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Transcript of the Testimony of Terry Claypool

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
TERRY CLAYPOOL

taken pursuant to Notice by Brett Steele, 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-123, Beaver, West Virginia, on Friday, May 21, 2010, beginning at 9:35 a.m.

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1 A P P E A R A N C E S

2

3 MATTHEW N. BABINGTON, ESQUIRE

4 U.S. Department of Labor

5 Office of the Regional Solicitor

6 1100 Wilson Boulevard

7 22nd Floor West

8 Arlington, VA 22209-2247

9

10 TERRY FARLEY

11 West Virginia Office of Miners' Health,

12 Safety and Training

13 1615 Washington Street East

14 Charleston, WV 25311

15

16 JOHN GODSEY

17 Miners' Safety and Health Administration

18 P.O. Box 560

19 Norton, VA 24273

20

21 CELESTE MONFORTON, MPH, DRPH

22 West Virginia Independent Investigation

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24 (b) (7)(C)

25 (b) (7)(C)

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P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. I'm an
accident investigator with the Mine Safety and Health
Administration. With me is John Godsey, another part
of the Accident Investigation Team. I'd like the
members of the State teams to announce their
appearance for the record.

MS. MONFORTON:

Celeste Monforton, and I'm working with
the Governor of West Virginia's special team.

MR. FARLEY:

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

ATTORNEY BABINGTON:

Today is May 21st, 2010. We are at the
National Mine Academy in Beaver, West Virginia,
Classroom C-137. We're here today to interview Terry
Claypool as part of the investigation of the accident
that occurred at the Upper Big Branch Mine-South on
April 5th, 2010. We will be conducting the
questioning today.

Government investigators and specialists
have been assigned to investigate the conditions,

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

8 You may have your personal attorney

9 present during the taking of this statement or another
10 personal representative, if MSHA has permitted it, and
11 may consult with your attorney or representative at
12 any time. Your statement is completely voluntary.

13 You may refuse to answer any question and you may
14 terminate your interview at any time or request a
15 break at any time. Since this is not an adversarial
16 proceeding, formal Cross Examination won't be
17 permitted. However, your personal representative may
18 ask clarifying questions, if appropriate. If you have
19 clarifying questions, you may ask.

20 Your identity and the content of this

21 conversation will be made public at the conclusion of
22 the interview process and may be included in the
23 public report of the accident unless you request that
24 your identity remain confidential or your information
25 would other jeopardize a potential criminal

1 investigation. If your request is to keep your
2 identity confidential, we will do so to the extent
3 provided by law. That means that if a Judge orders us
4 to reveal your name or under law requires us to reveal
5 your name or if we need to reveal your name for other
6 law enforcement purposes, we may do so. We request
7 that you refrain from discussing your statement with
8 others who may be interviewed. Also, there may be a
9 need to use the information you provide to us or other
10 information we may ask you to provide in the future in
11 other investigations into and hearings about the
12 explosion. Do you understand or have any questions?

13 MR. CLAYPOOL:

14 Yes, I understand, and no, I don't have
15 no questions.

16 ATTORNEY BABINGTON:

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

1 person aside from your personal representative or
2 counsel.

3 A court reporter will record your
4 interview. Please speak loudly and clearly. If you
5 do not understand a question asked, please ask for it
6 to be rephrased. Please answer each question as fully
7 as you can, including any information you've learned
8 from someone else.

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

13 After we finish asking questions, you'll
14 have an opportunity to make a statement and provide us
15 with any other information that you believe to be
16 important. If at any time after the interview you
17 recall any additional information that you believe
18 might be useful, please contact or have your
19 representative contact Norman Page at the telephone
20 number we provided to you in that notification letter.

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

1 you as a result of your cooperation with this
2 investigation, you're encouraged to immediately
3 contact MSHA and file a complaint under Section 105(c)
4 of the Act. Remedies under the Mine Act include back
5 wages and immediate temporary reinstatement to your
6 most recent position with the company, pending a
7 complete investigation of your complaint. In order to
8 file such a complaint you should contact the MSHA
9 District 4 office at 100 Blue Stone Road, Mount Hope,
10 West Virginia, 25880, or by telephone at (304) 877-
11 3900. For more information concerning your rights as
12 a miner under the Mine Act, please visit MSHA's mine
13 site at www.msha.gov, and you'll see from there how to
14 find the miners' rights information.

15 For the record, do you have a personal
16 representative with you?

17 MR. CLAYPOOL:

18 No.

19 ATTORNEY BABINGTON:

20 Okay.

21 -----

22 TERRY CLAYPOOL, HAVING FIRST BEEN DULY SWORN,

23 TESTIFIED AS FOLLOWS:

24 -----

25 EXAMINATION

1 BY MR. GODSEY:

2 Q. Mr. Claypool, I appreciate you coming in today and
3 talking with us. Please state your full name and
4 spell your last name.

5 A. Terry Lee Claypool, C-L-A-Y-P-O-O-L.

6 Q. And your address and your telephone number?

7 A. That's (b) (7)(C)

8 Q. Are you appearing here today voluntarily?

9 A. Yes.

10 Q. How many mining years --- years of mining
11 experience do you have?

12 A. Twelve (12).

13 Q. Please give us a brief description of your coal
14 mine employment history.

15 A. Worked mostly third shift as an electrician.

16 Started as an electrician in the mines.

17 Q. Have you worked at Upper Big Branch the whole
18 time?

19 A. No. I just started ---.

20 Q. Where did you start out?

21 A. I started out at Princess Polly Anna Coal.

22 Q. Have you worked at any companies, coal companies,
23 besides that?

24 A. No.

25 Q. Do you have any mining certifications?

1 A. Yes. I'm an electrician and I'm a certified
2 underground miner.

3 Q. Do you have foreman's papers?

4 A. No, sir.

5 Q. Are you presently employed?

6 A. Yes.

7 Q. Where are you employed at?

8 A. Shonk.

9 Q. Pardon me?

10 A. Shonk.

11 Q. How do you spell that?

12 A. S-H-O-N-K.

13 Q. When did you start?

14 A. I don't remember the exact day. It was probably
15 about two weeks ago.

16 Q. What is your present job position or job title?

17 A. Electrician.

18 Q. How much of the mining history --- or work history
19 is with Massey?

20 A. Since 1999.

21 Q. And that's been all at Upper Big Branch?

22 A. Yes.

23 Q. Was your first day of employment August 15th, 2008
24 at UBB?

25 A. August 15?

1 Q. Yeah, 2008, adjusted employment date?

2 A. Employment at UBB?

3 Q. Yeah. Yes, sir.

4 A. 1999, September I think.

5 Q. What was your first job assignment at Upper Big
6 Branch?

7 A. Let's see. I was an electrician outby.

8 Q. What did that consist of? What were you
9 responsible for?

10 A. We were just doing any outby work, scrapers, stuff
11 like that.

12 Q. Did you do any electrical work outby?

13 A. I had some. Some boxes and stuff like that.
14 Putting in new high lines and stuff like that.

15 Q. On your first shift at work at the Upper Big
16 Branch, what areas of the mine did you visit or travel
17 to?

18 A. Could you repeat that?

19 Q. On your first shift, the first day that you worked
20 at Upper Big Branch, what areas of the mine did you
21 travel to and ---?

22 A. The old North Mains, Headgate 11.

23 Q. Did you receive any training at Upper Big Branch
24 Mine prior to being assigned a job on your first day?

25 A. Yes.

1 Q. What kind of training was that?

2 A. On-site training and job-specific training.

3 Q. Do you remember who gave that to you?

4 A. To be honest, no.

5 Q. Did you receive Massey's initial training, the
6 company training, the Massey --- MIT training?

7 A. No, sir.

8 Q. Did you receive any training on the atmospheric
9 monitoring system, AMS system?

10 A. Yes.

11 Q. What kind of training was that?

12 A. Just a class we had in the safety department.

13 Q. Do you remember who taught you that?

14 A. No, sir, I can't.

15 Q. Do you happen to know how long it lasted?

16 A. No, sir, I can't remember how long it lasted.

17 Q. Have you received refresher training in the past
18 two years?

19 A. Yes.

20 Q. Who gave --- do you remember who gave that to you
21 and when?

22 A. We just had our annual --- Massey give it. They
23 give it to us at Pettus Elementary.

24 Q. Where do they have their training at?

25 A. Their yearly mine retraining? Pettus Elementary.

1 Q. When was your last annual retraining class that
2 you participated in?

3 A. It was just here recently.

4 Q. Past six months or ---?

5 A. Oh, yes. Yeah.

6 Q. Do you remember who gave you that training?

7 A. Massey give it, the State.

8 Q. Can you describe what was covered during that
9 training, when you had your training, recent training?

10 A. Had first-aid, had airways and escape maps, had
11 methane, self-contained self-rescuers, some surface
12 stuff. I can't remember all of it.

13 Q. Do you remember the individual who gave the
14 training or individuals, if it was more than one?

15 A. Yes, there was more than one. I can't remember
16 the guy's last name. I think his name was Shannon or
17 Shawn taught the rescuers. Mr. Walker taught the
18 airways and stuff.

