

1           **WEST VIRGINIA MINE HEALTH & SAFETY ADMINISTRATION**

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6           **IN RE:**

7                           **THE INVESTIGATION OF THE**  
8                           **APRIL 5, 2010, MINE EXPLOSION**  
9                           **AT THE UPPER BIG BRANCH MINE**

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13                   **The interview of JEREMY BURGHDUFF taken upon**  
14                   **oral examination, pursuant to notice and pursuant**  
15                   **to the Federal Rules of Civil Procedure, before**  
16                   **Nichelle N. Drake, Professional Reporter and Notary**  
17                   **Public in and for the State of West Virginia,**  
18                   **Friday, April 1, 2011, at the National Mine Health**  
19                   **& Safety Academy, 1301 Airport Road, Beaver,**  
20                   **West Virginia.**

21  
22                           **JOHNNY JACKSON & ASSOCIATES, INC.**  
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10                    **Timothy Watkins**

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1           MR. KOERBER: My name is Barry Koerber.  
2 I'm the Assistant Attorney General. I'm assigned  
3 to represent the West Virginia Office of Miners'  
4 Health Safety & Training and I'm also assigned to  
5 the accident investigation team for the Office of  
6 Miners' Health Safety & Training for the UBB  
7 accident.

8           Today is Friday, April 1, 2011. Beginning  
9 at my left for the members of the various accident  
10 investigation teams, I would ask that they identify  
11 themselves and who they're with.

12           MR. TUCKER: Bill Tucker with the West  
13 Virginia Office Miners' Health Safety & Training.

14           MR. MAGGARD: I'm Jasey Maggard with  
15 MSHA.

16           MR. CRIPPS: Dean Cripps with MSHA.

17           MR. BAXTER: Derek Baxter, Office of the  
18 Solicitor, Department of Labor.

19           MR. KOERBER: And we also have a court  
20 reporter here from the court reporter firm known as  
21 Johnny Jackson & Associates, which is located in  
22 Charleston, West Virginia. I'm going to give you  
23 their business card here momentarily, which  
24 contains their address and their telephone number.

1 But there's just a couple of preliminary matters  
2 before we get to that.

3 For the purposes of helping the court  
4 reporter, please answer yes and no and not uh-huh  
5 or uh-uh and please don't shake your head yes and  
6 no. Please answer verbally. Also, I'm going to  
7 please ask you to allow the question to be  
8 completely asked before you begin your answer and  
9 I'm going to please ask all of the interviewers to  
10 allow you to completely finish your answer before  
11 they begin their next question so that we do not  
12 have two people talking over one another at the  
13 same time because that makes it extremely difficult  
14 for the court reporter.

15 The court reporter is working under a  
16 three day turnaround as far as putting what's said  
17 here today to paper. This being Friday, three  
18 business days from today would put us through  
19 Wednesday afternoon of next week. So come Thursday  
20 morning of next week, which I believe is April the  
21 7th, but I'm not -- come Thursday morning of next  
22 week, the transcript will be available for review  
23 and you have the right to go to Johnny Jackson's  
24 court reporter firm in Charleston, West Virginia,

1 and review your transcript either by yourself or  
2 with your attorney. What we do ask is that you  
3 call first and arrange a mutually convenient time  
4 for you and the court reporter office. They will  
5 put you in a conference room at their office and  
6 allow you to review the transcript in depth.  
7 They'll also give you an errata sheet, which you  
8 will be able to make notations of any errors that  
9 you find in the transcript, as you're reviewing  
10 it. That's your right. It's not mandatory, but  
11 you certainly are welcome to review your transcript  
12 if you wish.

13           You do not have to call on Thursday of  
14 next week if you want to review your transcript.  
15 You can call any time after that. However, I would  
16 ask that you make your call and schedule your  
17 appointment within two or three weeks of next  
18 Thursday if you desire to do so just so we can get  
19 everything done as timely as possible. So I'm  
20 going to give you Johnny Jackson's court reporter  
21 card here momentarily.

22           I also want to mention to you for any  
23 reason whatsoever you want to take a break, just  
24 say you want to take a break and we'll take a

1 break.

2 I am asking you not to discuss that which  
3 is spoken about here today outside of this  
4 interview room with anybody other than your  
5 attorney; and the reason I'm asking you that is to  
6 protect the integrity of the investigation.

7 At this time, Derek may have something he  
8 would like to add and I would turn it over to him  
9 for his.

10 MR. BAXTER: I just want to echo what  
11 Barry said, and there are protections for miner  
12 witnesses as well. And this is -- we've had an  
13 interview before, and we gave you material before;  
14 but I'll give you again a letter referring to this  
15 interview that also discusses the protections  
16 available for miner witnesses.

17 MR. KOERBER: Would you please administer  
18 the oath.

19 JEREMY BURGHDUFF, DEPONENT, SWORN

20 MR. KOERBER: Sir, would you please state  
21 your full name for the record and spell your last.

22 THE WITNESS: My full name is Jeremy  
23 Burghduff. It's B-U-R-G-H-D-U-F-F.

24 MR. KOERBER: Would you please state your

1 address and telephone number.

2 THE WITNESS: (b) (7)(C)

3 (b) (7)(C)

4 (b) (7)(C)

5 (b) (7)(C)

6 MR. KOERBER: And, sir, do you have an  
7 attorney appearing here with you today?

8 THE WITNESS: Yes, I do.

9 MR. KOERBER: And I would ask the attorney  
10 to identify himself and his firm.

11 MR. McCUSKEY: Yes, John McCuskey with the  
12 law firm Shuman, McCuskey & Slicer in Charleston,  
13 West Virginia.

14 MR. KOERBER: And Mr. Burghduff is your  
15 client, correct?

16 MR. McCUSKEY: He is my client, correct.

17 MR. KOERBER: Sir, where were you employed  
18 on April the 5th, 2010?

19 THE WITNESS: At UBB.

20 MR. KOERBER: And what was your job title  
21 on that day?

22 THE WITNESS: Basically my job title was  
23 outby foreman but I was working on the air pumps  
24 behind the longwall.

1           MR. KOERBER: And as the outby foreman  
2 working on the pumps behind the longwall, were you  
3 responsible for taking and administering or doing  
4 fire boss runs?

5           THE WITNESS: Pre-shifts for my men, yes.

6           MR. KOERBER: And recording that in a  
7 pre-shift examination book in the office?

8           THE WITNESS: Yes, sir.

9           MR. KOERBER: We also have another  
10 attorney at the table; and at this time, I would  
11 ask that he identify himself, his firm and his  
12 client.

13           MR. PENCE: Yeah. Chris Pence with Allen,  
14 Guthrie & Thomas representing Performance Coal  
15 Company.

16           MR. KOERBER: And we have two people  
17 seated in the back beginning at the right working  
18 to the left, my right to my left, I would ask that  
19 the people identify themselves and who they're  
20 with.

21           MR. WATKINS: Tim Watkins with MSHA.

22           MR. WHITE: And I'm Eugene White, acting  
23 deputy director with the West Virginia Office of  
24 Miners' Health Safety & Training.

1 MR. KOERBER: Sir, are you appearing here  
2 today as a result of receiving a subpoena?

3 THE WITNESS: No.

4 MR. McCUSKEY: No, he's here -- you sent  
5 the subpoena to me. He's literally telling you  
6 what you asked.

7 MR. KOERBER: Let me rephrase the  
8 question. Are you appearing here today as a result  
9 of having a subpoena served on your attorney?

10 THE WITNESS: Yes.

11 MR. KOERBER: This is a copy of that  
12 subpoena. You can look it over and make sure that  
13 is a copy and I'm going to ask that that be  
14 Burghduff Exhibit 1.

15 (Exhibit No. 1 marked for  
16 identification.)

17 THE WITNESS: Yes.

18 MR. KOERBER: This document you may or may  
19 not have seen. This is a document that I sent to  
20 your attorney together with the subpoena, which is  
21 an acceptance of service where Mr. McCuskey has  
22 signed on the 28th day of March it looks like that  
23 he accepted service on your behalf and I would ask  
24 that that be Burghduff Exhibit 2.

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(Exhibit No. 2 marked for  
identification.)

MR. KOERBER: As I mentioned earlier, I'm going to give you the Johnny Jackson & Associates business card. I'm also going to give you a business card for Mr. William Tucker. Mr. William Tucker is seated to my left and he is the lead accident investigator for purposes of the West Virginia Office of Miners' Health Safety & Training investigation. If you recall anything after this interview is over that you believe would be helpful in trying to determine the cause of the explosion and would like to share that with the state, this is the contact information for Mr. Tucker and I would ask that you contact him please.

I'm also going to give you a memorandum. The memorandum contains the address to West Virginia Board of Appeals. The West Virginia Board of Appeals is the administrative agency charged with the duty of hearing cases involving coal miner discrimination. Under West Virginia Code 22-A-1-22, the code prohibits coal miners from being discriminated against for participating in interviews such as this. If you find that you have

1 been discriminated against, this is the agency to  
2 which you would file your complaint. The complaint  
3 does not have to be anything elaborate. It can be  
4 a handwritten letter explaining what occurred. I  
5 would caution you that, however, under the statute  
6 you only have 30 days from the day of the  
7 discriminatory event to file your complaint with  
8 the West Virginia Board of Appeals. I'm going to  
9 give you these items now. And with that, I'm going  
10 to ask Dean to start the interview.

11 MR. McCUSKEY: May I go ahead?

12 MR. KOERBER: Yes.

13 MR. McCUSKEY: Let me note my objection on  
14 the record to the process that Mr. Koerber has  
15 described for my client to review his transcript  
16 and I would like to make a request, as I think I've  
17 done in most of the other interviews, to have the  
18 transcript sent to either my client or me for his  
19 review without the necessity of having to make an  
20 appointment and him go to Johnny Jackson's office  
21 to be able to review it.

22 MR. KOERBER: Okay.

23 EXAMINATION

24 BY MR. CRIPPS:

Q. Jeremy, I'll start you off here. First of

1 all, I want to thank you for coming back here and  
2 talking to us. I appreciate that. I read through  
3 your first transcript, so I'm going to try not to  
4 ask you a bunch of the same questions that you  
5 answered the first time, but there was some areas I  
6 was a little confused about. So I want to kind of  
7 clear up a few things if you don't mind.

8 I would like to start with you, if you  
9 would, describe to me your work history prior to  
10 going to work for Massey, what mines you worked at  
11 and some of your jobs that you had?

12 A. Performance Coal, basically move crew  
13 boss, day shift and evening shift production boss.  
14 That was a short period of time, working on the  
15 pumps behind the wall and before that was Marfork  
16 and I was -- at Coon Eagle, I was vulcanizing.

17 Q. Belt vulcanizer?

18 A. Yeah.

19 Q. Prior to your employment with Massey,  
20 where did you work?

21 A. I worked at a company called Atlas Belt  
22 Services and then another called Rema Tip Top.

23 Q. Were those coal companies?

24 A. No, it was vulcanizing companies.

1 Q. So all of your actual underground mining  
2 experience has been with Massey?

3 A. Yes.

4 Q. Between Marfork and Performance Coal?

5 A. Yes, sir.

6 Q. As I understand from your first interview,  
7 you started working on pumping the water behind the  
8 longwall in January of 2010.

9 A. I believe somewhere around there, yes,  
10 sir.

11 Q. Now, prior to that, what was some of the  
12 jobs at UBB that you performed?

13 A. Like I was saying, I was move crew boss.  
14 Prior to that, I was day shift and evening shift  
15 coal production boss; but that was on a rotating  
16 shift was the reason for that. And then I worked  
17 on the belt lines for them for a while too, getting  
18 some of the belt lines situated.

19 Q. The -- did you ever work on the section  
20 operating equipment?

21 A. Occasionally I had to run a bolter or a  
22 buggy or something like that if one of the men  
23 wasn't -- wasn't there or run a scoop.

24 Q. But that was while you was acting as a

1 section foreman?

2 A. Yes.

3 Q. And so about January of 2010 is when you  
4 got the job of taking care of the water behind the  
5 longwall?

6 A. Something in there, yes.

7 Q. Also during your first interview, there  
8 was a discussion about a -- on April the 5th, the  
9 day of the accident, a discussion about the  
10 pre-shift exam you performed and the record that  
11 was entered into the record book. Do you recall  
12 that discussion at all?

13 A. A little bit about it.

14 Q. When I read the transcript of your first  
15 interview, it talked about some readings that was  
16 not entered into the pre-shift book. Do you know  
17 what those readings you was asked about, which  
18 readings those were?

19 A. No, I do not.

20 Q. Let me show you. Do you recognize this  
21 piece of paper that's in front of you here?

22 A. Yes.

23 Q. Can you describe to me what it is?

24 A. Basically it's every pump that was -- area

1 that we had pumps at that we had to take -- I was  
2 taking readings of water measurements at around  
3 those pumps and methane air quality readings around  
4 these pumps.

