thinking it
2 was around 15 or 20 Shield, pretty close to the head.

3 Q. Okay.

4 A. I don't know if it --- it had to have been coming
5 out of the bottom. I don't --- you now, it was coming
6 --- but the sound and the smell was coming from behind
7 the jack line.

8 Q. Okay. All right. You described it as a hissing
9 noise.

10 A. Uh-huh (yes). You could hear it.

11 Q. Now, could it have been something akin to an
12 airplane engine maybe? Did it sound anything like
13 that?

14 A. No. That's loud.

15 Q. Okay.

16 A. No.

17 Q. All right. Now, earlier when Erik asked you, you
18 indicated that you had been interviewed by Massey
19 attorneys and that you had been interviewed by Mr.
20 Pete Hendricks. Were Mr. Hendricks' questions similar
21 to ours?

22 A. Yes, sir. And I told him about the incident I had
23 with Timmy Davis and the air flowing in the other
24 direction in Number Three entry. I told him about
25 that.

1 Q. Okay.

2 A. And then we talked about the air being reversed on
3 the tail.

4 Q. Did Mr. Hendricks offer any opinions to you as to
5 what might have happened? I know he was seeking your
6 opinion.

7 A. He seemed to think maybe it happened right here
8 when the shearer cut out.

9 Q. Okay. Why do you seem to think that?

10 A. He seemed to think maybe there was gas built up
11 right here on the --- in the tail entry.

12 Q. Gas built up?

13 A. Uh-huh (yes). I can't remember exactly what he
14 said.

15 Q. Okay.

16 A. You know, that's kind of my thought.

17 Q. Okay. All right. But he offered that he seemed
18 to think it might have occurred on ---

19 A. On the tail.

20 Q. --- the longwall tailgate?

21 A. Yeah.

22 Q. Did he offer any reasons as to why he thought
23 that?

24 A. No.

25 Q. Okay.

1 MR. FARLEY:

2 Mr. McAteer?

3 EXAMINATION

4 BY ATTORNEY MCATEER:

5 Q. Mr. Bailey, thank you for your testimony here.

6 It's been very thoughtful, and I appreciate that. And
7 you said on Saturday, the day --- the last day you
8 worked before the explosion, that --- when Mr. Sherer
9 asked you about was there anything different, you
10 said, no, not really. Do you remember anything that
11 was ---?

12 A. I was late for work.

13 Q. Late for work. Okay, that's a start. All right.
14 So you didn't get underground and you didn't get ---
15 you missed the mantrip and things like that.

16 A. Just that they was working on setting up that new
17 section, and I was going to try to go up there.

18 Q. Right.

19 A. But they were working, and I didn't, and they was
20 having problems getting their track together. I think
21 I went over to the UBB portal and got a bottle of
22 oxygen acetylene ---

23 Q. Okay.

24 A. --- for those guys and brought it back. And
25 evening shift went in. There was a mantrip inby us,

1 so the longwall crew took that and went on. The miner
2 section crew was about as far as they could get. They
3 had to put the track together. They was taking I felt
4 like a little too long, so I went in --- I just went
5 in to help them. And they just about had it. They
6 had to --- I helped them bolt it together.

7 Q. Okay.

8 A. And then I walked back out.

9 Q. Who were the bosses that were there that day?

10 A. Oh, man. I can't remember their names. A Mitch
11 Williams. He's got a twin brother. I'm pretty sure
12 Mitch Williams was there. I can't remember his other
13 brother's first name. I remember Bobbie Pauley. Is
14 that her name, the woman? Her crew, whatever is on
15 her crew. I can't remember their names.

16 Q. Was Chris Adkins there?

17 A. No.

18 Q. Chris Blanchard?

19 A. No. I don't remember seeing them.

20 Q. Jason Whitehead? Anybody there?

21 A. No.

22 Q. Okay.

23 A. I don't remember seeing them.

24 Q. What time did you leave Saturday then? Maybe you
25 stayed a little late to make up for being late.

1 A. No. I left about the regular --- left about the
2 regular time.

3 Q. And what time would that have been?

4 A. It would be between 3:30 and four o'clock.

5 Q. Okay. Did you stop at the office at all that day?

6 A. The one over at UBB?

7 Q. Yeah.

8 A. I went to UB --- no. On the way home after work?

9 Q. Uh-huh (yes).

10 A. Sometimes I do and sometimes I don't.

11 Q. Okay. But this is after you came out. You bolted
12 the ---

13 A. Track together and I came out.

14 Q. --- track together and came out?

15 A. Showered. I made up a work list for the hoot owl
16 Sunday night, and I generally take it over and I stick
17 it on the wall over at UBB, but I can't recall being
18 there.