19 Q. Was the mine emergency evacuation firefighting
20 program instructed and reviewed?

21 A. Yes.

22 Q. Do you know who was the responsible person that's
23 on each shift when an emergency occurs that relates to
24 that plan? Do you know who the responsible person is
25 in charge on your shift?

1 A. Third shift, yes.

2 Q. Who is that?

3 A. Shawn Walker.

4 Q. Are you familiar with the location of the
5 emergency materials that's being maintained in the
6 mine in case of a fire, explosion?

7 A. Yes.

8 Q. Where do they usually keep that?

9 A. Usually just a couple breaks outby the fire
10 center.

11 Q. What about on the main line? Do they ever show
12 you where --- or you've been trained where it is on
13 the main line?

14 A. Yes.

15 Q. Are you familiar with your evacuation procedures
16 in case of a fire, explosion, water inundation?

17 A. Yes.

18 Q. Did they go over that training with you?

19 A. Yes.

20 Q. In the case of a fire, what are you supposed to be
21 doing? What's the thing that you should do, the
22 training?

23 A. Well, it depends on the situation. I'm supposed
24 to knock all power, and to communicate between the
25 foreman and the phone.

1 Q. In the case of a fire, what's your job? Do you
2 have a job? Does each person on the section have a
3 job assignment?

4 A. Each person has their own individual job.

5 Q. What is your job?

6 A. Just make sure all the power is knocked and all
7 tools available to hook up water and everything is
8 there.

9 Q. Were the procedures about barricading or escaping
10 taught to you?

11 A. Yes.

12 Q. Are you qualified to take methane and oxygen
13 tests?

14 A. Yes.

15 Q. Where did you take the training at?

16 A. We had it, I guess, at Massey's safety building, I
17 believe, for example.

18 Q. Do you remember when you were qualified?

19 A. Not exactly, but I can give you the date.

20 Q. Okay.

21 A. The third month, 2007.

22 Q. Were the hazards of carbon monoxide discussed with
23 you?

24 A. Yes.

25 Q. Were escapeways covered as part of the training?

1 A. Yes.

2 Q. How did they discuss that? What did they talk to
3 you about or show you?

4 A. They just went over your primaries and your
5 secondaries and where you need to go and they showed
6 all these rescue chambers and stuff.

7 Q. Do they have maps on the surface and underground
8 showing you --- that you've got access to, to show you
9 the escapeway?

10 A. Yes, they have maps.

11 Q. Do they periodically go over that with you ---

12 A. Yes.

13 Q. --- if any changes are in it?

14 A. Yeah.

15 Q. Who usually does that?

16 A. It would be the foreman, section foreman.

17 Q. How often have you participated in escapeway
18 drills?

19 A. Pretty often.

20 Q. Do you do it more than once a year?

21 A. Sometimes, yes.

22 Q. Do it two times a year?

23 A. More than that.

24 Q. When was the last time that you traveled a primary
25 escapeway?

1 A. About two weeks ago.

2 Q. How is the escapeway maintained? What type ---
3 how is it maintained?

4 A. It's lit up with reflectors, marked.

5 Q. What's the roof control and the ground control for
6 the ---?

7 A. Pretty dry, high.

8 Q. How long does it take to --- well, what section
9 did you travel the escapeway from?

10 A. Pertaining to where I'm at now?

11 Q. The last time you traveled the primary escapeway,
12 what station did you leave from and how long did it
13 take you to get to the surface, approximately?

14 A. Shonk III took about --- probably about 20
15 minutes.

16 Q. How long from UBB and what was your last unit
17 there that you traveled from?

18 A. From there it was Four section and it took about
19 40 minutes.

20 Q. Now, which is Four section? Where is Four section
21 located?

22 A. Four section would be what they call the barrier
23 section.

24 Q. That's the one down in the south?

25 A. On the south side.

1 Q. Who traveled with you?

2 A. The mine foreman. Everybody walked it.

3 Q. Everybody. What condition was the lifeline in?

4 A. It was actually in pretty good shape.

5 Q. Was it ever tangled up in any other cords or wires
6 or anything?

7 A. No, sir, not on Four.

8 Q. And what type of SCSR storage did they have outby
9 on the escapeway route, the caches of SCSRs?

10 A. They had --- I don't know what they call them.
11 Caches they call them.

12 Q. Were they easily recognized where they were?

13 A. Yes.

14 Q. Have you participated in a fire drill?

15 A. Yes.

16 Q. Who participated with you?

17 A. Mine rescue.

18 Q. How long did the procedure go on?

19 A. About --- probably two hours.

20 Q. Did you feel it was good training?

21 A. Oh, yeah. Yeah.

22 Q. Where was the fire drill held?

23 A. Four section.

24 Q. What kind of procedures did they show you on the
25 fire drill? What did they go over?

1 A. Fighting fire. We had to actually hook up the
2 fire hose, turn the water on, drag a line out, open
3 the hose. If it didn't work, then what we was going
4 to do. Then had to hit the escapeway and out.

5 Q. Did the persons like on the section, you know,
6 some people assigned like you are, the electricians do
7 the power and some guys do the fire extinguishing and
8 all that, did they all --- the people who participated
9 in that drill, do they perform the job that they did?
10 Most of them?

11 A. Yes, pretty much.

12 Q. Did you receive hands-on SCSR training?

13 A. Yes.

14 Q. Who give you that; do you remember?

15 A. It was that Shawn guy.

16 Q. Okay. And was that part of your retraining?

17 A. Yes.

18 Q. When did you receive your last SCSR training?

19 A. SCSR, actually it was two weeks ago, ---

20 Q. Okay.

21 A. --- because we done it again before we started the
22 other night.

23 Q. In other words, you did it before you went to your
24 new assignment?

25 A. Yes, sir.

1 Q. Was first-aid covered --- was hands-on training
2 part of it?

3 A. Yes, sir.

4 Q. And who gave you the first-aid training?

5 A. I think it was one of the safety guys from Elk
6 Run.

7 Q. And do you remember where that was performed ---
8 given to you at?

9 A. Elk Run Training Center.

10 Q. How about the roof control plan, do they go over
11 the roof control plan with you before at UBB and at
12 this coal mine?

13 A. Yes.

14 Q. What did they cover on it; do you remember?

15 A. Just about every --- they read just about
16 everything out of the pamphlet they had, type of bolts
17 and all that stuff used.

18 Q. Were there many questions asked by the miners to
19 the instructor about clarifying things in the roof
20 control plan?

21 A. Some.

22 Q. What areas of the plan were covered by the roof
23 control plan?

24 A. Part, path. It pretty much covered all of it.

25 Q. What about the ventilation plan? Did they review

1 the ventilation plan with you ---

2 A. Yes.

3 Q. --- at UBB ---

4 A. Yes.

5 Q. --- and at this new --- your new assignment?

6 A. Yes.

7 Q. Did you feel pretty comfortable with the training
8 that you received? Did you understand it?

9 A. Yes.

10 Q. When changes were made --- now, we're talking
11 about UBB. When changes in the ventilation plan were
12 made, were those changes reviewed with you and the
13 other miners before they was enacted?

14 A. Yes. They was always posted or told.

15 Q. Do you remember who all would go over the
16 ventilation changes with you, the persons who went
17 over it with you?

18 A. Mostly it was the mine foreman.

19 Q. And he would do that before the ventilation
20 changes were done?

21 A. Yes.

22 Q. Do you feel the training that he --- when he went
23 over it was adequate? In other words, he explained it
24 to the full extent of what they were going to do and
25 what the hopeful outcome was to be?

1 A. Yes.

2 Q. Are there any areas that you think additional
3 training should be provided at UBB?

4 A. No.

5 Q. Can you describe the management structure at UBB
6 from your foreman up, who's in charge and who the
7 people are? Like you said, your foreman --- immediate
8 supervisor was so and so, and then who's his boss and
9 up to the what --- superintendent, vice-president,
10 whatever, do you know the structure, the chain of
11 command?

12 A. Shawn Walker was the third shift mine foreman and
13 he answered to Everett Hager.

14 Q. Was there anyone above him?

15 A. Chris Blanchard.

16 Q. And who was above him?

17 A. Chris Blanchard? Don Blankenship.

18 Q. Okay. On April 5th, 2010, what was your job
19 title? On the day of the accident, what was your job
20 title?

21 A. Maintenance foreman.

22 Q. Pardon me?

23 A. Maintenance foreman.

24 Q. So you are the maintenance foreman. Okay. How
25 long have you had that position or job title?

1 A. Five or six years.

2 Q. And where were you when you first were assigned
3 --- made chief --- I mean electrician --- maintenance
4 supervisor? What period --- have you always been ---
5 were you the first maintenance supervisor at UBB?

6 A. Not always, no.

7 Q. Okay.

8 A. Just off and on.

9 Q. What are your duties as a maintenance supervisor?

10 A. Just all the electrical, all the maintenance.

11 Q. How many people do you have under you?

12 A. At the time, just two.

13 Q. Pardon me?

14 A. At the time, just two.

15 Q. At the time. That's UBB; right?

16 A. Yes.

17 Q. Okay. You've already answered this, I think, but
18 I might have to ask you --- I'm going to ask you
19 again. Who was your immediate supervisor at UBB?

