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Transcript of the Testimony of Kelton Cozart

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Case:

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Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
KELTON COZART

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, August 9, 2010, beginning at 12:56 p.m.

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POLLYANNA HAMPTON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209

JOHN O'BRIEN
Safety Inspector
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

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

ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

BETH SPENCE

West Virginia Independent Investigation

[REDACTED]

[REDACTED]

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

NONE OFFERED

P R O C E E D I N G S

1
2 -----
3 ATTORNEY HAMPTON:

4 My name is Polly Hampton. Today is
5 August 9th, 2010. I am with the Office of the
6 Solicitor, U.S. Department of Labor. With me is Erik
7 Sherer, an accident investigator with the Mine Safety
8 and Health Administration, MSHA, an agency of the
9 United States Department of Labor. Also present are
10 several people here from the State of West Virginia,
11 and I ask that they now state the record --- state
12 their appearance for the record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

20 I'm Beth Spence with the Governor's
21 independent investigation.

22 ATTORNEY HAMPTON:

23 There are also other members of the team
24 in the audience today. Mr. Sherer will do the initial
25 part of the questioning.

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

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

1 your assistance in this investigation.
2 You may have a personal attorney present
3 during the taking of this statement, or another
4 personal representative if MSHA has permitted it.
5 Your statement is completely voluntary. You may
6 refuse to answer any question and you may terminate
7 your interview at any time or request a break at any
8 time. Just so that the record is clear, do you have
9 an attorney or a personal representative with you here
10 today?

11 MR. COZART:

12 No.

13 ATTORNEY HAMPTON:

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

23 That means that if a judge orders us to
24 reveal your name or if another law requires us to
25 reveal your name or if we need to reveal your name for

1 other law enforcement purposes, we may do so. Also,
2 there may be a need to use the information you provide
3 to us or other information we may ask you to provide
4 in the future in other investigations into and
5 hearings about the explosion. Do you have any
6 questions?

7 MR. COZART:

8 No.

9 ATTORNEY HAMPTON:

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

20 A court reporter will record your
21 interview, as you can see, so please speak loudly and
22 clearly. If you don't understand a question, please
23 ask the person to rephrase it. Please answer each
24 question as fully as you can, including any
25 information that you've learned from someone else.

1 We'd like to thank you in advance for
2 your appearance here. We appreciate your assistance
3 in this investigation. Your cooperation is critical
4 in making the nation's mines safer.

5 After we have finished asking questions,
6 you will have an opportunity to make a statement and
7 provide us with any other information you believe is
8 important. If at any time after the interview you
9 recall additional information that you would like to
10 share with us, please contact us at the information
11 given to you in that letter I handed you earlier for
12 Norm Page. His e-mail address and phone number are
13 included, so that is a good way to reach out to us if
14 you have other things you'd like to tell us.

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

24 MR. FARLEY:

25 Mr. Cozart, on behalf of the Office of

1 Miners' Health, Safety and Training, I want to advise
2 you that the West Virginia Mine Safety and Health
3 Regulations also provide protection against potential
4 discrimination for participating in these type
5 interviews. And here's some contact information for
6 the West Virginia Board of Appeals. It's a body which
7 hears complaints from miners about discrimination.

8 You'll see my phone number on there. I

9 have a phone number for Bill Tucker, our lead
10 underground investigator. And you can feel free to
11 call either of us if you have any problems, and we'll
12 try to help you. We'd advise you that should you wish
13 to file a discrimination complaint, you'd need to do
14 so within 30 days of when it occurs. Okay.