19 Q. Okay. Do you remember ---?

20 A. The reason why I'm saying that is because after
21 this explosion, I came back to the Ellis Portal and
22 that report was laying on the desk there at Ellis
23 Portal.

24 Q. The report that you drew up?

25 A. Yeah. So how did it --- I don't know. Maybe I

1 didn't. Maybe I did. I don't know.

2 Q. Sure. Do you remember what was on that report?

3 A. I gave the hoot owl guys a --- I just praised them
4 for the work that they were doing, appreciated it. I
5 thought they were ---.

6 Q. I'm sorry. Do you want to take a break or ---?

7 A. No. Just hang on a minute.

8 Q. Sure.

9 A. We were needing to add some flats to our chain. I
10 remember writing that up, for them to add flats to
11 their chain. And I wrote on top of that report that
12 they were the heartbeat of Performance Coal, that they
13 were doing a good job. And why I wrote that I don't
14 know. I just felt like writing it.

15 Q. You have electrician's papers you said?

16 A. Yes, sir.

17 Q. And much of the description of what you answered
18 Erik and Terry was you've continued to do electrical
19 work?

20 A. Maintenance. Yes, maintenance, electrical and
21 mechanical. I did --- if anybody had any problems, I
22 did --- what anybody asked me to do, I would do it,
23 you know. You know, like if Harold Lilly had a
24 problem or Timmy Davis had a problem, Jack Roles had a
25 problem and they needed something fixed, I would fix

1 it.

2 Q. And Mr. Lilly, what age of person?

3 A. Fifty-seven (57).

4 Q. Fifty-seven (57). Is he any relationship to Eric
5 Lilly?

6 A. I don't know. I don't know who he's related to.
7 I know there's a lot of Lillies around and everybody
8 knows him.

9 Q. Sure. Do you know Eric Lilly?

10 A. No, sir.

11 Q. He was the ventilation engineer there at the mine.

12 A. Is that his last name?

13 Q. Yeah.

14 A. I didn't know that.

15 Q. A pudgy guy?

16 A. Yeah.

17 Q. Yeah. Okay.

18 A. I didn't --- all I know was just --- or we had ---
19 you know, coal miners got different names.

20 Q. What did you have as a name for him?

21 A. I couldn't remember.

22 ATTORNEY HAMPTON:

23 Did you have a nickname?

24 A. I sure did.

25 ATTORNEY HAMPTON:

1 What was your nickname?

2 A. Papa. That's what them young boys called me,
3 Papa. And I was training them.

4 ATTORNEY HAMPTON:

5 I'm sorry. I didn't mean to interrupt.

6 ATTORNEY MCATEER:

7 That's all right.

8 A. They were top of the line. They ere going to be
9 coal miners. We had done made plans on what they were
10 going to be.

11 BY ATTORNEY MCATEER:

12 Q. When you testified about the --- lots of water on
13 the longwall in October and November and then you
14 testified that at the tailgate there was a lot of
15 water, how high was that or did you see it?

16 A. Did I say there was water on the tailgate?

17 Q. I think you did. I'm not positive, but I thought
18 you did. There was guys walking down the tailgate
19 entry --- down the tail entries ---

20 Q. Right.

21 A. --- entries that worked on the water behind the
22 wall.

23 Q. Okay.

24 A. I remember saying that.

25 Q. Okay.

1 A. I don't know how high the water was on the tail
2 entries.

3 Q. Okay. You said the longwall was down because of
4 water?

5 A. Yeah. They couldn't hardly run. We also had a
6 fall in Number Two entry.

7 Q. Okay.

8 A. And I'm trying to remember if the water was before
9 or after that fall. And we were down quite a while
10 cleaning that fall up. I think the water came after
11 the fall, so the water would have been around here in
12 January because this right here, you know, we didn't
13 mine much there because of the fall and then because
14 of the water. So I believe that's really when we had
15 our water problem, was around January.

