



Statement Under Oath of **Clayton Edward Sparks**

Date: June 8, 2010

Case:

Printed On: June 15, 2010

Sargent's Court Reporting Services, Inc.
Phone: 814-536-8908
Fax: 814-536-4968
Email: schedule@sargents.com
Internet: www.sargents.com

STATEMENT UNDER OATH
OF
CLAYTON EDWARD SPARKS

taken pursuant to Notice by Danielle Ohm, a
Court Reporter and Notary Public in and for the
State of West Virginia, at The National Mine
Health & Safety Academy, 1301 Airport Road,
Room C-137, Beaver, West Virginia, on Tuesday,
June 8, 2010, beginning at 3:00 p.m.

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

A P P E A R A N C E S

MATTHEW N. BABINGTON, ESQUIRE

U.S. Department of Labor

Office of the Regional Solicitor

1100 Wilson Boulevard

22nd Floor West

Arlington, VA 22209-2247

TERRY FARLEY

West Virginia Office of Miners' Health,

Safety and Training

1615 Washington Street East

Charleston, WV 25311

RICHARD T. STOLTZ

Mine Safety and Health Administration

Pittsburgh Safety and Health Technology Center

Ventilation Division

Cochrans Mill Road

P.O. Box 18233

Pittsburgh, PA 15236

A P P E A R A N C E S

(cont.)

PATRICK C. MCGINLEY

West Virginia Independent Investigation

West Virginia University College of Law

P.O. Box 6130

Morgantown, WV 26506-6130

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	6 - 9
5	WITNESS: CLAYTON EDWARD SPARKS	
6	EXAMINATION	
7	By Mr. Stoltz	9 - 49
8	EXAMINATION	
9	By Mr. Farley	49 - 51
10	EXAMINATION	
11	By Mr. McGinley	51 - 54
12	RE-EXAMINATION	
13	By Mr. Farley	54 - 56
14	RE-EXAMINATION	
15	By Mr. Stoltz	56 - 64
16	RE-EXAMINATION	
17	By Mr. Farley	64
18	RE-EXAMINATION	
19	By Mr. Stoltz	64 - 65
20	CLOSING STATEMENT	
21	By Attorney Babington	65 - 66
22	CERTIFICATE	67
23		
24		
25		

1	EXHIBIT PAGE		
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4	One	Bandytown Fan Map	65*
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25	*exhibit not attached		

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is June 8th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Rich Stoltz, an accident investigator with the Mine Safety and Health Administration, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. MCGINLEY:

Patrick McGinley. I'm with the independent investigation team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today.

Rich will be conducting the initial questioning.

All members of the Mine Safety and Health

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

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

1 your assistance in this investigation.

2 After the investigation is complete, MSHA
3 will issue a public report detailing the nature and
4 causes of the fatalities in hope that greater
5 awareness about the causes of accidents can reduce
6 their occurrence in the future. Information obtained
7 through witness interviews is frequently included in
8 these reports. You should know that if you request
9 confidentiality, confidentiality will only be granted
10 on a case-by-case basis. Your statement may also be
11 used in other proceedings. You may have a personal
12 representative present during the taking of this
13 statement, and you may consult with the representative
14 at any time. For the record, do you have a
15 representative here today?

16 MR. SPARKS:

17 No.

18 ATTORNEY BABINGTON:

19 Your statement is completely voluntary.

20 You may refuse to answer any question and you may
21 terminate your interview at any time or request a
22 break at any time. Since this is not an adversarial
23 proceeding, formal Cross Examination will not be
24 permitted. However, you may ask clarifying questions
25 as appropriate.

1 The court reporter will record your
2 interview. If you would please speak loudly and
3 clearly. If you do not understand a question asked,
4 please ask the interviewer to rephrase it. Please
5 answer each question as fully as you can, including
6 any information you've learned from someone else.

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

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

18 -----
19 CLAYTON EDWARD SPARKS, HAVING FIRST BEEN DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 -----
22 EXAMINATION

23 BY MR. STOLTZ:

24 Q. Would you please state your full name and spell
25 your last name?

1 A. Clayton Edward Sparks. And the last name is
2 spelled S-P-A-R-K-S.

3 Q. Could you provide us your home address and
4 telephone number, please?

5 A. It's (b) (7)(C)

6 (b) (7)(C)

7 Q. Are you appearing here today voluntarily?

8 A. Yes.

9 Q. Is it all right to call you Eddie?

10 A. Yes. I prefer so.

11 Q. Are you currently an MSHA employee?

12 A. Yes.

13 Q. How long have you worked for MSHA?

14 A. Approximately eight years.

15 Q. What is your current duty station?

16 A. Barbourville, District 7.

17 Q. Barbourville, Kentucky?

18 A. Yes.

19 Q. How long have you worked at that location?

20 A. I've worked within the Barbourville District for
21 approximately seven years.

22 Q. And what is your present position?

23 A. It's acting assistant district manager for
24 enforcement.

25 Q. And how long have you been at that position?

1 A. I started acting this week as an ADM.

2 Q. Congratulations. How about your last position?

3 A. It's supervisor and coal mine inspector.

4 Q. And how long were you at that position?

5 A. A little over two years.

6 Q. And what field office did you ---?

7 A. Barbourville.

8 Q. Barbourville field office?

9 A. Work Group Two.

10 Q. Work Group Two. You're currently on MSHA's mine
11 emergency --- MEU team?

12 A. Yes.

13 Q. How long have you been on the MEU team?

14 A. A little over seven years.

15 Q. Over seven years. Could you, I guess, overall
16 please provide us a little of your mining background
17 and experience prior to coming to MSHA?

18 A. Prior to coming to MSHA, I began working at Karst
19 Robbins Coal Company as a repairman trainee. I guess
20 just a general brief description?

21 Q. Yes.

22 A. Most of my career has been as an electrician or a
23 chief electrician. About a year of that was probably
24 a mine foreman. Other than that, it's been a
25 maintenance background in the coal mines. I was on

1 the rescue team for Arch Coal, Laurel Mountain, and
2 also on Lin-Co for a while, too.

3 Q. Do you have any --- and I think I heard you do,
4 but specialized training or certificates?

5 A. Yes. Like chief electrician?

6 Q. Yes.

7 A. Yeah, if I can remember them. I'll try to give
8 you a rundown. Foreman for Kentucky and Virginia.
9 Electrician in Kentucky and Virginia. Shot firer,
10 both places. Diesel engine mechanic in Virginia, and
11 I've been a diesel engine mechanic instructor. Got a
12 mine instructor certificate in Kentucky, surface mine
13 foreman papers in Kentucky. Off the top of my head,
14 that's the big ones, I guess. I believe most of the
15 ones you can get, I've probably got 'em.

16 Q. I guess we're going to go right to the April 5th
17 accident.

18 A. Okay.

19 Q. How were you notified on April 5th about the
20 accident?

21 A. I was contacted on my cell phone by Virgil Brown.

22 Q. Contacted you approximately what time?

23 A. Fifteen (15) 'til 5:00.

24 Q. And Virgil Brown you said notified you?

25 A. Yes.

1 Q. When did you arrive at the mine?

2 A. Around 11:15 that night, the night of the
3 accident.

4 Q. When you got to the mine, who did you report to?

5 A. I met with Virgil on the team truck.

6 Q. I guess when you met with Virgil, did he, you
7 know, give you a briefing at that point in time
8 or ---?

9 A. He give us an overview of what he had understood
10 was going on.

11 Q. And when you said us, was there other team members
12 with you?

13 A. Dale Jackson. We rode up together from Harlan.

14 Q. Okay.

15 A. Also, Dale Jackson was there, but there was a few
16 other team members. I can't remember everyone that
17 was present. Probably Jeff Maxwell. There might have
18 been a couple others on the truck at that time. I
19 know us three for sure.