15 ATTORNEY HAMPTON:

16 Okay. Do you have any questions before
17 we begin?

18 MR. COZART:

19 No.

20 ATTORNEY HAMPTON:

21 Okay. Could you please swear in the
22 witness?

23 -----

24 KELTON COZART, HAVING FIRST BEEN DULY SWORN, TESTIFIED
25 AS FOLLOWS:

1 -----

2 EXAMINATION

3 BY MR. FARLEY:

4 Q. Mr. Cozart, would you please state your full name
5 and spell your last name?

6 A. It's Kelton Daryl Cozart, C-O-Z-A-R-T.

7 Q. And would you mind giving us your home address,
8 please?

9 A. [REDACTED] .

10 Q. And is there a telephone number you could share
11 with us?

12 A. [REDACTED] .

13 Q. Okay. Where are you currently employed?

14 A. Upper Big Branch.

15 Q. Okay. And have you been there all along? Have
16 you transferred anywhere else?

17 A. I went to Revolution for a while. Then when they
18 started rehabbing, I come back to Upper Big Branch.

19 Q. Okay. When did you come back to Big Branch at
20 UBB?

21 A. I don't know the exact date. I think it was about
22 a month ago or something.

23 Q. Okay, all right. What's your total mining
24 experience? How long have you been in the mining
25 industry?

1 A. I think nine or ten years.

2 Q. Okay. How long have you been with Massey?

3 A. All of it.

4 Q. Okay. When did you start at UBB?

5 A. I guess 2001, somewhere around there.

6 Q. Okay. What was your position and job
7 classification at --- as of April the 5th of this
8 year?

9 A. Electrician on the longwall.

10 Q. Okay. What shift did you work?

11 A. Hoot owl.

12 Q. Okay. Who'd you report to? Who was your
13 supervisor?

14 A. Shannon Dickens.

15 Q. Okay. Were you an hourly worker or a supervisor?

16 A. Hourly.

17 Q. Okay. Have you always been an hourly worker at
18 UBB?

19 A. Yes, sir.

20 Q. Okay. What State and/or Federal miner
21 certifications do you have?

22 A. Just electrician and a miner's card.

23 Q. Okay. Now, what was the last shift you worked
24 prior to April 5th?

25 A. I was off the three days before that, so that

1 happened the 5th. I was off the --- well, I guess the
2 2nd wouldn't been the last shift, or the 1st.

3 Q. Okay. All right. So you didn't work midnight
4 shift on Sunday night, the 4th into the 5th?

5 A. No, sir.

6 Q. Okay. On your last shift at UBB there around
7 April 1st or April 2nd, whenever it was, what in
8 particular did you do that night?

9 A. I don't particularly remember. Probably just
10 service. Mostly what I do is service, set bits, ---

11 Q. Okay.

12 A. --- you know, grease or checking chains.

13 Q. Okay. Is that probably about what you did your
14 last shift, then?

15 A. Yeah, that's pretty normal.

16 Q. Okay. Do you remember any other projects that
17 anybody else was doing that was out of the ordinary?

18 A. Don't nothing come to mind, no, sir.

19 Q. Okay. Who else worked on your crew?

20 A. It was me, Shannon Dickens, Greg Meadows, and you
21 had your outby, your --- that as far as electricians
22 was it. You had two different crews.

23 Q. Okay. Who was the actual longwall midnight
24 section foreman for the longwall?

25 A. Keith Stanley and Larry Brown. There was two

1 different ---. We worked a five and a three, so two
2 of them days the first and beginning was a lap night.
3 All crews was there. Then the three days it was just
4 our crew.

5 Q. Okay.

6 A. You had a lap night every ---.

7 Q. Okay. Five on, three off?

8 A. Yes, sir.

9 Q. Okay. What time did you start your shift
10 routinely?

11 A. About 11:00.

12 Q. What time did you normally get out in the morning?

13 A. At about 8:00.

14 Q. Okay. Now, on your last shift at UBB on or on or
15 about April the 1st, did you notice anything unusual
16 that night?

17 A. No, sir.

18 Q. Anything out of the ordinary?

19 A. No, sir, just regular.

20 Q. Did the ventilation on the longwall face seem
21 normal to you?

22 A. Yes, sir.

23 Q. Okay. Did you normally wear a jacket on the
24 midnight shift when you worked on the longwall face?

25 A. Depends on where you was working. If you was

1 right at the head, a lot of times --- and it was
2 always cooler right there --- you know, you would have
3 your jacket. And it depends on what you're doing. If
4 you're working hard, you don't --- most the time you
5 had a jacket with you. Depend on where you was at.