16 Q. Okay. You testified about you were going in with
17 Timmy Davis on Tuesday before and that you said that
18 you and Davis separated at that point?

19 A. Yeah, right here in the last crosscut in Number
20 Two entry.

21 Q. And then you said you went over and talked to
22 somebody on the wall and then came back?

23 A. No, I didn't talk to nobody.

24 Q. Oh, I'm sorry. Okay. I missed that then.

25 A. No. I walked over to the wall. If I talked to

1 anybody, I talked to the Lord.

2 Q. Okay. All right.

3 A. No. I walked over and I sat right --- stood right
4 there just --- you know, just looked down the face and
5 then it just --- I need to go back and help Timmy, so
6 I went back to help Timmy.

7 Q. But you also testified that you thought it might
8 be a bit dustier that day.

9 A. Later on, ---

10 Q. Oh, okay.

11 A. --- after we --- later on. And then I went back
12 on the face to do what I was going to do to begin
13 with ---

14 Q. Uh-huh (yes).

15 A. --- to make sure everything was going to run. And
16 then I wanted to make sure that my britby didn't get
17 tore up, so I walked the face and checked on --- well,
18 I worked on it some. I worked on the britby --- on
19 the sideboards that day.

20 Q. Sure.

21 A. And then before I said it was a bit more dustier
22 than normal, that's when I was down on the tail.

23 Q. Tailgate. Now, when you pointed out to where Mr.
24 David had --- where you saw him coming back and he was
25 in a five-minute span of a five --- you said between

1 five and ten minutes, when you were separated from
2 him, what could he have done?

3 A. He couldn't have done much. About all he could
4 have done is maybe hung a curtain. Is there a door
5 down through here somewhere? You know, he couldn't
6 have done much, you know.

7 Q. Did he have anybody with him?

8 A. No. He was by his self.

9 Q. But I mean there are --- are there any other
10 things that --- regulators or anything there that he
11 could have ---?

12 A. I don't know of any. You know, that's the reason
13 why I say I don't know what he done. I don't know.
14 That's the reason --- and that's the reason why he may
15 not have done nothing, you now, but he come back and
16 said, I got the air fixed, you know.

17 Q. Pretty little proud of himself, huh? That's all
18 right. Have you got any speculation about what it was
19 that he did or didn't do or ---?

20 A. (Shakes head). What do you think about these
21 doors?

22 Q. That's a good ways down, though.

23 A. Yeah.

24 Q. Takes more than five minutes to get down that far.

25 A. Right.

1 Q. Those doors ever left open, to your knowledge?

2 A. Not to my knowledge. Would these have had
3 anything to do with it?

4 Q. But he couldn't have gotten down that far?

5 A. That's the reason why I say he might not have done
6 nothing.

7 Q. You're saying ---?

8 A. Change of shift, hoot owl going out.

9 Q. Uh-huh (yes).

10 A. I'm just thinking. I don't know.

11 Q. I appreciate that.

12 A. Even when I said five or ten minutes here, it
13 could have been 15 minutes.

14 Q. Sure. Sure. But you're suggesting that perhaps
15 somebody else did something either at these doors or
16 the other set of doors which changed the condition?

17 A. Yeah. There's a lot of doors in this mines, too
18 many.

19 Q. More doors in this mine than you've seen in other
20 mines?

21 A. Yes, sir.

22 Q. What's the options?

23 A. Overcasts.

24 Q. You said that Mr. Lilly removed the doors. Did
25 you testify as to a date you thought he removed those

1 doors?

2 A. It was Wednesday, the next day he removed those
3 doors. And just as --- while I was working on the
4 forklift, he said he had to go do that.

5 Q. Gotcha.

6 A. Okay?

7 Q. All right.

8 A. He said he had to go do that.

9 Q. Now, did you notice on the day you were --- the
10 Wednesday that you were working on the forklift, did
11 you notice any float dust or any other dust around?

