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Transcript of the Testimony of Travis Nelson

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STATEMENT UNDER OATH
OF
TRAVIS NELSON

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 and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, August 20, 2010, beginning at 1:05 p.m.

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

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

8*

Two

Green Card

8*

* Exhibit not attached

P R O C E E D I N G S

ATTORNEY BAXTER:

My name's Derek Baxter. Today is August 20th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

MR. KOERBER:

And I'm Barry Koerber, Assistant Attorney General assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. MONFORTON:

And I'm Celeste Monforton with the Governor's independent team.

ATTORNEY BAXTER:

There may also be members of the investigation team present in the room today. Mr. Sherer, Mr. Farley and Ms. Monforton will be

1 conducting the questioning. Would you please swear
2 the witness in?

3 -----
4 TRAVIS NELSON, HAVING FIRST BEEN DULY SWORN, TESTIFIED
5 AS FOLLOWS:

6 -----

7 ATTORNEY KOERBER:

8 Sir, would you please state your full
9 name for the record and spell your last name, please?

10 A. Travis Allen Nelson, N-E-L-S-O-N.

11 ATTORNEY KOERBER:

12 And would you please state your address
13 and your telephone number?

14 A. (b) (7)(C)

15 (b) (7)(C) and telephone's (b) (7)(C) .

16 ATTORNEY KOERBER:

17 And do you have an attorney that you want
18 to appear with you today or some other personal
19 representative?

20 A. No.

21 ATTORNEY KOERBER:

22 Are you appearing here today because you
23 received a subpoena?

24 A. Yes.

25 ATTORNEY KOERBER:

1 And would this be a copy of the subpoena
2 that you received?

3 A. Yes, sir.

4 ATTORNEY KOERBER:

5 Would you please mark that as Exhibit
6 One?

7 (Exhibit T. Nelson One marked for
8 identification.)

9 ATTORNEY KOERBER:

10 And then this is a copy of the green card
11 showing that it was signed for on August 9th. I'd
12 like that to be Exhibit Two, please.

13 Exhibit T. Nelson Two marked for
14 identification.)

15 ATTORNEY KOERBER:

16 And sir, prior to the interview I spoke
17 to you about the statutory requirement that the
18 director provide a witness fee and mileage for each
19 witness subpoenaed; correct?

20 A. Yes.

21 ATTORNEY KOERBER:

22 And I provided you with forms to fill
23 out; correct?

24 A. Yes, sir.

25 ATTORNEY KOERBER:

1 And you filled them out and handed them

2 --- handed them to me; correct?

3 A. Yes.

4 ATTORNEY KOERBER:

5 No further questions. Back to you,

6 Derek.

7 ATTORNEY BAXTER:

8 Okay. All members of the Mine Safety and

9 Health Accident Investigation Team and all members of
10 the State of West Virginia Accident Investigation Team
11 participating in the investigation of the Upper Big
12 Branch Mine explosion shall keep confidential all
13 information that is gathered from each witness who
14 voluntarily provides a statement 'til the witness
15 statements are officially released.

16 MSHA and the State of West Virginia shall
17 keep this information confidential so that other
18 ongoing enforcement activities are not prejudiced or
19 jeopardized by a premature release of information.
20 This confidentiality requirement shall not preclude
21 investigation team members from sharing information
22 with each other or with other law enforcement
23 officials. The team members' participation in this
24 interview constitutes their agreement to keep this
25 information confidential.

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

10 You may have your personal attorney
11 present during the taking of this statement or another
12 personal representative if MSHA has permitted it and
13 may consult with the attorney or the representative at
14 any time. You may refuse to answer any question and
15 you may terminate your interview at any time or
16 request a break at any time.

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

1 That means that if a judge orders us to
2 reveal your name or if another law requires us to
3 reveal your name or if we need to reveal your name for
4 other law enforcement purposes, we may do so. Also,
5 there may be a need to use the information you provide
6 to us or other information we may ask you to provide
7 in the future in other investigations into and
8 hearings about the explosion. Do you understand?