20 A. Mine?

21 Q. Yes.

22 A. It was Rick Nicolau.

23 Q. Rick? What was it?

24 A. Rick Nicolau.

25 Q. What was your work schedule for the week of the

1 accident? On April 5th what was your work schedule?

2 What shift --- you say you were working ---?

3 A. Third shift.

4 Q. Third shift.

5 A. At Sunday night of the accident, May the --- it

6 was the fifth shift up there.

7 Q. And what was your starting time?

8 A. Starting time was 11:30.

9 Q. 11:30. And your ending time, what time do
10 you ---?

11 A. 8:30.

12 Q. And you said how many days a week it would have
13 been?

14 A. It just rotates five and six.

15 Q. When you say five and six, what do you mean?

16 A. One week we work five and one week we work six.

17 Q. And do you rotate shifts?

18 A. No, we do not rotate.

19 Q. Exactly how does that shift work? I've heard
20 there's four shifts; first, second, third and fourth
21 shift. How do they work?

22 A. I have no idea.

23 Q. You don't have any ---?

24 A. No.

25 Q. Have you ever performed any other job at UBB,

1 other than a maintenance man, electrical?

2 A. I've been an electrician.

3 Q. So about the whole time you've been there you've
4 been an electrician?

5 A. Yes, sir.

6 Q. When was the last time that you were in 22
7 Tailgate section?

8 A. Twenty-two (22) Tailgate was --- it would be
9 Sunday night.

10 Q. Is that your present job --- is that where you
11 worked? Is that the section you were assigned to?

12 A. Right now?

13 Q. At UBB.

14 A. At UBB?

15 Q. Your last shift.

16 A. Yeah.

17 Q. When was the last time that you were on 22
18 Headgate?

19 A. It would be Sunday night.

20 Q. So you go to all of it? I mean, do you travel all
21 the sections?

22 A. No, sir.

23 Q. You're mainly assigned to ---?

24 A. I was maintenance chief on Tailgate 22 at the
25 time.

1 Q. Tailgate 22. When was the last time you were on
2 the longwall, at the present longwall?

3 A. Present longwall.

4 Q. The old 50 section.

5 A. That I was actually on the wall? Closest I've
6 been to it was probably 28 Break.

7 Q. Twenty-eight (28) crosscuts to it --- or at 28
8 Crosscut?

9 A. I said 28 Break.

10 Q. Now, from the --- what portal do you all enter?

11 A. UBB Portal.

12 Q. That's a pretty long trip from the surface to the
13 section, isn't it?

14 A. Yeah.

15 Q. How long does it take you?

16 A. About 45 minutes.

17 Q. Who all travels with you?

18 A. The whole first shift belt crew and ---.

19 Q. The foreman and everybody travel ---?

20 A. Uh-huh (yes).

21 Q. We'll talk a little bit about the outby. When you
22 --- the UBB portal is an older portal; right? It's
23 been there for a while?

24 A. Yes, it's ---.

25 Q. What condition is the track and the --- does it

1 have a beltline --- a belt in it also? Does a belt
2 come out of that portal?

3 A. No, sir.

4 Q. Okay. From the start --- from the surface on
5 it --- so we're going into --- what's that, Ellis
6 switch? Is that the --- inby Ellis Portal. What kind
7 of --- what's the conditions in there? What's the
8 rock dust or --- how was it applied? How did it look
9 when you traveled in?

10 A. It was fairly good.

11 Q. Do they have a rock dust regimen where like we
12 rock dust on certain days, certain shifts? Do they
13 have a schedule when they do the rock dusting?

14 A. I could not tell you.

15 Q. How is the track maintained? Is it pretty well
16 level, balanced, or is it ---?

17 A. It's pretty decent.

18 Q. Does it meander much through there, a lot of ---
19 or is it pretty straight or maintained --- how is it
20 maintained?

21 A. Fairly decent.

22 Q. What about the ventilation controls? How --- the
23 ventilation controls, do they have many holes in them
24 or do they keep them pretty well maintained?

25 A. I'm not sure.

1 Q. Now, once you get --- we're going up to Ellis ---
2 what's the roof conditions through there? Are
3 they --- what does it look like? Do you remember what
4 kind of supports they used?

5 A. No, I can't remember.

6 Q. And what about ventilation? Have you ever found
7 any methane on the track?

8 A. No, sir.

9 Q. Do you all take gas checks as you go in
10 periodically?

11 A. The foreman's usually got his on.

12 Q. Okay. So what type of instrument do you all use?

13 A. Solaris.

14 Q. Solaris. As you travel up to the section, 22
15 Tailgate, do you all have --- how many --- do you have
16 several equipment doors or track doors?

17 A. Ask that again.

18 Q. Do you travel on the track --- do you all have to
19 go through man --- track doors, ---

20 A. Yes.

21 Q. --- ventilation doors? Have you ever seen or
22 found those left open?

23 A. No, sir.

24 Q. Are they automatic or manual or ---?

25 A. A couple automatic and the rest manual.

1 Q. How well are they maintained? Have you found them
2 damaged, many?

3 A. Which ones?

4 Q. Any one of them, any of the doors.

5 A. No.

6 Q. What about overcasts, have you ever been concerned
7 about what --- how do they build their overcasts? Do
8 they build many overcasts?

9 A. Yes.

10 Q. Do they --- what kind of clearances do they have
11 maintained? Do they shoot out or do they cut out ---

12 A. No.

13 Q. --- move them over for them or ---?

14 A. They most cut out.

15 Q. Okay. How do you find the belt --- see the belt?
16 Do you see much accumulations of float dust or
17 accumulation of coal along the beltline? Or do you
18 travel the beltline?

19 A. No, I don't normally the beltline.

20 Q. Okay. Have you ever been on a section up there
21 where water has been coming through the roof or bottom
22 or ribs or anything much?

23 A. Some.

24 Q. Some?

25 A. Yeah.

1 Q. What about water on the track? Do you have any
2 time you found water overtop of the rail?

3 A. Not since I traveled that way a short time.

4 Q. Do they have many pumps on the track outby the
5 section?

6 A. I'm not sure.

7 Q. You're not sure. Did you have any conversations
8 with fellow mine workers or mine management concerning
9 unsafe mining conditions at the UBB Mine?

10 A. No, sir.

11 Q. No one has ever mentioned it to you? Okay. How
12 would you describe the roof and the bottom conditions
13 at Upper Big Branch?

14 A. They wasn't that bad.

15 Q. It was your opinion what wasn't that bad?

16 A. It wasn't that bad.

17 Q. Did they have very much problems with any roof
18 falls or many roof falls?

19 A. They had a few. I was never up there.

20 Q. Were there any on the section?

21 A. No.

22 Q. All of them outby?

23 A. I'm not sure. I was on the south side.

24 Q. Have you ever detected any methane while mining on
25 the present section ---

1 A. No.

2 Q. --- at UBB? Have you ever found any --- have you
3 watched them --- I'm sure you have watched them cut
4 coal up there, mine coal. What type of miner do they
5 have on a section?

6 A. They had a Joy 1415.

7 Q. Have you ever --- what kind of methane monitor do
8 they have mounted on the machine?

9 A. I can't remember the name of it.

10 Q. Have you ever seen it give alarm or go into a one
11 percent and start flashing or anything when they were
12 mining?

13 A. When they're mining?

14 Q. Uh-huh (yes).

15 A. No, sir.

16 Q. Usually what is --- is it a digital or ---?

17 A. Analog.

18 Q. What's the most that you've ever read on the ---
19 when you were up there present when they were mining,
20 what's the most that you ever read on the methane
21 print readout?

22 A. On the miner itself?

23 Q. On the miner, on the continuous miner?

24 A. Double zero.

25 Q. Always double zero. Have you ever been aware of

1 anybody on the section or ever mining without the
2 methane monitor working?

3 A. No.

4 Q. Have you ever seen one --- found one that's ever
5 been bridged?

6 A. No, sir.

7 Q. Have you ever encountered or have you all ever
8 encountered problems with gas wells that you didn't
9 know about?

10 A. Not to my recollection, no.

11 Q. Okay. What about gas feeders? Have you ever had
12 any coal feeders --- I mean, gas feeders come out of
13 the coal or floor?

14 A. There weren't any gas feeders.

15 Q. Have you ever detected any methane come out of the
16 floor?

17 A. No, sir.

18 Q. What about water?

19 A. Some water.

20 Q. And where does it mostly come from?

21 A. Just out of the bottom.

22 Q. Out of the bottom. Do you know where it comes
23 from --- what part of the mine it comes from?

24 A. I have no idea.

25 Q. Who all carries a methane spotter or --- on the

1 section? How many of you all carry it?

2 A. I know three of us got one.

3 Q. Who are they?

4 A. Me --- I don't know his first name. They call him
5 Jaybird, he's the build crew new boss and Randy
6 Lafferty.

7 Q. You've been there several years and even when they
8 mined the longwall, that --- you know, the ones ---
9 sealed area. Do you ever know of them at any time
10 mining through a gas well?