6 Q. Okay. On your last shift there on or around April
7 1st, did you travel the entire longwall face during
8 your shift, if you can recall?

9 A. I just want to tell you, I don't remember. I
10 can't really remember what we done. They don't ---
11 nothing stick out in my head. I don't know if I went
12 to the tail or not.

13 Q. Okay. How long have you actually been on this
14 work schedule, five on, three off on the midnight
15 shift on the longwall?

16 A. I have for a long time, a couple years.

17 Q. Okay. Now, have you been on the midnight on the
18 --- were you on the midnight on the UBB longwall since
19 it started up last September?

20 A. Yeah, yeah.

21 Q. Okay. Now, during the month of March, based on my
22 reading of the longwall pre-shift and on-shift book,
23 the entries in the book indicate that the last open
24 break air reading on the longwall was about 115,000.

25 Now, apparently something changed during the month of

1 March. We presume there was some air changes mad, but
2 toward the end of the month the last open break air
3 reading for the longwall was at 55,000 or 60,000. Do
4 you recall experiencing that change? Did you notice
5 that the quantity of air had changed significantly
6 during the month of March?

7 A. No, not really. Only place you can really tell,
8 when you come around the head right here like, right
9 here's your stage loader.

10 ATTORNEY HAMPTON:

11 And where precisely are you pointing to
12 on the map?

13 A. Right here.

14 MR. FARLEY:

15 He's pointing to the headgate side of the
16 longwall at the approximate location where the stage
17 loader would be. And I guess you'd call it ---

18 A. Right where the face begins.

19 MR. FARLEY:

20 --- where the face begins.

21 ATTORNEY HAMPTON:

22 Okay.

23 A. Right there when --- and it kind of funnels down,
24 you know, just really coming through there, so it's
25 always windy and cold out there.

1 BY MR. FARLEY:

2 Q. Okay.

3 A. So I can't remember, but I'm sure if it was that
4 much difference, we'd have noticed it, but it's always
5 windy and cold right there. No matter what you're
6 going to ---.

7 Q. 115 would be pretty cold, but ---

8 A. Yeah.

9 Q. --- 60,000 would be kind of cold, too, wouldn't
10 it?

11 A. Yeah, and the further you go down your face, you
12 know, it gets a little better.

13 Q. Okay.

14 A. So right here it's always bad.

15 Q. Did you usually do most of your work on the
16 headgate side?

17 A. Yes, sir. That's where most of our work is.

18 Q. Okay. Where did you usually find the shearer when
19 you arrived?

20 A. They usually wanted it at the head, because, you
21 know, you don't have far to --- if something's broke
22 or there's something you got to fix, right there is
23 it. But if they're running, I mean, they'll leave it
24 wherever.

25 Q. Okay. All right.

1 A. You know, they got to have coal out, so if it's
2 running and they ain't nothing wrong with it, ---

3 Q. Okay.

4 A. --- they'll leave it wherever, but if they know
5 something's wrong with the shearer, they try to have
6 it at the head so we can --- so it can be worked on.

7 Q. Now, is that because of your tool boxes and
8 splices and so forth?

9 A. No, that's just because it's --- any of your parts
10 you need for it is there. They tried to keep a little
11 bit of height at the head so you can work on it and
12 but that's ---. If they know something's wrong,
13 they'll try to have it at the head, but if they're
14 running good and don't seem to be nothing wrong, well,
15 they don't care to leave it anywhere, you know. They
16 don't. And dayshift will --- we'll service it and
17 change the bits and make sure it's greased and all and
18 dayshift will pick up right where they went and go on.

19 Q. Okay. Did you ever --- since this longwall panel
20 started at UBB, did you ever travel down the tailgate
21 side in the outby direction?

22 A. I've been out there, yes, sir.

23 Q. Do you recall the last time you were in the
24 longwall tailgate area?

25 A. I think we was turning the tail sprocket, and we

1 may've been changing it, and they brought the stuff up
2 the tail. I hadn't been too far down through there,
3 no, sir.

