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Transcript of the Testimony of <sup>(b)(7)(C) & (b)(7)(D)</sup>

**Date:** <sup>(b)(7)(C) & (b)(7)(D)</sup>

**Case:**

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CONFIDENTIAL STATEMENT UNDER OATH

OF

(b)(7)(C) & (b)(7)(D)

taken pursuant to Notice by Alison Salyards, a  
Court Reporter and Notary Public in and for the  
State of West Virginia, at The National Mine  
Health & Safety Academy, 1301 Airport Road,  
Room C-137, Beaver, West Virginia, on Friday,  
(b)(7)(C) & (b)(7)(D) , beginning at (b)(7)(C) & (b)(7)(D) .

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

2

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## I N D E X

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ATTORNEY BAXTER:

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

MR. O'BRIEN:

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

MS. MONFORTON:

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

ATTORNEY BAXTER:

There's also a member of the  
investigation team present in the room today. Would  
you please swear the witness in?

-----  
(b)(7)(C) & (b)(7)(D) , HAVING FIRST BEEN DULY SWORN,  
TESTIFIED AS FOLLOWS:

1 ATTORNEY BAXTER:

2 All members of the Mine Safety and Health

3 Accident Investigation Team and all members of the

4 State of West Virginia Accident Investigation Team

5 participating in the investigation of the Upper Big

6 Branch Mine explosion shall keep confidential all

7 information that is gathered from each witness who

8 voluntarily provides a statement until the statement

9 --- witness statements are officially released. MSHA

10 and the State of West Virginia shall keep this

11 information confidential so that other ongoing

12 enforcement activities are not prejudiced or

13 jeopardized by a premature release of information.

14 This confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. Team members' participation in this

18 interview constitutes their agreement to keep this

19 information confidential.

20 Government investigators and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine South on

24 April 5th, 2010. Te investigation is being conducted

25 by MSHA under Section 103(a) of the Federal Mine



1 Safety and Health Act and the West Virginia Office of  
2 Miners' Health, Safety and Training. We appreciate  
3 your assistance in this investigation.

4 You may have your personal attorney  
5 present during the taking of this statement or another  
6 personal representative, if MSHA has permitted it, and  
7 may consult with your attorney or the representative  
8 at any time. And for the record, do you have a  
9 personal representative here with you today?

10 A. No. This is all voluntary on my part I don't need  
11 anybody else.

12 ATTORNEY BAXTER:

13 Okay. Your statement is completely  
14 voluntary. You may refuse to answer any question.  
15 You may terminate your interview at any time or  
16 request a break at any time. Your identity and the  
17 content of this conversation will be made public at  
18 the conclusion of the interview process and may be  
19 included in the public report of the accident, unless  
20 you request that your identity remain confidential or  
21 your information would otherwise jeopardize a  
22 potential criminal investigation. If you request us  
23 to keep your identity confidential, we will do to the  
24 extent permitted by law. That means that if the judge  
25 orders us to reveal your name or if another law

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

7 Do you understand this?

8 A. Uh-huh (yes).

9 ATTORNEY BAXTER:

10 That's a yes?

11 A. Yes.

12 ATTORNEY BAXTER:

13 And do you have any questions?

14 A. No, I don't have any questions other than keep me  
15 confidential as much as possible.

16 ATTORNEY BAXTER:

17 Okay. And we did discuss before we went

18 on the record you've requested before the interview  
19 started that we keep your interview confidential; is  
20 that correct?

21 A. Yes, if at all possible.

22 ATTORNEY BAXTER:

23 And I understand --- you indicated to me

24 you're still working in the mining industry, ---

25 A. I'm <sup>(b)(7)(C) & (b)(7)(D)</sup> , yes.

1 ATTORNEY BAXTER:

2 --- and you have a lot of contacts in the  
3 mining industry?

4 A. Through Massey and everything. And I'm working  
5 (b)(7)(C) & (b)(7)(D)  
6 mines.

7 ATTORNEY BAXTER:

8 Okay.

9 A. But I'm working at (b)(7)(C) & (b)(7)(D) , at an (b)(7)(C) & (b)(7)(D)  
10 (b)(7)(C) & (b)(7)(D) I don't want it getting back to my  
11 employer that, (b)(7)(C) & (b)(7)(D) , you know.

12 ATTORNEY BAXTER:

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

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

1 do not understand a question asked, please ask us to  
2 rephrase it. Please answer each question as fully as  
3 you can, including any information you've learned from  
4 someone else. I would like to thank you in advance  
5 for your appearance here. We appreciate your  
6 assistance in this investigation. Your cooperation is  
7 critical in making the nation's mines safer.

8 After we have finished asking

9 questions, you will have an opportunity to make a  
10 statement and provide us with any other information  
11 that you believe to be important. If at any time  
12 after the interview you recall any additional  
13 information that you believe might be useful, please  
14 contact Norman Page of MSHA at the telephone number or  
15 e-mail address provided to you.

16 Any statements given by miner witnesses

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

25 MR. O'BRIEN:

1 (b)(7)(C) & (b)(7)(D) , on behalf of the Office of  
2 Miners' Health, Safety and Training, I'd like to let  
3 you know under West Virginia Code you do have  
4 protection against participating in these proceedings.  
5 I would like to give you some contact information. If  
6 you would encounter any discrimination, you can notify  
7 the Board of Appeals at this address.

8 A. Uh-huh (yes).

9 MR. O'BRIEN:

10 One thing I will caution you, though, you  
11 must do --- you must file a complaint within 30 days  
12 of the time the discrimination takes place. Also  
13 there's a couple phone numbers there for our lead  
14 investigators, Mr. Terry Farley and Bill Tucker.  
15 Also, I'd like to give you Mr. Farley's business card.  
16 Thank you.

17 MR. SHERER:

18 Let's go off the record, please.

19 OFF RECORD DISCUSSION

20 EXAMINATION

21 BY MR. SHERER:

22 Q. The first thing I want to do, (b)(7)(C) & (b)(7)(D) , is  
23 thank you for coming down here this afternoon, because  
24 this is extremely important. We're doing this  
25 investigation, trying to determine what caused this

1 accident, and we're looking at the practices, the  
2 conditions and all the elements that led up to this  
3 explosion, and we're doing that for two reasons. The  
4 first one is the families and the coworkers and the  
5 friends of the deceased miners deserve it. They  
6 deserve to know what happened to their friends and  
7 loved ones. The second reason is we want to prevent  
8 this sort of thing from ever happening again. And any  
9 information you can share with us is greatly  
10 appreciated. Let's talk --- get a little bit of your  
11 background first. Roughly how long have you been in  
12 the coal mining industry?