9 A. Yes, sir.

10 ATTORNEY BAXTER:

11 Do you have any questions?

12 A. No.

13 ATTORNEY BAXTER:

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

24 A court reporter will record your
25 interview. Please speak loudly and clearly. If you

1 do not understand a question asked, please ask us to
2 rephrase it. Please answer each question as fully as
3 you can, including any information you've learned from
4 someone else.

5 I would like to thank you in advance for
6 your appearance here. We appreciate your assistance
7 in this investigation. Your cooperation is critical
8 in making the nation's mines safer.

9 After we have finished asking questions,
10 you'll have an opportunity to make a statement and
11 provide us with any other information that you believe
12 to be important. If at any time after the interview
13 you recall any additional information that you believe
14 might be useful, please contact Norman Page at the
15 telephone number or email address provided to you.

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

25 MR. FARLEY:

1 Mr. Nelson, on behalf of the Office of
2 Miners' Health, Safety and Training I want to inform
3 you that the West Virginia Coal Mine Health and Safety
4 Regulations also provide protection against potential
5 discrimination for participating in these type
6 interviews. I've just handed you a memo which has the
7 address for the West Virginia Board of Appeals, which
8 hears complaints from miners concerning
9 discrimination. Should you experience any problems,
10 don't hesitate to contact the Board of Appeals at that
11 address. Also, you have phone numbers there for
12 myself and Mr. Bill Tucker, who is our lead
13 underground investigator. Should you have any issues,
14 you can contact us, too. Thank you.

15 EXAMINATION

16 BY MR. SHERER:

17 Q. Okay. Mr. Nelson, first thing I want to do is
18 thank you for coming in.

19 A. Okay.

20 Q. This is very important to us. We're trying to
21 determine what led up to this explosion, and there's
22 two reasons we're doing that. The first is the
23 families and the friends and the coworkers of these 29
24 miners deserve some closure.

25 The second reason is we want to prevent this in

1 the future, and without understanding what went on,
2 what led up to it, we probably won't be able to
3 prevent it. So any information you can share with us
4 is greatly appreciated. Roughly, how many years of
5 mining experience do you have?

6 A. Just shortly over two.

7 Q. Okay. Has it all been with Massey?

8 A. Yes.

9 Q. Did you start at UBB?

10 A. I started at Logan's Fork when the longwall was
11 there, and I just followed the longwall up to UBB.

12 Q. Okay. What was your job description prior to the
13 explosion?

14 A. I would've been labeled as a jacksetter, I
15 suppose.

16 Q. Okay. So shield man?

17 A. Yeah.

18 Q. Okay.

19 A. I bounced back and forth between doing that and
20 running the shearer, but ---

21 Q. Okay.

22 A. --- I was labeled as a jacksetter.

23 Q. Okay. Which shift did you normally work?

24 A. We swung back and forth weekly.

25 Q. Okay. What was the last shift you worked prior to

1 April the 5th?

2 A. Would've been Saturday on dayshift.

3 Q. Okay. Saturday on dayshift. Did anything stand
4 out as being different or odd on Saturday? Do you
5 remember?

6 A. Nothing, nothing to my knowledge. Not that
7 affected me, anyway.

8 Q. Okay. Had you noticed any changes in the week or
9 two, maybe even three weeks prior to the explosion on
10 the longwall?

11 A. Had slightly less air going across the face, not
12 --- it wasn't a huge difference that you could tell,
13 but there was slightly less air.

14 Q. Okay. Do you normally wear a coat or jacket when
15 you're on that ---

16 A. Yeah.

17 Q. --- wall?

18 A. Yeah, you about had to. There was a lot of air.

19 Q. A lot of air. Had you started taking that thing
20 off because it was getting hot?

21 A. A little bit. I hadn't been wearing as much.

22 Q. Okay. Could you pinpoint exactly when you started
23 taking your jacket off in relationship to the
24 explosion? Was it a week, two weeks, three weeks?

25 A. I'd say about a week and a half, two weeks,

1 something like that.

2 Q. Okay. Do you think that was related to the
3 quantity of air?

4 A. I would suppose so, yeah.

5 Q. When you're getting out of --- off the mantrip and
6 walking up to the face of the longwall, there's
7 several curtains in the entries, blocking the gob off.
8 Did you notice those on Saturday?