4 Q. Okay. Do you recall about where you were doing
5 this work, change in the tail section?

6 A. No, sir.

7 Q. Okay. Now, did you carry a methane detector?

8 A. No, sir, I didn't. Your chiefs had it and your
9 --- I was just with somebody all the time.

10 Q. Okay. Now, while you were working on the UBB ---
11 I'm sorry. Excuse me. While you were working on the
12 UBB longwall panel since it started last September, do
13 you recall anyone detecting any quantities of methane
14 on the longwall?

15 A. No, sir.

16 Q. Okay.

17 A. No, sir.

18 Q. None at all?

19 A. No, sir, nothing that would stick out in my head.
20 I've not been around ---. That's why it was so
21 surprising. We never had picked up anything.

22 Q. Okay.

23 A. But then again, we got air shoving down through
24 there, so we shouldn't.

25 Q. Okay. Now, did your duties include any servicing

1 of or any involvement with the methane monitors on the
2 shearer or on the headgate?

3 A. No, sir, we got three chiefs and they pretty
4 much ---

5 Q. Okay.

6 A. --- take care of the ---.

7 Q. Do you recall who had the duty of maintaining and
8 calibrating the longwall methane monitors?

9 A. Well, if our crew was there, it would be ---
10 Shannon Dickens was my boss. Then, you know, the two
11 lap days you had all three of them there. And then
12 the other time it would be Smokey or Chad.

13 Q. Okay.

14 A. But I do recall that MSHA was there and they done
15 a permissibility thing on the whole wall a week or ---
16 I mean, a couple weeks before that, and they set
17 everything off and everything was just fine. I don't
18 even think we got a violation, period.

19 Q. Okay.

20 A. That's the good thing about the wall. They want
21 it to run. They keep parts, because it's --- if it's
22 down, you know, they're losing, so they try to keep
23 everything ---. They have tool bins, carts. We had a
24 wall-mart down there and they would keep all the parts
25 you need to keep this thing running.

1 Q. Okay. The last shift you worked, did you notice
2 any unusual smells?

3 A. No, sir. Everything was just normal. Don't
4 nothing stick out in my head.

5 Q. Okay. We understand that prior to the explosion,
6 within a month or so preceding the explosion, that
7 there was a contractor working outby the longwall face
8 in the headgate entries and ---

9 A. Gluing the top.

10 Q. --- gluing the top and ridge. Do you recall that
11 work?

12 A. Yes, sir.

13 Q. Okay. Had they finished by April 5th or do you
14 know?

15 A. Their last place they was gluing was on the ---
16 I'm assuming this right here is pull-out.

17 Q. Yeah, uh-huh (yes).

18 A. But I don't know the date. They was down here,
19 and that's the last thing I know of them gluing. They
20 just --- they'd ride out with us in the morning, so I
21 don't remember the date.

22 Q. Okay. Your last shift there, do you recall if
23 their supplies and material and tools were still
24 around?

25 A. I don't remember any of it. I would think when

1 they let there, they took their equipment with them,
2 because I don't remember seeing it.

3 Q. Okay. All right. We understand that as you
4 approached the --- as you traveled up the track up the
5 longwall headgate entries, there were a couple of
6 doors there, a couple sets of doors; is that correct?

7 A. Yes, sir.

8 Q. All right. And we understand that in the inby set
9 of doors there was a portion of the side panel had
10 been removed, so it would function sort of as a, like,
11 a regulator? Do you recall seeing those doors?

12 A. I remember some out of it, yes, sir, but I don't
13 know the reasoning for it.

14 Q. Okay. Do you have any idea when you first started
15 to notice ---

16 A. No, sir.

17 Q. --- the material out of that door?

18 A. It's not been too long ago, because we started
19 ---. That's where they had to get out of the mantrip
20 at, was down that way. Usually we'd just go on by and
21 wouldn't pay much attentions, but we was down in that
22 area, and I remember some of the block being out. But
23 I don't know what the reasoning was for it.

24 Q. Okay. Do you think it might've occurred sometime
25 in March?

1 A. I would be lying if I told you.

2 Q. Okay, that's fine. There's another set of doors
3 indicated on the map right here that would seem to
4 separate the return airways coming from the two miner
5 sections from the longwall headgate entry. Do you
6 recall seeing those doors prior to April 5th?