13 A. About (b)(7)(C) & (b)(7)(D) .

14 Q. Okay. Where did you start out?

15 A. I started at (b)(7)(C) & (b)(7)(D) West Virginia  
16 as a red hat.

17 Q. When did you start with the Massey organization?

18 A. In (b)(7)(C) & (b)(7)(D)  
19 Stanley.

20 Q. Were you working for the (b)(7)(C) & (b)(7)(D)

21 (b)(7)(C) & (b)(7)(D)

22 (b)(7)(C) & (b)(7)(D)

23 A. Yes, I was.

24 Q. When did you first start working at Upper Big  
25 Branch?

1 A. (b)(7)(C) & (b)(7)(D)

2 Q. And how long did you work at Upper Big Branch?

3 A. Until (b)(7)(C) & (b)(7)(D)

4 Q. So just about a week or so prior to the explosion?

5 A. Yeah.

6 Q. We understand there was a round of layoffs about  
7 that time.

8 A. There was what they called reorganization and  
9 everything. They got rid of most of the contractors  
10 and most of the supply crews.

11 Q. When you were working at Upper Big Branch, what  
12 was your job?

13 A. I was (b)(7)(C) & (b)(7)(D) .

14 Q. Okay. Which shift did you work on?

15 A. I worked 12-hour shifts. I worked 6:00 a.m. to  
16 6:00 p.m. four days a week, I was off two days, then I  
17 was back in, working 6:00 p.m. to --- 6:00 P to 6:00

18 A. So I covered all three shifts.

19 Q. Okay. That's a rough schedule.

20 A. Yeah. No sleep. Yeah, it's a rough schedule.

21 Q. Who was your boss when you were working at Upper  
22 Big Branch?

23 A. I answered to Everett Hager, Gary May and Greg  
24 Clay.

25 Q. And you were there at the Upper Big Branch Portal?

1 A. I was at the Upper Big Branch Portal, but I  
2 (b)(7)(C) & (b)(7)(D) , Ellis as well  
3 as Big Branch, Upper Big Branch.

4 Q. Was that hard to keep up with?

5 A. Yes, very hard to keep up with.

6 Q. Could you tell me what your duties were as a

7 (b)(7)(C) & (b)(7)(D)

8 (b)(7)(C) & (b)(7)(D)

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23 Q. Sure. Anything other thing you had to do?

24 A. (b)(7)(C) & (b)(7)(D)



1 (b)(7)(C) & (b)(7)(D) . That's probably why I  
2 wasn't still there whenever it happened.

3 Q. Okay. (b)(7)(C) & (b)(7)(D)

4 (b)(7)(C) & (b)(7)(D)

5 the mine, you think that was your most important duty?  
(b)(7)(C) & (b)(7)(D)

15 Q. Okay.  
(b)(7)(C) & (b)(7)(D)

1 A. Jack Roles, over top of the longwall, I had to  
2 notify him, Bobbie Goss.

3 Q. So you were --- (b)(7)(C) & (b)(7)(D)  
4 duties, which is a major safety function, you had to

(b)(7)(C) & (b)(7)(D)

8 A. Yes, I did.

9 Q. Did you also get instructions from those people

(b)(7)(C) & (b)(7)(D)

10

11

12 A. I did.

13 Q. Okay. When something happened, if a unit was down  
14 or something like that and

(b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

16 A. Uh-huh (yes).

(b)(7)(C) & (b)(7)(D)

17 Q. --- would they

(b)(7)(C) & (b)(7)(D)

20 A. One incident in particular, the longwall went  
21 down.

(b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

23 to, ---

24 Q. Sure.

25 A. --- and he said, tell them to get it back in the

1 coal and now. Slip it under the rock, put it back in  
2 the coal and get it in there. He said that's what  
3 pays your wages. Don't you want to see this mine  
4 produce coal? (b)(7)(C) & (b)(7)(D)

5 (b)(7)(C) & (b)(7)(D)

6 Q. Did you feel threatened by him?

7 A. I did feel threatened by Blanchard. He threatened  
8 me with my job several times.

9 Q. Did he threaten the jobs of the people in the  
10 mine?

11 A. The production bosses, yes, he did.

12 Q. Do you know of any instance when people were down  
13 for lack of air?

14 A. Several.

15 Q. Could you ---?

16 A. I can't give you dates, but I can give you the  
17 incidents.

18 Q. Okay. If you would, please.

19 A. Dean Jones, the mine foreman on dayshift on  
20 Headgate 22, he was down one week. He was down when I  
21 was on duty. He was down at least three different  
22 times for a couple hours each time because he had lack  
23 of air up there. And his instructions were to open  
24 the airlock doors, get some air on the section and fix  
25 it as he was running.

1 q. Okay. Who gave you those instructions?

2 A. (b)(7)(C) & (b)(7)(D) and listened to  
3 Everett Hager tell Dean Jones that.

4 Q. Okay. Do you know about when that occurred?

5 A. About the middle of February.

6 Q. Did anybody (b)(7)(C) & (b)(7)(D) and say, we're down  
7 because we don't have enough air, and did anybody ever  
8 (b)(7)(C) & (b)(7)(D), get it in the coal or else,  
9 or something to that effect?

10 A. No one ever asked me to get back in the coal or  
11 else, but they (b)(7)(C) & (b)(7)(D) down for  
12 air quite a bit, Dean Jones in particular. And then  
13 once Steve Harrah started going up on Tailgate 22, he  
14 was having air problems.

15 Q. Okay.

16 A. Brian Collins, the evening shift foreman on  
17 Tailgate 22, was having air problems. Those overcasts  
18 they put in, they were having a lot of trouble with  
19 those overcasts.

20 Q. Okay. Do you remember the last incidents when  
21 (b)(7)(C) & (b)(7)(D) and they were having air problems  
22 maybe prior to you being laid off, the last incident  
23 before the explosion on the 5th that you know of?

24 A. It would have been that last week. It would have  
25 been that next to the last week in March, Dean Jones

1 called out and said he was having air problems again,  
2 ventilation problems. He didn't have enough air  
3 pulling across the faces.

4 Q. Okay. Do you know if that was toward the end of  
5 that week or earlier in that week?

6 A. It had been earlier in that week because I was on  
7 dayshift, then I was off two days, and then I come in  
8 and worked four days on the 6:00 P to 6:00 A shift.  
9 And after my fourth shift, (b)(7)(C) & (b)(7)(D)

10 (b)(7)(C) & (b)(7)(D)

11 Q. Okay. Did anybody ever call out and say they had  
12 problems with methane?

13 A. No, but the methane monitors went off a lot.

14 Q. Okay. Where were the methane monitors located?

15 A. Along the track, mostly on the belt line. The  
16 blew-out station on the longwall, it would go off  
17 constantly. I was all the time calling in there and  
18 telling them, hey, guys, go check it, it's going off.

19 Q. Were those methane monitors or carbon monoxide?

20 A. The blew-out station was a carbon monoxide  
21 monitor.

22 Q. Okay.

23 A. I knew they were doing a lot of welding up there.

24 Q. Okay.

25 A. But the monitors on the beltline are the methanes.

1 There would be times the whole system would crash.

2 Q. Now, were you trained to be an (b)(7)(C) & (b)(7)(D)

3 (b)(7)(C) & (b)(7)(D)

4 A. I was.

5 Q. Okay. Where did you get your training at?

6 A. At the mine site.

7 Q. Who trained you?

8 A. The chief electrician, David Taraczkozy.

9 Q. Doughnut?

10 A. Doughnut.

11 Q. Okay. (b)(7)(C) & (b)(7)(D)

12 (b)(7)(C) & (b)(7)(D)

13 A. He said, get the guys in there, get the guys ---  
14 get the guys to go up and check it. He said, a lot of  
15 times it could just be a malfunction and stuff on the  
16 alarm. He told me to go and get the guys to check it  
17 out, is what he said to do.