9 A. Yeah, they would've been there. I mean you'd have
10 noticed them being down ---

11 Q. Okay.

12 A. --- at the time.

13 Q. Okay. Do you recall if they were tight or if they
14 were flapping?

15 A. As far as I know, they were tight. You know, I
16 would only see that one, ---

17 Q. Yeah.

18 A. --- that one curtain.

19 Q. Okay.

20 A. So I mean I would've went over in the other
21 entries, you know.

22 Q. Okay, sure. Have you ever seen that curtain
23 pushed back toward the face instead of being bowed
24 in ---

25 A. No.

1 Q. --- toward the gob?

2 A. No.

3 Q. Okay. Thank you. What'd you do on that last
4 shift on Saturday? Did you work on the jacks or did
5 you run the shearer?

6 A. I would've been jacksetting.

7 Q. Okay. Do you recall about how many passes you
8 made that Saturday?

9 A. Not right --- I don't remember right off, but we
10 had been average right around six.

11 Q. Okay. And you think that you'd run about the same
12 number?

13 A. Yeah, it would've been something like that.

14 Q. Okay. There wasn't any breakdowns or anything
15 like that, unusual breakdowns?

16 A. A good chance that there had been. Not that I
17 remember right off, but we had been --- I know we were
18 down a lot, so ---.

19 Q. Sure, right. All walls are.

20 A. Yeah.

21 Q. But nothing sticks out?

22 A. No, nothing, nothing major ---

23 Q. Okay.

24 A. --- that I can remember.

25 Q. How often would you have to bit up?

1 A. There towards the end there, it was three and four
2 times, you know, there. You'd spot them three or four
3 times a pass.

4 Q. Sure. Oh.

5 A. We were cutting so much sandstone down there on
6 the tail.

7 Q. Oh, jeez, yeah. That's a lot of bits.

8 A. Yeah.

9 Q. Did you carry a methane detector?

10 A. I didn't. They always had the tail end shearer
11 operator on our crew carry it.

12 Q. Okay. When you operated the shearer, which side
13 did you work, tail end or head end?

14 A. It just --- you know, whoever was off that day is
15 usually what would end up happened. I'd take
16 whoever's spot.

17 Q. You're multi-talented?

18 A. Yeah.

19 Q. That's good. When you were cutting coal on the
20 face when you were running the shearer, about what did
21 you see in the methane detector there on the shearer?

22 A. I never recall while we were running seeing
23 anything greater than, you know, about two or three
24 tenths of a percent.

25 Q. Was there any place in particular where that may

1 go up or down along the face?

2 A. It just varied through the face.

3 Q. It was kind of random?

4 A. Yeah.

5 Q. Okay. Did you ever see or hear anybody's personal
6 methane detector go off anywhere along that face?

7 A. No.

8 Q. Okay. Did you ever get out on the tailgate?

9 A. I had a few times, not too often.

10 Q. Okay. What where the conditions like over there?

11 A. When I've been there it wasn't, you know, wasn't
12 bad.

13 Q. Uh-huh (yes).

14 A. Seemed like everything --- you know. It wasn't no
15 big cracks or nothing like that, like what I've been
16 hearing about and stuff like that.

17 Q. Okay. What was the rock dust like when you got
18 over there?

19 A. As far as I remember it was, you know, fairly
20 decent. Stayed real wet over there, though, so ---.

21 Q. Sure. Had you guys had any trouble cutting out on
22 the tail end?

23 A. Just --- it was taking a long time where there was
24 so much sandstone.

25 Q. Okay. Wasn't getting too wide on you or anything

1 like that, was it?

2 A. I don't believe so, no.

3 Q. Okay. Did you ever have any place when you were
4 cutting this panel that it did get too wide?

5 A. The tail --- the entry on the tail getting too
6 wide or ---?

7 Q. Not the entry; the whole face ---

8 A. Oh.

9 Q. --- too wide so you had trouble cutting out on the
10 tail?

11 A. There was one point we were just barely, barely
12 able to put a hole in it.

13 Q. Okay.

14 A. It had been a decent little ways back.

15 Q. Okay. Did you guys ever shoot the tail when that
16 was happening?

17 A. (Indicates no.) Oh, no. I'm sorry.

18 Q. Did you know that somebody had drilled the
19 tailgate, the panel just inby the current face?

20 A. I'd heard someone mention it after the fact that
21 it had happened, but I wasn't aware of it at the time.

22 Q. Okay. Who mentioned that to you?

23 A. I don't even remember right off the top of my
24 head. I've heard it while I was down at revolution.

25 Q. Okay. Do you recall if they said why, why

1 somebody had drilled that?