12 A. Not back up where I was at, no.

13 Q. And compared to earlier weeks, did you notice any
14 change in the ventilation levels or dust levels or the
15 air levels moving?

16 A. Just that one day. Just Tuesday.

17 Q. So by Wednesday you think it was back to ---?

18 A. I didn't notice no change.

19 Q. Okay.

20 A. You know, it was back to normal.

21 Q. Okay. Who's in charge of the ventilation at the
22 mine?

23 A. We all are. But for someone to be in charge --- I
24 don't know. You know, if I see a curtain down, I will
25 hang it, just like what me and Timmy done right

1 there, ---

2 Q. Sure.

3 A. --- you know.

4 Q. Maybe I might ask it a little differently. Who
5 was kind of the person in the supervisory group who
6 had the kind of say about here's how we're going to do
7 with them, here's what we're going to do with
8 ventilation?

9 A. I don't know. You know, I don't know who that guy
10 is. I don't know if it comes from --- I don't know
11 who it comes from. The engineers? Does it --- who
12 --- does it come from Chris Adkins down to Mr.
13 Blanchard down to Wayne Persinger down to Everett
14 Hager? Who's the one? I don't know which one of them
15 guys has the oversee over all of them.

16 Q. I don't mean formally in a structural sense, but I
17 mean from a standpoint of just in conversations
18 somebody saying, we've got to do this about the
19 ventilation, we've got to do that about the
20 ventilation. Was Blanchard the guy? Was he, you
21 know, --- in conversations, would he be or would it be
22 Everett Hager?

23 A. I can't answer --- you know, I can't ---.

24 Q. Okay.

25 A. I don't know which one of them guys is --- but I

1 know, you know, if I'm doing something with
2 maintenance, you know, if we're going to do a certain
3 job, Bobby Goss, you know, he kind of --- he's with
4 Massey and we kind of talk things over with him, and
5 he says, all right, this is how we're going to do it.
6 But now one time he set up to do something one way and
7 then Chris Blanchard said, no, we're going to do it
8 this way. That was with maintenance one time. So
9 would it be Chris Blanchard? Was he --- is he still
10 there? Because it would be Chris Blanchard.

11 Q. And Bobby Goss was from --- not from UBB?

12 A. He works at --- he works for Massey Coal Services,
13 but he's there on the mine site, and his office is at
14 Ellis Portal.

15 Q. Okay. So Blanchard overruled in that instance
16 that you remember Goss on the maintenance ---?

17 A. He's the president. I guess. He was the
18 president.

19 Q. Okay. Do you now if he still is?

20 A. No, I don't know.

21 Q. The interview with the Massey lawyers, where did
22 that take place?

23 A. At the UBB ---

24 Q. At UBB?

25 A. --- mine site.

1 Q. How many lawyers?

2 A. Three. And then there was another one that
3 walked ---. I don't know if he was a lawyer or not.
4 There was a couple other guys walked in behind him. I
5 don't know. Three that I know of.

6 Q. Usually you can tell them by their outfits. I'm a
7 lawyer. That's why I make fun. Where did you
8 interview Pete Hendricks?

9 A. At their office down in --- was it Logan County,
10 down there next to Charleston? I forget what they
11 call that place.

12 Q. At the Massey building?

13 A. Yeah, the Massey building.

14 Q. Right. Did any of the lawyers suggest that they
15 would represent you?

16 A. No.

17 Q. And you said Pete was concerned about the methane
18 detector being --- malfunctioning or bridged out?

19 A. Yes, sir.

20 Q. Did he say that?

21 A. He wanted to know if it was bridged out.

22 Q. To your knowledge, was it?

23 A. No.

24 Q. Are there ways to bridge them out?

25 A. Yes, sir.

1 Q. How do you do that?

2 A. Twist two wires together.

3 Q. Which two wires?

4 A. I don't know without looking at a plan.

5 Q. Without looking at a plan?

6 A. Yeah.

7 Q. What would those wires be?

8 A. Where would they be?

9 Q. Yeah.

10 A. On the readout.

11 Q. Okay. And what would that result in?

12 A. That would --- it would result in the machine not
13 kicking off when it reached two percent methane.

14 Q. Okay. Ever known that to happen?

15 A. Yes, sir.

16 Q. Can you tell me when?

17 A. Not specific dates, no.

18 Q. General ---.

19 A. At the beginning of the panel one time.

20 Q. At the beginning on this panel?

21 A. Longwall panel. I'm not for sure that it was
22 bridged out because the cover was off of it and it
23 wasn't bolted down, and Tommy Estep fixed that. One
24 time with Grover it was --- he had a problem with a
25 line starting, and I went up there to help him start

1 the line and I noticed it bridged out.