7 A. No, sir, I really don't go over there. I usually
8 come up the track ---

9 Q. Okay.

10 A. --- go over to the face, and we don't have any
11 supplies or ---. I know that there are a set of doors
12 over there, but ---

13 Q. Okay.

14 A. --- I don't know where at or anything about it.

15 Q. Okay. During the month preceding the explosion on
16 April 5th, do you recall any major ventilation changes
17 made during your midnight shift?

18 A. No, sir. No, sir, I don't recall anything.

19 Q. Okay. Were you ever asked to leave the mine early
20 or remain outside at the beginning of your shift while
21 air changes were being made?

22 A. I don't know what date it was, but yes, I know
23 we've had to stay outside until they had made an air
24 change, and then they had to wait an hour and they had
25 to go in and fire boss before we go in.

1 Q. Okay.

2 A. But I wasn't in on any of that. I don't know what
3 occurred. I know I liked them. I don't mind sitting
4 outside for a while.

5 Q. Okay. I understand. You indicated you were doing
6 some rehab work at UBB. Now, what are you actually
7 --- what area you working on?

8 A. We're working from where you go in to Ellis right
9 now, ribs and top, track, just whatever needs to be
10 done. I'm setting cribs, building --- I mean,
11 building cribs and setting timbers and working on the
12 track a little bit, whatever they write up.

13 Q. Okay. Your last shift at UBB prior to the
14 explosion and the week before the explosion, anything
15 you can tell us that jumps out at you that was
16 different or caught your attention?

17 A. No, sir. That's why it surprised us. I mean, I
18 felt as safe there as I did at home. That wasn't a
19 worry to us. We didn't worry about gas. It really
20 just felt comfortable there, and when my buddy called
21 me up and told me this had happened, I thought he was
22 playing. I said, yeah. And then another buddy called
23 me and I just couldn't believe that something like
24 that had happened.

25 Q. Okay. Did you ever have any conversations with

1 the people that worked on the two miner sections, 22
2 Headgate and 22 Tailgate, before April 5th?

3 A. The longwall --- they're kind of on a different
4 schedule than the miner sections. I know a lot of
5 them boys. I know a lot of them really well. I've
6 worked with them before. But you don't never see
7 them, no, sir. It's a little bit different schedule.
8 Most people was portaling from Eunice over there, and
9 we still portaled from UBB because supplies was over
10 there.

11 Q. Okay.

12 A. And I never really saw them, because there wasn't
13 too many people left at UBB. They was all at Eunice
14 side. But I knew them really well.

15 Q. Now, we understand that on the day of the
16 explosion during the dayshift that the longwall crew
17 was having difficulty with the ranging arm, that the
18 hinge pin had come out or something like that. Do you
19 recall any maintenance work like that in the week, the
20 week ---

21 A. Prior?

22 Q. --- or so prior?

23 A. No, sir. I don't guess that would be something
24 too uncommon to happen. You know, you work loose.
25 That arm is really --- when you're in sandstone it's

1 just, like, beating and stuff works loose. But if it
2 comes out, they have to pretty much fix it on their
3 shift. They ain't going to just let it sit there
4 until hoot owl for hoot owl to work on.

5 Q. We understand that toward the tail side of the
6 longwall at UBB they were cutting quite a bit of
7 sandstone or bottom and roof.

8 A. Yes, sir.

9 Q. Is that what you recall?

10 A. Yeah, that's what they said, yes, sir.

11 Q. Okay.

12 A. We don't run no coal on hoot owl?

13 Q. Yeah. When is the last time you had the
14 opportunity to see that longwall in operation,
15 actually cutting?

16 A. It's been a long time. We're just strictly fixing
17 whatever's repaired, and we don't have no lap time
18 between our shifts. We usually meet them as they're
19 coming out, you know?

20 Q. Okay.

21 A. Used to be you had an hour lap and you could go up
22 there and kind of find out what was going on. You'd
23 see them run a little, but we don't have that no more.

24 Q. Okay. Now, about last October or November of last
25 year, do you recall experiencing any problems with

1 water on the UBB longwall face?