18 Q. And you say you got a lot of alarms. Did you get  
19 somebody to go check it every time?

20 A. I told them about it every time. I paged them. I  
21 paged them inside the mine every time.

22 Q. What did they typically come back to you with?

23 A. It's a green light. They'd tell me it was as  
24 green light or that it needed reset, and they'd just  
25 push the reset button on it or something.

1 Q. Okay.

2 A. I never did get them to give me what the actual  
3 reading of the methane was.

4 Q. Okay. Now, you say they --- I'm confused a bit  
5 because the sensors along the belt in most mines are  
6 carbon monoxide sensors. Are you sure they were  
7 methane?

8 A. It was the CO monitors. I guess they were  
9 methane, too, going to them.

10 Q. Okay. It was probably just CO.

11 A. Okay.

12 Q. I'm guessing. I don't know, to be honest with  
13 you. But it's --- some mines have methane monitors  
14 but usually they're in certain locations, like in  
15 returns and --- that's where you see it most often.

16 A. Well, my system --- the system, when it would  
17 crash, it would crash right along the track and along  
18 the belt lines is where it would crash at mostly ---

19 Q. Oh, okay.

20 A. --- and at the blew-out station, which you're  
21 probably right. Probably just the CO monitors were  
22 crashing.

23 Q. Okay. Did anybody ever get back to you and say,  
24 yeah, there was a hot roller or something like that?

25 A. Yeah. Yeah. On, let's see, Five head, the tail

1 roller burned up one night and started a fire.

2 Q. Oh, okay.

3 A. They went in and hosed it down and started putting  
4 grease in it, and then we had to get bearings and put  
5 bearings on it and stuff. (b)(7)(C) & (b)(7)(D)

6 (b)(7)(C) & (b)(7)(D)

7 Q. Do you know about when that happened?

8 A. That was in the first part of March, on the hoot  
9 owl shift.

10 Q. Okay.

11 A. They were down all shift, putting a bearing in.

12 Q. Did anybody mention what the fire was like? Was  
13 it an actual ---?

14 A. Smoldering.

15 Q. It was smoldering?

16 A. Yes.

17 Q. Did it interrupt production for at least 30  
18 minutes?

19 A. It was on the hoot owl maintenance shift is what  
20 it was on.

21 Q. Oh, okay. So it didn't interrupt production?

22 A. Didn't interrupt production.

23 Q. Okay.

24 A. But Blanchard was still notified that the tail  
25 roller had burned up, so get it fixed, boys. I want



1 that thing ready for production at seven o'clock in  
2 the morning.

3 Q. Do you think the (b)(7)(C) & (b)(7)(D) to  
4 take care of all that they needed to take care of?

5 A. If we would have had the opportunity just to do  
6 our job,  
(b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

13 Q. I can imagine. Did you ever feel like the miners'  
14 safety was compromised because you couldn't keep up  
15 with who was on the track, where they were at and ---?

16 A. You can ask any of them down there. I would hold  
17 them up. I mean, if --- I knew most of the time where  
18 my miners were in the section when they were coming  
19 out. I would hold them up. I know of a couple  
20 incidents where another dispatcher let the mantrip run  
21 into the dust wagon going in, and I never ran anyone  
22 into anybody.

23 Q. Okay. Good. Now, when Mr. Taraczkozy (b)(7)(C) & (b)(7)(D)

24 (b)(7)(C) & (b)(7)(D) , did you go in the mine and go to  
25 each one of the production sections?

(b)(7)(C) & (b)(7)(D)

1 A.

(b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

4 Q. Okay. After you had been  
5 for about six months, did you go back in the mine and  
6 go to any of the sections?

7 A. (b)(7)(C) & (b)(7)(D) . When I come outside off of ---  
8 well, when I went into work one night on a move crew,  
9 the boss told me to come back at seven o'clock in the  
10 morning --- come back at six o'clock in the morning,  
11 talk to Everett Hager. Everett looked at me and says,

(b)(7)(C) & (b)(7)(D)

(b)(7)(C) & (b)(7)(D)

14 Q. Okay.

15 A. --- at Upper Big Branch.

16 Q. What about when inspectors came on the property,  
17 would the guards --- the guard shack call up and tell  
18 you that ---?

19 A. Oh, yeah. We were alerted every time you all come  
20 on the property.

21 Q. Did anybody (b)(7)(C) & (b)(7)(D) that underground?

22 A. All the time.

23 Q. Who told you to do that?

24 A. Gary May.

25 Q. Gary May. Did you ever miss any of the inspectors

1 and they went underground anyway?

2 A. No.

3 Q. Okay.

4 A. No, the guard shack, unless they were told  
5 differently --- the guard shack not to call up, they  
6 always called up and told us there was one on the way.

7 Q. Okay. Let me ask you about people going  
8 underground to work on ventilation. Do you know if  
9 people did that?

10 A. The only ventilation work that I know that went on  
11 underground was what was done on the section ---

12 Q. Okay.

13 A. --- by the production crews and the foremans.  
14 That's the only ventilation that I know of. I know of  
15 no one else going underground to work on ventilation,  
16 just specifically ventilation.

17 Q. Did you <sup>(b)(7)(C) & (b)(7)(D)</sup> over the weekends, when ---?

18 A. Yes, I did.

19 Q. Okay. Would Mr. Blanchard or Mr. Whitehead or Mr.  
20 Hager or anybody come out when there were very few or  
21 no people in the mine and go in the mine?

22 A. No.

23 Q. Okay.

24 A. Whitehead would come out to the mine site and sit  
25 in the office back there. Blanchard, you never saw

1 him come out and go underground, unless the longwall  
2 was having a problem with water or something.

3 Q. Okay.

4 A. Everett, he stayed home on the weekends, unless it  
5 was the weekend he was required to work.

6 Q. Okay. Thank you. Let's talk about the production  
7 reports a bit. (b)(7)(C) & (b)(7)(D)

8 (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D)

10 the ---?

11 A. Three times a shift, the beginning of the shift,  
12 (b)(7)(C) & (b)(7)(D)

13 Q. Okay. (b)(7)(C) & (b)(7)(D)

17 (b)(7)(C) & (b)(7)(D) you were late with those

18 (b)(7)(C) & (b)(7)(D)

19 (b)(7)(C) & (b)(7)(D) . They wouldn't get  
20 yelled at, I'd get yelled at. I mean, I had a policy  
21 with my production foremans down there on the miner  
22 sections that if they called, I would give them 15  
23 minutes past the time they were supposed to call out,  
24 and then I'd shut their section belt off. That was  
25 it.