11 A. I can remember they gassed off one time.

12 Q. But you don't know whether they mined through a
13 plugged or a gas well?

14 A. No, I don't know.

15 Q. Are you aware of any time that they've had a
16 problem --- that lower Eagle seam, approximately a few
17 feet below the Eagle seam or the small seam below it,
18 do you know of any problems they ever had with that
19 with floor gas or anything?

20 A. No. Not that I can remember, no.

21 Q. Does the company have any type of incentive
22 program in place in regard to production and safety?

23 A. Yes.

24 Q. What type of program is it? How does it work?

25 A. Mostly if you work safe, you gather points. If

1 you don't have no accidents, you just gain points up
2 and you --- you build points up to get stuff out of a
3 catalog.

4 Q. What if you have an accident, what happens? Say
5 you get a lost-time accident --- say you had X number
6 of points and you had a lost time accident, what would
7 happen to your points? Do they take them off of you?

8 A. No. They don't take them off, no.

9 Q. How many weeks' vacation do you all have or get a
10 year, the miners?

11 A. Two weeks.

12 Q. And when are they?

13 A. July and Christmas.

14 Q. Has any ---?

15 A. I'm sorry. July and Thanksgiving.

16 Q. Okay. Has vacation ever been cancelled?

17 A. For me, no.

18 Q. For any other part of the crews?

19 A. I'm not sure.

20 Q. You don't ever remember seeing on a bulletin board
21 where them saying that you'd be working during
22 Thanksgiving?

23 A. I don't know for sure. I ain't going to say on
24 speculation, no.

25 Q. You don't know?

1 A. No.

2 Q. Okay. Who all benefited from that incentive
3 program? Does the salary people as well as the
4 miners, the management?

5 A. Everybody, as far as I know.

6 Q. I mean management and everybody?

7 A. Well, I don't know about ---.

8 Q. Okay. Have you ever worked --- you already told
9 me that you never worked on ---. Did you work on ---
10 when they was driving the headgate One North panel up,
11 did you ever work on that section, on this section
12 here when they were driving it up?

13 A. No, sir.

14 Q. Did you ever hear of it --- when they were driving
15 that up, did you ever hear of --- any of the miners
16 ever at the bathhouse talk to you about the conditions
17 that --- the problems they've had with the roof and
18 water to try and develop that?

19 A. No.

20 Q. Have you ever been --- have you ever heard
21 anything about any of the miners concerned with the
22 mining over in the Powellton seam?

23 A. No.

24 Q. How was the shifts changed on your section? How
25 do you all do it? Do you all hot seat or do you

1 change outside? The crew shift, do you all check ---
2 on the surface, do you all go out and the next shift
3 comes on?

4 A. No.

5 Q. How do you all shift change? How does it work?

6 A. Our quitting time is at 8:30. They start at 6:30,
7 and usually they're up there before we ever leave.

8 Q. How much time are they there before you all leave?

9 A. I'd say 20 minutes, I'd say.

10 Q. Do you all discuss what went on during your shift
11 with the oncoming shift?

12 A. Yes, always usually talk to the dayshift
13 electrician.

14 Q. Okay. Prior to going underground, do you ever
15 look at the bulletin board and review some of the
16 changes, the ventilation changes that they've sent in
17 to MSHA for approval, the company, UBB?

18 A. No.

19 Q. And you did say that you received training on the
20 ventilation changes before they enacted them? I think
21 you talked about that earlier.

22 A. They always tell you if they was going to have
23 one.

24 Q. What do they normally do when they do a
25 ventilation change? What do they --- how do the

1 people distribute? Are they all underground or ---?

2 A. No.

3 Q. Well, do you know exactly how they perform ---
4 what procedures they go through to --- when they do a
5 ventilation change?

6 A. I ain't for sure on the exact procedure, but I
7 know they never let us go underground.

8 Q. Do you see very many inspectors on your shift,
9 MSHA inspectors?

10 A. A few, yes.

11 Q. Have you ever talked to them about the ventilation
12 plans or roof control plans or any kind of plans up
13 there that you felt maybe you weren't clear on or you
14 needed clarification?

15 A. No, sir.

16 Q. Do you know of anybody else on a section that may
17 have done that?

18 A. Not to my knowledge, no.

19 Q. Are you aware of any problems on the longwall
20 since they've been coming out where they've had any
21 problems --- any kind of problems on the longwall?

22 A. No.

23 Q. Nobody's ever discussed those with you?

24 A. No, sir.

25 Q. Are you familiar with the pumps back in towards

1 the Bandytown fan?

2 A. No, sir.

3 Q. You've never been back that way?

4 A. No, sir.

5 Q. Have you ever traveled to what they call the top
6 end of the --- this is Eight North up here. Have you
7 been to this area up here, inby 22 or 23, I guess,
8 Headgate?

9 A. It's probably been six years ago or better.

10 Q. Okay. What did it look like up there; do you
11 remember?

12 A. Not really.

13 Q. Does it --- you know, they use --- some places
14 there they use airlock doors to ventilate instead of
15 using overcasts. Has that ever concerned you?

16 A. No.

17 Q. Have you ever wondered what would happen if they
18 had left those doors open and they had a fire, what
19 you would do or where you would go? Have any of your
20 miners ever discussed that?

21 A. No, sir.

22 Q. Have you ever --- let me ask you again. Have you
23 ever seen any of those doors ever been left open or
24 damaged to the extent where they weren't functioning
25 as they were supposed to?

1 A. No, sir.

2 Q. Do they have --- do they put belt around the top
3 and bottom of these doors, belting?

4 A. Yes. At least some of them's got rubber skirting
5 from the factory.

6 Q. Okay. Is it usually in pretty good shape or is it
7 hanging loose or just ---?

8 A. Best I remember, some of it is in pretty good
9 shape.

10 Q. What about pressure on those doors? Are they
11 manual or automatic?

12 A. Some of them's manual and some of them's
13 automatic.

14 Q. The doors at the mouth of this panel at Six North
15 belt, where the airlock --- where you go from the
16 intake into the neutral and then back into the
17 neutral?

18 ATTORNEY BABINGTON:

19 John, you're referring to the switch
20 between the main intake and the Six North belt?

21 MR. GODSEY:

22 Right. Right.

23 A. You're referring to the ones inby 78 Break?

24 BY MR. GODSEY:

25 Q. I was --- that's --- these right here, you know,

1 where you come --- you'd be at the mouth of the Six
2 North belt. You come up the neutral, come through the
3 airlocks and you come into the intake escapeway, then
4 you go back through here and back into the neutral.

5 ATTORNEY BABINGTON:

6 So it is the 78 Break that you're
7 referring to?

8 MR. GODSEY:

9 Yes.

10 BY MR. GODSEY:

11 Q. Are those doors --- are those manual or ---?

12 A. Those are manual doors, yes.

13 Q. Are they hard to open?

14 A. Not real hard, no.

15 Q. And you've never seen them damaged or left open?

16 A. Not that I can remember, no.

17 Q. Are you aware of any conditions requiring all or a
18 portion of the mine to be evacuated during a shift at
19 any time?

20 A. Can you repeat that?

21 Q. Are you aware of any conditions that caused the
22 mine to be evacuated? In other words, you'd be on the
23 section, they call and say, everyone retreat to the
24 surface?

25 A. No, sir.

1 Q. Are you aware of any time that an oncoming shift
2 was cancelled or delayed due to conditions
3 underground?

4 A. I don't understand what you're asking.

5 Q. Okay. Say you show up to work tonight and they
6 said, there's no work tonight because of X is wrong
7 underground or we're going to have to wait an hour or
8 two before you can go underground, has that ever
9 happened to you, where the shift has been delayed
10 because of something --- methane problems, a roof fall
11 or ground problems or anything?

12 A. Yes, I have.

13 Q. Pardon me?

14 A. Yes, I have.

15 Q. What were the reasons that they explained to you?

16 A. It was a --- they was doing a ventilation.

17 Q. Pardon me?

18 A. They was doing a ventilation.

19 Q. Doing a ventilation. Have they ever done it
20 because of methane or anything?

21 A. Not that I can remember. I was mostly on the
22 south side.

23 Q. Okay. Did you ever have any concerns with the
24 ventilation system before the explosion?

25 A. No. Not really, no.

1 Q. Pardon me?

2 A. No.

3 Q. Okay. Are you familiar with any of the air
4 reversals at this mine on the sections on outby, air
5 reversals, the last open crosscut really not having
6 enough in the last open crosscut to work?

7 A. No.

8 Q. Have you ever visited the Glory Hole area?

9 A. It's been years ago.

10 Q. What did you find when you went over? What did it
11 look like?

12 A. Fair conditions.

13 Q. Are you aware of any problems they had in that
14 area like of methane, low oxygen or ---?

15 A. No, sir.

16 Q. When you've been on a section, has the carbon
17 monoxide monitoring system ever went into alarm? You
18 know, did it ever --- a CO system activate?