2 A. Someone said that had gotten a decent bit wide ---

3 Q. Okay.

4 A. --- down there, so ---.

5 Q. Okay. So maybe a preventative thing?

6 A. Yeah.

7 Q. If they needed it, they'd have the holes?

8 A. That's what it sounded like to me, yeah.

9 Q. Okay. You guys ever use any explosives on the
10 face when you were in there?

11 A. We had a time or two. Been a decent little ways
12 back.

13 Q. Okay.

14 A. We had just had a bunch of rock falling out and
15 we'd shoot the rock. It was getting too big.

16 Q. Yeah. Where did you keep the explosives at?

17 A. We had to have somebody bring it in from outside
18 when we had needed it. I only remember needing it
19 once or twice.

20 Q. Okay.

21 A. And they had had somebody bring it in to us from I
22 guess the magazine wherever they keep it outside.

23 Q. That last Saturday when you were working in there
24 did you smell anything that was unusual?

25 A. I didn't, but our headgate man, Pacer Pettry, he

1 had said that he smelled something that smelled like
2 gas, but you know, methane, nothing like that has a
3 smell, so ---.

4 Q. Okay. So when you say gas, I assume gasoline?

5 A. I'm assuming, you know, something like that or
6 like a natural gas, kind of.

7 Q. Okay. Let me see. About when did he say that?

8 A. It was on the way out. It was either that Friday
9 or that Saturday he had said it. We hadn't really ---
10 but he was the only one that had smelled anything.

11 Q. Okay. Had you guys had any trouble with water on
12 that face?

13 A. Yes, we had, there for a while had a very bad
14 problem with water. We had to put two or three big 30
15 horsepower pumps down there to --- trying to get it
16 pumped down enough to run.

17 Q. That's a lot of water.

18 A. Yeah. Wear chest waders the whole time, ---

19 Q. Oh, jeez.

20 A. --- so ---.

21 Q. Do you know where the water was coming from? Was
22 it coming out of the floor or coming out of the face
23 or ---?

24 A. I really have no ideas, but wherever it was coming
25 from had to have been somewhere behind us.

1 Q. Coming back out of the gob?

2 A. Yeah.

3 Q. Okay.

4 A. I've heard people say that ---. Because I know at
5 Logan's Fort, which the way I understand it is, you
6 know, it would've ---. There was a place back there
7 where they had seals and stuff. It'd been filled with
8 water, because I know I had to go back there and set a
9 pumps one time and water was up to my neck. And they
10 said that that water was gone, from what I'd heard,
11 anyway. And I was assuming it leaked down ---

12 Q. Okay.

13 A. --- from Logan's Fort.

14 Q. That's what, about 100 feet or so above this
15 current mine?

16 A. It would've been something like that, yeah.

17 Q. Okay. About what time did you guys get out
18 Saturday afternoon?

19 A. Let's see. It would've been probably getting up
20 towards four o'clock.

21 Q. Okay. Did you notice anything unusual when you
22 left the mine?

23 A. No.

24 Q. So no funny smells, anything like that?

25 A. Nothing that I'd noticed, no.

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

3 A. On the longwall it was.

4 Q. Okay.

5 A. We could've stood to have someone take a little
6 bit of the air.

7 Q. Okay. Had you heard about the miner sections? Do
8 you think they had enough air?

9 A. Well, I never really talked to anybody that worked
10 on the miner sections, so ---. I'd heard at one point
11 there was one day they shut down because they didn't
12 have enough air, but that's the only instance I'd ever
13 really heard anybody talk about.

14 Q. Okay. I know you probably read a lot in the paper
15 about the methane monitors.

16 A. Yeah.

17 Q. Had you ever noticed or heard when you were on the
18 wall that there was a problem with either one of the
19 methane monitors?