1 Q. How well did that work?

2 A. After four or five times of shutting their section  
3 belt off, they called out every time like they were  
4 supposed to.

5 Q. That's interesting. What about rock dust at this  
6 mine? You indicated that somebody ran into the rock  
7 dust machine, I think you said?

8 A. Yeah, it was dayshift. The hoot owl dispatcher,  
9 Mr. Daniel Perdue, he had went ahead before I got  
10 there and dispatched the dayshift underground from the  
11 Ellis Portal. The rock dust machine was sitting on  
12 the track in between Ellis Switch and Ellis Portal,  
13 and the dayshift production crew for Headgate 22 ran  
14 into it.

15 Q. Was anybody hurt?

16 A. No one was hurt, but they ran into it.

17 Q. Okay. That's good. How often would that rock  
18 dust machine --- did they use that every shift?

19 A. They used it on hoot owl.

20 Q. Hoot owl. Did they use it every hoot owl shift?

21 A. No.

22 Q. Every other hoot owl shift?

23 A. Every other.

24 Q. Okay. And as far as I knew, the only thing you  
25 ever dusted was the track going up to the sections and

1 stuff. I don't know that it ever went as far as the  
2 longwall. I know it just dusted the main track, a lot  
3 of the main track.

4 Q. Do you know if they could dust the other entries  
5 aside from the track? Was it --- they have some way  
6 to get over to those other entries?

7 A. There was two men on the crew. There was two men  
8 on the crew. There was one running the motor and one  
9 running the hose. I'm sure he could have walked over  
10 and dusted the other entries with that hose and stuff,  
11 with the machine.

12 Q. Do you know if they were having any trouble with  
13 that machine?

14 A. It was down I think a total of about three or four  
15 days when I worked down there.

16 Q. Okay. Did they have any problem with the crew for  
17 that machine that you're aware of?

18 A. Yeah. They fired a black hat and a red hat.  
19 Wayne Persinger walked in --- went walking in the  
20 mines one morning and caught them sleeping up on the  
21 track.

22 Q. About when was that when they fired them?

23 A. Had to be in February.

24 Q. Okay. So at least a month or so prior to the  
25 explosion?

1 A. Yeah.

2 Q. Do you know if they replaced that crew?

3 A. They did.

4 Q. So somebody else started doing the dusting?

5 A. Yeah.

6 Q. Okay. Do you know who it was that started the  
7 dusting?

8 A. I know them, but I can't think of their names  
9 right now.

10 Q. Okay. That happens to me quite a bit.

11 A. Actually, one of them was that red hat that they  
12 had fired. They brought him back because the black  
13 hat fell asleep and he was just doing --- he was just  
14 following the black hat is what he was doing. The red  
15 hat was one of them. And the other guy had worked on  
16 the longwall maintenance --- not maintenance but the  
17 construction crew. He come off the longwall  
18 construction crew and went on the duster.

19 Q. Okay.

20 A. The only thing I can tell you about him is he's a  
21 big guy. That's all I can remember about him.

22 Q. Okay. We appreciate that information. Tell me  
23 about the last thing that you're aware of going on in  
24 the mine. Was everything going along well? Did they  
25 have any particular problems that last week or so that

1 you worked?

2 A. Ventilation up on Tailgate --- up on Headgate 22  
3 and some on Tailgate 22 they had a lot of trouble with  
4 ventilation, not getting enough air. Like I stated  
5 before, Dean Jones would call out to Everett, and I  
6 would eavesdrop on the mine phone, that he didn't have  
7 enough air up there.

8 Q. About how many times did he do that that week?

9 A. I know of three particular times he done it.

10 Q. Do you recall the exact days when he did it?

11 A. It would have been Monday --- Sunday, Monday and  
12 Tuesday, I believe.

13 Q. Sunday, Monday and Tuesday?

14 A. No. I'm sorry. Monday, Tuesday and Wednesday  
15 because they didn't work production on dayshift on  
16 Sunday that week for some reason.

17 Q. Okay. So Monday, Tuesday and Wednesday. What did  
18 Mr. Hager tell him?

19 A. Open the airlock doors, Dino, and get the air up  
20 --- get some air up there and fix it.

21 Q. Did you ever hear anybody else tell anybody  
22 underground to open the airlock doors?

23 A. Blanchard, once in a while, would tell them, you  
24 know, get the air up there. Do whatever they had to  
25 do to get it up there.



1 Q. Who was in charge of ventilation at this mine?

2 A. The production foremans and the production crews,  
3 as far as I know.

4 Q. Okay.

5 A. They had no, per se, ventilation people up there  
6 working strictly on ventilation.

7 Q. Did the longwall ever have problems with air or  
8 ventilation?

9 A. That I'm not real sure of because my dealings with  
10 the longwall, (b)(7)(C) & (b)(7)(D)  
11 (b)(7)(C) & (b)(7)(D)

13 (b)(7)(C) & (b)(7)(D) --- from six  
14 o'clock in the evening until they shut down at one  
15 o'clock in the morning.

16 Q. Okay.

17 A. And on the weekends I never heard anything about  
18 any air problems up there on the longwall.

19 Q. Okay. So you think they had plenty of air?

20 A. Yeah, I think they had plenty of air.

21 Q. Now, you mentioned that you didn't hear about or  
22 you didn't --- I can't remember your exact words. You  
23 didn't know about the longwall until after four  
24 o'clock in the afternoon. Why was that?

25 A. Because Greg Clay handled it. Greg Clay, the

1 purchasing clerk, handled faxing reports and stuff to  
2 --- or e-mails to Don Blankenship, Chris Blanchard,  
3 and he fielded the phone calls and stuff.

4 Q. Okay. Do you think all of Massey's mines had to  
5 report all of this information like UBB had to?

6 A. I think UBB had to report all the information on  
7 the longwall just because they had the longwall. But  
8 if you look at the production --- at the production  
9 call-out sheets, it's got every --- in the Marfork  
10 family down there it's got every mines listed, and  
11 it's got the --- it's got start times. And I know  
12 they had to fill out and send in production  
13 reports ---

14 Q. Okay.

15 A. --- in the miner sections.

16 Q. So it wasn't just UBB that was doing that?

17 A. No, it was everybody. <sup>(b)(7)(C) & (b)(7)(D)</sup>

(b)(7)(C) & (b)(7)(D)

1 (b)(7)(C) & (b)(7)(D)

3 A. The only time we didn't have to do it is when we  
4 had a State inspector down there.

5 Q. How come you didn't have to do it when the State  
6 inspector was there?

7 A. Because Greg Clay wouldn't send anything down for  
8 us to do it.

9 Q. That's interesting. Did you ever have to go  
10 outside and mess with the trucks?

11 A. I've had to unload a few trucks, yes.

12 Q. (b)(7)(C) & (b)(7)(D)

19 A. No. No, because --- you guys have been down there  
20 at UBB since the explosion.

21 Q. Sure.

22 A. Have you been down during production, when it was  
23 running full force? That phone number stopped. The  
24 radios never stopped. The (b)(7)(C) & (b)(7)(D) looked like an  
25 octopus down there. (b)(7)(C) & (b)(7)(D)

1 (b)(7)(C) & (b)(7)(D)

2 Q. Buddy, you just have two right now.

3 A. Yeah. But you needed eight arms to handle  
4 everything because you had bosses hollering. You had  
5 fire bosses hollering. You had everybody hollering at  
6 one time. And my log sheets on my clipboard, I would  
7 start out every morning and I'd get a stack of log  
8 sheets like that.