20 Q. Okay. In the briefing that Virgil provided, did
21 he go over who was in charge at the mine for MSHA, any
22 type of details as that other than --- or can you
23 remember, you know, just ---?

24 A. I can't remember. The only things, I've got some
25 notes here where I wrote some things down that he gave

1 us on the briefing that was reported to him from the
2 State at that time. It was kind of sketchy. He told
3 us we had 9 missing at 22 Header, 6 missing on the
4 longwall, 1 beltman missing, and they thought they had
5 12 dead, and 7 mine rescue teams were underground in
6 clear air.

7 Q. And this was at 11:15?

8 A. Yeah.

9 Q. I guess when you arrived then, that you were
10 informed that there was teams underground at that
11 point in time?

12 A. Yes.

13 Q. Do you know who?

14 A. No. I don't know which teams was underground, no.

15 Q. Do you --- I guess in that briefing he stated to
16 you that they were exploring, looking for victims or
17 people alive at that point; right?

18 A. Yes.

19 Q. Who --- I guess was it Virgil that directed your
20 activities when you first arrived, or who did?

21 A. We discussed what we were going to do at that
22 point and that we would have to have somebody fresh
23 and out on the first shift, because all of us that had
24 been called out was there that night at that point.
25 So myself and Dale Jackson and Jeff Maxwell and Mike

1 Shumate, he was also present I see in the my note, we
2 left and we come back early that morning. We was
3 going to get a room --- find a room for everybody and
4 go get a few hours' sleep and be right back on the
5 next shift.

6 Q. So that's what you all did?

7 A. Yes.

8 Q. And you all came back for --- on April 6th at what
9 time?

10 A. April 6th. Let's see. I checked in the room
11 about 1:00, reading through my notes. We got there at
12 5:40 a.m. on April 6th.

13 Q. You came back to the mine?

14 A. Yes.

15 Q. And I guess at that point in time you all received
16 a briefing?

17 A. Virgil was there then and he told us that no one
18 was underground because of high methane and CO
19 readings.

20 Q. So on April 6th, then, what did you all do once
21 you reported to the mine?

22 A. We had that briefing with Virgil. We reviewed the
23 map, and he showed us the locations where some bodies
24 had been found and the location of the refuge that was
25 on 22 belt. And we benched two apparatus on the ---

1 and got our equipment ready and was checking
2 periodically for Shumate and Gibson to get there with
3 their equipment, help them set up with the seismic
4 truck.

5 Q. And that covered you through when you were on ---
6 at the mine on April 6th then?

7 A. Yes. That's pretty much what we did April 6th.

8 Q. When was the next shift that you reported to the
9 mine?

10 A. April 7th.

11 Q. And could you --- I guess what time did you arrive
12 on April 7th and then provide a general overview of
13 what you ---.

14 A. I think we arrived somewhere around 5:30 and
15 discussed whatever events went on, on the third shift.
16 There wasn't much going on. They were drilling. We
17 pretty much worked on our equipment in the truck that
18 day. The power had knocked on the truck. One of the
19 inverters had went down, and I worked on it. And we
20 repaired that on the truck. Secretary Soilis came by,
21 and I spoke with her. Let's see. And Virgil and I
22 also drove to the borehole and took some samples at
23 the fan that day.

24 Q. Which borehole?

25 A. That was on the borehole that was down at the back

1 end, up here on 22.

2 Q. Twenty-two (22) Headgate?

3 A. Yeah. The gas borehole fan that was put in.

4 Q. Okay. Did you all, I guess, work with your
5 apparatuses also on that day?

6 A. I can't recall. I'm sure we went over what was
7 there. We always do that to make sure they're ready
8 to go --- to go underground.

9 Q. Do you recall anything about the readings you saw
10 at the ---?

11 A. For the borehole?

12 Q. Yes.

13 A. I think the first air reading we took at that fan,
14 I'm showing that we have 1,838 feet per minute came
15 to --- let's see, 863.71 cfm. That was around 10:55.

16 Q. And that was on April 7?

17 A. Yes. And I took two bottle samples. The first
18 sample was at 10:55, and it was 14.6 oxygen, over
19 range CO, and more than five percent CH₄. The second
20 reading we had show at 11:30 a.m. was 15.3 percent
21 oxygen, it was over 10,000 on CO, and four percent
22 methane. And at 12 o'clock we took another sample,
23 and that sample was 15.5 percent oxygen, 9,999 CO, and
24 over four percent CH₄. That was indicated as handheld
25 readings, and we took the bottles back to be

1 confirmed.

2 Q. Okay.

3 A. Got back to the mine site that day and left at two
4 o'clock. That was the end of our shift.

5 Q. Okay. Then I guess did you return back on April
6 8th then?

7 A. April 8th was my next shift.

8 Q. Okay. What time did you get at the mine then?

9 A. Got at the mine at 5:50 a.m. I spoke with Mike
10 Hicks, a rescue team member that was outside. And he
11 informed us that four rescue teams had went
12 underground at 4:55.

13 Q. Okay.

14 A. Should I go on?

15 Q. Yes, please.

16 A. Okay. I got in my notes that the teams were
17 pulled around 10:00 or --- somewhere between 10:00 and
18 11:00 a.m. due to explosive mixtures at borehole one,
19 which was near the seismic truck.

20 Q. That's on Headgate 22 again?

21 A. Yeah.

22 Q. Okay.

23 A. And then we went that day to training during the
24 course of the day on handling bodies as far as
25 substance isolation and decom, loading 'em on a skid

1 stretcher and things of that nature. And that pretty
2 much comprised our day on dayshift, and we were ---.

3 Q. On the 8th?

4 A. Yes. That was all the activities we had.

5 Q. Okay.

6 A. We also made up some rotations, a new rotation
7 list of who would be working on what shift. We worked
8 on that that day.

9 Q. I guess then that was the 8th, and then did you
10 make it back on the 9th then?

11 A. Yes.

12 Q. Okay.

13 A. Probably there around 5:30. And we were briefed
14 by MEU members that were present, Mike Hicks and Paul
15 Sutherland. And they told us the two teams
16 underground had encountered smoke on a crossover from
17 a longwall ---

18 Q. Okay.

19 A. --- and the teams was being pulled from the mine.
20 About 7:50 that morning, Link Selfe, he came over to
21 get apparatus. He took Jerry Cook and Otis Matthews
22 with him. He said they felt there could have been a
23 pop at the Bandytown discharge fan, so they went to
24 check that and ---.

25 Q. And what time was that, do you ---?

1 A. About 7:50 that morning is when Link came back.

2 ATTORNEY BABINGTON:

3 Sorry. One clarifying question. You
4 said the crossover off the longwall?

5 A. Yes.

6 ATTORNEY BABINGTON:

7 You're referring to the crossover entries
8 between Headgate One North and Headgate 22?

9 A. That's correct. Also that day we had three
10 people, which would have been Dale Jackson, Jeff
11 Maxwell and Mike Shumate, they went to change
12 batteries on the seismic truck. And we called 'em
13 back to go underground. We had a briefing at 3:35
14 p.m., and I went underground that day. A few things
15 we were told, up in this area, around Headgate 22, we
16 were going to explore this intersection in Headgate
17 22.

18 BY MR. STOLTZ:

19 Q. When you say this intersection, you're referring
20 to the crossover in Headgate 22 there?

21 A. Yes.

22 Q. Okay.

23 A. Exploring up the crossover to the Headgate 22.

24 Q. Okay.

25 A. And they told us around 500 million cubic feet of

1 nitrogen had been pumped in. And we were also
2 supposed to get air qualities and directions on both
3 Headgate 22 and at the end of the crossover between
4 the connection for Headgate 22 --- what's this called?