5 Q. So let me back up. It's titled Pre-shift  
6 Examiners Report.

7 A. Yes.

8 Q. And what's the date of this exam?

9 A. It says 4-5.

10 Q. 4-5 of 2010?

11 A. Yes.

12 Q. And what's the times that's recorded here  
13 that the exam was --

14 A. It was 12:00 p.m. to 3:00 p.m.

15 Q. Down at the bottom, there is a signature?

16 A. Yes, sir.

17 Q. Is that your signature?

18 A. Yes, sir.

19 Q. So did you actually fill out this record?

20 A. Yes, sir.

21 Q. So does this appear to be the pre-shift  
22 exam record for April the 5th?

23 A. One of them, yes.

24 Q. One of them. And did you perform this --

1           A.    Yes.

2           Q.    -- exam?  And there are readings entered  
3 on this pre-shift exam for methane quantities; is  
4 that correct?

5           A.    Yes.

6           Q.    And did you, in fact, enter those  
7 quantities?

8           A.    Yes, sir.

9           Q.    And there's also readings in here for  
10 depths of the water in certain locations.  Did you  
11 enter those readings?

12          A.    Yes, sir.

13          Q.    Do you -- do you see any readings on here  
14 for air quantities?

15          A.    You mean air volume?

16          Q.    Yeah, air volume.

17          A.    No, sir.

18          Q.    Do you know perhaps in your first  
19 interview are those the readings that was being  
20 referred to that were not entered into the  
21 pre-shift book?

22          A.    No, I don't know if that was what they was  
23 talking about.

24          Q.    But looking at this and in your opinion,

1 is there actually a pre-shift record for April the  
2 5th on day shift?

3 A. To me, yes, sir.

4 MR. KOERBER: Let's have that marked as  
5 Burghduff Exhibit 3.

6 MR. CRIPPS: Okay.

7 (Exhibit No. 3 marked for  
8 identification.)

9 Q. In your first interview, Eric asked you or  
10 someone that was questioning about your Solaris  
11 detector, when it had been last calibrated and you  
12 said you didn't recall. Let me pull out another  
13 record here. This sheet of paper it's entitled gas  
14 detection calibration record.

15 A. Yes.

16 Q. Do you recognize this record?

17 A. Actually it's usually in the book but  
18 pretty much, yes.

19 Q. It's usually in a bound book?

20 A. Yes.

21 Q. And I will tell you this -- we obtained  
22 the books after the accident and we copied every  
23 page out of the book --

24 A. Yes.

1           Q.    -- is the reason that it's not in the  
2 book.  You see I have a highlighted line right  
3 here, it's dated March 5th of 2010, and it just  
4 shows your name and then a number out here to the  
5 right of that and then a signature.

6           A.    Yes.

7           Q.    Can you explain to me what this line  
8 indicates?

9           A.    Basically type of detector it is, the date  
10 it was calibrated, the person who calibrated it and  
11 the serial number of the kind -- of the  
12 instrument.

13          Q.    So did you actually do the calibration?

14          A.    Yes.

15          Q.    And this is your signature here?

16          A.    Yes.

17          Q.    Where did you do the calibration at?

18          A.    Upstairs in Ellis' portal office.

19          Q.    How do you calibrate it?

20          A.    Basically all you do is just go to lift  
21 the lid, put it in and as long as it's -- it's got  
22 to be turned on and just put it in and the machine  
23 does the calibration.

24          Q.    So it's the MSA calibration box is what

1 it's called. I know what you're talking about.

2 A. Yes.

3 Q. So the calibration was performed on March  
4 the 5th?

5 A. Yes.

6 Q. This is the last record that we found of  
7 calibration. Do you recall if you'd calibrated it  
8 since March the 5th?

9 A. I don't remember exactly.

10 Q. But --

11 A. Because I've had a couple different  
12 detectors in between, between that point in time  
13 and the past because I've had some that has gone  
14 bad because of water damage.

15 Q. Detectors that went bad?

16 A. Yeah, because of water damage.

17 Q. I was going to say what happened to them?

18 A. Water.

19 Q. Getting in -- getting into the water?

20 A. By accident, yes, sir.

21 Q. Oh, okay. So the instruments -- the other  
22 instruments that you used, do you know when they  
23 had been calibrated?

24 A. No, sir.

1 Q. Well, when you got an instrument to  
2 replace yours, where did you get it from?

3 A. From Everett Hager, one of the bosses, the  
4 mine foreman that was.

5 Q. Was it his spotter or did he just have  
6 spares?

7 A. Sometimes he had a spare. There's  
8 occasional times he just handed me his to use for  
9 the day.

10 Q. What would he do on the days that he --  
11 you had his?

12 A. He didn't go underground sometimes.

13 Q. Who --

14 A. That was the superintendent. Let me  
15 rephrase that.

16 Q. Oh, Everett was superintendent?

17 A. Yes.

18 Q. Those guys didn't need to go underground?

19 A. Sometimes they did and sometimes they  
20 didn't.

21 Q. So on the day that you actually did this  
22 one, do you know what detector you was carrying on  
23 that day?

24 A. That one right there.

1 Q. By that one right there you're indicating  
2 the Solaris?

3 A. Solaris 31-4-96

4 MR. BAXTER: And when you say when you did  
5 this one, you're talking about on April 5th?

6 MR. CRIPPS: Yeah, when he performed the  
7 pre-shift on April the 5th.

8 MR. BAXTER: He was using the detector  
9 that was calibrated on March 5th?

10 MR. CRIPPS: On March 5th.

11 MR. BAXTER: I'll mark that as Burghduff  
12 Exhibit 4 to clarify.

13 (Exhibit No. 4 marked for  
14 identification.)

15 Q. So when -- let me ask you this. This  
16 particular detector here and I'm indicating the one  
17 that's listed in the calibration record, the  
18 83-31-497. How did you keep track of this  
19 particular Solaris?

20 A. What do you mean keep track of it?

21 Q. How did you know which one was yours when  
22 you showed up at the mines?

23 A. Oh, no. I kept it on me. I kept it on my  
24 persons.

1           Q.    What about when you went home in the  
2 evening?

3           A.    Charged it at home.

4           Q.    Oh, you took it home with you?

5           A.    Yes.

6           Q.    Oh, okay.  And then you did the charging  
7 at home?

8           A.    Yes.

9           Q.    And then brought it back to the mine with  
10 you the next day?

11          A.    Yes, sir.

12          Q.    How come you charge it at home?

13          A.    Well, so they wouldn't come up missing.

14          Q.    You mean if you left it at the mine  
15 charging at night --

16          A.    Sometimes someone else gets it to use it.

17          Q.    Well, when -- when you had a problem or  
18 your normal detector got wet, who would you give it  
19 to?

20          A.    I would give it to Everett Hager or one of  
21 the mine foremans and they would get me another one  
22 or let me use theirs to -- until they could get me  
23 another one.

24          Q.    Do you know what they did with yours?

1           A.   As far as I'm understanding, they sent  
2 them off to be fixed.

3           Q.   But then when it come back from the  
4 repair, they would give you the same one back?

5           A.   No.  Sometimes they'd end up giving me  
6 another one and that would end up with somebody  
7 else.

8           Q.   Okay.

9           A.   Or sometimes if they was too damaged, they  
10 wouldn't come back at all.

11          Q.   Let me refer back to this particular  
12 Solaris here in the calibration record.  You  
13 indicated that this was the one that you was, in  
14 fact, using on April the 5th --

15          A.   Yes, sir.

16          Q.   -- is that correct?

17          A.   Yes, sir.

18          Q.   I thought I understood you to say that  
19 between April -- I'm sorry, between March the 5th  
20 and April the 5th that you had also used some  
21 different Solarises; is that correct?

22          A.   On occasion I've used one or a different  
23 one.  Like I said, if mine was -- got damaged by  
24 water or something like that, I did have to use

1 another one.

2 Q. So if this one got damaged and you used  
3 another one but this one here was then returned to  
4 you?

5 A. I mean -- well, something -- can you  
6 rephrase that question there again if you don't  
7 mind, please?

8 Q. Well, I'll ask it this way. The  
9 calibration record indicates that the Solaris with  
10 the serial number 83-31-497 was calibrated by you  
11 on March the 5th.

12 A. Yes.

13 Q. Is that the same Solaris that you was  
14 using when you did your pre-shift exam --

15 A. Yes.

16 Q. -- on April the 5th?

17 A. Yes, it was.

18 Q. And you're quite certain of that?

19 A. Yes.

20 Q. Now, your Solaris, did it have any kind of  
21 markings on it to indicate that it was --

22 A. I had my -- kind of like a name on it.

23 Q. Had your name on it?

24 A. Nickname on it.

1 Q. Your nickname?

2 A. Yes.

3 Q. What's your nickname?

4 A. Burghdog.

5 Q. Burghdog?

6 A. Yes, sir.

7 Q. I can see where they come up with that.

8 So you had Burghdog written on your Solaris?

9 A. Yes.

10 Q. And you had brought it from home with you  
11 each day?

12 A. Yes.

13 Q. So if you had a Solaris that normally  
14 wasn't yours, you would be aware of that?

15 A. Yes.

16 Q. In your first interview, you talked a lot  
17 about some regulators where you did some air  
18 readings as part of your weekly exams back behind  
19 the longwall. I'm curious, the regulators  
20 themselves, how would they construct them?

21 A. All the regulators, actually all the  
22 regulators up here on the -- right behind the  
23 wall -- directly behind the wall was cinder blocks  
24 with either one block out or maybe half of the wall

1 out.

2 Q. So you're indicating that the three  
3 regulators towards the tail gate side of the  
4 longwall --

5 A. Yes.

6 Q. -- they were all cinder blocks?

7 A. Yes.

8 Q. And they had just a few blocks out of the  
9 stopping?

10 A. One had one block out and the other ones  
11 were -- I'd say one had about half the wall out and  
12 the third one had probably about 15, 20 blocks out.

13 Q. When you did your air readings with those  
14 regulators, did you measure the area of the opening  
15 each time or was the area written down --

16 A. The area was written down on the wall.

17 Q. How was it written?

18 A. In spray paint.

19 Q. So the actual area of the opening was in  
20 spray paint on the -- on the --

21 A. Yes, and it was also on the date up board  
22 by those regulators.

23 Q. So every week when you did your air  
24 readings, you used the same area?

1           A.    Yes.

2           Q.    What about the regulators over here on the  
3 head gate side around 89 crosscut?  How were they  
4 constructed?

5           A.    Before they was changed, they was cinder  
6 blocks.  After they was changed, they was Kennedy  
7 stoppings.

8           Q.    Talk to me about before and after the  
9 change.  What do you mean by before they was  
10 changed?

11          A.    Just they was -- before it was changed,  
12 those regulators was back two breaks and they was  
13 constructed of cinder blocks.  It was -- one had a  
14 three by three opening in it and the other one had  
15 like just one block out.

16          Q.    So we've got some regulators shown here  
17 and we'll mark this map as an exhibit I guess.  
18 We're showing regulators between 88 and 89 crosscut  
19 on the head gate side of the longwall, but you said  
20 the regulators used to be between 86 and 87  
21 crosscuts?

22          A.    Yes.

23          Q.    And they were cinder block regulators?

24          A.    Yes.

1 Q. How come those regulators were relocated?

2 A. Investigators told me and Everett Hager  
3 and Burman that since he wasn't going through the  
4 water he didn't want us going through the water.  
5 So from that point in time, we had to get those  
6 regulators changed to an area where I could get to  
7 them without walking through water.

8 Q. So by getting to the regulators, did you  
9 travel from the inby side of the regulators outby  
10 to them?

11 A. Yes.

12 Q. So that means there would have been water  
13 on the inby side of those regulators?

14 A. Yes, sir.

15 Q. So --

16 A. I mean, talking about the prior ones?

17 Q. The prior ones, yes.

18 A. Yeah, the prior ones were in the water.

19 Q. So when they were moved inby between 89 --  
20 between 88 and 89 crosscut, was that area dry?

21 A. Yes, sir.

22 Q. Explain the construction of those  
23 regulators to me.

24 A. Basically, both of them was Kennedy

1 stoppings and they was sealed with spray foam.

2 That one end, No. 1 entry over here, what I did, I  
3 measured the size of the hole in the old one and  
4 made sure it was the same size in the new one after  
5 I constructed it. And me and my men constructed --  
6 and the same thing with the other one. When I  
7 constructed it originally, I made sure the holes  
8 were identically the same measurement wise, area  
9 wise.

10 Q. And then did you leave the cinder block  
11 regulators intact or did you tear them down?

12 A. I was told to tear this one and No. 2  
13 entry down. And the other one, Everett Hager and  
14 Jack Roles ended up opening that one up a little  
15 bit more to allow more air to come through and be  
16 able to hit that other regulator.