19 A. When I was on a section?

20 Q. Yeah. Have they ever --- yeah.

21 A. No, sir.

22 Q. Who performs a calibration on the carbon monoxide
23 monitoring system? Who does the maintenance on them?

24 A. The dayshift outby.

25 Q. How often? Do you know how often they do that?

1 A. I'm not for sure.

2 Q. Do you know the person who does it?

3 A. I think Virgil Bowman.

4 Q. Virgil?

5 A. Bowman.

6 Q. Bowman. I talked to you earlier about the
7 designated responsible person on the shift, and you
8 told me who it was. If he was to leave --- say if
9 that person was on the outside and the responsible
10 person had to go to another mine or something, how
11 were you all notified who would be in charge, who
12 would be the next responsible person?

13 A. The next responsible person is posted.

14 Q. But would they call underground and talk to you
15 and tell you who it was, that he was leaving and so
16 and so was in charge?

17 A. No.

18 Q. In other words, you don't know if they ever have?
19 You don't know if ---?

20 A. No, I don't know if that's ever happened.

21 ATTORNEY BABINGTON:

22 Terry, do you mind speaking up just a
23 little bit louder, please? Thank you.

24 BY MR. GODSEY:

25 Q. Have you ever been assigned to another Massey mine

1 and then reassigned back to UBB? Have you gone from
2 UBB to another mine and come back?

3 A. No, sir.

4 Q. Do you know how the tracking system worked?

5 A. Yes, sir.

6 Q. How did it do that? How does it work?

7 A. It works off of feeders.

8 Q. Okay. How do they --- what do they put on you or
9 what do they attach to you or a part of your equipment
10 that gives a location, your location underground?

11 A. It's like a beacon you put on your mine belt.

12 Q. And does everybody wear one?

13 A. Yes.

14 Q. Do you conduct electrical inspections?

15 A. Yes, sir.

16 Q. How much time does it take to do your weekly
17 inspection?

18 A. It's done throughout the whole week usually.

19 Q. Okay. Do you have enough time to do that?

20 A. Yes, sir.

21 Q. You check permissibility. And what all do you
22 check on when you do an electrical examination?

23 A. The third shift is responsible for two miners,
24 feeder, power center and forklift, forklift charger,
25 maintenance scoop and two outby boxes.

1 Q. And do you assign people to do this?

2 A. Yes, sir.

3 Q. Who do you have assigned to do those?

4 A. At the time it was Randy Lafferty and Timmy Davis.

5 Q. Did they ever have much problem doing it? Did
6 they have to ask you a lot of questions or stuff
7 to --- how to do things?

8 A. No, sir.

9 Q. What about cables? Do you all maintain cables?

10 In other words, after you see a cable that's got a bad
11 place in it, do you all continue mining or ---

12 A. No, sir.

13 Q. --- do you have the power to shut down equipment?

14 A. Yes, sir.

15 Q. If you see a hazardous --- something hazardous,
16 you have --- you could say stop?

17 A. Oh, yeah.

18 Q. And do you have any repercussions from that?

19 A. Uh-uh (no).

20 Q. Have you ever --- anybody ever said anything to
21 you over there?

22 A. No.

23 Q. So you got full --- I mean, in other words, you
24 see something wrong you tell your foreman, that's it,
25 and you correct it?

1 A. Yes, sir.

2 Q. And you lock and tag it out or whatever?

3 A. Yes, sir.

4 Q. Have you ever observed many problems with face
5 equipment on your section or any section that you've
6 worked on at UBB, a lot of safety problems? In other
7 words, how are they maintained?

8 A. Pretty good shape.

9 Q. Pretty good shape?

10 A. Yes, sir.

11 Q. What about other electrical equipment, what do you
12 have to work on? You got pumps and ---?

13 A. I don't have no pumps.

14 Q. Do you have any water on your section you work on?

15 A. Just a little water.

16 Q. How do you all handle that?

17 A. They pump.

18 Q. Okay. What type of pumps do you all use?

19 A. I think it's Flygt.

20 Q. Flygt. Are they permissible?

21 A. Some are, depending where they're at. Some ain't.

22 Q. How is cutting or welding performed? What kind of
23 safety precautions do you all do? Say you have to cut
24 on a piece of machinery or do something, weld on it,
25 what procedures do you all --- safety procedures do

1 you all use?

2 A. We never cut welding. The last anybody welded,
3 always make them take it back. They rock dust the
4 area. We --- the Solaris we constantly maintain,
5 check for --- and we always got fire extinguishers.
6 We always had one extra, plus we got four on our
7 service side.

8 Q. After you've done this, what do you all search
9 for?

10 A. We search for any smoke, any ember. Usually we'll
11 pull the water hose off the miner and soak the area
12 down.

13 Q. You take a wash-down hose and ---?

14 A. Yes, sir.

15 ATTORNEY BABINGTON:

16 It's probably a good time to take a
17 break. Off the record.

18 SHORT BREAK TAKEN

19 ATTORNEY BABINGTON:

20 Let's go back on the record.

21 BY MR. GODSEY:

22 Q. Let's just go back to your --- I think there's
23 some confusion on your work or where you worked back
24 to the present at UBB. At UBB, how long have you been
25 --- you started out as an electrician?

1 A. Yes, at UBB.

2 Q. When did you go to be a maintenance chief or a
3 maintenance foreman?

4 A. Well, I've been a maintenance foreman about six
5 years.

6 Q. Six years. And that's been all at UBB?

7 A. Yes, sir.

8 Q. Okay. And what all areas at UBB have you worked
9 on? I mean, you've been throughout UBB Mine?

10 A. Yes, I have.

11 Q. And you said you --- and you have never been on
12 the longwall, on the present longwall?

13 A. No. Not the present longwall, no.

14 Q. And have you been on the past one, the longwalls
15 that are sealed now, down in this area right here?

16 A. Yes.

17 Q. Okay.

18 ATTORNEY BABINGTON:

19 Which area are you referring to, John?

20 MR. GODSEY:

21 The sealed area. It would be the south
22 area of the present active area.

23 ATTORNEY BABINGTON:

24 Okay.

25 BY MR. GODSEY:

1 Q. Do you remember any time when you was down there
2 that they had any kind of floor heave or any problems
3 with the floor or roof down there?

4 A. Seems like I remember we had some hooving, the
5 floor, yes.

6 Q. Do you know if they ever had any methane come out
7 of the floor?

8 A. No, I can't remember.

9 Q. Do you know or have you ever heard or anyone give
10 you any kind of instructions to do something that was
11 not --- was against the regulations or anything?

12 A. No, sir.

13 Q. Have you did anything --- or somebody told you to
14 do anything which you just didn't feel right doing?
15 In other words, you didn't want to do it because you
16 felt it was unsafe?

17 A. No, sir.

18 Q. Okay. Let's go to the April 5th --- the day of
19 the accident. Where were you at the time of the
20 accident?

21 A. Home in bed.

22 Q. Okay. Who notified --- when were you notified?

23 A. By just anyone?

24 Q. Yeah. What time and who did it?

25 A. It was about four o'clock.

1 Q. Is that 4:00 p.m. ---

2 A. Yes.

3 Q. --- on April 5th? And who notified you?

4 A. My wife actually called.

5 Q. Did anyone from the company or anybody call you
6 and inform you?

7 A. Actually, yes.

8 Q. Who was that?

9 A. Greg Clay.

10 Q. Greg Clay?

11 A. Yes, sir.

12 Q. And what time did he notify you?

13 A. I can't remember the exact time. It was that
14 evening. They was telling us to --- they wanted us to
15 come on in to work.

16 Q. And you went in to work?

17 A. Yes, sir.

18 Q. What time did you arrive?

19 A. At 10:20.

20 Q. Who did you report to?

21 A. I can't remember who was in the office. It was
22 David Taraczkozy or Billy Graham.

23 Q. Did they give you any kind of instructions what to
24 do?

25 A. Anything MSHA needed us to do, do. Help them out.

1 Q. Did you go underground any time that night?

2 A. No, sir.

3 Q. What activities on the surface did you observe?

4 What did you see? What was taking place when you got
5 there?

6 A. It was just hectic.

7 Q. Do you know who was in charge?

8 A. Referring to?

9 Q. From the company.

10 A. From the company? There was so many of them
11 there.

12 Q. Who was there that you talked --- did you talk to
13 anyone from MSHA there?

14 A. I talked to Mr. Brown.

15 Q. Anybody else?

16 A. I can't remember the other guy. And Bill Bane.

17 Q. What are some of the tasks that you did that
18 night?

19 A. I think that night we went over and maybe --- on
20 the south side, at the punch-out, where Bill Bane was
21 taking air readings and seeing if he needed anything
22 or --- anything like that.

23 Q. Did you work on any of the mantrips or anything?

24 A. Yes.

25 Q. How many people did you have working on them?

1 A. It was --- basically it was probably four or five
2 of us working on them.

3 Q. Did you see anybody that had used an SCSR or
4 donned an SCSR or heard of anybody?

5 A. No, sir.

6 Q. You had people coming and going underground on
7 that night you were there. How did they log the
8 people to know who was in the mine and who was out of
9 the mine?