9 Q. And you're indicating about two inches or so?

10 A. About two inches. And (b)(7)(C) & (b)(7)(D)

11 (b)(7)(C) & (b)(7)(D) and-a-half of log sheets out every day.

12 Q. So that's a lot of writing.

13 A. A lot of writing.

14 Q. These log sheets, were you keeping up with where  
15 everybody was at in the mine and ---?

16 A. I was doing my best.

17 Q. Okay. What did you do with those log sheets when  
18 you were --- at the end of the day?

19 A. I (b)(7)(C) & (b)(7)(D)

20 (b)(7)(C) & (b)(7)(D) then in the purchasing office there was a  
21 clipboard hanging on the wall, (b)(7)(C) & (b)(7)(D)

22 and (b)(7)(C) & (b)(7)(D) right there. That way they were  
23 right there. And unless they got rid of them, there  
24 should be some file boxes down there with log sheets  
25 in them where I took them and shoved them underneath

1 the computers down there.

2 Q. Could you help us out in exactly where would they  
3 be under the computers?

4 A. They should be in a paper box. Like the copy  
5 paper that comes in a paper box, ---

6 Q. Uh-huh (yes).

7 A. --- it should be shoved right underneath the  
8 computers, where those little TV monitors, and where  
9 that master computer is when you walk in the  
10 communications room upstairs.

11 Q. Okay. Thank you.

12 A. But they're probably done long gone by now.

13 Q. Yeah. I understand there were some problems with  
14 a lot of records.

(b)(7)(C) & (b)(7)(D)

1 Q. Do you know who did that?

2 A. Greg Clay.

3 Q. Well, why did he do that?

4 A. It cluttered his bulletin board up.

5 Q. Okay.

6 A. (b)(7)(C) & (b)(7)(D)

10 Q. Did you feel nervous or pressured when you were  
11 doing that job?

12 A. I carried a bottle of Aleve in my bucket, and  
13 whenever I would get to taking Aleve, I would take  
14 four at a time just to keep my headache away. It's a  
15 very stressful job.

16 Q. It sounds like it. Have you (b)(7)(C) & (b)(7)(D)  
17 at any other mine?

18 A. No.

19 Q. At the mine you're working at now, do they have a  
20 (b)(7)(C) & (b)(7)(D)

21 A. I'm actually --- I'll actually be going to work  
22 there probably Monday, ---

23 Q. Okay.

24 A. --- but I'll be on production crew, running a  
25 (b)(7)(C) & (b)(7)(D), so ---.

1 Q. And where did you say you were going to go work on  
2 Monday?

3 A. It will be (b)(7)(C) & (b)(7)(D) , probably --- he's supposed  
4 to let me know Monday when I'm supposed to start. It  
5 may be Tuesday before I go to work, but it will be  
6 (b)(7)(C) & (b)(7)(D) .

7 Q. Okay.

8 MR. SHERER:

9 That's all the questions I've got for  
10 right now. Do you got some, John?

11 MR. O'BRIEN:

12 Just a few.

13 EXAMINATION

14 BY MR. O'BRIEN:

15 Q. I'm going to ask you some clarification questions.  
16 You said there was a fire at Number Five. Was it head  
17 or tail?

18 A. It was Five --- I think it was --- yeah, I think  
19 it --- it might have been Five Tail. The tail roller  
20 burned up.

21 Q. And it was a tail roller?

22 A. The tail roller burned, yeah, the bearing, yeah.

23 Q. What kind of certifications do you have?

24 A. I got an 80-hour miner's card, permanent card for  
25 the State.

1 Q. Black hat card?

2 A. Black hat.

3 Q. Okay. On the tracking, who tracked the people  
4 going in the mines? Did you have to do that, track  
5 the people going in and out of the mines?

6 A. (b)(7)(C) & (b)(7)(D)

7 (b)(7)(C) & (b)(7)(D) yes.

8 Q. How did you know where people went on the section?  
9 Did it track everyone or did the foreman or somebody  
10 give you a list of all the ---

11 A. (b)(7)(C) & (b)(7)(D) ---.

12 Q. --- crew?

13 A. (b)(7)(C) & (b)(7)(D)

17 (b)(7)(C) & (b)(7)(D) I don't know how --- they went to the mouth  
18 of the section. And then the radios they carried,  
19 they carried the radios. But they had to put them up  
20 at the power center because they started the miners  
21 up.

22 Q. Okay. Did everyone wear a tracking tag?

23 A. Everybody was supposed to wear a tag, yes.

24 Q. Even the visitors or ---?

25 A. The inspectors was even supposed to wear tags, but



1 I don't know if they did or not. I knew they were on  
2 the site and I knew who they were with.

3 Q. Let me ask a question about the airlock doors.  
4 They was told to open airlock doors to get more air.  
5 Which airlock doors, do you know by chance?

6 A. To the mouth of the section on Headgate 22 would  
7 be my guess.

8 EXAMINATION

9 BY MS. MONFORTON:

10 Q. (b)(7)(C) & (b)(7)(D) I just have a couple of clarifying  
11 questions. You mentioned the production reports and  
12 the procedure for faxing them, but then you also said  
13 e-mail. Were there two different systems, one was  
14 fax, one was e-mail? How did that work?

15 A. Greg Clay worked on the computer upstairs. He was  
16 a purchasing clerk. He would e-mail the reports while  
17 he was there through the day. He would come in at  
18 seven o'clock in the morning and he would leave by  
19 4:00. And then it was turned over to (b)(7)(C) & (b)(7)(D)  
20 and (b)(7)(C) & (b)(7)(D) had to fax the reports in.

21 Q. Okay. And when (b)(7)(C) & (b)(7)(D) faxed them (b)(7)(C) & (b)(7)(D) said (b)(7)(C) & (b)(7)(D)  
22 go downstairs or upstairs. The fax machine wasn't in  
23 your (b)(7)(C) & (b)(7)(D) ?

24 A. No. (b)(7)(C) & (b)(7)(D) did not have a fax machine downstairs in  
25 the warehouse in the (b)(7)(C) & (b)(7)(D) . We had to

1 go upstairs. Actually, at four o'clock in the evening  
2 <sup>(b)(7)(C) & (b)(7)(D)</sup> had two computers. <sup>(b)(7)(C) & (b)(7)(D)</sup> one downstairs, where we  
3 was at on dayshift, and we had one upstairs on ---  
4 right across from the purchasing clerk's office. And  
5 we would go upstairs after four o'clock and we could  
6 monitor everything from up there then.

7 Q. Okay. You indicated that there were a number of  
8 times that you said Mr. Jones would call and say that  
9 he didn't have enough air and he would tell Mr. Hager  
10 he didn't have enough air?