17 Q. And, now, do you recall what size the  
18 openings were in those regulators?

19 A. This one right here was I think six -- six  
20 inches by one foot.

21 Q. And that's the one in No. 1 entry?

22 A. Yes. This other one originally was three  
23 foot by three foot.

24 Q. That's the regulator in No. 2 entry?

1           A.    Yes, sir.

2           Q.    And those are the regulators between 88  
3 and 89 crosscut on the head gate side of the  
4 longwall?

5           A.    Yes.

6           Q.    Also in your first interview, you  
7 mentioned that you had removed some doors --

8           A.    Yes, sir.

9           Q.    -- between 77 and 79 crosscut on the head  
10 gate side of the longwall.

11          A.    Yes, sir.

12          Q.    Do you recall saying that in the  
13 interview?

14          A.    Yes.

15          Q.    Do you recall removing those doors?

16          A.    Yes.

17          Q.    Do you know why the doors were removed?

18          A.    I don't know exactly why.

19          Q.    In your first interview, you was told that  
20 Everett Hager told you to take them out.

21          A.    Yes.

22          Q.    And you recall that?

23          A.    Yes.

24          Q.    And Everett did, in fact, tell you to take

1 them out?

2 A. Yes.

3 Q. When you took them out, did you build a  
4 stopping in their place?

5 A. No, sir.

6 Q. So when you went there to take them out,  
7 were the doors closed the day that you took them  
8 out?

9 A. No. They was pretty much -- you may have  
10 had one closed, one partially open. The bottom was  
11 pretty much -- got them -- had them crushed out.  
12 They was -- they was just destroyed.

13 Q. I'm sorry. Go ahead.

14 A. The old doors were destroyed.

15 Q. So by the bottom, you mean the mine floor?

16 A. Yeah, the mine floor.

17 Q. What, it had hoved?

18 A. Yes, sir.

19 Q. And it had the doors nearly crushed?

20 A. Yes, sir.

21 Q. So were those doors functioning?

22 A. No, sir.

23 Q. For their intended purpose?

24 A. No, sir.

1 Q. So when you took those doors out, did it  
2 have any effect on the ventilation of that entry?

3 A. No.

4 MR. McCUSKEY: Did we say what entry those  
5 were in, those doors?

6 MR. CRIPPS: Those doors were in No. 3  
7 entry between 77 and 79 crosscut.

8 Do you want to go ahead?

9 MR. MAGGARD: Yeah, I guess I can.

10 EXAMINATION

11 BY MR. MAGGARD:

12 Q. Let's talk about the water over here. Was  
13 any of this water from 85 to -- I guess the  
14 regulators were in 89, close to 89, was any of this  
15 water removed in here, Jeremy?

16 A. No.

17 Q. In I think your last interview you said  
18 something about it may have went up nine inches or  
19 something.

20 A. Yes.

21 Q. Which entry was you talking about?

22 A. I took my measurements at that time in  
23 No. 3 entry.

24 Q. So if it raised nine inches, can you

1 remember what -- how far it was from the roof in  
2 that entry?

3 A. In that -- I mean, where I took my  
4 measurements at?

5 Q. Yes.

6 A. It was roughly around probably about five  
7 or six foot.

8 Q. How high was the roof back then?

9 A. Around eight foot.

10 Q. So it was probably -- you're saying three  
11 foot deep in the No. 3 entry?

12 A. It varied -- it varied --

13 Q. I don't know -- I don't know if you call  
14 that No. 3 or No. 4 but --

15 A. I mean, it varied in that entry. I mean,  
16 I just went in as far as I could to take my  
17 measurements to get a general idea of what the  
18 water may and may not have raised.

19 Q. How about in the middle entry, the No. 2  
20 entry? How high was the water there? Was it up  
21 also that day?

22 A. Yes. I didn't take a measurement in that  
23 entry. Usually if it raises up in one entry, it  
24 raises up in the other entry too.

1 Q. Makes sense, don't it? What about the  
2 No. 1 entry? Was any water in it?

3 A. Yes.

4 Q. Do you have any idea how much? Did you  
5 take a measurement there in that entry?

6 A. No, sir. Same thing, if it raises up,  
7 like I said, in one, it usually raises up in all  
8 three.

9 Q. So would it be -- if it raised up -- say  
10 it was three feet in No. 4, would it be three feet  
11 in No. 1?

12 A. No, it was always less in No. 1. Just the  
13 elevation of the ground just happened to slope  
14 towards the No. 3 entry.

15 Q. How much water would have to be in the No.  
16 3 before you would start seeing water in No. 1?

17 A. Roughly around three or four foot. I  
18 mean, at the deepest point. I mean, we never ever  
19 got rid of the water out of No. 1 entry. It was  
20 always a little bit there at all times.

21 Q. Let's go back a little bit. When these  
22 doors were removed, how was the water conditions  
23 back there at let's say between, you know, 77 and  
24 79, in that area?

1           A.    At that location, it varied from --  
2 because with the bottom being as hosed as it was,  
3 it could be dry in one spot and you step over and  
4 drop four feet down, it would be four foot of water  
5 in the other spot. It varied because the mine  
6 floor was the hosed up.

7           Q.    Was there any areas on outby -- let's say  
8 77 -- from 75 on outby that -- I'd said they got a  
9 little shoal of water around 75. Was there any  
10 areas back that way that was roofed?

11          A.    As far as I know, I do not know. There  
12 was another gentleman that covered that area.

13          Q.    And do you remember who covered that area?

14          A.    Supposed to be Harold Lilly.

15          Q.    So you never went back inby or outby 75  
16 you think?

17          A.    I have once when I first started doing  
18 these pumps just to see how the water was back  
19 there.

20          Q.    And can you remember anything about how  
21 the water was at that time?

22          A.    It was about chest deep at that time when  
23 I did go back there.

24          Q.    With working around all this water and

1 stuff, you said sometimes you get your detectors  
2 wet.

3 A. Yes.

4 Q. When do you recall the last time that ever  
5 happened to you that you might have got --

6 A. I don't remember exact dates, but I do  
7 remember how.

8 Q. Did you fall in the water?

9 A. No. Pump -- I mean, you got to take the  
10 discharge off the pump and they start pumping and  
11 end up soaking you down, so basically everything on  
12 you gets wet.

13 Q. Had that happened to you a month or two  
14 prior?

15 A. No, a couple times here and there.

16 Q. Dean, he showed that calibration record  
17 there and you done it on the 5th. I'd also seen  
18 that you calibrated on the -- I think about the  
19 eighth of February as well, that same detector; so  
20 I assume you didn't fall into water probably -- you  
21 had two months of calibrations that was -- that you  
22 done each month, February, March, was in the cal  
23 log; so I assume you didn't damage that detector  
24 during that length of time. Would that be correct?

1           A.    Yes.

2           Q.    So you didn't fall into any water?

3           A.    I ain't saying I didn't get that detector  
4 wet, but there's been times I was able to let it  
5 sit out and dry out and it worked too.

6           Q.    So if your detectors were working decent,  
7 say from February until April, do you recall what  
8 the highest concentration of methane that you ever  
9 seen back --

10          A.    I've seen --

11          Q.    -- back inby the longwall face?

12          A.    Behind the longwall face, the highest  
13 concentration I've seen was three-tenths or 0.30  
14 percent of methane.

15          Q.    Do you remember where you was getting that  
16 reading?

17          A.    That was at 100 break.

18          Q.    Okay.

19          A.    And that would all depend on the water  
20 level back there.

21          Q.    Was there a lot of water in 100 break?

22          A.    It was about -- I can't remember exact  
23 measurements. It's actually recorded in my  
24 pre-shift exactly what the measurements of that

1 water was at the time; but it -- the methane level,  
2 would that have changed on the -- determine on how  
3 much water was there. The more water there was,  
4 the less methane; the less water, the more methane.

5 Q. So it wasn't like 0.3 every day?

6 A. No, sir.

7 Q. What entry was you finding that methane in  
8 back there?

9 A. That would be No. 4 entry.

10 Q. Number 4 entry. And there's only four  
11 entries in this area?

12 A. Yes, sir.

13 Q. That would be on the north side of the  
14 mine, the No. 4 entry I suppose?

15 A. Yes.

16 Q. Is that right?

17 A. Yes, sir.

18 Q. What about around these regulators back  
19 here that you was talking about. You -- did you  
20 ask -- I don't know if you answered this. Did you  
21 get the areas -- did you tell us the areas of these  
22 three regulators?

23 A. I didn't tell you the areas.

24 Q. Maybe we can mark some of these down on

1 the map since this is -- we're going to use this as  
2 an exhibit about how wide the openings were on  
3 these three here on the -- just where the 45 starts  
4 and these two over here on the head gate side of  
5 the longwall. Just kind of make an arrow to it if  
6 you would please and put the dimensions that go --

7 A. I mean, I don't know the exact  
8 dimensions. All I know is about the size because  
9 like I told him the area was always wrote on the  
10 wall and that's where I took it from and did my  
11 measurement -- my calculation from.

12 Q. Well, can you give us an estimate?

13 A. I can give you an estimate. That ain't no  
14 problem.

15 Q. That would be great. You can borrow my  
16 ink pen if you want to.

17 MR. BAXTER: We'll mark the map as Exhibit  
18 5.

19 (Exhibit No. 5 marked for  
20 identification.)

21 MR. McCUSKEY: Can I see that exhibit for  
22 a moment, the air readings or the pre-shift?

23 Q. I appreciate that. I guess as far as you  
24 know there wasn't any regulators in this No. 3

1 entry from let's say 90 break to where --

2 A. As far as I --

3 Q. -- the doors were at?

4 A. As far as I know, no.

5 Q. Did -- when you guys were going in on  
6 April the 5th, did you take any methane readings  
7 over here around these regulators?

8 A. Not that day.

9 Q. And I guess on your pre-shift exam, you  
10 did take a methane reading over here.

11 A. Yes.

12 Q. Over in 90 break?

13 A. Yes.

14 Q. 89 break?

15 A. Yes.

16 Q. I'm trying to find that on this pre-shift  
17 exam. Okay. This --

18 A. It may not be registered as 90 break  
19 probably --

20 Q. 85 to 88 break. Is that -- I have trouble  
21 reading it.

22 A. 0.0 percent.

23 Q. 0.0 percent. And I see on here that you  
24 had 0.15 percent in the No. 4 entry at 100 break.

1 And that would -- would that have been your highest  
2 reading that day?

3 A. Yes.

4 MR. CRIPPS: Can I ask a question?

5 MR. MAGGARD: Go ahead.

6 EXAMINATION

7 BY MR. CRIPPS:

8 Q. I'd would like to clear something up  
9 here. I just remembered it from the first  
10 transcript. Jasey mentioned No. 4 entry at 100  
11 break.

12 A. Yes.

13 Q. Can you show me that on this map right  
14 here?

15 (Witness points to map.)

16 Q. Okay, now back here at 89 break, we're  
17 referring to entries No. 1, 2 and 3; is that  
18 correct?

19 A. Yes.

20 Q. Is No. 3 entry back here at 89 break the  
21 same entry as No. 4 --

22 A. Yes.

23 Q. -- up here at 100?

24 A. Yes.

1           Q.    Can you explain that to me the difference  
2 in the numbering system?

3           A.    Well, as far as I was ever told about the  
4 numbering system is when they first drive an entry,  
5 it's usually left to right, one through six, one  
6 through seven; and then if they pick up another  
7 entry, it's usually a lot of times if we pick up an  
8 entry to the left, they start going backwards like  
9 zero or something like that; and if they pick one  
10 up to the right, they just increase on numbers.

11          Q.    So from -- where did you actually -- where  
12 did you as part of your exam would you actually  
13 start calling this No. 4 entry, at which crosscut?

14          A.    Actually, just at that 100 break is where  
15 I pretty much started calling that four because  
16 there's only four entries there. So that's why I  
17 called it four.

18          Q.    But from outby 89 break, there's only  
19 three entries?

20          A.    Yes, sir.

21          Q.    And you refer to them as Nos. 1, 2 and 3?

22          A.    Yes, sir.

23          Q.    But just to be clear then, at 89 break,  
24 the entry that you refer to as No. 2, what entry

1 would you refer that to up here at 100 break?

2 A. That would end up becoming No. 3.

3 Q. Okay.

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. Let me start back over again. How was --  
7 on the April 5th, what do you recall about the  
8 conditions of these regulators were?

9 A. I didn't go up to these regulators right  
10 here. I did -- I was up to at these. I had to  
11 check water valves.

12 Q. And when you say these, you're talking  
13 about at 88, 89 break?

14 A. Yes.

15 Q. What's -- what was the condition of  
16 those? Do you remember?

17 A. What do you mean by conditions?

18 Q. Was they -- any kind of, you know, floor  
19 heaving causing them to deteriorate or anything  
20 happening to them that you recall?

21 A. No.

22 Q. Now, let me ask you something about what  
23 time was it that you got back in this area on  
24 April 5th?

1           MR. BAXTER: What area are you referring  
2 to, Jasey?

3           Q. Back there where the 45 starts back to the  
4 pumps at 88, 89 break.

5           A. I don't remember exactly what time it was  
6 I walked back through there.

7           Q. But it would have been earlier in the  
8 morning; is that --

9           A. My first time me and my men did go back  
10 there, yes, was in the morning.

11          Q. When you left that day, what time was it?  
12 Was it around one o'clock, two o'clock?

13          A. It was right around about one o'clock that  
14 we left.

15          Q. And during that time, was you right here  
16 where the pumps are at?

17          A. Yes.

18          Q. Had the methane levels changed any at all  
19 through that day?

20          A. No, sir.

21          Q. And when you said the -- can I borrow this  
22 for a second?

23               MR. McCUSKEY: Yes.

24          Q. You said zero percent at this area, so it

1 was zero percent all day; is that correct?