10 A. They had some guys conducting all that. I don't
11 remember what his name was. They had us keep count of
12 the mantrips and everything else.

13 Q. Do you have anything that you would like to add
14 that may be relevant to this investigation to help
15 us?

16 A. No. Uh-uh (no). I really honestly don't know.

17 Q. Well, have you ever --- did they ever hear of any
18 of your fellow workers talk about methane in the
19 bleeder systems or anything?

20 A. No, sir.

21 Q. Which way --- how is --- on your unit, what's the
22 Number One entry? What is it used for? What type of
23 entry is it?

24 A. Number One was the return.

25 Q. Number Two was?

1 A. Was the belt.

2 Q. And Number Three?

3 A. Was the air intake.

4 Q. Which way did the air travel on the belt entry?

5 A. I can't remember for sure, to be honest.

6 MR. GODSEY:

7 That's all.

8 ATTORNEY BABINGTON:

9 Terry?

10 EXAMINATION

11 BY MR. FARLEY:

12 Q. Terry, just bear with me because I'm going to be
13 coming from several different directions here. If I
14 understood you correctly, the last shift you worked at
15 the UBB Mine prior to the explosion started at 11:30
16 p.m. on Sunday, April 4, 2010; is that right?

17 A. Yes, sir.

18 Q. And it ended at 8:30 the following morning; is
19 that correct?

20 A. Yes, sir.

21 Q. Did you work --- what was your last shift prior to
22 that shift?

23 A. Let me think. That was our long weekend off. The
24 Thursday shift.

25 Q. Okay. Was the mine idle on Sunday, April 4,

1 2010 ---

2 A. I'm not for sure.

3 Q. --- for a holiday?

4 A. Well, that was a holiday week. Off on a three-day
5 weekend.

6 Q. Was the mine idle for the three-day weekend?

7 A. Yes, it was.

8 Q. Was anyone that you know of scheduled to work
9 during that three-day weekend?

10 A. Not to my recollection, no.

11 Q. Do you know if anyone did work underground during
12 that weekend?

13 A. No. Not to my knowledge, no.

14 Q. Do you know if anyone was in the mine on Sunday,
15 April 4, 2010?

16 A. No, sir.

17 Q. Okay. Now, if I understand your schedule
18 correctly, there is no coal production on the midnight
19 shift ---

20 A. No, sir.

21 Q. --- at UBB?

22 A. No, sir.

23 Q. Now, on your shift, which started at 11:30 p.m. on
24 Sunday night, the 4th, and ended the next morning, was
25 there any coal production at all during the night?

1 A. No, sir.

2 Q. Okay. Now, do you know if there was any
3 maintenance done on the longwall during that night?
4 Was it down for any reason, for any repairs that you
5 know of?

6 A. None that I know of, no.

7 Q. Okay. Do you know if the longwall was down at any
8 time during the dayshift on April 5th, 2010?

9 A. No.

10 Q. Okay. You don't know?

11 A. No, I don't know. No.

12 Q. As part of your normal job on the midnight shift,
13 is it your job to see that the methane monitors are
14 maintained on the mining machine?

15 A. Yes, sir.

16 Q. Okay. Are you responsible for seeing that they're
17 calibrated?

18 A. Yes, sir.

19 Q. When this calibration is done, do you use a known
20 gas mixture to do it?

21 A. Yes, sir.

22 Q. Okay. Now, you were the maintenance foreman on 22
23 Tailgate section; right?

24 A. Yes, sir.

25 Q. Now, your last shift prior to the Monday of the

1 accident was the Thursday before; is that right?

2 A. Yes, sir.

3 Q. Now, during the week that you last worked there
4 before the event, were there any problems with the
5 methane monitor on the 22 Tailgate continuous miner
6 that you know of?

7 A. No, sir.

8 Q. Okay. Is it part of your job to maintain
9 permissibility on the 22 Tailgate section equipment?

10 A. On parts of the equipment.

11 Q. Okay. Parts? Now, what do you mean by that?

12 A. Third shift has the left miner, right miner,
13 shuttle car, feeder, maintenance scoop, maintenance
14 charger, forklift, forklift charger. That's the
15 equipment we maintain.

16 Q. Okay. All right. What was the --- can you tell
17 me the last time you might have watched a continuous
18 miner cut on the 22 Tailgate section?

19 A. Not right offhand, no.

20 Q. Now, since this explosion on April 5th, have you
21 been interviewed by Performance Coal Company, Massey
22 Coal Services or any lawyers that represent
23 Performance Coal Company or Massey Energy?

24 A. Yes, I have.

25 Q. Okay. Do you know who conducted those interviews?

1 A. I can't remember who they were, to be honest.

2 Q. Do you recall when the interview was conducted?

3 A. Three weeks ago.

4 Q. Were you interviewed individually?

5 A. Yes, sir.

6 Q. Okay. Was there more than one attorney or person
7 conducting the interview with you?

8 A. Yes.

9 Q. Okay. Were you given any instructions as to how
10 to respond when you were to be interviewed by the
11 agencies and independent investigating teams?

12 A. No, sir.

13 Q. Okay.

14 MR. FARLEY:

15 Celeste?

16 MS. MONFORTON:

17 Okay. Thank you.

18 EXAMINATION

19 BY MS. MONFORTON:

20 Q. Mr. Claypool, I'm just going to follow up on a
21 couple of other questions that the other gentlemen
22 have asked you. You've talked about the firefighting
23 drills that you participated in. Did you do them on
24 the third shift, your regular shift, or were they done
25 at some other time?

1 A. It was done on the third shift, that morning.

2 Q. Okay. When you had your refresher training, I
3 think you said it was pretty recently in March, not
4 too long ago.

5 A. Yeah. I'm not sure on the date, but it was pretty
6 recently, yes.

7 Q. Sometime this year, since January. How did they
8 do the SCSR training? And what I'm asking is, after
9 the Sago disaster, there were some new requirements
10 put in place of how the training has to be done.
11 What's happened new in terms --- you've been a miner
12 for a long time. What's happened new since the Sago
13 disaster in terms of the SCSR training?

14 A. We're putting them on --- actually doing the whole
15 thing and actually exchanging out. In case yours
16 starts going bad, you can put another one on.

17 Q. So you're actually feeling the breathing. Okay.
18 And ---.

19 A. But it seemed like it was ---.

20 Q. And that's something new that --- a new part of
21 your training in the last few years?

22 A. Yes.

23 Q. And what do you think about that?

24 A. That's great.

25 Q. And why do you say that?

1 A. Because everybody needs to know.

2 Q. Thank you. You mentioned that you do recall a
3 shift where you came to work but you were instructed
4 to not go into the mine because there were some
5 ventilation changes going on and it wasn't safe at
6 that point for you to go in. Do you recall when that
7 happened?

8 A. I don't remember the exact day, no.

9 Q. Was it in the last six months, the last year?

10 A. Last year.

11 Q. Sometime last year?

12 A. Yes.

13 Q. Maybe in the fall or Christmastime or ---?

14 A. Honestly, I can't remember the exact day. I just
15 do remember.

16 Q. Okay. Thanks. So you're the maintenance foreman,
17 and you mentioned that at this time you have two
18 employees working for you, two people that report to
19 you.

20 A. Yes.

21 Q. So do you consider yourself part of management?
22 How do you think about management? Do you think of
23 yourself as part of management of the mine?

24 A. No, not really.

25 Q. Okay. The day of the explosion was a Monday, and

1 you said you worked that previous shift, from 11:30
2 p.m. on Sunday until that morning at 8:30. And then
3 prior to that you had a long weekend.

4 A. Yes.

5 Q. So you started your shift that Thursday night and
6 worked until Friday morning; is that ---? I'm trying
7 to figure out how the long weekend worked.

8 A. We had Thursday, Friday, Saturday off and come
9 back Sunday night.

10 Q. So do you know if that last shift you worked on
11 that Thursday night until Friday morning at 8:30, was
12 that the last shift operating at the mine or was there
13 a shift that came in after ---?

14 A. Our Wednesday night would have been our Thursday
15 shift.

16 Q. Okay.

17 A. So Thursday dayshift was there.

18 Q. Okay. So when you worked your Wednesday shift,
19 Thursday dayshift came in. So there was a shift after
20 you. Then when you came to work on Sunday night, it
21 would have been --- the mine was idle before that;
22 right?

23 A. Yes.

24 Q. So are there any special procedures that you had
25 to take at the beginning of your shift because the

1 mine had been idle? How are things handled when the
2 mine is idle and then there's a --- you know, a shift
3 starting? How are things handled? Is anything
4 different?

5 A. You always have a safety talk every Sunday.

6 Q. And normally when you would finish your shift, you
7 talked about that you would --- you would talk with
8 the foreman coming on?

9 A. Well, I'd always talk to the dayshift electrician.

10 Q. You'd talk to the dayshift ---. So on the --- on
11 that Sunday nightshift, there wouldn't have been
12 someone you talked to, right, because no one --- so
13 how did that work in terms of, you know, the mine was
14 idle? Obviously, different than when there was a
15 shift you could talk to that was coming off; right?