2 Q. Which panel was that on?

3 A. This panel.

4 ATTORNEY HAMPTON:

5 Are you pointing to February?

6 A. I'm pointing to this panel.

7 ATTORNEY HAMPTON:

8 I'm sorry.

9 BY ATTORNEY MCATEER:

10 Q. I'm sorry. Could you give a date, a rough date?

11 A. It had to be in February. Yeah.

12 Q. And that was Grover that was there?

13 A. Yes, sir.

14 Q. And how long did it stay bridged out?

15 A. Just that day.

16 Q. Now, is this the same day that you said that Tommy
17 Estep fixed it?

18 A. No, sir.

19 Q. So that's a different time?

20 A. Yeah. But I don't --- you know, when Tommy fixed
21 it, I don't know if it was bridged out or not.

22 Q. Sure.

23 A. But that's --- with Grover I seen it.

24 Q. Okay. But with Tommy, would that have been

25 February or would that have been earlier than that?

1 A. That would have been back here somewhere.

2 Q. Okay. So you're pointing to the ---?

3 A. September, October.

4 Q. September, October time frame?

5 A. Yeah. And it wasn't --- it may --- I don't even
6 know if it was bridged out or not.

7 Q. I understand.

8 A. I don't know. I just --- because I had my job to
9 do. The gate man asked me if I seen that and it was
10 just hanging there. And then later on in the shift,
11 Tommy said, you know, he went on down, what he done.
12 I was working on the COs that day.

13 Q. The gate man asked you if you had seen it hanging
14 there?

15 A. Yeah. He just picked it up. It wasn't bolted
16 down. He said, did you see this? I said, did you
17 tell your electrician? He said, yeah.

18 Q. Who was the gate man?

19 A. Woody. Kenny Woodrum I think is his real name.

20 Q. And was he still working there?

21 A. Yes, sir.

22 Q. Who would have been his electrician?

23 A. Tommy Estep.

24 Q. Oh. So there are two instances where you either
25 saw some unusual circumstances or a bridged-out on the

1 panel?

2 A. (Shakes head).

3 Q. Did you describe these to Mr. Hendricks?

4 A. Yes, sir. I didn't --- with Grover, the incident
5 with Grocer, yes. I can't remember if I did talk to
6 him about the incident with Tommy and Woody. I can't
7 remember that.

8 Q. Okay. Whose responsibility is it to ensure the
9 methane detectors are functioning?

10 A. Everybody's.

11 Q. Okay. But the repair of that or the fixing of
12 that would fall to whom?

13 A. The electrician.

14 Q. Electrician. Someone would have to know how to
15 bridge something out?

16 A. Yes, sir.

17 Q. Who would that person be?

18 A. I know how to bridge it out.

19 Q. Right.

20 A. I'm sure others should know.

21 Q. Right. Why do you say should know?

22 A. They're electricians.

23 Q. So essentially electricians, persons who have
24 electrical background would be the ones to know how to
25 do that?

1 A. Yes, sir.

2 Q. And was there any indication in your mind on the
3 Tuesday, Wednesday before this disaster occurred if
4 there was any kin of bridging out or anything that
5 comes to your mind?

6 A. Yes, sir.

7 Q. And can you tell me what that is?

8 A. I can't tell you the date because I can't remember
9 when. The cover was off of the readout.

10 Q. Now, on Tuesday you and Timmy had walked down to
11 the --- where you separated from him and then you
12 walked over to the wall?

13 A. Uh-huh (yes).

14 Q. And that was the day you also saw the dust later
15 on --- or dustier. Would that have been the day that
16 the cover was off?