2 A. Yes.

3 Q. How long was you back at 100 break?

4 A. Just for I'd say five, ten minutes, just  
5 long enough to check pumps and get the pumps  
6 running that needed to be ran.

7 Q. Do you know what time it was that you went  
8 back there? Was it early in the shift?

9 A. Yes, it was early morning.

10 Q. So about -- about -- you made most of this  
11 area all the way back to Bandytown early in the  
12 morning; is that correct?

13 A. I met early in the morning and I started  
14 back here around noon and then walked all the way  
15 back again.

16 Q. So these guys that were down here on the  
17 pumps, I can't remember their names. You might  
18 help me there. How many guys --

19 A. I had two guys.

20 Q. What was their names?

21 A. Jason Farley and David Stanley.

22 Q. How long was they here at the pumps? How  
23 long did it take you to go back there to Bandytown  
24 and come back?

1           A.    Anywhere from two to about three hours.

2           Q.    So if you started back from Bandytown at  
3 twelve o'clock, would it be safe to say you started  
4 toward Bandytown at nine o'clock?

5           A.    No.  It was around about nine, ten  
6 o'clock, somewhere around there.  It varied on how  
7 late I got in every day is when and where I was at.

8           Q.    And when you all left from working back  
9 behind the longwall, I think you all got outside  
10 right before the accident occurred; is that right?

11          A.    Yes.

12          Q.    And after the accident occurred, what --  
13 what was your job assignment after the accident?  
14 What did you do that evening?

15          A.    Pretty much I was assigned to pretty much  
16 kind of guard the seven gentlemen's bodies as they  
17 was pronouncing them dead.  Plus I was asked to  
18 monitor all the portals for methane and air quality  
19 and stuff like that.

20          Q.    And about what time did you start  
21 monitoring the portal?

22          A.    It was shortly after 3:00, between 3:00  
23 and 4:00 I would say.

24          Q.    And which portals did you have to monitor?

1           A.    That was Ellis portals.

2           Q.    Let me switch over to the weekly exam if  
3 we could.  I'm only going to get this before, but I  
4 got a list of weeklies from 3-20 to I guess 4 --  
5 4-3 and I think we'd like to know where these  
6 weeklies were done.  If you see on here and I think  
7 this one was 3-16, there's some LW3s.  Where are  
8 the LW3 readings taken from?

9           A.    Let me see if I can clarify this for you.

10          Q.    And we might be able to mark them on the  
11 map.  That'd be great.

12          A.    I couldn't really tell you exactly off  
13 that.  The other maps that we had specifically had  
14 the LW3s and TG1s wrote right on it at the  
15 regulator.  So a prior map would show exactly where  
16 those locations are at.

17          Q.    These TG1s I would assume would be the  
18 tail gate.  Could that have been these three over  
19 here?

20          A.    Probably could have been.  Like I said,  
21 that map -- the map would definitely show a 100  
22 percent factor where those locations are at.

23          Q.    Now, there's three readings here that's  
24 one two and three and it says at Bandytown fan.

1           A.    Yes, that was back here around Bandytown  
2 fan.

3           Q.    Where these blue circles are at; is that  
4 correct on this map?

5           A.    Yes, sir.

6           Q.    And I got three readings here that says  
7 No. 2, No. 3 and No. 4 that says LW3. Where did  
8 you take readings there over on this side, on the  
9 head gate side of the wall?

10          A.    Where I took readings was this regulator  
11 here, this regulator and also in this No. 3 entry  
12 over here.

13          Q.    Do you know why they're listed here as  
14 two, three and four to the left of this 3-16 date?

15          A.    Probably the way I was classifying it at  
16 the present time if these are actually at that  
17 location.

18          Q.    Okay.

19          A.    That's probably just the way I was  
20 classifying it at that time. I mean, the way I'm  
21 describing it now to y'all is y'all asking the  
22 questions is this would be one, two and three  
23 instead of maybe the way I was classifying it at  
24 that present time.

1 Q. So is it possible that when you take these  
2 readings this could -- the regulator that we was  
3 calling one could be two and the middle one could  
4 be three and over here could be No. 4 to the right?

5 A. That could be the way y'all could be  
6 interpreting it, yes.

7 Q. I didn't take the readings. I was just  
8 hoping you could help us with that.

9 A. Yeah. I mean, like I said, right now, the  
10 way I'm explaining it to you is the way these  
11 entries are set up on this map; and then on that,  
12 I'd probably just definitely classify it -- if I  
13 had -- like I said, if I had the map showing  
14 exactly what these regulators are compared to what  
15 you're showing there, LW3 and all that, I could  
16 say, yes, this is the location.

17 Q. Is there some way that you could get a map  
18 that you used for that and give it to the team?

19 A. I probably couldn't. There's probably no  
20 way I could possibly get it. I assume that y'all  
21 would have prior maps to all this.

22 Q. We knew where the points to measure were.  
23 Okay.

24 A. Yes.

1 Q. But how you guys identified them in the  
2 record books, that's one reason we got you here  
3 today to try to clear that up.

4 A. If I had a map, I definitely could tell  
5 you which ones were in what locations.

6 Q. Can you remember which ones you had the  
7 most air coming out of?

8 A. Which ones I had the most air would be  
9 these three here.

10 Q. On the head gate side?

11 A. Yes.

12 Q. You had more air coming through those than  
13 say on this tail gate side?

14 A. Yes.

15 Q. Which one of these three on the tail gate  
16 side looking inby to the Bandytown fan from left to  
17 right, which one of these had the most air coming  
18 out of it?

19 A. The most air would be this one right here.

20 Q. And you're pointing to the one on the  
21 left?

22 A. Yes.

23 Q. And it shows that half of -- half of  
24 the -- half of that -- and you said what kind of

1 stopping was that?

2 A. That was a block stopping with half of it.

3 Q. Half of it removed. Okay. And if -- by  
4 looking at the record, there is a No. 3, No. 4 --

5 A. Yes.

6 Q. -- and No. 5 and the No. 3 shows more --

7 A. Yes.

8 Q. -- more of a higher quantity than the  
9 other two?

10 A. Yeah, those TG1s would be here by all  
11 indications one, two, three, four and that would be  
12 five.

13 Q. Okay.

14 A. So, yes, I was classifying that as two,  
15 three and four.

16 Q. Good. That's the way I would guess.

17 A. Yes, sir.

18 Q. That's good. Now, I know the last time  
19 that you were here there was -- there was some  
20 questions about the readings being very similar on  
21 several days and there was questions about what  
22 kind of anemometer you had. I think we had and  
23 this was an exhibit the last time -- we had several  
24 readings in the 400,000 range, okay, and I think

1 your last reading was 3-29. Now, if you notice the  
2 water --

3 MR. McCUSKEY: Where are you looking?

4 MR. MAGGARD: I'm looking right here where  
5 these are highlighted in this column that says  
6 total.

7 MR. McCUSKEY: When you said 3-29 --

8 MR. MAGGARD: Yeah, that's the last date  
9 down at the bottom of the page.

10 MR. McCUSKEY: Okay.

11 Q. We've noticed that the fan gauge pressure  
12 had increased from 3-10 to 3-29. Do you have any  
13 idea of why the readings were so close?

14 A. No, I don't. And I took them at the exact  
15 same location every single time. And that's the  
16 only reason I could possibly say they'd be close.  
17 I took the exact same reading every single time.

18 Q. When you do half a block, let's say half  
19 the wall out on this regulator right here, do you  
20 traverse the anemometer or do you keep it in one  
21 spot?

22 A. I traverse it up and down in that opening.

23 Q. And when you show a regulator with one  
24 block out, how do you get a measure?

1           A.   Probably about all you can do is just  
2 barely -- I mean, ain't much traversing or moving  
3 on that one but you can move it just a little bit  
4 which ain't much.

5           Q.   Did you ever notice any changes in the  
6 temperature back here behind the wall?

7           A.   I mean, it always got warmer once you -- I  
8 mean, from -- depending on what entry you was in,  
9 it was -- I mean, the temperature was a little  
10 different. With 100,000 cfm blowing in your face  
11 one second and then you step over a couple entries  
12 and there's probably only like 10,000, just roughly  
13 something less air quantity in the other entry,  
14 it's going to feel different in temperature.

15          Q.   When you say 100,000, had you taken a  
16 reading like in this No. 1 entry down here?

17          A.   I've taken one in the past down here. It  
18 was just out of curiosity about how much air was  
19 really coming down that entry. Nothing that I had  
20 to, I wasn't required to do.

21          Q.   Right. What do you recall that you got in  
22 that --

23          A.   I don't recall exactly. I just know it  
24 was over 100,000.

1 Q. So if I had over 100,000 here and I added  
2 these regulators up, would that come out to be  
3 about what you got for 400,000 on these weeklies?

4 A. I couldn't really tell you if it would be  
5 or not.

6 Q. Close to it?

7 A. I mean, I really couldn't tell you if they  
8 were or if it would come out to that. Because back  
9 here, all these entries are separated and they  
10 would -- and they're separated back here too.

11 Q. Okay.

12 A. So what you have over here on this side  
13 comes out in different locations around this fan,  
14 but you're talking about this, all these -- all  
15 these added up to total what's out here. I  
16 couldn't really tell you if they would or wouldn't.

17 Q. Did you -- when you go through the double  
18 doors and I guess this is about 92 break, was  
19 there -- you said there was more air coming down  
20 the head gate, was it cooler when you went through  
21 the double doors or was it cooler going down this  
22 45 as far as what you can remember?

23 A. I mean, it was cooler going down the 45  
24 because we had that -- all that air coming off that

1 No. 1 entry coming down through there; and when I  
2 stepped over here, it was still cool; but, I mean,  
3 not as cool as it was over here.

4 Q. So normally the way you would travel is  
5 somewhere back here outby this 70 break, you would  
6 end up coming into this No. 1 entry and traveling  
7 back down to 45 until you got to those doors at 92  
8 break on the head gate side?

9 A. Occasionally, yes.

10 Q. When you say occasionally, what do you  
11 mean?

12 A. Sometimes we ended up -- I walked some of  
13 these other entries and then had to jump back over  
14 because you could only walk up so far through here.

15 Q. Why could you walk only so far? When  
16 you're pointing, you're pointing at like 90 or  
17 something?

18 A. There was -- there was a fall at the 85  
19 break.

20 Q. Are you pretty sure it was at 85 break?

21 A. I'm not 100 percent positive, but it was  
22 right around 85 break. I'm almost positive about  
23 that because they're talking about it now about  
24 that's the reason they can't get behind that now

1 because of that fall.

2 MR. TUCKER: What entries?

3 THE WITNESS: Two, three, I think there's  
4 five entries here, so two three and four.

5 Actually, the longwall is automatically five so  
6 that eliminates that, but it'd be in two, three and  
7 four.

8 MR. TUCKER: Okay.

9 THE WITNESS: And No. 1 is just barely  
10 open as it was.

11 BY MR. MAGGARD:

12 Q. How long do you think that fall had been  
13 there in the No. 5 break?

14 A. Prior to before I was going back there.

15 Q. So it had been there for sometime?

16 A. Yes.

17 Q. Okay. Did it -- how -- can you describe  
18 the fall a little bit to me?

19 A. A little bit of top. A majority of it --  
20 I mean, it had top falling in but a good chunk of  
21 it was bottom too hovering up too, so --

22 Q. So you had to get it in the No. 1 because  
23 of break 85. Was there any other places that you  
24 couldn't get through down here back to let's say 45

1 break or whatever, closer to the longwall?

2 A. There was a couple little spots that had  
3 falls here and there that they indicated on the map  
4 that you couldn't get around and stuff like that.  
5 I couldn't tell you exactly the locations of every  
6 single spot.

7 Q. Now, the fall at 85 break on this map it's  
8 not indicated. Were there any other falls other  
9 than the ones back here in about 68, 67 break?  
10 There's a couple of falls here and one in three  
11 entry. Was there any other ones down through this  
12 way on the tail gate side that might not have been  
13 on the map?

14 A. I do not really know.

15 Q. So if I was to say can you make this air  
16 course from the No. 2 entry to the No. 5 from the  
17 longwall in its entirety, would what would you say  
18 your answer would be?

19 A. No.

20 Q. So let's talk about stoppings down here  
21 between the No. 1 and No. 2 entry, you know, from  
22 the longwall down to this 45. What kind of  
23 condition were those stoppings in?

24 A. Rough condition.

1 Q. What spots was it the worst that you saw?

2 A. 85 break was pretty much -- right around  
3 85, 83 was pretty much where they was worse. They  
4 even started crushing out and ended up having to  
5 try to have to build a new wall or repair the --  
6 what damage was done.

7 Q. How often was the stoppings crushing out  
8 and how often would you have to do some repairs on  
9 them?

10 A. Sometimes a couple times. It may have  
11 been every other week and sometimes it was -- it  
12 wasn't for two or three weeks we hadn't had a  
13 repair.