5 Q. Seven North belt.

6 A. Seven North belt. We were going to try to get air
7 directions in the four entries that connects those up.

8 Q. Okay. And when you say nitrogen was pumped in,
9 you're referring to nitrogen and --- it was pumped in
10 at Headgate 22?

11 A. Yes. Yes. To inert that area, 22.

12 Q. Okay. I guess then did you all get ready and you
13 went underground?

14 A. Right. We started in sometime around 20 after
15 4:00 that afternoon.

16 Q. Which team did you travel with?

17 A. The teams were a little mixed. I can tell you
18 later on the captain or who the guy was I was
19 traveling with.

20 Q. Okay.

21 A. Let me think. There's a Blankenship. Terreal
22 Blankenship, I was with his team. But my
23 understanding is that some of the teams were a little
24 inexperienced, so they told me to put some of the more
25 experienced rescue team members --- so I couldn't tell

1 you all the members.

2 Q. Okay. I guess then once you were traveling
3 underground, you came in from what portal, the north?

4 A. Yeah. That was where we were stationed,
5 everything.

6 Q. Do you remember where the fresh air base was at
7 that point in time, where you traveled to?

8 A. Well, we were going back to this crossover for 22
9 Headgate.

10 Q. And when you say back you're pointing from the
11 longwall, the Headgate Number One North?

12 A. Yes, from this side.

13 Q. Okay. From Headgate One North.

14 A. We were going back to --- the fresh air base was
15 in that area, in line with the Number Four entry of
16 that crossover panel.

17 Q. Which would be approximately Crosscut 27 on the
18 Headgate One North?

19 A. That's correct, because there was some discussion
20 about if it was 26 or 27. But as we went up the
21 travelway and started to move that area, once we got
22 into the Number Four entry you could look back and see
23 their lights. So I know the fresh air base was
24 located there, ---

25 Q. Okay.

1 A. --- at the crosscut.

2 Q. Did you all have a backup team at the ---?

3 A. Dale Jackson was with the backup team. He was the
4 MEU member with them.

5 Q. Okay.

6 A. We traveled the mouth of 22, across to the
7 crossover here, started up towards 22 Headgate, and
8 they were calling back readings as we went. I can't
9 remember the readings off my head, but Dale Jackson
10 was writing those down in the fresh air base, and I
11 was making sure they were calling 'em back as we were
12 getting 'em ---

13 Q. Okay.

14 A. --- and they were correct. This I'm not telling
15 you from notes. I'm having to remember all this now
16 off my head, too, but ---.

17 Q. Do you remember --- you traveled up the crossover
18 and ---?

19 A. Yeah. We traveled the mouth of the crossover.
20 Didn't see any smoke or anything there. We did
21 encounter CO. We were under apparatus as we traveled
22 up the crossover. Had a little bit of problems with
23 communications with the radios. And once we got over
24 and traveled up this Number Four entry and a line of
25 sight and everything, we done pretty well with the

1 radios. We stretched out, made sure two people were
2 together at all times and maintained contact until we
3 got to the end, up here at the end of the crossover,
4 toward Headgate 22.

5 Q. Okay.

6 A. Then, as I said, we staged a couple of people, so
7 we had communications back to the fresh air base. And
8 myself and Blankenship traveled over here to Headgate
9 22, right at the mouth, and got air quality and
10 directions in all three entries.

11 Q. Okay.

12 A. And we also traveled back to the mouth at the end
13 of Seven North, where all that intersection is here.

14 Q. Okay. That would be the intersection at Headgate
15 Number 22 and Seven North?

16 A. Yes. And if you're going up to Headgate 22, where
17 it shows this overcast and the double door, we
18 traveled over into that area.

19 Q. Okay. That would be the Number --- middle ---
20 Number One and Two entry?

21 A. Number Two, that would be correct. And there was
22 so much debris, just so much everything blown
23 everywhere and debris, that we couldn't travel any
24 further over through there.

25 Q. Okay.

1 A. It was pretty difficult.

2 Q. Could you ---?

3 ATTORNEY BABINGTON:

4 Yeah. Could you mark that overcast that

5 you said --- I think you pointed out in your

6 testimony. Can you draw a line and write off to the

7 side overcast? What was the significance of that

8 overcast again?

9 A. That was the point we traveled to, to check air

10 qualities and directions on this side.

11 ATTORNEY BABINGTON:

12 I think for the record this looks to be

13 around like the 133 Crosscut on Seven North, going up

14 to Eight North. And it also appears to be in line

15 with the Number Five entry on the crossover?

16 A. I may be --- I'm thinking here. I may be telling

17 you wrong right there. That may not have been the

18 first point of advance. It could have been a couple

19 more crosscuts up, ---

20 ATTORNEY BABINGTON:

21 Up?

22 A. --- or the outby direction on the Seven North.

23 ATTORNEY BABINGTON:

24 Okay.

25 A. But it was in that general vicinity. What we were

1 trying to do was get --- how would you identify this,
2 this area right here, Rich?

3 BY MR. STOLTZ:

4 Q. Seven North crosscut, say 140 --- 133 crosscut, in
5 this area.

6 A. Okay. Down this way.

7 Q. Could you just circle the area?

8 A. This general area that I'm circling here, we were
9 trying to get here ---

10 Q. Okay.

11 A. --- and check air qualities and directions.

12 Q. Okay.

13 MR. MCGINLEY:

14 Was that the same area where you said
15 there was quite a bit of debris?

16 A. Yes. There was debris all through that area. It
17 was real hard to travel, get around anywhere.

18 BY MR. STOLTZ:

19 Q. While you're marking there, could you mark the
20 FAB, fresh air base, when you started off?

21 WITNESS COMPLIES

22 A. In this area.

23 BY MR. STOLTZ:

24 Q. Okay. And then just put a general area on the map
25 of --- I guess you came this way then?

1 A. We traveled somewhere up toward the end of this
2 crossover. I'm not sure which break.

3 Q. Put a general arrow.

4 A. You mean travel like this, mark it?

5 Q. Yeah. Just a general --- because you traveled ---
6 you said you split up; right? Did you all travel all
7 four of those entries or one --- one entry?

8 A. We initially traveled to either the first or
9 second crosscut on this crossover.

10 Q. Okay.

11 A. And we were all in line sight where we could get
12 air quality and direction for each entry.

13 Q. Okay. So you were exploring all four entries in
14 the crossover there?

15 A. Correct.

16 Q. Okay.

17 A. And we did that.

18 Q. Okay.

19 A. And like I say, we had some problems with the
20 radios, so we wound up --- when we found out we had
21 real good communications over here in the Number Four
22 entry, that's why we ended up traveling that
23 direction, traveled up that entry, ---

24 Q. Okay.

25 A. --- because our goal was one --- like I said, in

1 our briefing, they told us to find air quality and
2 directions and make sure we didn't see any smoke at
3 the mouth of this crossover. And once we did that, we
4 tried to make it up the crossover to the mouth of 22
5 Headgate and do the same air quality and directions
6 for 22 Headgate.