17 A. I don't --- I don't know. That's just --- that's
18 the last thing that was in my mind to me because the
19 incident with the --- after talking and thinking with
20 Woody and Tommy and then with Grover. And one other
21 time I walked up there and I was working behind the
22 gate box and I seen it bridged out, and I unbridged it
23 myself. And I can't remember who the gate man was.
24 He said that he --- I asked him why was it bridged
25 out, and he said that he thought that they --- he said

1 he believed they had some nuisance tripping. Who they
2 was I don't know.

3 Q. So that would have been a third instance. And
4 roughly where was that? What month would that have
5 been?

6 A. Because I just sat down and thought of all of
7 this. You know, ---

8 Q. Sure.

9 A. --- I don't know when none of this --- and this is
10 what's on my mind, too, just like it was on Pete's
11 mind, just like it was on everybody's mind. But that
12 monitor was not bridged out. We know that; right?

13 Q. You're saying that on the week running up to the
14 accident, the disaster, that the cover was off the
15 readout?

16 A. Yes, sir.

17 Q. Okay. Did you say ---?

18 A. I don't know when it was, but I know it's in my
19 mind sometime between --- that's the last thing I
20 remember was the methane monitor. When that was, I
21 don't know.

22 Q. Okay.

23 A. That's ---.

24 Q. But it was on this panel?

25 A. It was on this panel.

1 Q. And it was in March or April?

2 A. It was --- that was the last thing. It would be
3 in March because that was the last --- that's the last
4 thing I can remember about the mother drive.

5 Q. So if I understand you correctly, there was the
6 incident with Woody and Tommy and then Grover and then
7 the third one when you unbridged it. And do you
8 remember anybody that was there at the time?

9 A. I can't remember who the gate man was. It was
10 either Josh Stout or a guy by the name of Terrence.
11 They call him Terrence.

12 Q. Okay.

13 A. It was one of them two. Pretty sure.

14 Q. Now, in this last --- in the last incidence when
15 the cover was off the readout, who would have been
16 involved there?

17 A. Pacer.

18 Q. Pacer? First name? Last name?

19 A. I don't know.

20 Q. He was just Pacer. Okay. Any electrician there,
21 too?

22 A. I don't know.

23 Q. Pacer was the gate man?

24 MR. FARLEY:

25 Pacer with a P?

1 A. Uh-huh (yes).

2 BY ATTORNEY MCATEER:

3 Q. Did you go over each of these with Mr. Hendricks?

4 A. No. He was just --- no, I didn't.

5 Q. I know it's speculating, but did he seem to know
6 about them, the earlier ones?

7 A. No.

8 Q. Okay. Now, can I take you back some? I, like the
9 other fellows on this side of the table, are getting
10 longer in tooth, so we forget things, too. So don't
11 worry about if you can't remember. But back at Three,
12 when you heard this hissing, where the dust came out
13 you said you smelled it?

14 A. Yes.

15 Q. What did it smell like?

16 A. Propane.

17 Q. Oh, really?

18 A. Yeah. Not, you know, --- it had a smell to it ---

19 Q. Sure.

20 A. --- related to propane.

21 Q. Okay. And you said it wasn't like an airplane,
22 noise, a jet airplane, but it was a noise. Can you
23 compare it to anything?

24 A. Too far back.

25 Q. Okay. That's all right. You said that when the

1 water was off the pan, the wall would not be running.

2 A. Right. The motor that turned the face chain runs
3 on water. And the water couplings --- there are
4 couplings that open and shut the feed water to the
5 couplings. And if he's got the water off and the pump
6 turned off, wouldn't be getting no water to the
7 couplings, so the chain wouldn't run.

8 Q. The chain wouldn't run. There's not really an
9 override of that because ---?

10 A. No. If the water is off, it's off.

11 Q. If the water is off, it's off?

12 A. Yeah.

13 Q. Okay.

14 ATTORNEY MCATEER:

15 I think that's all the questions I have
16 right now. Thank you, Mr. Bailey.

17 RE-EXAMINATION

18 BY MR. FARLEY:

19 Q. Mr. Bailey, a couple things to clarify here. Now,
20 the event in February of this year, you think Grover
21 was there at the time involving the methane monitor on
22 the longwall?