11 A. Right.

12 Q. Were you getting production reports at the same  
13 time as he was making those calls? How did that work?

14 A. I would hear him holler on the phone for Everett.  
15 And if you've ever been around a mine phone, whenever  
16 it pages it pages everywhere in the mines and  
17 everywhere outside. <sup>(b)(7)(C) & (b)(7)(D)</sup>

21 Q. So was it your understanding that he was saying he  
22 didn't have enough air, but they were still producing?

23 A. He wasn't running because they didn't have enough  
24 air. And they said to get it in the coal and get it  
25 --- so they could open the doors, fix it while you're

1 running coal, and get it in the coal.

2 Q. So how would (b)(7)(C) & (b)(7)(D) that?

3 It would be a half hour with zeros and then ---?

4 A. It would be --- if it was a nine o'clock  
5 production report, it would be --- and they started  
6 the shift at six o'clock, however many minutes they  
7 were down. If they were down two hours, it would be  
8 120 minutes down. I wasn't allowed to put lack of  
9 air.

10 Q. Would you just say down?

11 A. No. I would have to give a reason, but I wasn't  
12 allowed to put lack of air. They would tell me to say  
13 piece of equipment or something. I was not allowed to  
14 write down on there lack of air.

15 Q. And then they would do something with the airlock  
16 doors and the next time you get a production report it  
17 would show ---?

18 A. I would get footage. I would get footage and the  
19 number of shuttle cars and any equipment that was  
20 down.

21 Q. (b)(7)(C) & (b)(7)(D) , were you in the same area as  
22 where the fire bosses would call out their reports or  
23 is that somewhere else in the mine?

24 A. No. That was upstairs in that big --- in that big  
25 room, right across from the offices and stuff, back in

1 the back where the other door is at.

2 Q. So you wouldn't hear the fire bosses call out  
3 reports?

4 A. Not unless I was eavesdropping.

5 Q. Did you have an opportunity in the period of time  
6 (b)(7)(C) & (b)(7)(D)

8 A. I worked with him --- I worked with one a little  
9 bit, yeah. I trained him a little bit on what I had  
10 --- on what he had to do, his duties and stuff.

11 Q. Was this someone who was going to be a permanent  
12 dispatcher or someone who was just filling in or ---?

13 A. Fill-in, temporary.

14 Q. Were they filling in because they had an injury?

15 A. No. He was filling in because --- actually, they  
16 were going to make him a permanent dispatcher until he  
17 got on the phone and called Chris Adkins brother and  
18 buddy one day, and then they put him to janitorial  
19 work, cleaning the bath house and stuff.

20 MS. MONFORTON:

21 I don't have any other questions.

22 RE-EXAMINATION

23 BY MR. SHERER:

24 Q. I've got several follow-up questions, (b)(7)(C) & (b)(7)(D)

25 (b)(7)(C) & (b)(7)(D) . The first one is just housekeeping. We

1 forgot to ask you for your address and phone number.

2 Could you please supply that?

3 A. I will. It's (b)(7)(C) & (b)(7)(D) ,  
4 (b)(7)(C) & (b)(7)(D)

5 (b)(7)(C) & (b)(7)(D) . My cell phone is (b)(7)(C) & (b)(7)(D) .

6 Q. Okay. Thank you. You mentioned you were told not  
7 to (b)(7)(C) & (b)(7)(D) . Who told you that?

8 A. The superintendents, Gary May, Greg --- or Gary  
9 May. Everett didn't really say a whole lot about it.  
10 Greg clay said, oh, you can't write that down. That  
11 looks bad. We can't have that on a piece of paper.

12 Q. Was there anything else you were told not to write  
13 down?

14 A. Yeah.

15 Q. What else?

16 A. I was told not to write down if there was a loss  
17 of production because --- loss of production because  
18 most of it --- there was no air on the section. But I  
19 was told I couldn't write down several things. If  
20 there was a loss of production because it was a  
21 mechanical problem or stoppings weren't built, stuff  
22 like that, I wasn't allowed to write that down.

23 Q. Okay.

24 A. The only time they wanted was a loss of production  
25 if a torque shaft broke. They didn't want a loss of

1 production if there was a belt gobbled out or anything.

2 Q. So basically what I'm hearing is a loss of  
3 production that had anything related to safety?

4 A. Anything related to safety I was not allowed to  
5 write down loss of production.

6 Q. I'm confused. This is a company that has this S-1  
7 safety first thing, but they won't let you even write  
8 down that you got safety problems.

9 A. They were afraid you all would come in and pull  
10 our production reports and look at them and see why we  
11 were down, because of a safety reason, and give them a  
12 (d) order or something.

13 Q. Okay.

14 A. I mean, if it was a safety issue, I was not  
15 allowed to write down loss of production.

16 Q. You mentioned all of the superintendents and such  
17 said not to do that. Who specifically told you not to  
18 write down safety-related issues?

19 A. Gary May, Greg Clay.

20 Q. Okay. Those two gentlemen. Anybody else?

21 A. Chris Blanchard mentioned it one time where he  
22 called and chewed me on the telephone for it. When I  
23 first started dispatching I wrote down, you know, lack  
24 of air, and he said, you can't write that down.

25 Q. And when you started dispatching about, when was

1 that again?

2 A. It would have been the last week of October, first  
3 week of November.

4 Q. And was it the first week you worked or do you  
5 recall when he called you up and told you that?

6 A. Second week.

7 Q. Second week? Okay. Thank you. Do you know if  
8 the fire bosses were told not to record hazards like  
9 that?

10 A. I don't know exactly what the fire bosses were  
11 told. I mean, I would talk to the fire bosses and  
12 stuff. You know, they'd come in the office and talk  
13 to me all the time, but I Never asked them any  
14 specific questions about that or anything.

15 Q. Okay. Do you know if the fire bosses ever  
16 complained about a lack of air?

17 A. I know they complained of some leaking seals and  
18 stuff.

19 Q. Who did they complain to?

20 A. It was usually they would complain to Greg Clay  
21 they needed their CO monitors or something.

22 Q. Okay. I think you mentioned you were working for  
23 a contractor, I think.

24 A. Yes.

25 Q. Who was that contractor?

1 A. (b)(7)(C) & (b)(7)(D)

2 Q. (b)(7)(C) & (b)(7)(D)

3 (b)(7)(C) & (b)(7)(D)

4 Q. Oh, (b)(7)(C) & (b)(7)(D) . Excuse me. Does this  
5 contractor send you out to different job sites?

6 A. No. (b)(7)(C) & (b)(7)(D) , he's going to place me at  
7 (b)(7)(C) & (b)(7)(D) , and I'll stay there.

8 ATTORNEY BAXTER:

9 I'm sorry. Are you still going to be  
10 working for (b)(7)(C) & (b)(7)(D) ?

11 A. (b)(7)(C) & (b)(7)(D) through  
12 --- up there until, you know --- you can't get hardly  
13 anywhere in the mines anymore unless you get to the  
14 contractor and then get your probationary period over  
15 with, and they'll hire you on with the company or  
16 something.