7 Q. Okay.

8 A. And then we were going to explore up the 22
9 Headgate.

10 Q. Okay.

11 A. And my part of that exploration is, like I told
12 you, we traveled up Number Four entry, and we
13 maintained the communications. Then myself and
14 Terreal Blankenship, we were the ones that traveled
15 over to the mouth of the 22 Headgate and we got the
16 air quality and directions in Number One, Two and
17 Three. And then we attempted on the backside of that,
18 being the end of Seven North, which would be around
19 Break 133, we were attempting to get all of those that
20 we could. They really wanted --- I think a
21 roundhouse, is the way they put it, of the area around
22 the end of Seven North, which would have been around
23 133 Crosscut. But as I said, we had so much debris,
24 that we couldn't --- we had a hard time traveling
25 there and we were concerned maybe we'd run out of

1 oxygen before we did because we were all under oxygen.

2 Q. Okay.

3 A. And so ---.

4 Q. Also mark --- just circle the areas of 22 Headgate
5 that you traveled to, to get air quality.

6 A. I think we actually --- the Number Three, we went
7 back and got it last because we couldn't travel over
8 from Number Two to Number Three in the crosscut
9 directly behind the mouth of that panel through the
10 debris. So we kind of had to navigate around to do
11 that. And I'm guessing it was a break, it could have
12 been two breaks, outby.

13 Q. You mentioned you were under apparatus?

14 A. Yes.

15 Q. What put you under apparatus, if anything?

16 A. They encountered smoke already going up the
17 crossover. And we actually had a discussion with the
18 command center before we left the fresh air base, and
19 they told us to go under apparatus before we left the
20 fresh air base. But to the best of my recollection,
21 we started encountering greater than 50 parts per
22 million within a break or two.

23 Q. Okay.

24 A. Fifty (50) parts CO, you're saying?

25 Q. Yeah, 50 parts per million CO. I want to say it's

1 something like 600 to 700 parts per million is what we
2 were getting, going up the panel.

3 Q. When you say, going up the panel, you're talking
4 about Headgate Number 22?

5 A. The crossover. The crossover. I'm sorry. And
6 like I say, they were calling back the readings, and I
7 was making --- I was making sure those readings were
8 accurate. And Dale Jackson did take --- he was taking
9 notes on those in the fresh air base. At that point,
10 once we explored and got to the point I just told you,
11 then we traveled back to the fresh air base the same
12 route.

13 Q. Okay.

14 A. And we stretched out the lifeline. We were the
15 backup team at that point, and they stretched out a
16 lifeline for better communications. And the lifeline
17 went up to Number Four entry, best I recall, in this
18 crossover, almost to the end. Right at the end of
19 that crossover, there's some gob and you kind of have
20 to navigate around it through another break. At the
21 end of the crossover, you had Dale Jackson and then
22 you had --- the two MEU members were Fred Martin and
23 Paul Sutherland. They were traveling with the teams
24 that was going to explore the 22 Headgate for the last
25 missing miners up that way.

1 Q. Okay. And you were back at the fresh air base
2 with the backup team during that time?

3 A. Yeah. That was around 9:30 p.m., when all that
4 happened.

5 Q. Okay. I gather, then, you stayed at backup and
6 eventually, once that team explored, you were done
7 then?

8 A. No. Once that team explored, there was still one
9 unaccounted for miner that was on the longwall. And I
10 made the trip up the longwall as well to look for him.

11 Q. Okay.

12 A. You want to jump to that point there?

13 Q. I guess, do you recall what --- as you were a
14 backup team, what the other team ---?

15 A. I got a few notes.

16 Q. Okay. Walk us through those notes, since you have
17 'em.

18 A. Let's see. They called a couple readings out. At
19 9:55 p.m. they were at survey station 24323.

20 Q. And that's on --- coming up ---?

21 A. Coming up Headgate Number 22.

22 Q. 24 ---?

23 A. 24323.

24 Q. Okay.

25 MR. FARLEY:

1 What is that, about five or six

2 crosscuts?

3 MR. STOLTZ:

4 Yeah.

5 MR. FARLEY:

6 From the back of Headgate 22?

7 MR. STOLTZ:

8 Five crosscuts inby ---.

9 A. And they called out readings at ten o'clock from
10 that point, 775 parts per million CO. Do you want me
11 to write these?

12 BY MR. STOLTZ:

13 Q. No.

14 A. The oxygen, I didn't get. One percent methane.

15 Q. Okay.

16 A. At 10:05 they called out they were at the mantrip.
17 And they also gave air quality at the mantrip. It was
18 853 parts per million, 4.9 percent oxygen, and one
19 percent methane.

20 Q. Okay.

21 A. And they said a body was found at Survey Station
22 24446. No ID.

23 Q. And circle that, please.

24 A. These are just notes, just what I was writing down
25 as they would call them back. I was in the fresh air

1 base, so ---.

2 MR. STOLTZ:

3 Okay.

4 ATTORNEY BABINGTON:

5 Can you please label what that second

6 circle was?

7 WITNESS COMPLIES

8 MR. STOLTZ:

9 It's about four crosscuts inby the mouth

10 on 22.

11 ATTORNEY BABINGTON:

12 Sorry. And also, just to clarify, these

13 last two marks with the spad numbers, you put them in

14 orange highlighter.

15 A. Air quality?

16 ATTORNEY BABINGTON:

17 Sure. The witness is labeling the first

18 circle for air quality.

19 A. At 10:15, see, that's the bottom. Let's see.

20 10:17, we called up low man. That was the readings

21 for who was low man on the apparatus as far as I

22 was ---. At 10:18 they found another victim. That

23 was at location 24446. That's the same place. And

24 they had the six bodies there on the mantrip, I guess

25 is what they were calling out at 10:22.

1 BY MR. STOLTZ:

2 Q. That was the mantrip.

3 A. Actually, at 10:22 they called that same one out,
4 24466. This is 466. That was their MPA. 24466, that
5 was the area. Somewhere around there was the mantrip.
6 So we called that out as an FPA at 10:22. There was a
7 little bit of confusion. Like I say, I'm writing down
8 what they're calling back as to what survey station
9 that they were at exactly.

10 ATTORNEY BABINGTON:

11 For the record, the witness marked the
12 mantrip at 24466, which appears to be about 18 breaks
13 inby the mouth of Headgate 22.

14 A. They also called back out at that point and they
15 told us that the inby shelter has not been deployed
16 and that the mantrip was not in operation. Because
17 they had talked about if we could load the bodies on
18 the mantrip and see if it was operational and get 'em
19 closer some way as far as getting 'em out of the
20 mines. The 22 panel crew, they came back from the
21 exploration and I traveled with a Massey team.

22 BY MR. STOLTZ:

23 Q. After they had made it back up then?

24 A. Right. They made it back. And we spoke with the
25 command center.

1 Q. Okay.

2 A. There was still one unaccounted for miner
3 somewhere on the longwall that hadn't been found.

4 Q. Okay.

5 A. And I traveled with Jason Castle, along with some
6 of Massey's mine rescue teams, and we traveled down
7 the longwall trying to find the last miner.

8 Q. So that was --- you all talked it over with the
9 command center, ---

10 A. Yes.

11 Q. --- and the decision was made then for you all.
12 Was it another team you traveled with in the ---?

13 A. They were the --- let's see.

14 Q. I guess because you traveled with a team and
15 explored the crossover.

16 A. Yeah. I think it was some of the same members of
17 that same team. It was the same ones I initially
18 traveled with, but everyone didn't go. The whole team
19 didn't go. There was maybe four of us that went, ---

20 Q. Okay.

21 A. --- four or five.

22 Q. And this is the first trip or their second ---
23 your second exploration?

24 A. The second exploration only four or five went.

25 Q. Okay. To the longwall?

1 A. Right. Terreal stayed in the fresh air base, I
2 remember that, ---

3 Q. Okay.

4 A. --- and worked on communications. He was helping
5 relay messages.

6 Q. Okay. Where did you all --- did you leave your
7 fresh air base at the same location then?

8 A. Yes. Somewhere around this fresh air base ---
9 let's see. As you looked over toward the longwall
10 from where that fresh air base was located, there was
11 a comment made that someone had hung a curtain over
12 there. And I can't remember who it was talked about
13 being wide over through there. But when we started to
14 go to the longwall and we started in that direction,
15 it was actually a roof fall is what they were seeing,
16 and it did look like a curtain, a real pretty white
17 curtain hanging over there, but it was the rock, and
18 it just fell down and ---. So we had to travel one
19 break outby where the fresh air base is indicated here
20 being located and then traveled over to the longwall,
21 to the headgate.