23 A. Yes, sir.

24 Q. Okay. Now, which monitor are you referring to on
25 the longwall, the headgate?

1 A. The face. The face monitor.

2 Q. Is that the one located at the headgate?

3 A. That's the one hooked up to the headgate.

4 Q. Now, where would the sniffer be located?

5 A. On the tail.

6 Q. Okay. Now, would that also have been the case
7 involving the situation in September or October of
8 last year?

9 A. The same monitor?

10 Q. Yes, sir.

11 A. Same monitor. Same monitor.

12 Q. But there is also a monitor on the shearer, is
13 there not?

14 A. Yes, sir, there's a monitor on the shearer.

15 Q. But you're talking about the monitor at the
16 headgate?

17 A. Yeah.

18 Q. With the sniffer on the ---

19 A. On the tail.

20 Q. --- on the tail? Okay. Now, at the time of the
21 event in February of this year, do you recall who the
22 longwall section boss was that day?

23 A. This is the event with Grover?

24 Q. Yes, sir. I think that's the way you put it.

25 A. No, I don't.

1 Q. Okay. Was it dayshift or evening shift?

2 A. Dayshift.

3 Q. Okay. Now, what about the event in September or
4 October of 2009, do you recall the longwall section
5 boss at that time?

6 A. No, I don't.

7 Q. Okay. Again, would it have been the dayshift or
8 evening shift?

9 A. Dayshift.

10 Q. And when you're talking about the third event and
11 you don't remember, you don't remember other than
12 sometime in March, do you recall who might have been
13 the longwall section boss then?

14 A. That would be Pacer.

15 Q. Pacer, is that Pacer --- is that a last name?

16 A. You know, I don't know. He's a new guy. He ain't
17 been there long. We just call him Pacer.

18 Q. Again, was that dayshift?

19 A. Dayshift.

20 Q. Okay. And you mentioned Josh Stout and Terrence.
21 Was there a last name there?

22 A. No. That incident, the boss on that crew would
23 have been Timmy Davis.

24 Q. Okay. Sometime in March?

25 A. I don't know when that was. That would have

1 been --- I don't know when that was.

2 Q. Okay. The third event, you just don't know when
3 it was?

4 A. Yeah.

5 Q. Okay. And if I understood you correctly, you
6 indicated that the cover was off the monitor?

7 A. Yes, sir.

8 Q. Okay. All right.

9 RE-EXAMINATION

10 BY MR. SHERER:

11 Q. I apologize for the temperature, Mr. Bailey. I
12 know it's cold. I've just got one question. The ---
13 you mentioned several instances with the methane
14 monitors. Do you know why they were bridging those
15 monitors out? Do you think it was problems with a
16 cable that went to the sniffer or ---? Had anything
17 been giving you problems with the methane monitoring
18 system that you know of?

19 A. I don't know of any specific problem, just when I
20 went up there I seen it. The cable sometimes gives us
21 problems.

22 Q. Okay.

23 A. And it's, you know, a lot of times just the cable.
24 Sometimes the sensor would go bad.

25 Q. Sure. Okay.

1 MR. SHERER:

2 That's all the questions I've got.

3 ATTORNEY MCATEER:

4 Can we take two minutes?

5 ATTORNEY HAMPTON:

6 Sure.

7 MR. SHERER:

8 Give Mr. Bailey a chance to warm back up.

9 SHORT BREAK TAKEN

10 MR. FARLEY:

11 I have a handful of quick ones here.

12 RE-EXAMINATION

13 BY MR. FARLEY:

14 Q. The monitor that you talked about that you
15 unbridged, ---

16 A. Uh-huh (yes).

17 Q. --- after you unbridged it, did it work?

18 A. Yeah.

19 Q. Now, when you did the interview with the Massey
20 attorneys, did they have a court reporter present?

21 A. I believe they did. Wait a minute. Are you
22 talking about the UBB site?

23 Q. Yes, sir, when you were interviewed by the Massey
24 attorneys regarding the UBB accident.

25 A. I don't think they had a recorder.

1 Q. Did they have a tape recorder?

2 A. I don't know. I don't know.

3 Q. Did you see one?

4 A. Uh-uh (no).

5 Q. Did they ask you to do a written statement?

6 A. No.

7 Q. Did they ask you to sign any document?

8 A. No.

9 RE-EXAMINATION

10 BY ATTORNEY MCATEER:

11 Q. Mr. Bailey, just one other question. You talked
12 about they were operating without curtains in the past
13 at this mine on maybe some sections.