20 A. No, I've never heard anybody talking about it, you
21 know. I think there was one instance at Logan's Fork
22 that they had had a problem with one, but I know they
23 fixed it ---

24 Q. Okay.

25 A. --- that we went down and they fixed it. But as

1 far as UBB, I hadn't heard anything.

2 Q. Okay. Did you ever see anybody calibrating or
3 working on one of those methane monitors?

4 A. No.

5 Q. Okay. Did you ever hear anybody say something
6 like, we got inspectors on the property, or company
7 coming?

8 A. Uh-uh (no). No, I'm sorry.

9 Q. Have you talked to anybody about the wall since
10 the explosion?

11 A. Just, you know, all I've heard is about that crack
12 and stuff like that. That's been the only thing I've
13 really heard anybody talk about.

14 Q. Okay. Where are you working now?

15 A. Hunter Peerless.

16 Q. Okay. Have you been interviewed by anybody from
17 the company?

18 A. I had the lawyers come talk to us when we were
19 down at Revolution.

20 Q. About when was that?

21 A. I want to say it had been maybe two weeks after
22 the explosion, something like that, maybe.

23 Q. Okay. Let me tell you what we know about the
24 wall. And I'm going to ask you to help us out and
25 give us your opinion on what may've been going on. We

1 know that the wall was in good shape on --- at the end
2 of the hoot owl shift on Sunday, that they'd done all
3 of the maintenance. They'd changed the cowl blade
4 out. They'd placed a few of the --- excuse me, I'm
5 drawing a blank here.

6 MS. MONFORTON:

7 Bits?

8 BY MR. SHERER:

9 Q. The things on the chain.

10 A. Oh, the splice?

11 Q. Splice. Splice on the chain, thank you. They'd
12 placed a few of those. But everything seemed to be in
13 good shape when they left that morning. We know that
14 the wall had started up pretty much on time and they
15 had made about one pass, maybe a little more than one
16 pass during the day. The shearer was on the head when
17 they started. Of course it was on the tail at the
18 time of the explosion.

19 The hinge pin of the ranging arm had been slipped
20 out and they were down most of the day trying to get
21 that back in and getting it tightened up. The last
22 time anybody talked to anyone on the wall was they
23 called out at 2:42 and said that they were starting
24 back up.

25 The shearer --- or excuse me, the pan didn't have

1 much coal on it. It was completely clear up around
2 the head. It was completely clear down around the
3 tail. From about Shields 40 to maybe 110 there was a
4 little bit of coal on it and some rocks, so they had
5 probably been cutting there at the tail. The water
6 had been turned off at the head. The high voltage
7 disconnect for the shearer had been pulled, the
8 visible disconnect.

9 We know that the closest victims to the shearer
10 were right at mid-face. I think there was four
11 victims there. There were several other victims
12 scattered out toward the --- between mid-face and the
13 head, and of course there was a couple victims up near
14 the head. That's about all we know. What's your
15 opinion of what could be going on?

16 A. Well, I hadn't known that the disconnects had been
17 pulled, because all along I had figured that, you
18 know, that the ignition source would've been all of
19 that rock they were cutting on the tail. But if the
20 disconnects had been pulled, then that kind of throws
21 what little bit of a theory I had about it out the
22 window.

23 Q. Sure. Now, we do know that the JNA box recorded
24 an E-stop cut off about three to maybe five or six
25 minutes prior to the explosion, and we're just not ---

1 we can't line the time up exactly.

2 A. Yeah.

3 Q. But that obviously occurred prior to the
4 disconnect being pulled, and it may've just been
5 somebody walking outside the range of the remote
6 control.

7 A. Yeah.

8 Q. Have you ever seen anything like that on the face?

9 A. What's that?

10 Q. The same conditions, the water off, the high
11 voltage off, shearer cut out at the tail and everybody
12 up near the middle of the ---?

13 A. Just if you, really, if you're leaving.

14 Q. Yeah. Let me ask you a related question. It was
15 about, we understand a good 30 minutes or so prior to
16 the end of their shift when they would normally come
17 out.