14 Q. Did you ever see any pretty much come  
15 completely out?

16 A. There was a couple that we came in one day  
17 and there was about -- right over halfway down and  
18 ended up having to build a Kennedy panel in front  
19 of that one to repair that.

20 Q. What about the doors down through here? I  
21 see from about 73 break down to this 45 there's  
22 seven doors shown on this map. What was the  
23 conditions of the doors?

24 A. The doors were pretty -- I mean, pretty

1 fair shaped. I mean, there was -- from where some  
2 of the stoppings getting pressed out they was  
3 getting bent up a little bit, but they still made a  
4 pretty good, close to a tight seal.

5 Q. During your travels back through, would  
6 you ever see any doors open?

7 A. No.

8 Q. Which way did the doors open?

9 A. They opened in towards the wall.

10 Q. Okay.

11 A. That I remember.

12 Q. When you found stoppings crushing out down  
13 through here or say this -- you know, issues on  
14 this air course, would that be something you would  
15 normally put in the pre-shift book or the weekly  
16 exam? How would you record that kind of stuff?

17 A. If there was something, I'd put it on a  
18 pre-shift.

19 Q. Is there any times that you might have  
20 corrected something that you didn't put it on  
21 pre-shift?

22 A. As far as I remember, no. I mean,  
23 majority of the time what I was correcting was  
24 setting sand jacks or pumps or something like that.

1 Q. I assume it would be pretty hard to get  
2 supplies back there walking the way you had to. I  
3 understand you had to walk how many miles a day,  
4 five?

5 A. Five miles, two and a half one way, two  
6 and a half back.

7 Q. Did you ever have an opportunity to have a  
8 ride to get back to where you -- or could you get a  
9 ride through these areas?

10 A. You could get a ride down through that  
11 area, but we didn't have one at the present time to  
12 be able to get back there.

13 Q. And do you recall some of the last places  
14 you had to set some jacks or take any back behind  
15 the wall?

16 A. I had to set a couple back up in here  
17 around 95 to 96 break.

18 Q. And when you say here, are you talking  
19 about the No. 1 entry?

20 A. Yeah, No. 1 entry but we set some in  
21 between 94 and 96 break here and we had to set some  
22 up around 85 between -- probably about actually 83  
23 to about 87 break we had to set some up through  
24 there.

1 Q. When you're saying 83 to 87, you're  
2 talking about --

3 A. In the entry --

4 Q. -- No. 1 on the tail gate side?

5 A. Yes.

6 Q. And how many jacks did you -- just an  
7 estimate, how many did you put from 83 to 87?

8 A. Jacks, 20, maybe a little bit more than  
9 that. That's not including props or timbers.

10 Q. Would that be something you would put in  
11 a --

12 A. Yes.

13 Q. -- pre-shift book --

14 A. Yes.

15 Q. -- that you set those jacks? Let's see.

16 MR. KOERBER: The document that you was  
17 referring to that was a prior -- it was an exhibit  
18 at a prior interview, I would like that to be  
19 marked as the next exhibit number.

20 MR. MAGGARD: The last interview that he  
21 did it was Exhibit 4.

22 MR. KOERBER: But it needs to be an  
23 exhibit.

24 MR. McCUSKEY: This one is five

1 MR. BAXTER: It was Exhibit 5 in a prior  
2 interview and it will be marked as Exhibit 6 for  
3 this interview.

4 (Exhibit No. 6 marked for  
5 identification.)

6 MR. MAGGARD: I want to bring another map  
7 out.

8 MR. KOERBER: Let's mark that as an  
9 exhibit before we get started.

10 MR. BAXTER: This will be Exhibit 7.

11 (Exhibit No. 7 marked for  
12 identification.)

13 Q. I know the last time there was some  
14 mentioning of some electric pumps. How many  
15 electric pumps had you all taken back on the head  
16 gate side or back toward Bandytown fan?

17 A. We didn't take any back there.

18 Q. There was none?

19 A. There were electric pumps back there but  
20 we didn't take them back there.

21 Q. There was there prior to you starting to  
22 work back in this area?

23 A. There was one back there around 125  
24 break. It was just sitting dormant. It wasn't

1 powered up. There was no cables hooked to it or  
2 nothing, but they did drop us two brand new pumps  
3 back by Bandytown fan.

4 Q. How many pumps total was down here around  
5 the --

6 A. There was three electric pumps.

7 Q. Were those ever energized?

8 A. No.

9 Q. Prior to April 5th?

10 A. No.

11 Q. And can you tell us why they wasn't used?

12 A. I guess, I mean, as far as I know, they  
13 just haven't got a chance to get around to hooking  
14 them up. We couldn't get an electrician back there  
15 right away to be able to hook those up.

16 Q. And you said that was around 125 break?

17 A. One pump was at 125 break. They dropped  
18 us two pumps down at Bandytown fan and we handed  
19 all those pumps down to 125 break.

20 Q. So we had three pumps --

21 A. Yes.

22 Q. -- around 125 --

23 A. Yes.

24 Q. -- that were never hooked up?

1           A.    Yes.

2           Q.    Did they have enough cable?  How much  
3 cable did they have on them?

4           A.    I don't know.  The pumps only had roughly  
5 I'd say probably about -- I want to say 50 foot of  
6 cable, but they dropped those cables down those --  
7 those bore holes too and we hand drug those cables  
8 from the Bandytown fan all the way to the 125  
9 break.

10          Q.    How many bore holes did they have at  
11 Bandytown?

12          A.    As far as I know, you had your bore  
13 hole -- bore hole turbine pump.  You had your main  
14 fan housing hole and you had two other holes back  
15 there behind the Bandytown fan.

16          Q.    Was one of those holes the one that had  
17 the compressed air for your air pumps that you were  
18 using?

19          A.    It was actually -- there was actually  
20 another hole back there that did have compressed  
21 air coming down.

22          Q.    But did you have -- how many open bore  
23 holes?

24          A.    Open bore holes, one -- as in you not

1 including the fan?

2 Q. Right.

3 A. Or including the --

4 Q. Shaft.

5 A. The shaft, I mean, like I said, one for  
6 the turbine pump. You had two other ones behind  
7 Bandytown fan and then you had one for the air  
8 coming down.

9 Q. Was -- did you help them get some of these  
10 bore holes drilled back here?

11 A. No, sir.

12 Q. When did they get that work done?

13 A. I do not know. I wasn't around at that  
14 time when they did those.

15 Q. On this map, they're showing possibly two  
16 more bore holes right here, probably about where  
17 you was -- I can't remember where you said you set  
18 the jacks at over here?

19 A. It was right around this one bore hole  
20 here. The other one is in the wrong location.

21 Q. Maybe we can fix that on the map where  
22 that bore hole --

23 A. It was -- it wouldn't be that far off. It  
24 was actually just right in here.

1 Q. Just put bore hole would be fine.

2 A. It was just off a little bit.

3 Q. Was you -- did they do these bore holes?

4 A. Yes.

5 Q. While you were there?

6 A. Yes.

7 Q. What was the purpose of these two bore  
8 holes?

9 A. Those were to drop some more power cables  
10 down to power up a permissible D box to run pumps  
11 up to 85, electric pumps up to 85 and 88 break.

12 Q. Was this permissible D box underground?

13 A. We -- no, we didn't take it under yet. We  
14 didn't have no means of getting it back there yet.

15 Q. Was you underground when they actually  
16 made it to the coal seam on these bore holes right  
17 here?

18 A. No.

19 Q. How long had those bore holes been there?

20 A. Probably roughly maybe -- I would say a  
21 month right around, before this happened.

22 Q. Okay. Thank you, buddy. And the bore  
23 holes we got marked is about between 93 and 94  
24 break and really at 93 -- there's another one at 93

1 like in the No. 1 entry both of these bore holes  
2 are. Were both of those bore holes drilled  
3 correctly? Why did they need two to power up that  
4 permissible box?

5 A. One of them was a -- they missed one of  
6 them by about a foot and a half, almost two foot in  
7 the rib. They put it two foot in the rib and then  
8 because of that they had to drill the other one.

9 Q. Who helped to drill these holes?

10 A. I do not know.

11 Q. I wonder why they missed the first hole?

12 A. Well, just like anything else, a thousand  
13 foot -- I mean, a straight shot is -- the way I'm  
14 understanding it, it's not that easy.

15 Q. Did they do this on an evening shift or  
16 day shift?

17 A. They was doing a day shift, evening shift.

18 Q. Was that on a weekend or week?

19 A. It varied. I mean, I would never know if  
20 it happened on the weekends because a lot of times  
21 we wasn't there; but, I mean, I definitely know it  
22 was during the day and stuff because you could hear  
23 the drill going up in the top.

24 Q. Would you have to go over here and check

1 it when they were drilling during the day to make  
2 sure there weren't any hazards there?

3 A. I had to check prior before they punched  
4 through to make sure there was nothing.

5 Q. But they didn't punch through the day that  
6 you were there?

7 A. No. It was always while I was gone at  
8 night.

9 Q. But there -- but they didn't put any kind  
10 of cables down those holes --

11 A. No, sir.

12 Q. -- that you know of?

13 A. No.

14 Q. As far as pumps down the head gate side of  
15 the longwall, had they ever used an electric  
16 pump --

17 A. They --

18 Q. -- head gate?

19 A. They used to have electric pumps back down  
20 there; but to my knowledge, they wasn't -- there  
21 was pumps back there, but they wasn't hooked up  
22 anymore.

23 Q. Do you remember what locations the pumps  
24 were at?

1           A. I only remember one that was supposed to  
2 be around 74 break.

3           Q. Where was they powering that pump from?

4           A. I believe they was powering it -- as far  
5 as I was understanding, they was powering it up  
6 from the longwall power box. But when they was  
7 back here, I guess the further they moved out they  
8 ended up disconnecting it.

9           Q. Do you recall when they disconnected that?

10          A. No, I do not. It was before that --  
11 before I started working the pumps.

12          Q. So you hadn't actually seen the electric  
13 pump --

14          A. I seen one electric pump at 74 break, and  
15 actually the only reason I seen that was because I  
16 happened to walk back there one day and noticed the  
17 cables were totally disconnected and the pump cable  
18 was coming off the pump and it was just hanging  
19 there.

20          Q. I guess that's all I got on this. If I  
21 think of something, I'll come back to it; but I  
22 appreciate that.

23                 MR. KOERBER: That one has been marked,  
24 right?

1 MR. MAGGARD: Yes.

2 MR. KOERBER: Let's mark that as an  
3 exhibit too.

4 (Exhibit No. 8 marked for  
5 identification.)

6 Q. Getting back on those regulators I was  
7 asking you about and we was kind of figuring it out  
8 I think, Jeremy; but we do have them labeled as the  
9 ones that starting on this 45 inby the wall was  
10 labeled TG1 and the ones over here at 89 close to  
11 90 break was LW3, but we didn't have no indication  
12 what two, three and four was.

13 A. Yes.

14 Q. And I guess this was three, four and five  
15 here but -- on the TG1, but we do have that; and I  
16 guess we can mark that as an exhibit to kind of  
17 correlate with Jeremy trying to help us figure out  
18 where these readings come from.

19 MR. BAXTER: Okay, this is Exhibit 8.

20 Q. Now I guess I need to mark this as an  
21 exhibit too. It's up --

22 MR. TUCKER: That would be good since we  
23 referred to it.

24 Q. We did refer to it on the readings that

1 went along with that and these were the weekly exam  
2 readings.

3 MR. CRIPPS: Here's the first page.

4 MR. MAGGARD: Yeah, that's the one I  
5 talked about.

6 MR. McCUSKEY: What's the date on that  
7 one? March 16th through the 18th?

8 MR. CRIPPS: Uh-huh.

9 MR. BAXTER: This would be Exhibit 9.

10 (Exhibit No. 9 marked for  
11 identification.)

12 Q. I was just kind of noticing here, Jeremy,  
13 and you might help me out on it, a lot of these  
14 readings around these regulators were -- you're  
15 showing zero percent methane; but then back here at  
16 100, we got some. You had maybe a 0.15 on April  
17 5th. Do you have any explanation for that?

18 A. April 5th it was 0.15, yeah.

19 Q. Yeah.

20 A. The reason being there was -- you can tell  
21 there was something coming out of the bottom in  
22 that location because you can see it bubbling out  
23 of the water when the water was low, only reason it  
24 was high.

1 Q. When the water got real low, would that  
2 reading change and get higher?

3 A. Yes, like I said, with the water level  
4 changing, the methane would change.

5 Q. Okay.

6 MR. KOERBER: Are we marking this as an  
7 exhibit?

8 MR. MAGGARD: Do you have the rest of  
9 those pre-shifts?

10 Q. Now, I'm looking at the pre-shifts here  
11 for 3-30 and I guess the last date now is 4-1  
12 because we done took out 4-5. But it looks like  
13 around this 100 break that -- where this pump was  
14 at that you just mentioned that -- like on 4-1 we  
15 had 0.25 percent. On 3-31 we had 0.25 percent. On  
16 3-30 we had 0.25 percent and I guess that's it, but  
17 that's the one we had here. But I assume you would  
18 -- the water was pretty much staying constant in  
19 the area was the reason for --

20 A. The water was gone in that area. There  
21 was no water.

22 Q. So no water in that 100 break so we're  
23 getting 0.25 all the time from the bottom?

24 A. Yeah, and occasionally we got a 0.30.

1           Q.    And I know I mentioned to you that, you  
2 know, I had seen a calibration for your detector  
3 back in February and we showed you one that was 3-5  
4 as well; but I got some questions because I know  
5 you were there April 23rd when we done the  
6 downloads. Do you remember me being there when we  
7 downloaded detectors there at Performance?