14 A. When I was talking about in the past?

15 Q. Yes.

16 A. On the longwall we have always had curtain. And I
17 can't speak for the miner sections.

18 Q. Okay.

19 A. When I referred to in the past, that's when I used
20 to work on the miner sections.

21 Q. I gotcha.

22 A. Way back when I was a kid ---

23 Q. Sure. Okay.

24 A. --- and gung-ho, when I was at Coal King.

25 RE-EXAMINATION

1 BY MR. SHERER:

2 Q. I've got one ---.

3 ATTORNEY MCATEER:

4 Go ahead, Erik.

5 BY MR. SHERER:

6 Q. I've got one final question, Mr. Bailey. Have you
7 ever heard anybody say if a methane monitor is down
8 you can continue to mine and take handheld readings?

9 A. I haven't heard anybody say that.

10 Q. Thank you.

11 RE-EXAMINATION

12 BY ATTORNEY MCATEER:

13 Q. Just one final clarification. This Stephanie, the
14 Massey lady, is she at the mine or is she at the ---?

15 A. She's at the mine site, UBB Mine site, in their
16 trailer.

17 Q. Oh, okay. Okay. And did you see her or just talk
18 to her on the phone?

19 A. I talked to her personally. I pulled my chair
20 right up beside of her and talked with her.

21 Q. And this was a couple days ago or ---?

22 A. Yesterday.

23 Q. Yesterday?

24 A. Tuesday.

25 Q. Okay. And did she volunteer to have a lawyer come

1 with you?

2 A. Yes, sir. She said that they would pay for it. I
3 asked for my personal lawyer.

4 Q. They would pay for your own personal lawyer?

5 A. That's what she said. I didn't understand that
6 neither.

7 ATTORNEY MCATEER:

8 That's all the questions I have right
9 now.

10 ATTORNEY HAMPTON:

11 Mr. Bailey, on behalf of MSHA and the
12 Office of Miners Health, Safety and Training, we'd
13 like to thank you for coming and talking to us. Your
14 cooperation is very important to the investigation as
15 we work to determine the cause of the accident
16 Again, we ask you not to discuss your
17 testimony with any other person. Also, if we have any
18 follow-up questions for you as we go through our
19 process, we might actually give you a recall. And if
20 we have more things to ask you, I just want you to be
21 prepared as we learn what is going on, if we have more
22 questions. And same goes for you. If there are more
23 things you would like to share with us, anything you
24 would like to clarify or any other information that
25 you would like to talk to us about, please contact us

1 at the information that was given to you in the letter
2 from Norman Page.

3 So now as I had told you before we
4 started, you have an opportunity right now if there is
5 anything else you would like to share with us or
6 something maybe that we didn't ask you about that you
7 would like to mention or if there is any answer that
8 you have given us that you would like to clarify, you
9 may go ahead and do that now.

10 A. I don't have anything.

11 ATTORNEY HAMPTON:

12 That's perfectly fine. All right.

13 ATTORNEY MCATEER:

14 Mr. Bailey, I have a final item that I
15 wanted to mention. The testimony you have given here
16 has been very truthful and very candid and very
17 thoughtful, and I think some of these matters need to
18 be turned over to the U.S. Attorney, and I intend to
19 do that. And if you have not been contacted by the,
20 you will be contacted by the. Is that all right?

21 A. I will be?

22 ATTORNEY MCATEER:

23 Yes.

24 A. Yes.

25 ATTORNEY HAMPTON:

1 Okay. We'd like to thank you for your
2 cooperation.

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4 STATEMENT UNDER OATH CONCLUDED

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CERTIFICATE

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

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

That the proceeding is herein recorded fully and accurately;

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



Alison Salyards