16 A. Well, there are always fire bosses there.

17 Q. Okay.

18 A. The mine is always fire bossed before you get
19 there.

20 Q. So ---.

21 A. And then the belt --- the belt boss is the
22 certified foreman, and he sees if it's safe for us to
23 go in.

24 Q. Okay. So that's what I'm trying to understand.

25 So you came for your shift at ten o'clock or 10:30 to

1 start at 11:30. So if there were some people at the
2 mine before you got there ---.

3 A. Well, the third shift don't come.

4 Q. Okay. Okay. Thanks. What do you know about the
5 kinds of citations that either the State or Federal
6 MSHA issued to UBB in the last year? Do you know
7 anything about the citations that were issued, like
8 what kind of citations were issued? Is that something
9 that you keep track of, make yourself aware of?

10 A. They post it, yes.

11 Q. Okay.

12 A. And I always ask if we have anything that would
13 pertain to anything of my responsibility.

14 Q. And what types of things do you know that UBB had
15 been cited for? What are the things that you remember
16 they had been cited for?

17 A. Dust some, I guess, some electrical. I think they
18 have got them for air, too. That's basically it.

19 Q. You indicated that you --- part of your
20 responsibilities are checking and calibrating the
21 methane monitors?

22 A. Yes.

23 Q. How often do you do that? What's the procedure?

24 A. We do it weekly.

25 Q. You do it weekly. And where is that information

1 recorded?

2 A. In the electrical book.

3 Q. At one point you mentioned that you were familiar
4 --- maybe you were working in the south area about a
5 gas-through. And that's not a term that I'm familiar
6 with. What does that mean, gas-through?

7 A. A gas-through?

8 Q. I think it was when Mr. Godsey was talking about
9 maybe some hooving, and you were asking about ---.

10 A. Floor gas.

11 Q. Right. Maybe I misunderstood you.

12 A. No.

13 Q. Gas-through? Okay. I might have misunderstood
14 you. I apologize. Have you ever heard about any
15 electricians who wanted to have their own gas detector
16 but were not given one?

17 A. No.

18 Q. Ever heard --- we heard someone testify to that,
19 and they said that they had asked for one, but they
20 couldn't get one. They were told they were on back
21 order.

22 A. Not to my knowledge, no.

23 Q. Have you ever requested safety equipment and you
24 were told that you couldn't get it or it was on back
25 order?

1 A. No.

2 Q. Would you tell me a little bit more about the
3 safety incentives program? You talked a little bit
4 about earning points. How did that work? How would
5 you earn points?

6 A. Well, if you didn't miss work and you worked safe
7 and no accidents, you just built up points.

8 Q. And what does it mean to work safe? Who keeps
9 track of that or what are the measures that they would
10 use to know that Mr. Claypool works safe?

11 A. I'm not for sure, honestly, how they do it.

12 Q. And do you know who keeps track of that? Who
13 keeps track of your points?

14 A. Honestly, I don't know. I just know I get on the
15 computer and look them up and see what I got.

16 Q. Oh, okay. So it's something you have --- you can
17 go and see ---

18 A. You can see what points you have, yes.

19 Q. --- every day what points you have? Great. What
20 happens if you were to suffer a lost-time injury in
21 terms of your points?

22 A. Nothing I know of.

23 Q. Nothing? Okay. So as far as you know, if you
24 were to suffer a lost-time injury and off for a couple
25 of days of work, you wouldn't lose any points?

1 A. I'm not sure. I don't know how that ---.

2 Q. You're not sure, okay. So if I was interested in
3 finding out more about how this program works or I
4 wanted to maybe see if other mines should use it, who
5 should I talk to at UBB about the system? Who would
6 be the best person to know about that program?

7 A. I'd call somebody with human resources, I guess.

8 Q. Human resources. Okay. Thank you. You mentioned
9 that you --- on your third shift, that you had from
10 time to time seen an inspector on the third shift?

11 A. Uh-huh (yes). Yes.

12 Q. Do you know --- have you ever asked to accompany
13 the inspector on their inspection as they do their
14 walk-around?

15 A. No. But sometimes I got the honor to.

16 Q. Sometimes you get the honor to. Okay. Does the
17 UBB Mine have a safety committee or a safety team for
18 miners to raise issues about health and safety
19 concerns?

20 A. Would you repeat that?

21 Q. Does the UBB Mine have a safety committee or a
22 safety team, something --- kind of a formal mechanism
23 for miners to raise safety concerns?

24 A. I don't follow what you're getting at.

25 Q. Have you ever worked at a mine where there was a

1 safety committee?

2 A. I know Massey Energy has a team rescue that comes
3 in and goes over safety stuff.

4 Q. And what's that called?

5 A. It's the mine rescue.

6 Q. The mine rescue team?

7 A. Yes.

8 Q. And are those employees at the mine?

9 A. They're employed for Massey.

10 Q. Are they UBB employees?

11 A. I'm not sure how it works, but I'd say yes, that
12 some of them are from UBB.

13 Q. Okay. And so how does that team work? Like, how
14 often do they come and how do you interact with them?

15 A. Well, they come and do fire drills with us.

16 They usually cover the whole mines. Don't usually go
17 to one section.

18 Q. Would you describe them as kind of like safety
19 trainers?

20 A. They're out for us, yes.

21 Q. Okay. And do they have a procedure? If you had a
22 concern about safety, are you supposed to raise that
23 with them or ---? I'm trying to figure out how that
24 works at the mine.

25 A. I know they come and check stuff. That's all I

1 can tell you. They check it out and they make it
2 right.

3 Q. At your annual refresher training is --- did they
4 go over the tagging system, the emergency tracking
5 system, or was that training handled at a different
6 time?

7 A. Well, as soon as we got it, we got that training.

8 Q. Do you remember when you got those tags?

9 A. I couldn't tell you the exact date, no.

10 Q. Was it last year? Was it in the last few months?

11 A. I'm not for sure.

12 Q. Okay. So if I'm understanding you correctly, you
13 got those tags and they did the training right
14 away ---

15 A. Yes.

16 Q. --- on this; right? Who conducted that training?
17 Was it a Massey person or was it someone from the
18 equipment --- you know, the manufacturer of the tags?

19 A. I think the main outby chief is the one that went
20 over it with us some more.

21 Q. And what did they tell you about how those tags
22 worked? Or what did they tell you, you had to do with
23 the tags?

24 A. You had to keep the tag on you at all times.

25 Q. And did they tell you, you had to do anything

1 different if there was an emergency with the tag, or
2 you just put it on and it ---?

3 A. That tag is on you permanently and it stays on
4 continuous and never shuts off.

5 Q. Okay. And then did you have to do anything to it
6 in an emergency or hit a button or anything like that?

7 A. Not that I remember, no.

8 Q. Okay.

9 MS. MONFORTON:

10 That's all I have.

11 EXAMINATION

12 BY ATTORNEY BABINGTON:

13 Q. I just have a few. I'll try to be quick. So just
14 to clarify, you started at UBB in 1999?

15 A. Yes.

16 Q. And your position at that time was as an
17 electrician?

18 A. Electrician.

19 Q. Third-shift electrician?

20 A. Yes.

21 Q. Okay. And you were in that position until about
22 2004?

23 A. Probably. I'm not for sure.

24 Q. You said five or six years ago is when you
25 switched over?

1 A. Yes.

2 Q. Okay. So about five or six years ago you switched
3 from being third-shift electrician to third-shift
4 maintenance foreman?

5 A. Yes, sir.

6 Q. Okay. You said you're now working at Shonk?

7 A. Shonk, yes.

8 Q. Is Shonk a Massey mine?

9 A. Yes, it is.

10 Q. You mentioned that you'd heard about floor heaves?

11 A. On the south side, on the really old headgate
12 panels there was some hooving of the floor.

13 Q. Okay. So you're talking about --- I'm looking at
14 the 500 map, one of the older sealed areas?

15 A. Yeah. I don't remember exactly which one.

16 Q. Do you recall when the floor heave occurred?

17 A. No.

18 Q. Okay. You mentioned an individual named Greg
19 Clay?

20 A. Yes.

21 Q. Who is Greg Clay? What is his position?

22 A. He's a purchasing clerk.

23 Q. Purchasing clerk?

24 A. (Indicates yes).

25 Q. If you could say yes or no.

1 A. Yes.

2 Q. Thank you. You also mentioned an individual named
3 Billy Graham?

4 A. Yes.

5 Q. What is his position?

6 A. He's third-shift main shift, electrical chief.

7 Q. Is he above or below you, or is he ---?

8 A. He's the boss.

9 Q. He's the boss. Okay.

10 A. On the third shift.

11 Q. On the third shift. Okay. You also --- going
12 back, you said your last shift you were --- you did
13 the Wednesday nightshift and then you worked again the
14 Sunday nightshift prior to the explosion?

15 A. Yeah.

16 Q. Did you notice any changes in the ventilation,
17 like in line curtain stoppings, anything like that,
18 between the Wednesday night and the Sunday night
19 shifts?