22 Q. Okay.

23 A. Once we were at the headgate, we left one man
24 there to relay --- or two men, I'm sorry. Dale
25 Jackson was with them from the MEU as one of their

1 team members, and they were relaying messages back to
 2 the fresh air base as we traveled down the longwall.
 3 And then I have to say that we had to spread out a
 4 little along the longwall to keep communications. And
 5 I was traveling with Jason Castle of Massey's mine
 6 rescue team.

7 Q. And you traveled down the longwall face?

8 A. Yes.

9 Q. How far did you all travel?

10 A. All the way to the shearer.

11 Q. You went to the ---?

12 A. All the way to the shearer.

13 Q. Okay.

14 A. I made a few notes as we went.

15 Q. Okay.

16 A. The first guy that we encountered was under the
 17 fan, around 82 Shield. (b) (7)(C) was at 84
 18 shield.

19 Q. Okay.

20 A. We got around 103 Shield and there were four
 21 bodies located there.

22 MR. MCGINLEY:

23 Which one?

24 A. Around 103. It's actually --- I've got 'em
 25 staggered as we would call them out. Going down

1 through there at 105 Shield you had (b) (7)(C) . 104

2 Shield you could see the SCSR number was (b) (7)(C) .

3 Didn't have any identification. Another body was at

4 105 Shield. And (b) (7)(C) was at 106 Shield.

5 BY MR. STOLTZ:

6 Q. And at that point in time, I guess, these victims,

7 they were --- do you all know if you had found the

8 additional person or you're still ---?

9 A. No. We were still missing one person at that

10 point.

11 Q. Okay. And you traveled then --- you said from

12 that point you traveled down to the shearer?

13 A. We traveled all the way to the shearer.

14 Q. Can you --- on that travel, was there signs of

15 heat damage or ---

16 A. Yes.

17 Q. --- flame?

18 A. All the way to the tailgate.

19 Q. Okay.

20 A. I can't say for sure that every single shield had

21 heat damage, but we pointed out and noticed as we

22 traveled down that way that I'd say the majority of

23 'em did. There was items, you know, on the

24 electronics that were melted.

25 Q. Melted?

1 A. Yeah.

2 Q. And that was clean down to the shearer?

3 A. All the way to the tailgate. Even at the tailgate
4 I saw some damage like that.

5 Q. Where at on the tailgate?

6 A. On the shields.

7 Q. On the shields?

8 A. Yeah.

9 Q. How did --- I guess how did the shearer --- or
10 what position ---?

11 A. It looked like it had just cut out and was getting
12 ready to start back on the face with a new pass.

13 Q. Okay.

14 A. I remember we found one hard hat that was all the
15 way down at the tailgate ---

16 Q. Okay.

17 A. --- destroyed. The brim of the hat was off of it
18 and it didn't have a name or anything. We did see
19 that. And as far as looking at which direction things
20 went, I wasn't paying a lot of attention to that. We
21 were still looking for the last body. So we were
22 looking inside the shields. And we crawled up on top
23 of the shearer and were looking over the backside of
24 it.

25 Q. Did you see heat damage on the shearer itself? Do

1 you remember seeing ---?

2 A. I don't remember seeing any --- mostly metal,
3 anything on that ---.

4 Q. Yeah.

5 A. I want to say it was a little cleaner than a lot
6 of the areas we were in. There was soot everywhere.
7 Maybe not as much in that area. It was kind of
8 clean ---

9 Q. Okay.

10 A. --- right around the shearer.

11 Q. Okay. Was the --- the drums, when you said it
12 looked like it had just cut out, do you remember the
13 position of the drums?

14 A. I'm not exactly. I couldn't tell you how the drum
15 was set. It was all the way at the end. You know
16 what I'm saying? It was ready for a new pass, but I
17 don't remember if it started cutting or not.

18 Q. Okay. Had they pushed the pan line?

19 A. I can't remember. I want to say it was, but I
20 ain't positive of that.

21 Q. Okay.

22 A. I think about --- there were several, maybe 15, 20
23 over there. Shields were collapsed and starting to
24 have oil come out of the load box.

25 Q. Was that due to the lines being heated and

1 ruptured or --- I mean, something had to occur.

2 A. Yeah. I don't know. Like I say, we were looking
3 for the last body.

4 Q. Do you recall where the 10 or 15 shields were
5 that ---?

6 A. They weren't all in one place. They were in
7 various locations, but I couldn't tell you which ones.

8 Q. Okay.

9 A. We made a real diligent search as far as looking
10 for the last body all around that shearer ---

11 Q. Okay.

12 A. --- because that was --- I mean, that was the last
13 point. We knew it had to be somewhere. Then we
14 started back down the pan line. We decided he wasn't
15 there, and he certainly wasn't at the tailgate, and we
16 were really taking our time coming back, looking
17 between shields, looking up under the pan line and
18 thinking about things, like there was a little bit of
19 coal in places out in the pan line. Could he be
20 covered up with coal? And at some point, about
21 halfway back down the pan line, they radioed us and
22 told us that had found the last victim. My
23 understanding was that the guy from Massey --- or guy
24 on the team that was on top of the headgate, he was at
25 kind of a different angle looking back into the

1 shields and just happened to see part of him. And he
2 said he was kind of --- he was obstructed because of
3 so much debris that blew on top of him, crib blocks
4 and things.

5 Q. Okay.

6 A. I left something out, too. We covered one of the
7 bodies up with a curtain, I can't remember which one,
8 as we went up.

9 Q. How was the air quality? Did you have to explore
10 under apparatus or ---?

11 A. No. On the longwall, we were bare-faced all the
12 way up. We had adequate air quality. I can't
13 remember exactly what it was. As we got toward the
14 tailgate, in that area, it was around 50 parts per
15 million because I can remember seeing it flash just
16 for a second, yeah, 50 parts per million CO. But we
17 never did sustain --- it was always under 50 parts per
18 million and good oxygen.

19 Q. And then I guess you retreated off the face?

20 A. Right. That's correct.

21 Q. And worked your way back to the fresh air base?

22 A. Yes.

23 Q. Okay. Kind of brings me back to --- you had
24 mentioned about this roof fall and the curtain being
25 hung and it looked --- I guess when you looked across

1 there, you remember looking across and you said it was
2 --- just looked like a new curtain had been hung. It
3 was white.

4 A. Right.

5 Q. So would that --- I guess was everything else
6 covered with ---

7 A. Yes.

8 Q. --- soot inby and outby? So this fall had to
9 occur after the ---

10 A. It did.

11 Q. --- event?

12 A. It would have had to. Everything else was black.
13 And like I say, when you looked over there, within 60,
14 70 foot, everybody would have swore a curtain had been
15 hung.

16 Q. Okay.

17 A. We had that question. We said who would have hung
18 a curtain? Hadn't heard anything about that. But
19 when we got over there to it, it was rock fall.

20 Q. Okay. Was it one big slab or ---?

21 A. Yeah.

22 Q. So after finding the last victim, then you all
23 retreated to the fresh air base?

24 A. Yes.

25 Q. I guess during your exploration there --- and

1 again, just to --- you relayed about some of the signs
2 of heat on the face. Any other things? You just
3 noted the heat damage or anything ---?