2 A. That would be up here where we first began, so
3 ---. I know we had some water, but ---.

4 Q. When you say you had some water, how much was it?

5 A. It wasn't nothing.

6 Q. How deep was it?

7 A. If you would stop, it would come upon --- in the
8 pan line if you'd leave a dip. That face is not just
9 straight like you think. It's like this.

10 Q. Right.

11 A. So if they leave a dip ---. And when they quit
12 running, water would run into it and it would be up in
13 the pan some, but usually when they start up, that
14 chain will just jerk that water right out of there.
15 But they had some pumps set down there at one time, I
16 know.

17 Q. Okay. And as of your last shift there before
18 April 5th, did you see any pumps on the longwall face?

19 A. No, sir. I don't think they had any.

20 Q. Okay.

21 A. If they was, they was just sitting there in ---
22 they wasn't using them. I know they wasn't using none
23 at that time.

24 MR. FARLEY:

25 Okay. Erik, anything?

1 EXAMINATION

2 BY MR. SHERER:

3 Q. I have a few follow-ups, Mr. Cozart. Have you
4 spoken to anybody from the company or any lawyers from
5 the company concerning this accident?

6 A. Yes, sir, I spoke to lawyers twice.

7 Q. Twice. Do you recall about when that happened?

8 A. Right after this happened, it wasn't long that I
9 had to speak to one, but they just pretty much asked
10 me what was --- about like y'all are doing.

11 Q. Sure, uh-huh (yes). Do you recall what you
12 discussed with them when you went back the second
13 time?

14 A. I mean, it wasn't nothing no different than the
15 first time, really.

16 Q. Okay.

17 A. One time they was asking about, you know, your
18 methane monitors and stuff.

19 Q. Sure.

20 A. And the second time wasn't nothing no different.

21 Q. Just more of it?

22 A. Yeah, just the same old stuff.

23 Q. Okay. Thank you. When you got off the mantrip,
24 did you ever notice the curtains in the headgate?

25 A. Like, right here (indicating)?

1 Q Uh-huh (yes).

2 A. Well, we get off the mantrip down here and walk
3 up.

4 Q. Yeah.

5 A. And then you got to keep a curtain back four
6 shields right here on this. Yes, sir, they'd keep
7 that up.

8 Q. Did you ever notice if those changed any? Would
9 sometimes they be loose, possibly, and flapping or
10 bulging back toward the longwall or ---?

11 A. Usually you got so much wind there they're ---.

12 Q. Yeah, pretty tight.

13 A. Yes, sir.

14 Q. Did you ever walk up through there and notice them
15 not tight?

16 A. No, sir.

17 Q. Okay.

18 A. Not that comes to my mind.

19 Q. Okay. Did you ever notice any major fluctuations
20 in the ventilation? Maybe you're somewhere on the
21 headgate, somewhere on the wall itself and feels like
22 the air either increased a big amount or decreased a
23 big amount?

24 A. No, sir, I haven't.

25 Q. Okay. Now, Terry was talking to you about a

1 jacket, and you mentioned that sometimes you wore one;
2 sometimes you didn't. Do you recall if it just in
3 general seemed to get hotter in the week or two prior
4 to the explosion?

5 A. Not that I can recall, no, sir.

6 Q. Okay.

7 A. You would keep just a hoodie with you ---

8 Q. Sure, uh-huh (yes).

9 A. --- and lay it there close, and if you need it
10 ---. Just depending on what you had going on. If you
11 were working hard ---

12 Q. Sure.

13 A. --- you don't need anything.

14 Q. Sure. Now, have you ever seen anybody use
15 explosives around the wall, maybe shooting a rock in
16 the pan or something like that?

17 A. They had before, yes, sir.

18 Q. Do you know if anybody shot anything the week or
19 so prior to the explosion?

20 A. Not that comes to my mind, no, sir.

21 Q. Okay. Do you know if there was an initiator or
22 battery kept on the headgate somewhere?

23 A. I don't know where they kept it, really. I
24 remember seeing it there before, but I don't know if
25 that's where they kept it or they --- maybe that's

1 just where they had it when they was shooting.