18 A. Uh-huh (yes).

19 Q. We understand that the host seat changes there at
20 the face.

21 A. Yeah.

22 Q. Of course the other crew hadn't gotten into the
23 mine very far when the explosion occurred. Do you
24 think it would --- that crew would've normally been
25 coming out that early? Is there any reason for that?

1 A. I mean, there ain't no reason that I would've
2 known of. I mean, you know, they usually ran right
3 until the time we got up there, so ---.

4 Q. Sure. I appreciate your information. Let me ask
5 you about a couple doors. We understand there was
6 originally two doors coming in on the track to the
7 longwall section. And we also understand there had
8 been two doors built sometime prior to the explosion.
9 We're not quite sure exactly when. It's roughly two
10 weeks to maybe a month prior ---

11 A. Yeah.

12 Q. --- to the explosion.

13 A. Would've been close to two weeks.

14 Q. When did you first notice those doors, new doors?

15 A. It would've probably been, like you said, about
16 two or three weeks, something like that, before.

17 Q. Okay. Do you know why they built those new doors?

18 A. The way I understood it was to avoid building an
19 overcast.

20 Q. Okay. How come nobody at this mine built
21 overcasts?

22 A. I couldn't tell you that.

23 Q. Okay.

24 A. I guess they just liked doors.

25 Q. You had to go through all of those doors every

1 day. How long do you think it added to your ---? You
2 mentioned or somebody mentioned today it took over an
3 hour to get into the working place every day.

4 A. When we came in from the UBB side, that's about
5 what it took, because you had another four doors added
6 up that way, too coming in from that side.

7 Q. How long do you think it took to get through all
8 those doors?

9 A. I'd say it'd probably take at least four or five
10 minutes, something like that, onto your trip.

11 Q. Four or five minutes. How many people did you
12 have working on the longwall?

13 A. Let's see. There would've been about seven,
14 seven, anywhere from seven to nine.

15 Q. Okay. So seven people times five minutes, that's
16 35 man minutes two times every shift?

17 A. Yeah.

18 Q. I think you could pay for a lot of overcasts with
19 that.

20 A. I believe so.

21 Q. Okay. Thank you. What's your opinion on what
22 happened hear in this mine?

23 A. I mean I would figure there --- if it was caused
24 by methane, there would've had to have been something
25 to bring an awful lot of methane in real quick. I

1 mean I don't know what could've ignited it if the
2 shear wasn't running.

3 Q. Sure.

4 A. And I mean both other miner sections had done quit
5 running by the way I understand.

6 Q. Uh-huh (yes).

7 A. But I mean, someone's methane monitor would've had
8 to have picked something up ---

9 Q. Sure.

10 A. --- if there was that much in there. But where
11 I've --- you know, where I'd heard that one boy talk
12 about smelling that gas that day, I thought maybe
13 there as an unmarked gas well or something like that
14 that maybe they had punched into.

15 Q. Possible, but the smell you smell with natural gas
16 they have to add to it ---

17 A. Yeah.

18 Q. --- per capita?

19 A. That's really the only thing I could've figured
20 out, but I'd heard that boy talk about it and I think
21 I'd heard somebody saying they --- that somebody had
22 gotten dizzy or sick or something, smelling gas ---

23 Q. Who ---?

24 A. --- about a day or so before.

25 Q. Do you recall who said something about that?

1 A. I don't recall who it was, but I remember them
2 saying it was a fire boss that had smelled it.

3 Q. Now, a fire boss named Ellison, I think was his
4 name, his daughter was saying that he --- of course he
5 was found down near the Mother Drive.

6 A. Uh-huh (yes).

7 Q. He had had some problem like that. Do you know
8 anything about that?

9 A. No, I guess that's probably the same instance that
10 I was referring to. But that's all I'd really heard
11 about it, was that. And around the Mother Drive is
12 where that Pacer Pettry on our crew had said he
13 smelled it.

14 Q. I'll be darned. That's interesting. We
15 appreciate that information. One last question. If
16 you were down on the tail of the wall and something
17 happened, would you be more likely to come all the way
18 back across the wall and try to get away from it or go
19 out the tailgate?

20 A. It would all just really be dependent on what was
21 going on, like if, you know, if there was a problem at
22 the tail, I guess I'd be more apt to go off towards
23 the head and try to get away from it, but if it was
24 something, you know, something --- I don't know, say,
25 smoke coming up from the head or something, I'd be

1 more apt to go off the tail.