4 A. Not as far as heat damage.

5 Q. Okay. Just mainly things blown around from forces
6 and ---?

7 A. Yeah. Yeah. There was debris, a lot of debris
8 everywhere. The four bodies that were around ---
9 between 105, 104 and 106 Shields, in that area, I
10 can't remember which one it was. It might have been

11 (b) (7)(C) It was like the first one of those four
12 we came to. But I remember that one body was kind of
13 under the pan. His back would have been toward the
14 tailgate. And he had his head kind of cradled down
15 into his hands, the way he was laying. To me, looking
16 at him, it was almost like he was diving under. I
17 don't know how to illustrate that where she can get it
18 pretty well, but ---.

19 Q. Diving for cover?

20 A. Yeah. I mean, that was kind of the position. I'm
21 not saying that he was doing that.

22 Q. Uh-huh (yes).

23 A. That's just to illustrate it for how he looked.

24 He was under like that (indicating). And the bottoms,
25 I remember they weren't all touching one another, but

1 there was a little room between 'em because we
2 actually come down that way. A lot of damage to 'em.
3 I'm sure you know about that.

4 Q. Yeah. Okay. I guess then once you all made it
5 back to the fresh air base, you retreated then
6 outside?

7 A. I think when we got back to the fresh air base,
8 there was some discussion with the command center
9 about could the team members, some of us stay, some
10 people that were there, and load some of the bodies in
11 the body bags, try to see if we can get 'em closer to
12 where they could start getting 'em out of the mines.
13 And everyone there talked about that. And I don't
14 think there was hardly a soul that wasn't spent.
15 Everybody was pretty tired, but there was a few that
16 was going to stay. And a couple of our guys stayed,
17 the freshest ones.

18 Q. Okay.

19 A. And they did load a few of the bodies in the body
20 bags. Myself and --- I don't remember if it was Dale
21 Jackson or Fred Martin came out. I know Paul
22 Sutherland, I'm pretty sure he stayed to help load
23 some of those bodies.

24 Q. Okay.

25 A. But that was pretty much the end of what we were

1 doing, other than loading the bodies at that point.

2 Q. And you all came out of the mine, ---

3 A. Right.

4 Q. --- retreated out --- or arrived in the fresh air
5 base. And do you remember what time you got out,
6 because you went in pretty late there?

7 A. No. I don't think I wrote that down. Like I
8 said, I've got some sketchy notes as I go along, but a
9 lot of times we were doing things and busy. So I
10 tried to take what notes I could and tried to remember
11 what I can.

12 Q. Okay. Do you want to take five minutes?

13 A. Sure.

14 MR. STOLTZ:

15 Let's take five minutes.

16 SHORT BREAK TAKEN

17 BY MR. STOLTZ:

18 Q. Got a couple follow-up questions before we move
19 on. Could you please mark, using the pink
20 highlighter, the roof fall that --- when you looked
21 across from the fresh air base --- that was the roof
22 fall that looked like it just had occurred. This
23 would be the fresh air base you had pointed out.

24 A. It was over --- in somewhere right around here, I
25 guess, with here being 27 Crosscut, somewhere around

1 27 Crosscut, around the headgate.

2 Q. Okay.

3 ATTORNEY BABINGTON:

4 Do you mind labeling that for me, please?

5 A. I'm going to put a circle right here ---

6 BY MR. STOLTZ:

7 Q. Okay.

8 A. --- because it was somewhere in this area.

9 Q. Okay. You talked about --- when you went down to
10 the tailgate, you examined the area and you were ---
11 the shearer. Do you recall your methane readings, any
12 air methane readings along the face or at the shearer?

13 A. I want to say it was around one percent.

14 Q. One percent at the shearer?

15 A. No, along --- going to the tailgate.

16 Q. Okay.

17 A. It seemed like we had --- it wasn't over one
18 percent.

19 Q. Up to one percent?

20 A. It was kind of like the CO. It wasn't anything
21 steady that we encountered.

22 Q. Okay.

23 A. I can't remember right at the tailgate what we
24 had, though.

25 Q. Okay.

1 A. I'll come back to that.

2 Q. Do you recall the velocity on the face or was
3 it --- was it pretty stagnant airflow or was it
4 half-decent velocity?

5 A. Not real well. It wasn't a lot.

6 Q. It wasn't a lot?

7 A. It was pretty stagnant, not a low of airflow.

8 Q. Okay. Anywhere along the face or at the tailgate,
9 do you recall sometimes you'd see methane bubbling
10 through water or ---?

11 A. No, I didn't see any of that, for sure.

12 Q. Or any cracks along --- on the floor?

13 A. I didn't see any.

14 Q. Okay. How about when you were on the shearer
15 itself? I mean, you all --- you said you crawled
16 along --- around the shearer.

17 A. No, I didn't see any there either.

18 Q. Okay.

19 A. Like I say, pretty much my focus going down
20 through there was everybody --- we were trying our
21 best to find the last victim.

22 Q. Okay. When you --- I guess when you made it down
23 to the tailgate, did you look out into the entry
24 itself?

25 A. No.

1 Q. Do you recall anything you've seen in the tailgate
2 entry, the immediate entry?

3 A. You couldn't see real well over there. From what
4 I saw it was, you know, soot ---

5 Q. Okay.

6 A. --- when you looked across, but --- and kind of
7 black. But I couldn't tell you any details about
8 anything on the other side of the tailgate.

9 Q. Okay. Before --- well, I guess that wraps it up
10 then for your exploration on April 9th; is that true?

11 A. Right.

12 MR. STOLTZ:

13 Before we move on, I was going to, I
14 guess, see if Terry or Matt has any follow-up
15 questions.

16 MR. FARLEY:

17 I have just a few.

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. You indicated earlier that you had some trouble
21 with your radios when you left the fresh air base, the
22 area around the area of the longwall headgate heading
23 towards 22 Headgate?

24 A. Yes.

25 Q. Anything particular about that? Did you have

1 problems with something? Was it a malfunction or some
2 type of capability problem?

3 A. No, we never did determine anything as far as what
4 the problem was. What I meant by that, it wasn't real
5 clear communication. We wasn't keying up and they
6 were hearing us and then they were responding back.
7 It was like we would talk to them and they wouldn't
8 hear us or they would just get parts of what we were
9 saying. It wasn't clear communication, so we didn't
10 advance. We were staying in that area working until
11 we were sure we knew where everybody was at. When we
12 would call back a reading or something, they wouldn't
13 understand us.

14 Q. Okay. The description of the heat damage along
15 the longwall face, any sense of direction on how it
16 might have developed?

17 A. No. I couldn't tell you that now.

18 Q. You indicated about 10 to 15 shields at various
19 locations may have collapsed by then?

20 A. Yeah. There was oil coming out of the load box.

21 Q. Also, make sure I followed your description. The
22 first of the four bodies in the vicinity of 104, 105,
23 106, your description and demonstration would seem to
24 suggest that the individual could possibly have been
25 trying to dive out of the way of something?

1 A. That was kind of the description I gave as far as
2 the manner in which I saw him under there. I wouldn't
3 saying at all --- that I speculated that that's what
4 he did. I don't know. But he was --- his body was
5 pretty much his head down in his hands.

6 EXAMINATION

7 BY MR. MCGINLEY:

8 Q. Just a couple things. Focusing on what you did at
9 the longwall and realizing that you were looking for
10 the last victims, ---

11 A. Right.

12 Q. --- so some of these you might not have any
13 response to. With regard to the shields that you
14 noticed, 15 or 20 of them, had separated, they weren't
15 together. Was there any indication that was --- it
16 was a product of force from above?