8           A.    You mean, yes, in the office, yes.

9           Q.    We have a copy of the download for the  
10 detector that you were using, and there was several  
11 days that concerned me that we -- that the detector  
12 wasn't turned on. For example, I'm going back into  
13 February and this is February the 16th. There was  
14 a weekly done at the Bandytown fan. From all  
15 indication of the detector, it was not turned on,  
16 okay. Now, some of these may not be right, but a  
17 lot of them are. You did a weekly on the 17th and  
18 the detector was not turned on. You were  
19 underground on the 18th and the detector was not  
20 turned on. You were underground on the 19th and  
21 the detector was not turned on. You were  
22 underground on the 20th -- now I'm looking at  
23 tracking system and I've looked at dispatcher logs  
24 and all that.

1           A.    Yeah.

2           Q.    On February the 20th, the detector was  
3 on.   On the 22nd the detector was not on when you  
4 were underground.   On the 23rd you were underground  
5 and that detector was not on.   On the 24th, you did  
6 a weekly -- February, you did a weekly at Bandytown  
7 fan the detector was on.   On the 25th you did a  
8 weekly and when I -- normally how I separate and  
9 look this up, I consider LW3 and Tail Gate 1 a  
10 weekly and Bandytown fan a weekly because a lot of  
11 times you separate them by different days.   But on  
12 the 25th you did a weekly and the Solaris was not  
13 turned on.   You were underground February the 26th  
14 and the Solaris was not turned on.   You were  
15 underground March the 1st and did a weekly at  
16 Bandytown fan and the Solaris was not on.   On March  
17 the 2nd you were underground and the Solaris was  
18 not turned on.   On March the 3rd you were  
19 underground and the Solaris was not turned on.   The  
20 Solaris was not turned on March the 4th and it  
21 appears you were underground and you did a weekly.  
22 You were underground March the 5th and the Solaris  
23 was turned on.   On March 6th it appears you were  
24 underground and the Solaris was not turned on and

1 also on March the 8th the Solaris was not turned  
2 on. Now, on March the 9th, you were also  
3 underground and the Solaris again was not turned  
4 on. You did a weekly on March the 10th at  
5 Bandytown fan; and from all indications, the  
6 Solaris was not turned on. On March the 11th, you  
7 did a weekly from 70 break to Bandytown fan and the  
8 Solaris was not turned on. On March the 13th, it  
9 looks like you had the Solaris on part of the day  
10 that you were underground. On March the 15th, the  
11 Solaris was off and looks like you just turned it  
12 on and off for just a little bit on that day. On  
13 March the 16th, you did a weekly at Bandytown. The  
14 Solaris does not show any indication that it was  
15 turned on. On March the 7th, it appears you were  
16 underground. The Solaris was not turned on.

17 MR. McCUSKEY: Did you say 7th or 17th?

18 MR. MAGGARD: 17th.

19 Q. On March the 18th, it appears that it was  
20 on for about an hour and you traveled from 73 break  
21 to Bandytown fan. On March the 19th you were  
22 underground. The Solaris was not turned on. The  
23 Solaris was not turned on during the weekly exam on  
24 March 22nd at Bandytown fan. You did a weekly on

1 March 23rd when that Solaris was not turned on.

2 You were underground on March 24th and that Solaris  
3 was not turned on. You were underground March the  
4 25th and that Solaris was not turned on. You were  
5 underground March the 26th and the Solaris was not  
6 turned on. All the way through from March the 18th  
7 until the evening hours of April 5th, the Solaris  
8 was never turned on. And you did perform weekly  
9 exams during that time frame. Now, you said you  
10 were taking -- checking portals that evening --

11 A. On April 5th, yes.

12 Q. That's in the evening when the Solaris was  
13 turned on. I guess -- I hope you can understand my  
14 concern with that.

15 A. Yeah, I understand.

16 Q. Do you have any comments about that?

17 A. I mean, there's nothing I can possibly --  
18 unless -- like I said, water damage or something  
19 like that. I've had detectors totally almost  
20 practically rewrite themselves it seems like.  
21 That's what I'm saying, I found them wet and like I  
22 said dried them out. I can't say what they've done  
23 from that point.

24 Q. Okay.

1           A.    I don't know.

2           Q.    I can tell you from my experience on April  
3 the 23rd on that download and I know you got there  
4 later on in the day.

5           A.    Yes.

6           Q.    But you did have your name on the  
7 detector?

8           A.    Yes.

9           Q.    I remember that.  The detector had data on  
10 it from September of '09 all the way past April 5th  
11 until the 23rd.

12          A.    Yes.

13          Q.    So I -- do you have any comments about  
14 that?

15          A.    What do you mean by --

16          Q.    It actually shows hourly data from all the  
17 way back from September of '09 until April 23rd of  
18 2010, which was when we done the download.

19          A.    Yeah.  I was looking at the dates.

20          Q.    And when we turned the detector on, we  
21 didn't find -- you know, it fired up fine.

22          A.    Yeah.

23          Q.    No alarms on any sensors.  There was no  
24 indication that there was an issue with the

1 detector. Do you have any comments on that?

2 A. No, none that I can think of. I mean,  
3 like I said, occasionally when I didn't use my  
4 detector, like I told him, I used either Everett  
5 Hager's or --.

6 Q. Right. And Everett has given me the  
7 detectors that he had.

8 A. Right.

9 Q. We done a lot of those downloads that same  
10 day. We should be able to look at that a little  
11 further. Was there any cases that -- where you had  
12 to take this detector home that you didn't get it  
13 charged, you had -- you know, you might have forgot  
14 to charge it and the batteries were dead that day  
15 on some of the days that you were back there?

16 A. No. I mean, there was times where like I  
17 said I did forget it; and like I said, I went and  
18 used somebody else's. I mean, I even used a  
19 gentleman's by the name of Mike Williams. He just  
20 happened to have one. But that was a while back.

21 Q. Right. He's been gone -- he was gone  
22 prior to April 5th?

23 A. Yeah.

24 Q. And he worked on another section for a

1 while?

2 A. Yeah, he was back and forth.

3 Q. Right. So --

4 A. Sometimes I didn't want to go back there  
5 without one. So sometimes I borrowed one or --

6 Q. Have you ever been reprimanded for not  
7 doing an adequate pre-shift --

8 A. No.

9 Q. -- with the -- from the company?

10 A. No. Actually, let me rephrase that.  
11 Probably up on three section I have, but actually I  
12 wouldn't say for accurate pre-shift. It was more  
13 they reprimanded me for, I guess they wrote a  
14 violation on the ventilation control because I had  
15 one gentleman -- I found a problem with my  
16 ventilation up on three section. I had one of my  
17 men work on it, and he didn't quite get it proper;  
18 and the inspector came in and wrote a violation on  
19 it, so they wrote me up for it, yes.

20 Q. Have you been wrote up more than once?

21 A. I believe once, maybe twice at the most.  
22 That was all on three section --

23 Q. Have you had to do an exam at UBB and you  
24 didn't have a detector?

1           A.    No.

2                   MR. MAGGARD:  I'm going to take a break  
3 and let these guys ask a few questions.

4                                   EXAMINATION

5 BY MR. TUCKER:

6           Q.    I'll be bouncing around a little bit,  
7 Jeremy, try to stay back in behind the longwall  
8 there to start with since that's where you just  
9 finished talking about.  I had one question.  You  
10 was talking about when they drop a couple of pumps  
11 down, you took them up to 125 break?

12           A.    Yes.

13           Q.    Do you recall about when that was?

14           A.    I don't remember the exact dates, no.

15           Q.    A month, do you have any recollection?

16           A.    A month, month and a half prior to this.

17           Q.    And then I have a question.  We talked  
18 about the deterioration there on the tail.  How far  
19 down the tail entry was the track still useable?

20           A.    Tail gate, it was before the longwall got  
21 down to 70 break, the track was usable down through  
22 there.  But as soon as the wall started moving past  
23 70 break, they stopped us from going any further  
24 and had to stop in about 30 break before we got to

1 the wall where the cut across is.

2 Q. They had to what?

3 A. They put a stopping across the track so  
4 you couldn't go any further than 30 break on the  
5 tail gate of the wall.

6 Q. And you was talking earlier about the way  
7 you traveled down the tail gate and you mentioned  
8 somewhere around -- was it 88 break, 85 crosscut  
9 where you had the fall, like two, three and four?  
10 So from that point, once you got to 85, 88  
11 somewhere through there, where those falls were at  
12 in two, three and four, from that point on back  
13 toward Bandytown, would you say you had one way in  
14 and one way out?

15 A. I mean, yeah. You only had one entry to  
16 be able to get from behind the wall to in front of  
17 the wall.

18 Q. And I understand from the previous  
19 interview they were talking about some of the  
20 phones where there had been some phones installed  
21 back in behind the longwall. Do you recall roughly  
22 about when the last time you actually used one of  
23 those phones to talk with someone?

24 A. We used them pretty much every day. When

1 we go back there, they indicate that we have  
2 been -- that we're back there to tell them that  
3 we're back there so they know exactly where we're  
4 at, the dispatcher.

5 Q. Do you know where the phone line, which  
6 way it ran to those phones just roughly?

7 A. It usually would run up No. 1 entry. It  
8 does -- I don't know exactly what entry, but it did  
9 jump over towards the track entry once it goes down  
10 through there so far; and like I said, it jumped  
11 over in No. 1 and came down No. 1 over here.  
12 Because the only reason I remember that is we had  
13 to end up rerouting -- it used to come down No. 2  
14 and I guess that fall at 85, there was some extra  
15 rock fall at 85 which ended up cutting the line and  
16 we had to reroute it into No. 1 a little bit more  
17 to get our communication back over there behind the  
18 wall.

19 Q. So recently -- was that on April 5th? Do  
20 you recall calling out on the phone? Was it  
21 working that day?

22 A. Yes.

23 Q. I'm trying to make sure I get all my  
24 questions on the longwall there answered before we

1 skip around. And I know you talked a lot about the  
2 water in trying to determine, you know, the amount  
3 of water in the tail and, you know, back up on the  
4 head gate side and y'all moved some regulators down  
5 because -- so you wouldn't have to travel through  
6 the water to get to them. But can you recall  
7 looking outby in the water and seeing anywhere  
8 where it was close to being roofed?

9 A. No. As far as I can see, no, because I  
10 used to -- I mean, I was able to -- I have walked  
11 around on both sides of this 85 water right here.  
12 I have walked around both sides of it. So at no  
13 point in time have I seen that roofed out right  
14 through there.

15 Q. Let's switch gears a little bit. Well,  
16 one more question I had. You know, I know a lot of  
17 time has passed since April 5th and I know we  
18 talked about this on the first interview as far as  
19 if you noticed anything different. But, you know,  
20 since we talked to you the last time and looking  
21 back, has anything come to your mind, anything that  
22 stood out different or abnormal to you as far as on  
23 April the 5th when you went back in behind the  
24 longwall?

1           A.    The only thing that stood out for me that  
2 day was just happened to be a little rock fall off  
3 the roof that was at about 52 break, which I did  
4 mention that in the last interview. It just fell  
5 out between the bolts and stuff like that. Other  
6 than that, there was no -- nothing measured --  
7 bolts are still tight, just fell out between the  
8 bolts. I noticed it and one of my guys happened to  
9 kind of mention to me that he thought he had seen  
10 something like that too.

11           Q.    As far as air flow, air temperature,  
12 smell, things of that nature, anything?

13           A.    Nothing out of the ordinary.

14           Q.    We'll talk a little bit. You mentioned  
15 about on your last interview traveling outside when  
16 you got down next to the Ellis portal there at the  
17 construction site.

18           A.    Yes.

19           Q.    About the dust that's in the track entry?

20           A.    Yes.

21           Q.    And you had mentioned it was from the  
22 construction site where they were cutting top. Do  
23 you recall -- can you think back of how that dust  
24 was traveling when you approached it? Did it seem

1 to be going outby or inby?

2 A. I'm assuming -- I mean, just from where I  
3 was -- standpoint from where they was cutting, it  
4 was traveling inby because I was inby and they was  
5 cutting outby. So to me, that would indicate that  
6 it was traveling inby because it had to to be able  
7 to make it that far.

8 Q. Roughly do you recall about when you first  
9 started noticing it?

10 A. I don't -- all I remember it was up on  
11 Ellis 5 belt. I don't know exactly what break.

12 Q. As far as compared to the Ellis switch,  
13 would that --

14 A. That would be inby Ellis switch.

15 Q. The -- where you saw the dust would be  
16 inby Ellis switch?

17 A. Yes.

18 Q. Ellis switch I'm referring to is where you  
19 cut to go out the UBB side, the track switch?

20 A. No, it's actually outby Ellis switch  
21 towards Ellis punch out, like I said down Ellis 5  
22 belt.

23 Q. When you went by the construction site, do  
24 you recall if they were still actually cutting

1 there or had they stopped?