2 Q. Okay. One more question. Sorry about that.

3 Anybody ever call in or tell you that inspectors were
4 on the property?

5 A. No.

6 Q. Okay, okay.

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. Mr. Nelson, I think you said earlier that in the
10 couple of weeks prior to the explosion you had noticed
11 that there maybe wasn't quite as much air coming
12 across the longwall face; is that correct?

13 A. Yes, sir.

14 Q. Okay. Now, if you're looking at the longwall pre-
15 shift examination records for the month of March,
16 first week or so of March that they record an intake
17 air reading of 115,000 cubic feet per minute and a
18 week later it's down as low as 79,000 cubic feet per
19 minute. March 9th, 116,000. Couple days later, March
20 11th, 76,000. Now, between then and the end of the
21 month it works its way down to the mid '50s, 56,840 or
22 so was the last air reading called out on April 5th.
23 Does that sound reasonable? Does that sound like what
24 you experienced?

25 A. Yeah.

1 Q. Now, I know you're not a walking anemometer, ---

2 A. Yeah.

3 Q. --- but does that trend make sense to you?

4 A. Yeah, that seems like it would be about right,
5 because, you know, it's not like one day I was up
6 there freezing to death and the next day I was
7 sweating going down through there. But it gradually
8 got to the point where you just, you know, wouldn't
9 wear your coat up there anymore.

10 Q. Did the examination book just trend --- shows it
11 trending downward ---

12 A. Yeah.

13 Q. --- the entire month of March, now, and that seems
14 reasonable to you?

15 A. Yeah, that seems like it'd be about right.

16 Q. Okay, all right. Anybody ever explain that trend
17 to you?

18 A. No. Nobody --- I mean, you know, I'd heard that
19 it happened, but nobody had ever really said too much
20 about it to me.

21 MR. FARLEY:

22 Okay, all right.

23 MS. SPENCE:

24 I don't have any questions.

25 RE-EXAMINATION

1 BY MR. SHERER:

2 Q. I got one follow-up question. Did you ever hear
3 anybody complaining about the ventilation on the wall,
4 any of the bosses say anything about it?

5 A. No, our bosses never really said much about it.
6 You know, we had all those problems before we started
7 up with it, but as far as the ventilation went the
8 rest of the time, it --- you know, we had really good
9 air, so I'd never really heard anybody say much about
10 it.

11 Q. Those startup problems would've been back ---

12 A. Yeah, back ---.

13 Q. --- prior to getting the wall set up and going?

14 A. Yeah, once they put that fan in, you know,
15 everything had to be changed around and they, you
16 know, just went back and forth with what needed to be
17 done.

18 Q. Do you think there were any ventilation changes
19 made within a week or so prior to the explosion?

20 A. I'd heard somebody say that there might've been
21 one, but it was nothing I'd heard about until after
22 the fact.

23 Q. Okay. You didn't see people running around with
24 anemometers or anything, did you?

25 A. Not that I'd noticed, but you know, I was up on

1 the face all shift, so ---.

2 Q. Sure, okay.

3 MR. SHERER:

4 Okay. That's all I got.

5 ATTORNEY BAXTER:

6 On behalf of MSHA and the Office of

7 Miners' Health, Safety and Training, I want to thank

8 you for appearing and answering questions today. Your

9 cooperation is very important to the investigation as

10 we work to determine the cause of the accident. We

11 request that you not discuss your testimony with any

12 person aside from your personal representative. After

13 questioning other witnesses, we may call you if we

14 have any follow-up questions.

15 If at any time you have additional

16 information regarding the accident that you'd like to

17 provide to us, please contact us at the contact

18 information that was previously provided to you. If

19 you wish, you may now go back over any answer you've

20 given during this interview. You may also make any

21 statement that you'd like to make at this time.

22 A. I don't suppose I have anything.

23 ATTORNEY BAXTER:

24 Okay. Again, I want to thank you for

25 your cooperation.

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STATEMENT UNDER OATH CONCLUDED AT 1:44 P.M.

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1 STATE OF WEST VIRGINIA)

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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