2 Q. Okay.

3 A. But I have seen it there.

4 Q. Sure. Okay. Do you know if they kept explosives
5 anywhere near the wall?

6 A. No, sir. I know they had a --- outby it in here
7 somewhere. Usually when they do have you do it, the
8 foreman or something would go down and get it and
9 bring it back. They had a ---

10 Q. Like, a box ---.

11 A. --- small powder bin, yes, sir.

12 Q. Okay, okay. Thank you. What about the tools? We
13 found an awful lot of battery-powered tools on the
14 wall and on the headgate side in particular. Do you
15 guys use those a lot?

16 A. I don't have any. I don't know that you need it
17 ---. Most everything you got is big bolts and there
18 nothing small on that thing.

19 Q. Sure. Yeah, these are a little smaller tools,
20 drills and drivers and electric grease gun, things
21 like that.

22 A. Yeah. I've never used them. I did see a grease
23 gun down there on the monorail down there, but I never
24 got the luxury of using it. I was pretty much ---.

25 Q. Okay.

1 A. Are you saying I wouldn't like something like
2 that?

3 Q. Did you guys each have your own set of tools?

4 A. Yes, sir.

5 Q. Did you have to buy them yourself or did ---

6 A. No, sir.

7 Q. --- the company provide them?

8 A. The company provide them.

9 Q. Okay. Did they give you, like, an allowance for
10 them, or ---?

11 A. No, sir. Matter of fact, when I come there, I
12 just --- the guy had left and I just took over his
13 toolbox, and it wasn't too awful much in it, just some
14 sockets and ---. Really you don't need all that much.

15 Q. Sure, uh-huh (yes).

16 A. If you get whole sets of sockets, they are
17 probably two or three in there you need.

18 Q. Sure.

19 A. And that guy had already had pretty much
20 everything I needed, so I just took over his and had
21 it.

22 Q. Okay. What if you lose one or break one? What do
23 you do then?

24 A. Outside you could --- if you broke the ratchet or
25 something, you'd take it out there and they will

1 either give you a rebuild kit or give you another
2 ratchet.

3 Q. Okay. Now, you guys were talking about methane
4 monitors and you indicated that the chiefs generally
5 kept up with those. You ever work on the cable that
6 connected the headgate monitor with the sniffer down
7 on the tailgate?

8 A. No, sir. I haven't done nothing to it.

9 Q. Okay. You ever watch them calibrate the methane
10 monitors?

11 A. I've seen them do it a time or two, yes, sir.

12 Q. Okay. Now, we understand that there's one on the
13 shearer; is that correct?

14 A. Yes, sir.

15 Q. About where is it located on the shearer?

16 A. I'd say it's more towards the tail side, right ---
17 you got a shelf on there on your top and it would be
18 right under it.

19 Q. Okay.

20 A. It's got to have a little bit of protection ---

21 Q. Sure.

22 A. --- with all the rocks.

23 Q. Did that one get damaged much?

24 A. No, sir, it sure didn't.

25 Q. Okay. Now, where was the other sniffer at on the

1 tailgate?

2 A. It was up under the tail drive. If you were going
3 down the line, if you look --- I don't know how to
4 explain it. Here's your chain coming down through
5 here. Here's your tail drive, and it was usually
6 sitting right there ---

7 Q. Okay.

8 A. --- right up in there.

9 Q. Under one of the gallings (phonetic)?

10 A. It's like your top on your head drive. Just right
11 up under that, yes, sir.

12 Q. Okay. So you can see it when you're standing?

13 A. Yes, sir.

14 Q. You ever look at that thing while you're down
15 there?

16 A. I don't have much to do with it, no, sir.

17 Q. Okay. Did you ever notice it gets dirty, the coal
18 dust and stuff like that on it?

19 A. Yeah, they cleaned them off. They used to have a
20 --- I know they made some kind of a shield to put on
21 it that they could rip and put off of it, a Gore-Tex
22 thing, and ---.