17 MR. SHERER:

18 Let's take a short break.

19 SHORT BREAK TAKEN

20 BY MR. SHERER:

21 Q. (b)(7)(C) & (b)(7)(D) , you mentioned that you ran the CO  
22 monitoring system, atmospheric monitoring system?

23 A. Yes.

24 Q. And you mentioned there was a lot of problems with  
25 that particular system. Did anybody do anything to



1 mess with that system, turn off the alarms or anything  
2 like that?

3 A. Greg Clay, one day I<sup>(b)(7)(C) & (b)(7)(D)</sup>

4 (b)(7)(C) & (b)(7)(D)

5 (b)(7)(C) & (b)(7)(D)

6 , and my belt maps froze up  
7 completely. I went up to see what the problem was at  
8 the master computer, and he had took the end of a  
9 socket wrench and laid it across the F6 and F12 button  
10 to silence it and everything. It froze my belt maps  
11 up.

12 Q. So basically Mr. Clay disabled the CO monitoring  
13 system?

14 A. Disabled the audible alarms.

15 Q. Okay. When did that happen?

16 A. It happened one time in the first of March.

17 Q. Okay. Have you ever seen anything like that  
18 besides that incident the first of March? Was that a  
19 single occurrence or did it happen several times?

20 A. He only did that one time because I got on to him.

21 I said, (b)(7)(C) & (b)(7)(D)

22 (b)(7)(C) & (b)(7)(D)

23 . Well, I didn't  
24 have a way to pull up --- when I was down there in  
25 March I didn't have a way to pull up the specific  
monitor that was alarming the because they didn't have  
a keyboard and mouse for me at that time. I'd have to

1 run upstairs and check it. He said, I just was trying  
2 to save you a few steps. I said, I'll run the steps  
3 to find out what the problem is.

4 Q. Did they ever get you a keyboard and mouse  
5 downstairs?

6 A. Yes, ---

7 Q. Okay.

8 A. --- they did.

9 Q. Good.

10 A. And Chris Blanchard, when they were having a lot  
11 of problems with the water up on the longwall, he came  
12 up to the office one day. He was in the office one  
13 day. In the communications area, where the master  
14 computer was, the phone was ringing and I went to see  
15 what the alarm was. He said --- and this is a quite,  
16 he said, go, answer the telephone. I can stand here  
17 and silence an alarm.

18 Q. And his only concern was to silence an alarm, not  
19 find out what was happening?

20 A. That was it. I can silence an alarm.

21 Q. Did you ever get any instructions from Chris  
22 Adkins telling you --- to relay underground to tell  
23 somebody to do something? Did he ever call back like  
24 that?

25 A. Adkins, no. Adkins --- the only dealings I had

1 with him, he would call me on the weekends, stay on  
2 the phone five to ten seconds, and ask me what the  
3 longwall report was and that would be it.

4 Q. Okay. Did you ever have any calls from Don  
5 Blankenship?

6 A. Blankenship I never talked to.

7 Q. Okay. Do you know if Mr. Adkins ever went to the  
8 mines?

9 A. Yeah, he was there several times.

10 Q. Okay. Was he there that last week that you  
11 worked?

12 A. He was there the week prior to the last week I  
13 worked.

14 Q. And do you know what he did that time?

15 A. He was in the office upstairs.

16 Q. Did he go underground?

17 A. Not to my knowledge.

18 Q. Okay. Did Mr. Adkins ever question any of the  
19 reports that you sent to him?

20 A. No.

21 Q. Okay.

22 A. Because (b)(7)(C) & (b)(7)(D)

23 (b)(7)(C) & (b)(7)(D)

1 Q. Okay. Do you recall any memos about any of this  
2 stuff, about whatnot to do or how to do things  
3 specifically.

4 A. There's no memos. There's nothing written on  
5 paper.

6 Q. Okay.

7 A. Everything came down by word of mouth?

8 Q. How often would Mr. Blanchard or Whitehead go  
9 under ground?

10 A. Blanchard only went underground if there was a  
11 problem.

12 Q. Okay.

13 A. Whitehead, he's just about the same. He didn't go  
14 underground a whole. Wayne Persinger went underground  
15 more than any of them.

16 Q. What would Mr. Blanchard or Whitehead do when they  
17 went underground, he said mainly when they had a  
18 problem. Would they do anything else?

19 A. I guess they went in there and talked with the  
20 longwall crews to get them into production because  
21 they had I know their own wall, for about three weeks  
22 straight they were having a lot of problem with a lot  
23 of water?

24 Q. Were they underground quite a bit then?

25 A. Yeah, quite a bit. Blanchard was. That was

1 before Whitehead come down there.

2 Q. Okay. Were there ever any instances when the  
3 track was messed up or blocked or a rail was broken or  
4 anything like that?

5 A. There were several switches that were broke. I  
6 mean, that were broke and they would have to go in  
7 there and fix it. Ralph Plumley, the trackman down  
8 there, he would have to go in and fix it, rebuild a  
9 switch or something. One instance I recall --- and  
10 this had to be at the end of January, first of  
11 February, Gary May was bringing a scoop out from ---  
12 it had been in Section Four on the gravel. He told me  
13 not to let anyone in or out of the mines until he got  
14 the scoop outside and bring it right down the track.  
15 And there was some track ties and stuff broke from  
16 that.

17 Q. Okay. So he just trammed the scoop down the  
18 track?

19 A. He just trammed the scoop down the track.

20 Q. Okay.

21 A. He said, call me if an inspector shows up.

22 Q. Okay. Do you know anything about the methane in  
23 this mine? Did you ever hear anybody complain about  
24 methane?

25 A. (b)(7)(C) & (b)(7)(D)

I would

1 have to go down behind the wall with the boss and set  
2 pumps. We was in water above our waist several nights  
3 in a row, resetting the pumps, those air pumps. And  
4 we was walking up through there one night, through the  
5 prop setters where they had them up on the wall, and I  
6 just saw something bubbles up through the ground.

7 Like I said, an inexperienced miner, I hadn't been in  
8 the mines that long. I've never seen methane in the  
9 mines.

10 Q. Sure. I'd see it bubbling up. I said, what is  
11 that bubbling up through there. They said it's  
12 methane coming up through the water.

13 Q. Who was this boss?

14 A. Kyle Anderson, ---

15 Q. Kyle Anderson, okay.

16 A. --- move crew boss on Headgate 22.

17 Q. Did he have a detector with him, methane detector?

18 A. He carried a spotter, but he never took a reading,  
19 not when I was with him.

20 Q. Never took any readings?

21 A. He didn't when we was walking up through there.

22 We had to walk 20-some breaks back up to where we  
23 parked our trip. He never took a reading whenever  
24 that methane was coming up through the water.

25 Q. Okay. You say you were working in fairly deep

1 water working with those pumps. About when was that?