2 A. They had stopped.

3 Q. There was some trap doors on the track  
4 down in that area. Do you recall ever seeing those  
5 shut down around --

6 A. Yes, they were -- we was told they was  
7 supposed to be shut.

8 Q. And do you recall roughly about what break  
9 those doors were at?

10 A. No, I do not.

11 Q. How would you describe their location to  
12 the best of your recollection?

13 A. They was outby Ellis 5 head -- Ellis 4  
14 head, Ellis 5 tail, right outby it.

15 Q. Can you compare it to the construction  
16 site where they were at?

17 A. They was outby the construction site.

18 Q. Between there and the surface?

19 A. Yes.

20 Q. And those doors when you were coming in  
21 and out, they were typically closed?

22 A. Yes.

23 Q. Did you ever see them open?

24 A. At that present time before the accident,

1 no.

2 Q. You mentioned that you were outby a  
3 foreman on three section?

4 A. Three section was actually -- I was move  
5 crew boss and production bosses and actually  
6 production boss on rotating shifts.

7 Q. So you've done both of those duties  
8 there. You've been on coal crew and then you've  
9 been on the midnight. Is that when you do the move  
10 crew?

11 A. Yes, sir.

12 Q. Did they refer to three section as  
13 anything else? Did it have another name that you  
14 know of?

15 A. Portal section.

16 Q. And when you had that job, I mean, just  
17 roughly kind of quickly, could you just go through  
18 what your duties would be on a normal night when  
19 you was a move crew foreman?

20 A. Well, we would just get -- basically get  
21 orders from our mine foreman or superintendent,  
22 what he wanted done, because he'd always give me a  
23 list of everything he wanted done every night. And  
24 then we'd just follow that up. I mean, some nights

1 we'd end up moving belt. Other nights we would get  
2 our structure round, dust section, maybe clean up,  
3 supply bolters a couple times where we had to, just  
4 to try to help out as much as we can, whatever they  
5 basically needed. Sometimes we had to go out and  
6 fix belt structure, fix the belt line, the belt,  
7 either on our section belt or on the main line five  
8 foot belts. We had to fix belts and that's on the  
9 move crew.

10 Q. Right. As part of that, would it be to  
11 make sure that the day shift was ready to load coal  
12 when they came in?

13 A. Yes.

14 Q. What type of ventilation work would you  
15 typically have to do? How would you describe the  
16 ventilation when you got on the section? What did  
17 you have to do on a normal night?

18 A. Pretty much almost hang curtains almost  
19 every single night.

20 MR. McCUSKEY: Did you say hang curtains?

21 THE WITNESS: Yes.

22 A. Hang curtain or rehang fly pads or  
23 something of that nature.

24 Q. Would they get tore down, be left down and

1 then you'd come back and hang them back up?

2 A. Yes.

3 Q. Would that be like up in the working --

4 A. Yes.

5 Q. -- faces hanging curtain?

6 A. Yes.

7 Q. Is that something that say the foreman,  
8 the evening shift foreman, would talk to you about  
9 or would you just find it like that when you got  
10 there?

11 A. Sometimes he said that they might have ran  
12 through a curtain or a fly pad and tore it down and  
13 if I didn't mind putting it back up. I mean, I  
14 always did. And then sometimes it was occasional  
15 and I did find it where there was no curtain or I  
16 didn't believe that the section ventilated  
17 properly. So I hung curtains the way I deemed  
18 necessary to get that section ventilated properly.

19 Q. So it would be ventilated when the day  
20 shift come in?

21 A. Yes.

22 Q. All the faces would be unloaded and ready  
23 to go?

24 A. Yes.

1 Q. Did you -- I notice looking back through  
2 your -- some of your notes that it was real common  
3 too to have to hang reflectors in the faces.

4 A. Yes, occasional times I did have to hang  
5 reflectors.

6 Q. Where you would have to -- I assume  
7 reading that is where you'd have unsupported top  
8 and there wouldn't be a reflector there so you  
9 would have to hang a reflector?

10 A. Yes, sir.

11 MR. TUCKER: That's all I have at this  
12 time. Thank you, Jeremy.

13 THE WITNESS: Thank you.

14 EXAMINATION

15 BY MR. CRIPPS:

16 Q. Jeremy, I want to look back here at this  
17 pre-shift report from the 5th.

18 A. Yes.

19 Q. The times that's showing up here  
20 12:00 p.m. to 3:00 p.m., what's the significance of  
21 those times that's written there?

22 A. That was just basically when I ran these  
23 pumps to check the measurements and stuff.

24 Q. So the pre-shift you was actually doing on

1 that day, was you doing it for the next oncoming  
2 shift?

3 A. No, I was just doing it because -- to  
4 check the pumps. There was no other crews coming  
5 in behind me to -- back there behind the water.

6 Q. Had the area been pre-shifted prior to you  
7 and your crew going in?

8 A. I pre-shifted it.

9 Q. When did you pre-shift it?

10 A. That morning before that.

11 Q. What time would that be?

12 A. I'm saying roughly around -- I mean, I'm  
13 just giving you a rough estimate. I don't got the  
14 thing but roughly around probably that, anywhere  
15 from about eight o'clock to probably about ten,  
16 eleven.

17 Q. Did you make a record of that pre-shift?

18 A. That day I did not.

19 Q. Do you recall why you did not?

20 A. Well, I was more concerned. Like I told  
21 him in my last interview, I was concerned more with  
22 these men in the mines and it just totally slipped  
23 my mind even filling out these.

24 Q. Did you normally make a record of that

1 pre-shift?

2 A. Yes.

3 Q. When you did this pre-shift on the 5th  
4 that we do have the record of, once again we talked  
5 earlier, but I just want to ask you again. It  
6 shows readings of methane quality --

7 A. Yes.

8 Q. -- is that correct?

9 A. Yes.

10 Q. Did you, in fact, do those readings --

11 A. Yes.

12 Q. -- with your Solaris?

13 A. Yes.

14 Q. Have you ever done an examination in the  
15 mine without using a multi-gas detector?

16 A. Like this gentleman asked me before, no, I  
17 have not.

18 Q. And these readings here you did do with --

19 A. Yes.

20 Q. -- your Solaris?

21 A. Yes.

22 Q. I just want to get that straight.

23 A. No problem.

24 MR. CRIPPS: That's all I've got for right

1 now.

2 EXAMINATION

3 BY MR. MAGGARD:

4 Q. When you said you hadn't seen that portion  
5 of a fall on the break 52, was you sure that was 52  
6 break? How did you know that?

7 A. I got a date up board a couple breaks up  
8 the way from there; and just after walking back in  
9 that area so many times, I pretty much get used to  
10 where different breaks are at.

11 Q. Is it possible you could have got a couple  
12 breaks off from 52?

13 A. I mean, it might have been a possibility  
14 but very unlikely because I walked over to the  
15 track and there's always a sign right there on the  
16 track showing 52 break.

17 Q. Why is there no notation of that fall in  
18 this pre-shift --

19 A. It wasn't -- it wasn't no major fall. It  
20 was just rock falling out between the bolts. Like  
21 I said, I checked bolts. Bolts were still tight.  
22 There was no major cause for alarm or put anyone in  
23 present danger because there's always bolts -- rock  
24 falling out between bolts. As long as the bolts

1 ain't loose and as long as there ain't no loose dry  
2 rock there, it's still significant -- I mean,  
3 sufficient, sufficiently supporting.

4 Q. Have you had other occurrences of roof  
5 falls, dry rock on this tail gate entry or anywhere  
6 else in the mine that you handled the same way?

7 A. Handled the same way, no.

8 Q. As far as not reporting?

9 A. No.

10 Q. You mentioned some date boards the last  
11 time. There was a date board I recall was around  
12 77 break. Do you remember was --

13 A. 77 break on where?

14 Q. On the tail gate of the longwall?

15 A. No.

16 Q. It's not on this one. We didn't mark it  
17 on this map.

18 A. There's not one at --

19 Q. I think we had two maps at that time and  
20 it was possible that it got marked on their map;  
21 but right here -- right here it looks like there's  
22 one at 85. Was there one at 77?

23 A. There was one at 70. There might have  
24 been one close around 70, 75, over in the No. 1

1 entry. There was actually -- there was some double  
2 -- there's some double doors down through here --  
3 about -- right around I think 75 break, they cut  
4 over about two breaks down. It may have been  
5 around 77. There was a date up board down here  
6 too. And there was -- down here further I had set  
7 up a Kennedy panel so I would have something to  
8 date up on and then down here further, there was  
9 another date up board and then.

10 Q. Did you have time to put initials and  
11 dates on any of these boards --

12 A. Yes.

13 Q. -- on the tail gate?

14 A. Yes, on the way down through there and on  
15 the way back out.

16 Q. So if we were able to find a date -- did  
17 you use paint or chalk?

18 A. Chalk.

19 Q. Is that what you use normally throughout  
20 the panels --

21 A. No, gives --

22 Q. -- or just that day?

23 A. I mean, back here, I would use paint on  
24 the ribs or some thing like that to date up on the

1 ribs because I didn't have a date board back here.  
2 I always dated up on the rib here wherever I was.

3 Q. When you're saying here, you're talking  
4 about where the pumps are --

5 A. Between -- yeah, between 85 and --

6 Q. 90 break?

7 A. Yeah. I always dated up on the ribs or  
8 roller or something like that in that area.

9 Q. Was there any battery powered equipment  
10 left behind the wall anywhere that we need to know  
11 about?

12 A. None that I seen.

13 Q. No -- no four wheelers, no anything?

14 A. None that I actually seen in the areas.

15 All the areas I have traveled back here.

16 MR. McCUSKEY: Are we talking about  
17 traveling after the explosion?

18 THE WITNESS: No.

19 MR. McCUSKEY: Before.

20 THE WITNESS: No.

21 MR. McCUSKEY: Because I know you've been  
22 in there --

23 THE WITNESS: I haven't been behind --  
24 nobody's been behind the wall after.

1 Q. I'm looking at two pre-shifts here now.  
2 We talked about this nine inches of water, and I  
3 guess we was talking about it at 88 or 89 break,  
4 right, somewhere in here?

5 A. I said 85 to 88.

6 Q. 85 to 88?

7 A. Yes.

8 Q. And you had on 4-5 9.23 inches of water?

9 A. No, it's 23 inches.

10 Q. 23 inches.

11 A. That's actually a percentage of --

12 Q. Okay. Okay. See I have trouble reading  
13 that. So it does indicate nine inches it rised.

14 A. Yes.

15 Q. From 4-1 to 4-5.

16 A. And there was another report that Massey  
17 does have that I had to do usually. I don't  
18 know -- I can't remember if I did it that day or  
19 not, but they had to -- I had to record on their  
20 paperwork showing exactly how much water and how  
21 much increase and stuff like that there was. I  
22 don't remember if I did it that day or not.

23 Q. But all these measurements here on 4-5,  
24 they were all taken by you?

1           A.    Yes, these two days.

2           Q.    When you say these two days, 4-1, 4-5?

3           A.    Yes.

4           MR. MAGGARD:  I guess we probably ought to  
5 put 4-1 in here since we talked about it.

6           MR. BAXTER:  This will be Exhibit 10.

7                               (Exhibit No. 10 marked for  
8                               identification.)

9           Q.    Were you ever responsible for giving any  
10 kind of training for anybody at the mines?

11          A.    Occasionally I've had to do -- just train  
12 them on like a piece of equipment or something like  
13 that especially -- I mean, I did more of -- on that  
14 line when I was on three section.

15          Q.    And have you ever done any since you left  
16 three section?

17          A.    I had to do occasional man trip training  
18 on some of the guys that were with me.

19          Q.    Is it the kind of training you'd have to  
20 fill out a 5000-23 --

21          A.    Usually, yes.

22          Q.    -- to show it was completed?

23          A.    Yeah, but usually -- like sometimes I'd  
24 train them and I had a boss and he went ahead -- my

1 upper boss had the paperwork filled out and he was  
2 right there with us just basically making sure I  
3 did do it. He did the paperwork, but he was just  
4 standing and watching me do the training.

5 Q. Did that happen every time or sometimes  
6 you would have to fill out a 5000-23?

7 A. Occasionally I did.

8 MR. MAGGARD: That's all I got.

9 EXAMINATION

10 BY MR. TUCKER:

11 Q. Just a couple follow-up. When you  
12 traveled back in behind the longwall, did you ever  
13 have any inspectors travel with you?

14 A. No, but I have had -- there has been a  
15 couple that was back there. I definitely do know  
16 that because I happened to run into them back here  
17 around 125 and 130 break.

18 Q. They just show up doing their job?

19 A. Yeah, they just happened to show up. And  
20 like I mentioned to them earlier, there was one  
21 actually back there telling me that he didn't want  
22 me to go through that water, so --

23 Q. That's why they moved --

24 A. Yes.

1 Q. I'm sorry.

2 A. That's why they moved it there.

3 Q. How long to the best of your remembrance  
4 did you have the condition where you only had one  
5 way in one way out?