20 A. No.

21 Q. Okay. You mentioned that you worked at another
22 company prior to working with Massey at UBB?

23 A. Yes.

24 Q. Did you notice a difference in the safety
25 attitudes of the people who worked at that company

1 versus the people who worked at Massey?

2 A. Oh, yes.

3 Q. What were those differences?

4 A. Massey was a lot better.

5 Q. Really?

6 A. Yes, sir.

7 Q. When you say a lot better, how do you mean better?

8 Did they pay more attention to training things? Did
9 they correct problems faster? Did they spot problems?

10 A. All around.

11 Q. Did you ever encounter low air on the section that
12 you worked? I believe you said you worked on the
13 Tailgate 22 section?

14 A. Yeah, for five shifts. No, I did not have no low
15 air, no.

16 Q. So you said you --- so you worked on the Tailgate
17 22 section for only five shifts?

18 A. Sunday night made our fifth shift on Tailgate 22
19 section.

20 Q. And where did you work prior to ---?

21 A. The south side, outby.

22 Q. Okay. And you said that's like the Number Four
23 section?

24 A. Four section, barrier section, that side of the
25 mine.

1 Q. Okay. Which is located near the UBB Portal?

2 A. Yes, sir.

3 Q. Okay. Did you ever --- on either section that you
4 worked at, did you ever encounter high levels of dust?

5 A. No, sir.

6 Q. Did you ever make safety complaints to your
7 bosses?

8 A. No, sir.

9 Q. You said that you traveled the primary escapeway
10 two weeks ago. Is that at the current mine that
11 you're working at?

12 A. At the current mines I'm working at.

13 Q. Okay. At UBB what was the last time that you
14 traveled the primary escapeway?

15 A. I can't remember, honestly.

16 Q. Would it have been within the last six months?

17 A. Oh, yes.

18 Q. Okay. And you also mentioned that you received
19 SCSR training within the last two weeks. And I'm
20 guessing that's also at the Shonk Mine?

21 A. Yes.

22 Q. When was the last time you received SCSR training
23 at UBB?

24 A. Not long ago. It was at our retraining.

25 Q. Okay. Which might have been within the last few

1 months?

2 A. Yes, sir.

3 Q. Okay. You mentioned that you'd see water either,
4 you know, leaching out or building up in different
5 areas. Do you remember it ever building up to an area
6 where it made an area impassable?

7 A. No, sir.

8 Q. You mentioned two other names, I think Kiblinger
9 and Lafferty.

10 A. No, Kiblinger. Lafferty was my section
11 electrician.

12 Q. Lafferty was your section electrician?

13 A. Yeah. Randy Lafferty was the section electrician.
14 Worked under me. And Timmy Daniels was the other
15 electrician.

16 Q. Timmy Daniels?

17 A. Yes.

18 Q. Okay. And he was also a section electrician?

19 A. Yes, sir.

20 Q. Were those the two men that worked under you?

21 A. On the third shift.

22 ATTORNEY BABINGTON:

23 Okay. That's all I have. John, do you
24 have a few?

25 RE-EXAMINATION

1 BY MR. GODSEY:

2 Q. On the night that you said that you arrived at
3 April 5th, around 10:20, what time did you leave that
4 next morning?

5 A. That next morning, it was probably --- when I left
6 the mine site itself?

7 Q. Yeah. When did you leave the property?

8 A. 11:00 or something like that.

9 Q. The next morning?

10 A. Yes, sir. 11:00 a.m.

11 Q. Did you see any of the company people who had been
12 underground exit the mine that night?

13 A. No, sir.

14 Q. You didn't see any of the superintendents or
15 anybody that had been underground with the mine rescue
16 teams exit?

17 A. I think I just misunderstood you completely.

18 Q. Pardon me?

19 A. Could you ask me again?

20 Q. Did you see any superintendents, vice-presidents
21 or whatever, any management personnel, come out of the
22 mine with the mine rescue team that had been
23 underground during the exploration after the
24 explosion?

25 A. After the explosion?

1 Q. Yeah, that night. Any time from 10:20 to the time
2 you left the property did you see any of the
3 management personnel come out of the mine with the
4 mine rescue team or by themselves?

5 A. No. No.

6 MR. GODSEY:

7 That's all.

8 ATTORNEY BABINGTON:

9 Terry.

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. You know, at the end of your shift or near the end
13 of your shift on April 5th, Monday morning, did you
14 talk to a maintenance foreman there at the end of the
15 shift, shift change?

16 A. Yes. I called out that morning to Rick Nicolau,
17 the best I can remember.

18 Q. You talked to Rick Nicolau?

19 A. Yeah.

20 Q. What information did you share with him? What
21 report did you make to him?

22 A. That everything is ready to run.

23 Q. Now, when you say everything is ready to run, does
24 that mean the 22 Tailgate section?

25 A. Yeah. We just --- nothing was down. Equipment

1 was running.

2 Q. Last question. I want to make it absolutely sure
3 I'm clear on this holiday weekend. Prior to April
4 5th, your last shift was Thursday, April the 1st;
5 right?

6 A. Wednesday night was our Thursday shift, so it
7 would be Thursday morning was my last shift.

8 Q. Thursday would have been April the 1st?

9 A. Yeah. I believe it's that way.

10 Q. Now, during the holiday weekend of Friday, April
11 2nd, Saturday, April 3rd and Sunday, April 4th, do you
12 know if anybody produced any coal whatsoever anywhere
13 in the Upper Big Branch Mine?

14 A. None that I know of. Not to my recollection, no.

15 ATTORNEY FARLEY:

16 Okay. All right. Thank you.

17 RE-EXAMINATION

18 BY ATTORNEY BABINGTON:

19 Q. Just one other one. Did you ever --- while you
20 were working on either the Four section or Tailgate
21 22, did you ever notice --- I think you said before
22 that you never experienced any air reversals. Did you
23 ever experience any pressure changes or anything that
24 might indicate that ventilation changes had been made
25 in another area of the mine?

1 A. No, sir.

2 ATTORNEY BABINGTON:

3 Celeste, do you have any?

4 MS. MONFORTON:

5 No.

6 ATTORNEY BABINGTON:

7 Let's go off the record.

8 SHORT BREAK TAKEN

9 ATTORNEY BABINGTON:

10 Let's go back on the record.

11 RE-EXAMINATION

12 BY MR. GODSEY:

13 Q. On the longwall, is there any way that they can
14 monitor whether the shearer is operating or off,
15 whatever, on the surface?

16 A. Not that I know of, no. I don't have --- I
17 couldn't --- to be honest, no, I couldn't tell you.

18 Q. Okay. You said that earlier --- you said that you
19 were interviewed by Performance personnel or lawyers
20 for them?

21 A. Lawyers.

22 Q. Did they give you any kind of memo or any
23 instructions?

24 A. Just basically like --- they all told us we had
25 the right to talk to them. We didn't have to. If we

1 need a lawyer or whatever.

2 Q. Did they give you anything on paper?

3 A. I believe I did get a letter in the mail, yes.

4 Q. Would you care to share a copy of that with us?

5 A. If --- yes. If I have it, yes.

6 Q. When you first found out about the explosion, I
7 guess, I know you was probably in shock. Most people
8 would be. Did anything cross your mind as what could
9 have happened, run through your mind, you know?

10 A. The only thought that went through my mind is what
11 happened.

12 Q. While you were on the surface from 10:20 to 11:00,
13 whatever, the next morning, did anybody give you any
14 updates what --- how they were --- what was going on
15 and what was happening or where they were?

16 A. No, not really.

17 RE-EXAMINATION

18 BY ATTORNEY BABINGTON:

19 Q. Just one final one. You mentioned that the
20 company attorneys sent you a letter either before or
21 after they met with you?

22 A. It was before.

23 Q. Beforehand. Do you recall the substance of that
24 letter, what the details were?

25 A. The only thing I can remember is they were ---

1 Massey lawyers basically, like you all told us, we had
2 the right to talk to them, we didn't have to talk to
3 them, we could get a lawyer, whatever.

4 ATTORNEY BABINGTON:

5 Okay. Anything else? On behalf of MSHA
6 and the Office of Miners' Health, Safety and Training,
7 I want to thank you for appearing and answering
8 questions today. Your cooperation is very important
9 to the investigation as we work to determine the cause
10 of the accident.

11 We require that you not discuss your
12 testimony with any person, aside from your personal
13 representative or Counsel. After questioning other
14 witnesses, we may call you if we have any follow-up
15 questions that we feel that we may need to ask you.
16 If at any time you have additional information
17 regarding the accident that you would like to provide
18 to us, please contact us at the contact information
19 that was previously provided to you.

20 If you wish, you may now go back over any
21 answer you've given during this interview and you may
22 also make any statement that you would like to make at
23 this time. Do you have a statement you'd like to
24 provide?

25 A. No.

1 ATTORNEY BABINGTON:

2 Again, I want to thank you for your
3 cooperation in this matter.

4 A. Thank you.

5

6 * * * * *

7 STATEMENT UNDER OATH CONCLUDED AT 11:19 A.M.

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CERTIFICATE

I, Brett Steele, 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.



Brett Steele