17 A. I couldn't say. Like I say, I was focused,
18 looking inside the shields, whatnot.

19 Q. How much coal was on the pan line? You said you
20 saw a little bit or a lot or ---?

21 A. Just in certain places where the face had rolled
22 out. I couldn't say it was a lot. There wasn't a
23 whole lot of coal on it.

24 Q. So was that from just rolling out from the face?

25 A. Yeah, in two or three places maybe where the face

1 had rolled out is what I was looking at, that there
2 was a significant amount --- about the time that they
3 called and had found the last victim, and I can't
4 remember what shield we were around, it was somewhere
5 around mid-face, there was a little bit of coal there
6 because I was thinking in that my head, could he have
7 got over in the pan line and been covered up with coal
8 is why we're missing him.

9 Q. Right. In the longwall face area there you said
10 there was a lot of debris or ---?

11 A. Yeah, there was stuff.

12 Q. Was there more than, let's say, six inches on the
13 floor there? Do you have any sense of ---?

14 A. I couldn't give you a sense of depth.

15 Q. Was it, you know, there's debris in some places
16 and not so much in others?

17 A. I can't recall that either.

18 Q. Were you stepping over stuff?

19 A. Where the four bodies were located there, I can
20 remember some like big pins like you'd use to pin
21 equipment with. It was like a boom on a miner. Some
22 things of that nature in that area. And like I say,
23 there was some hard hats, items that we found along
24 that face. There was a hard hat all the way down at
25 the shearer.

1 Q. Right.

2 A. But that's not, I guess, what you're asking
3 debris-wise.

4 Q. I'm just thinking ---.

5 A. Just things that stood out in my head is what I'm
6 telling you there.

7 Q. What about, if you recall, were you stepping ---
8 had to step over things because of their height or do
9 you have any recollection of that or ---?

10 A. Not a lot of recollection about what kind of
11 debris. I mean, you're stepping over as you go down
12 the shields, you know, of course.

13 Q. Right.

14 A. It's hard to travel through there anyway.

15 Q. Right. Terry asked you about the indication of
16 heat or soot that you saw. Did it --- was it --- and
17 I'm asking --- really asking the same question again,
18 but you've heard from other people, so I'm trying to
19 get this straight in my mind. Was there any
20 indication that the --- was it soot, that it got less
21 as you went toward the tailgate or was it uniform?

22 A. I can't remember it being more or less anywhere.
23 It was just --- everywhere was black other than around
24 that ---

25 Q. The shearer.

1 A. --- the shearer itself. It was kind of --- it was
2 less right around the shearer. That kind of stood out
3 to me when we were there.

4 Q. So there wasn't anything that you saw that would
5 indicate that the force of the explosion was coming
6 from any particular direction, from the headgate or
7 tailgate?

8 A. No. I didn't see anything that I could say
9 indicated direction.

10 Q. Did you see any dents on the shield or any kind of
11 indication of impact of airborne material?

12 A. Nothing that I saw that stood out to me that I can
13 recall. It's like I say, my whole focus, we were
14 trying to find the last victim, and I was diligently
15 looking for him, and ---

16 Q. Sure.

17 A. --- that was pretty much it.

18 MR. MCGINLEY:

19 Okay. I don't have any other questions.

20 MR. FARLEY:

21 I have one quick question.

22 A. Okay.

23 RE-EXAMINATION

24 BY MR. FARLEY:

25 Q. Obviously you traveled the entire longwall face?

1 A. Yes.

2 Q. And you were around the headgate area around the
3 longwall, too. And I know you were looking for bodies
4 at that point, but did you get any sense of --- give
5 us a sense of what you saw when you looked at the mine
6 floor, any cracks, any holes, any hooving,
7 anything ---

8 A. No.

9 Q. --- that jumped out at you?

10 A. I'm trying to think how to put this. Along the
11 longwall face, I can remember there was a few little
12 items like that, like the pins, and that's hard to
13 travel. But other than that, when you come in, when
14 you first get down here to Six North, when you get to
15 this Y and you start traveling any of these areas that
16 we were in, especially going up --- when you're going
17 up this crossover, Headgate 22, it's just debris is
18 everywhere. It's like --- there's no sense of
19 direction where it came from. It's just piled up
20 everywhere and crawling overtop of stuff. You don't
21 even see the floor bottom. It's covered.

22 Q. All right. Did you see any stoppings that were
23 still up anywhere?

24 A. Past the Y? I can't recall any pieces of
25 stoppings. You could see like an inby side or

1 something a little bit that would be standing. That
2 would be it.

3 Q. Do you remember where you first --- or the last
4 place you saw intact stoppings?

5 A. It was somewhere along that Five North belt out
6 here, but I couldn't tell you the crosscut.

7 ATTORNEY BABINGTON:

8 Just to clarify for the record, you're
9 referring to the Y area, and that seems to be the
10 intersection of Headgate One North and Six North belt?

11 A. Correct.

12 ATTORNEY BABINGTON:

13 And you're talking about the areas inby
14 that intersection?

15 A. Yeah. Yeah. You're right.

16 ATTORNEY BABINGTON:

17 Okay.

18 RE-EXAMINATION

19 BY MR. STOLTZ:

20 Q. I got one more follow-up for you. You said
21 something interesting, and I want to make sure we
22 catch it, that the pan line did not have coal on the
23 pan line, except for where it spilled off from the ---
24 spilled off from the face. Is that what you recall?

25 A. Right. I know the pan line, it was clear. It

1 went through there in places because I actually
2 traveled through the pan line.

3 Q. You said before the shearer had looked like it was
4 ready to, you know, start heading toward the headgate
5 then.

6 A. Yeah.

7 Q. So that means that they finished their cut, had
8 cleared the pan line and pushed it?

9 a. Like I said, I wouldn't testify or say that the
10 whole pan line was clear, but eventually like around
11 when we came to the --- where the bodies was mid-face,
12 around that area, because going back to, that's the
13 way I traveled to stay away from the bodies as best
14 you could, and it was easier to travel that way,
15 getting in the pan line.

16 Q. Getting in the pan line and come up the pan line?

17 A. Uh-huh (yes).

18 Q. Okay. I guess then let's move on then. You got
19 excellent notes, by the way.

20 A. What?

21 Q. You got excellent notes. On April 10th, then, was
22 that your next shift? Did you come back on April 10th
23 at the mine?

24 A. We was there every day.

25 Q. Okay.

1 A. I'm trying to recall what we did. The next thing
2 that we actually did pertinent, I mean, as far as
3 going underground, I don't have any notes
4 briefing-wise. Let me think.

5 Q. Well, I guess when was the next shift you went
6 underground?

7 A. The next shift I went underground was when we went
8 to recover the last body. I guess that was the 12th.

9 Q. Would it be the 12th? Okay. Let's go to there
10 then. Could you walk us on what time you get to the
11 mine and the briefing on the 12th?

12 A. Let's see. I think I come out the 11th. I'm
13 having to remember this off my head.

14 Q. Okay.

15 A. Let's see. I went back and slept a little bit and
16 then came back to the mine because I was going to be
17 on the recovery team.

18 Q. Okay.

19 A. And we had a briefing that evening at around 6:05.

20 Q. Okay. That would be on the 11th?

21 A. That would be on the 12th.

22 Q. Twelfth (12th)?

23 A. Yeah. Let's see. I was going to travel --- the
24 team that I was with would have been myself, chuck
25 Barton, which is an MEU team member. And we had Carl

1 Baisden, and he was the guy from the college. They
2 wanted him involved with body recovery and things like
3 that. And we had Barry Fletcher, John Hall and Tucker
4 from West Virginia State there.