6 A. It's pretty much been there since I've  
7 started working back there behind the wall.

8 Q. And that was around January?

9 A. Yes. Just the condition in No. 1 entry  
10 wasn't -- it was a good decent entry all the way  
11 for a while. Then we started having little  
12 problems with the top and stuff after that.

13 Q. So No. 1 actually started deteriorating  
14 also --

15 A. Yes.

16 Q. -- and you had to set supports and  
17 different things?

18 A. Yes, sir.

19 Q. Is that a safety concern for you, the  
20 distance that you're traveling only having one way  
21 in and one way out?

22 A. That was -- that discussion has come up  
23 before with a couple of bosses about being back  
24 here and not having the means of getting out if I

1 had to or getting a man out if I had to. The  
2 discussion has come up about the limited area of  
3 getting in and out.

4 Q. Do you recall who you expressed those  
5 concerns to?

6 A. Oh, Everett, Wayne, just a casual  
7 conversation basically is all that was.

8 Q. Was that something that was ever recorded  
9 in the fire boss book?

10 A. No.

11 MR. KOERBER: When you speak of Everett,  
12 you mean Everett Hager?

13 THE WITNESS: Yes, sir.

14 MR. KOERBER: And when you speak of Wayne,  
15 Wayne who?

16 THE WITNESS: Wayne Persinger.

17 MR. TUCKER: Thank you.

18 EXAMINATION

19 BY MR. CRIPPS:

20 Q. You say one way in and one way out. Could  
21 you have gone out the head gate entries?

22 A. I mean, I definitely know --

23 THE COURT REPORTER: I'm sorry?

24 THE WITNESS: Yes.

1 MR. McCUSKEY: The door slammed.

2 A. Yes, I could have but, I mean, I wouldn't  
3 have liked it.

4 Q. Why is that?

5 A. I would have been swimming.

6 Q. Where would you have been swimming?

7 A. I mean, I would have had to go through  
8 some water up in this one entry before I was able  
9 to cut over. If I was to go down one of these  
10 other entries, I would have found a way out.

11 Q. So you're talking about No. 3 entry  
12 between 70 and 75 crosscut?

13 A. Yeah. There was water up in there at  
14 least at the time I was used to be -- when I did go  
15 up there one time there was water up there. Like I  
16 said there, I would have found a way out.

17 Q. Earlier you said Harold Lilly took care of  
18 that side of the wall?

19 A. Yeah, he usually took care of everything  
20 on the head gate of the wall.

21 Q. So what do you mean he took care of it?

22 A. He had -- he was -- had to walk it.

23 Q. So he actually did the examinations?

24 A. Yes.

1 Q. And do you know how far he traveled up  
2 those head gate entries?

3 A. No, I do not.

4 Q. Okay.

5 A. All I understood was basically as far as  
6 he possibly could, but that's just like me and  
7 anybody else. I mean, if we got water, inspectors  
8 didn't want us to go through it, so we was limited  
9 to how far we was able to go.

10 Q. So if you was to walk from say 89 break on  
11 the head gate side all the way to the mouth of the  
12 longwall, how deep would the water be that you  
13 would have to go through?

14 A. Well, at the time I did go up there, it  
15 was around chest deep. Now, after that point where  
16 I did go up to that point, I don't know exactly how  
17 deep it was.

18 Q. On or prior to April the 5th, who was your  
19 boss?

20 A. Prior to April 5th was Everett Hager,  
21 Wayne Persinger and Terry Moore.

22 Q. Any of those guys ever come back behind  
23 the longwall?

24 A. Everett Hager came back with inspectors at

1 one time. Wayne Persinger came back here a couple  
2 of times. I do remember Jack Roles. He wasn't one  
3 of my bosses, but he was the longwall boss. He  
4 came back there one day too.

5 Q. Any other members of management back  
6 there?

7 A. Now, when I first started, there used to  
8 be another boss that came back there. It was  
9 called -- his name was Kenny Farmer, but he came up  
10 there and he was pretty much doing like I was  
11 doing, checking pumps and stuff like that when I  
12 first started. Then they ended up taking him out  
13 and then putting me -- I was permanent back there.

14 Q. Did you ever see Chris Blanchard or Jeremy  
15 Whitehead back there?

16 A. No, I've never seen them back there.

17 Q. Do you have any reason to believe they  
18 were ever back there?

19 A. Not to my knowledge no.

20 Q. Nobody ever told you that they was back  
21 there?

22 A. No.

23 Q. They never said anything to you about what  
24 they may have seen back there?

1           A.    No.

2           Q.    When Jack Roles and Wayne and anybody else  
3 from management was back there, about what time  
4 frame was they there?

5           A.    It -- it varied. Like I said, I mean, I  
6 didn't look at my watch to see exactly when they  
7 was back there. I mean, basically, I can give you  
8 a rough estimate because, like I said, I seen  
9 Everett and inspector and Burman back here around  
10 125 break when I was checking my pumps and stuff.  
11 And that's usually around -- anywhere from eleven  
12 to one o'clock, somewhere around there.

13          Q.    Do you know what the date or month --

14          A.    I don't remember the date. No, I don't  
15 remember the date.

16          Q.    Okay.

17          A.    And then Wayne was back here messing  
18 around with these two bore holes right here.  
19 Actually one bore hole that one day.

20          Q.    Do you know what he was doing with the  
21 bore hole?

22          A.    He was just trying to see how -- we was  
23 digging out that one bore hole that was sumped up  
24 into the rib a couple feet.

1 Q. So when Wayne was up there, the bore holes  
2 were already through?

3 A. Yes.

4 Q. So if we know the date that the bore holes  
5 punched through, then we know Wayne was there  
6 sometime after that?

7 A. Yeah, it was after that. Yes.

8 Q. After that. And we know those dates. And  
9 you say he was digging out the one in the rib?

10 A. Yeah, I dug out so far to the right. He  
11 -- I missed the hole. I thought it was to the  
12 right, and he dug out to the left and come up with  
13 it.

14 Q. So you did eventually find the bore hole?

15 A. Yes.

16 Q. And then you say dig out. Explain what  
17 you mean.

18 A. We had to dig some rib and stuff out away  
19 from that to be able to actually get access to the  
20 hole.

21 Q. Was it coal or was it rock?

22 A. It was coal, a little bit of rock.

23 Q. So you dug the coal out of the rib from  
24 where the bore hole was actually exposed?

1           A.    Yes.

2           Q.    Was the bore hole ever used?

3           A.    At that point in time as of April 5th, no,  
4 it was not used.

5                   MR. CRIPPS:  That's all.

6                                   EXAMINATION

7 BY MR. TUCKER:

8           Q.    One question about the bore hole.  Do you  
9 remember how big it was?

10          A.    I want to say probably around eight  
11 inches, maybe less or more than eight, but roughly  
12 around eight.  It wasn't a real big one, just  
13 enough to drop a couple cables down was what they  
14 was talking about.

15                                   EXAMINATION

16 BY MR. MAGGARD:

17          Q.    Had you ever had any problems with the air  
18 lines not having air to your pumps?

19          A.    Occasionally the air compression went down  
20 on top of the mountain.

21          Q.    And how often would that happen to you?

22          A.    Just -- I think it totaled about maybe  
23 four or five times in the whole time frame I was  
24 doing this.  That was because the air compressor

1 freezes up or something like that.

2 Q. What kind of problems was that causing?

3 A. Well, it just shut off my air for a little  
4 bit until they could fix the air compression and  
5 get it running again.

6 Q. Would it be shut off for over a weekend or  
7 how long would it be off at times?

8 A. If it went down over a weekend, I really  
9 couldn't say how long it had been. There's been  
10 times where I've come in one day, it was shut  
11 down. It wasn't running. So I checked  
12 everything. Everything was pretty good. And then  
13 the next day, I come in and they had the air  
14 compressor up and running.

15 Q. When is the last time you remember it  
16 being off?

17 A. I don't remember exact dates. I do know  
18 it was over a weekend that it was off just having  
19 actually -- not off. It went down.

20 Q. How much would the water raise when it was  
21 off?

22 A. It varied. It all varies on what  
23 everyone's pushing to me, how much water the  
24 longwall's pumping, how much all these other

1 sections are pumping or whatever.

2 Q. What's the worst you've seen it get?

3 A. What do you mean by worst? As in raised?

4 Q. How high?

5 A. Well, actually the worst I've ever seen it  
6 in say 85 to 88 break was roughly around about 29  
7 inches and that was in the No. 2 entry.

8 Q. So it would be safe to say I guess in No.  
9 3 it would be deeper but same height I mean as far  
10 as --

11 A. Yeah.

12 Q. -- would it be the same height as far as  
13 from the top of the water to the roof?

14 A. It depends on your roof height. Like I  
15 said, No. 2 entry was lower. I can reach up and  
16 touch the top. No. 3 entry I couldn't.

17 MR. McCUSKEY: Let's take a break for a  
18 moment.

19 MR. KOERBER: Let's take five or ten  
20 minutes.

21 (Off the record.)

22 MR. McCUSKEY: Any additional questions?

23 MR. TUCKER: I don't have any.

24 MR. McCUSKEY: I wanted to clarify one

1 thing if I could. You have the Exhibit 6 that was  
2 five in the first interview. Can I see that for a  
3 moment and ask you all am I correct this isn't a  
4 chart from -- this is something you all prepared?

5 MR. MAGGARD: That's correct.

6 MR. McCUSKEY: And that's what I thought.

7 EXAMINATION

8 BY MR. McCUSKEY:

9 Q. And, Jeremy, if you would, there have been  
10 some issue raised by Mr. Sherer in the first  
11 interview and was discussed again today about the  
12 fact that the totals shown of the sum of entries of  
13 readings done in No. 1, 2 and 3 entries and then  
14 there's a line for the total and the fact that  
15 entries for March 16, 2010, through -- pardon me.  
16 February 16th through March 10, 2010, are very  
17 similar in the total. Let me ask you. Do you  
18 recall -- first of all, you didn't prepare this  
19 chart, right?

20 A. No.

21 Q. And none of your writing appears here?

22 A. No.

23 Q. Did you, in fact, though take readings as  
24 part of your weekly air readings of Bandytown fan

1 at entries No. 1, 2 and 3?

2 A. Yes.

3 Q. And would those -- well, you don't have  
4 them in front of you, but do you have any reason to  
5 doubt that what is on this chart are actually the  
6 readings you had written in the book for these  
7 three entries?

8 A. I'd have to compare them with what was in  
9 my pre-shift exam to say if they was and wasn't.

10 MR. MAGGARD: Excuse me. These are weekly  
11 readings.

12 MR. McCUSKEY: Yes.

13 MR. MAGGARD: It's not a pre-shift.

14 MR. McCUSKEY: I'm sorry. You're  
15 correct.

16 MR. MAGGARD: I do have copies from 3-16 I  
17 guess through 4-1 of that portion of the book if  
18 you would like to verify?

19 MR. McCUSKEY: No, I'm not questioning  
20 that these readings that you put down that Jeremy  
21 would have put in the book are -- that you  
22 correctly copied them for one two and three. I'm  
23 not arguing that.

24 MR. MAGGARD: Okay.

1 Q. And this will be a simple way to do it.  
2 There was an insinuation made by Mr. Sherer in the  
3 previous interview and carried over a little bit  
4 today that the total shown in Column 4 was  
5 statistically fudged or perhaps not actual  
6 readings. Did you calculate as part of your entry  
7 the total that's shown here?

8 A. No.

9 Q. So you wouldn't even know what that would  
10 be?

11 A. No.

12 Q. You just put the readings No. 1, No. 2 and  
13 No. 3 entry --

14 A. Yes.

15 Q. -- is all you would have entered in the  
16 book?

17 A. Yes.

18 MR. McCUSKEY: That's all I wanted to  
19 clear up.

20 MR. KOERBER: Any other questions based on  
21 that clarification?

22 Jeremy, at this time, if you have anything  
23 you would like to clarify, anything you would like  
24 to add, any statement you would like to make before

1 we go?

2 THE WITNESS: No. My lawyer's done  
3 cleared up everything.

4 MR. KOERBER: I would like to thank you  
5 for coming here today; and with that, we'll go off  
6 the record.

7 (The interview of JEREMY BURGHDUFF was  
8 concluded.)

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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Nichelle N. Drake, a Notary Public and  
3 Professional Reporter within and for the State  
4 aforesaid, duly commissioned and qualified, do  
5 hereby certify that the interview of JEREMY  
6 BURGHDUFF was duly taken by me and before me at the  
7 time and place specified in the caption hereof.

8 I do further certify that said proceedings  
9 were correctly taken by me in stenotype notes, that  
10 the same were accurately transcribed out in full  
11 and true record of the testimony given by said  
12 witness.

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

20 My commission expires the 19th day of July,  
21 2019.

21 Given under my hand and seal this 5th day of  
22 April 2011.

23 \_\_\_\_\_  
24 Nichelle N. Drake  
Professional Reporter  
Notary Public