2 A. That was the --- that was the middle of October,  
3 when I started.

4 Q. Okay. Do you recall if any of the entries were  
5 totally roofed out with water?

6 A. A couple.

7 Q. A couple. Do you know where that was at?

8 A. It was behind the wall, but I don't know just  
9 exactly where. Let's see. It was --- it was 89  
10 Break.

11 Q. Eighty-nine (89) Break, about ---?

12 A. About right in here.

13 Q. Okay.

14 A. It was roofed.

15 Q. So two of the entries were roofed. How deep was  
16 the water in that third entry?

17 A. Waist deep. I came out wet up to here on my bibs.

18 Q. Okay. And you're pointing to your upper chest?

19 A. Yeah, because you know you had to bend over to get  
20 the man door shut to get to the water, but that's  
21 where --- that's where I was wet, from the --- when I  
22 was actually in the water, wading it, it was waist  
23 deep ---

24 Q. Okay.

25 A. --- in hip waders.

1 Q. That's a long way to walk in hip waders.

2 A. Especially full of water.

3 Q. I can imagine. Okay. That's all the questions  
4 I've got right now.

5 RE-EXAMINATION

6 BY MR. O'BRIEN:

7 Q. Just a couple of certification questions. You  
8 said Gary May trammed the scoop off Four Section?

9 A. Off Section Four.

10 Q. Section Four. About when was that; do you know?

11 A. Last of January, first of February, in and around  
12 that time.

13 Q. Okay. (b)(7)(C) & (b)(7)(D)

14 (b)(7)(C) & (b)(7)(D) from section crews stating they did  
15 not have a mantrip or wanted to know where their  
16 mantrip was.

17 A. Yeah, several times.

18 Q. Do you know why they did not have a mantrip by  
19 chance?

20 A. The either took the other crew --- the hoot owl  
21 crew brought it out or the dayshift crew brought it  
22 out. They would switch out the trips up there on the  
23 section and bring --- the crew that took the trip in,  
24 the crew that was up there would bring that trip out.  
25 And sometimes there just wasn't enough mantrips in the



1 barn for everybody to go in on.

2 Q. Was that fairly often? Did that happen fairly  
3 often?

4 A. No. It happened there for a month pretty heavy,  
5 and I started telling the hoot owl boss that he  
6 couldn't take them all in at one time. The hoot owl  
7 crew down there, the maintenance crews down there,  
8 they're as big --- and the move crews, they're as big  
9 as production crews. I told them I'd have to have a  
10 certain number of trips outside for my production  
11 crews in the morning.

12 Q. Was there any particular section that was shorted  
13 man trips or buses?

14 A. It was usually three, Section Three, on the other  
15 side of the mountain.

16 Q. About when was this period that happened a lot  
17 that you were just describing?

18 A. That was in January.

19 Q. January?

20 A. Sean Walker was the hoot owl boss, was the hoot  
21 owl foreman's name that I had to --- because I was  
22 getting flack from my end outside from the production  
23 crews.

24 Q. Sean Walker was the one calling out?

25 A. He was the one taking all the trips underground.

1 Q. Okay. Thank you.

2 MR. SHERER:

3 Let's take another short break.

4 SHORT BREAK TAKEN

5 RE-EXAMINATION

6 BY MR. SHERER:

7 Q. (b)(7)(C) & (b)(7)(D) , I just want to follow up on a few  
8 things here. We've talked about people calling in and  
9 telling the production crews to get it in the coal and  
10 we mainly talked about the miner sections. Did  
11 anybody do that with the longwall?

12 A. Yes.

13 Q. Who was that, please?

14 A. Blanchard.

15 Q. Blanchard. Did anybody else do that?

16 A. Jack Roles.

17 Q. Jack Roles. How often would they do that?

18 A. Whenever they were down.

19 Q. Okay.

20 A. One particular instance, the longwall was into a  
21 lot of roc, had a big ledge of rock, and I remember  
22 Blanchard calling in and saying --- and Jack called in  
23 right behind him --- Jack called in and actually said,  
24 Blanchard told me to tell you to tell them to get the  
25 shields --- jam the shields under the rock and sump

1 that thing into the coal.

2 Q. Okay. Thank you. Let's talk about ventilation a  
3 little bit more. Was there any engineers involved  
4 with the ventilation in this mine that you know of?

5 A. Eric Lilly is the only one.

6 Q. Did Mr. Lilly have an office at the UBB Portal?

7 A. He was in the communications office a lot. He had  
8 a little desk there where he had his laptop set up and  
9 everything.

10 Q. When you say a lot, was he there every other day  
11 or ---?

12 A. He was there just about every day.

13 Q. Just about every day, okay.

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

15 Q. Did you ever hear anybody telling him what to do  
16 as far as the ventilation in the mine?

17 A. Chris Blanchard would stand over his shoulder and  
18 say, do this right here or do that. He'd point and  
19 scream. I never paid any attention to what he was  
20 telling him to do, but ---

21 Q. Sure.

22 A. --- tell him, do this or do that or you got to do  
23 this, you got to do that.

24 Q. How often would Mr. Blanchard come down and do  
25 that with Mr. Lilly?

1 A. I saw him there three or four times doing that.

2 Q. Did you ever hear of any of the fire bosses or any  
3 of the production foremen complaining to Mr. Lilly  
4 about the air?

5 A. Dino.

6 Q. Dino?

7 A. Dino would complain about not having enough air  
8 and said --- he would talk to Eric a little bit. He  
9 would talk to him on the mine phone, and I was usually  
10 up in the office didn't pick up the mine phone or  
11 something. I was doing something else.

12 Q. Okay. Did he do that several times that you were  
13 aware of?

14 A. Several times. I'm not sure just the number of  
15 times, but I know he did it several times because he  
16 would holler outside just to talk to Eric.

17 Q. Okay. And you think that was about the lack of  
18 air on Headgate 22 section?

19 A. I'd almost guarantee it.

20 Q. Okay.

21 ATTORNEY BAXTER:

22 On behalf of MSHA and the Office of  
23 Miners' Health, Safety and Training, I want to thank  
24 you for appearing and answering questions today. Your  
25 cooperation is very important to the investigation as

1 we work to determine the cause of the accident. We  
2 request that you not discuss your testimony with any  
3 person aside from your personal representative. After  
4 questioning other witnesses, we may call you if we  
5 have any follow-up questions. If at any time you have  
6 additional information regarding the accident that  
7 you'd like to provide to us, please contact us at the  
8 contact information that was previously provided to  
9 you. If you wish, you may now go back over any answer  
10 you've given during this interview. You may also make  
11 any statement that you'd like to make at this time.

12 A. The only thing I've told in the interview is just  
13 the things that I personally observed, what I know  
14 from being down there in person. That's it. It's no  
15 conjecture on my part. I'm not trying to blame anyone  
16 in particular or anything. It's just what I observed.

17 ATTORNEY BAXTER:

18 Well, thank you. And again, thanks for  
19 your cooperation.

20 \* \* \* \* \*

21 CONFIDENTIAL STATEMENT UNDER OATH

22 CONCLUDED AT 7:06 P.M.

23 \* \* \* \* \*

24  
25

1 STATE OF WEST VIRGINIA )

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CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

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*Alison Salyards*

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