5 Q. Okay. And that was going to make up your team for
6 that day?

7 A. Right.

8 Q. And do you recall what your assignment was then or
9 where you all --- you traveled underground?

10 A. Yeah. We traveled underground. They wanted to
11 try to establish some ventilation up to where we had
12 fresh air, where the victims were, so we could recover
13 them in fresh air.

14 Q. Okay.

15 A. And there were teams working to do that. I was a
16 part of those teams ---. Like I said, I was part of
17 the teams --- the team that was going to actually map
18 and recover the victims.

19 Q. Okay.

20 A. So we traveled in, along the track entry, like we
21 had been doing, and we had to pick a lot of material
22 up there. What we had been told and understood is
23 that we may have to extricate some bodies that were on
24 the mantrip because the canopy was smashed in on one
25 end of the mantrip. So we packed a lot of tools, Jaws

1 of Life and things of that nature up. We had to pack
2 pogo sticks, curtain. It was a long, hard walk from
3 down here, where we referred earlier to the Y, to get
4 up to where we were at on Headgate 22.

5 Q. Okay.

6 A. Let's see.

7 Q. I guess, do you remember where the fresh air base
8 was set up?

9 A. No. It moved as we went, as they were taking air
10 along through there.

11 Q. Okay.

12 A. I don't think I have anything wrote down as far as
13 location of the fresh air base.

14 Q. Okay. Well, could you just I guess --- I know
15 you're trying to recall, but just kind of walk us
16 through that day, in general?

17 A. Like I said, we got up to the Y. We got up to the
18 end of the track where you have to start walking.

19 Q. Uh-huh (yes). And when you're referring to
20 walking, it would then be from this 78 Break?

21 A. Yeah, right there. And we were packing material.
22 I can't remember who all was on one of the stretchers
23 that we had. I know Barry Fletcher and Tucker and
24 John Hall and myself. There could have been a couple
25 more with us, but we were packing the materials to

1 take up to 22 Headgate, ---

2 Q. Okay.

3 A. --- such as curtains, pogo sticks and all that.

4 And there were teams in there working to ventilate and
5 were calling out what they were doing, what they were
6 getting. I can remember going up. We were a few
7 breaks --- on 22 Headgate, we were a few breaks outby
8 where the mantrip was located. We had a fresh air
9 base there for quite a while, while they were doing
10 the ventilations and calling out what they were
11 finding as they traveled up that pan.

12 Let's see. I know we had --- I know at one point
13 in time we had a guy from the State, (b) (7)(C) , I
14 guess that's how you say it, he kind of got hot and
15 they called out that they had somebody inby that
16 needed a medic at the doors, at the airlock, where
17 they were establishing as they advanced up and
18 ventilated. So we rushed up there and myself and
19 Chuck Barton, we checked him out. I took a few notes
20 as far as, you know, his condition and his pulse. And
21 he had kind of overheated, is what he had done. So we
22 tended to him and got him back to the fresh air base
23 and out from under the apparatus, helped him get his
24 stuff back. And just after that, we got up to where
25 the bodies were all out, and I was mapping.

1 Q. Okay.

2 A. I mapped all the bodies that were on the 22
3 Headgate, at the mantrip and inby ---

4 Q. Okay.

5 A. --- and assisted with loading 'em up and
6 identifying 'em. When we got to the mantrip, we
7 looked that over and we saw that we didn't have to use
8 anything to extract the victims. The canopy was
9 smashed down, but we didn't have any problem getting
10 them out of it.

11 Q. Okay. Did you all --- you said you loaded them
12 up, the victims up. Did you --- it was our
13 understanding that there was a relay, so ---.

14 A. Of teams?

15 Q. Yes.

16 A. Right.

17 Q. And you relayed 'em and had to transport the
18 victims so far and relayed 'em to another team.

19 A. They had teams staged all the way out to pack at
20 different intervals, and I'm not sure each specified
21 team's intervals. They may be a little different. I
22 was with the recovery team the whole team. And I'd
23 say my job, I was mapping. I tried to show the
24 general location and position of the victims. And
25 also, you know, at times, too, when I would get

1 through mapping, I would help identify. We were
2 trying to find SCSR serial numbers, tag, any
3 identification that could have been on their hats. We
4 had to write all that and help them ID. Chuck Barton
5 assisted with writing that down, too. We would load
6 'em --- get them loaded into the body bags and set out
7 and then the team --- I think it was a Massey team
8 that was with us. They pretty much stayed back at a
9 distance while we done that part of it. And they
10 would come and get the victim and transport 'em and
11 relay 'em out of the mines.

12 Q. I guess --- you said ventilation was established.
13 So basically you could do that without apparatus on.
14 There was fresh air?

15 A. You could, just --- it was a little ways inby
16 there. I don't remember what break that they had the
17 airlock to and had that ventilated.

18 Q. Somewhere inby that ---?

19 A. Yes.

20 Q. You don't recall?

21 A. No.

22 Q. Okay.

23 A. It wasn't far. It was a break or two inby. I
24 know there was people down around the Glory Hole belt
25 area, that had came up that way, to do some checks on

1 air quality, and they had some people monitoring a
2 couple different areas. Like I said, my job was
3 pretty much loading up and identification.

4 MR. STOLTZ:

5 Terry, do you have anything?

6 RE-EXAMINATION

7 BY MR. FARLEY:

8 Q. Back to the longwall panel. The metal along the
9 pan line, did it appear in any way scorched?

10 A. Not that I can recall. When I talk about damage
11 from heat, the majority of it is like looking at the
12 electronics on the shields. You could see items.
13 Some of that's like plastic-like that was melted. You
14 could see where it melted.

15 Q. Okay.

16 ATTORNEY BABINGTON:

17 Let's take a quick break, two minutes.

18 SHORT BREAK TAKEN

19 ATTORNEY BABINGTON:

20 Let's go back on.

21 RE-EXAMINATION

22 BY MR. STOLTZ:

23 Q. I have one more follow-up question. Could you
24 please tell us what type of communication equipment
25 and handheld radios you were using?

1 A. Yeah. We were using Kenwood radios with
2 repeaters.

3 Q. Okay. And that's the equipment that you were
4 having difficulties exploring from up the crossover?

5 A. Right.

6 MR. STOLTZ:

7 Terry?

8 MR. FARLEY:

9 No, sir.

10 ATTORNEY BABINGTON:

11 All right. We marked up one map --- the
12 witness marked up one map, one of the Bandytown fan
13 maps, and we'll be labeling that Sparks One and that
14 will be part of the record.

15 (Sparks Exhibit One marked for
16 identification.)

17 ATTORNEY BABINGTON:

18 On behalf of MSHA and the Office of
19 Miners' Health, Safety and Training, I want to thank
20 you for appearing and answering questions today. Your
21 cooperation is very important in the investigation as
22 we work to determine the cause of the accident. We
23 request that you not discuss your testimony with any
24 person, aside from your personal representative.

25 After questioning other witnesses, we may

call you if we have any follow-up questions. If at any time you have additional information regarding the accident that you'd like to provide to us, please contact us at the contact information previously provided.

If you wish, you may now go back over any answer you've given during this interview. You may also make any statement that you'd like to make at this time.

A. I don't have any.

ATTORNEY BABINGTON:

Thanks. And again, I want to thank you for your cooperation in this matter.

* * * * *

STATEMENT UNDER OATH CONCLUDED AT 4:30 P.M.

* * * * *

STATE OF WEST VIRGINIA)

CERTIFICATE

I, Danielle Ohm, a Notary Public in and for
the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Danielle Ohm