23 Q. Oh, okay. What do you clean them off with?

24 A. I did not.

25 Q. Okay.

1 A. No, I didn't. They pretty much tell me neck down.

2 Q. I understand that.

3 A. If there are any lugging, tugging or pulling
4 through the mud, that is usually my job.

5 Q. Yeah. I know how that works.

6 A. But I enjoy it.

7 Q. Okay. Last week or so that you worked on the
8 wall, does any --- was there any maintenance issues
9 that you're aware of?

10 A. No, sir. There's nothing that sticks out in my
11 head.

12 Q. Just standard stuff?

13 A. Yes, sir. We usually --- if everything's running
14 good, we have a pretty good night. We usually just
15 have to service and, you know ---. If nothing's down,
16 I mean we have a good night.

17 Q. Sure.

18 A. But when something's down, that's ---.

19 Q. That's work.

20 A. Yes, sir, because it's usually down the line
21 somewhere and you're lugging and tugging and --- or
22 chain problems. That's most of your longwall
23 problems, is your chain or ---.

24 Q. Sure. What condition was that chain in?

25 A. In good condition, yes, sir.

1 Q. Do you know where the ACTs were? Were they about
2 the middle range or were they good and tight?

3 A. What?

4 Q. The automatic chain tensioner.

5 A. I don't know where it was at for the last shift.
6 They try to keep it so it's got give and take, you
7 know?

8 Q. Okay, sure.

9 A. But I don't know what it was at at the end of the
10 shift.

11 Q. Okay, sure.

12 A. Hopefully it's --- you got a pre-tensiometer you
13 check your tension with down here. And if you're
14 good ---.

15 Q. You don't recall any problems?

16 A. No, sir.

17 Q. How about dog bones? This wall, this panel, did
18 you have any particular problem with dog bones?

19 A. Not that I recall, no, sir.

20 Q. Okay. Do you have to keep up with other stuff,
21 like chargers or any outby equipment?

22 A. No, sir, we never hardly went off the face.

23 Q. Okay.

24 A. It's usually dayshift men took care of that. They
25 took care of it.

1 Q. Okay.

2 A. Usually ours was chain service and just make sure
3 that they was ready to roll in the morning.

4 Q. Okay. Now, you mentioned that if they were
5 running coal good, they'd just leave the shearer where
6 it was at the end of the shift.

7 A. Yes, sir. I mean, if --- not running coal good.
8 If everything was nothing major wrong with it.

9 Q. Sure, uh-huh (yes). Yeah. Do you recall if they
10 kept bits on the shearer to change out or did you have
11 to lug the bits down there?

12 A. Some bosses is pretty good bosses, you know?
13 They'll think of something like that. Before they go
14 down, they'll put a few boxes if they know they're not
15 coming back so you can see it, but that was just
16 generally whoever you had running.

17 Q. Sure, uh-huh (yes).

18 A. And if not, we'd have to lug them down through
19 there.

20 Q. Sure. Do you know if there had been any problems
21 cutting out on the tail end, if the block was getting
22 a little too wide or the headgate walked over a little
23 too far?

24 A. Not that I heard of. I know they was in sandstone
25 the last I heard, you know. I was down --- I had to

1 go down the tail and take some props down the other
2 day, and it looks like they're cutting out just fine
3 from what I seen of it.

4 Q. Now, we understand there were some holes drilled
5 along the rib on the tail side. Were you aware of
6 those holes?

7 A. No, sir.

8 Q Okay.

9 A. It looks like they would've had to have done that
10 on hoot owl, but I wasn't aware of them.

11 Q. Yeah, at this point in time, we don't know when
12 they were drilling. They had been drilling before the
13 wall ever even started.

14 A. What were they for?

15 Q. That's why we're asking. We don't know.

16 A. Maybe somebody had some candy bars down through
17 there. I don't know.

18 Q. We do know that supposedly the block was too wide
19 near the takeout point, and supposedly they had
20 slabbed part of the rib off. And maybe those holes
21 --- they had shot some of it because it was hard
22 cutting.

23 A. I can honestly say I've never been right through
24 here.

25 Q. Okay.

1 A. I don't have no business out there and really
2 don't like going out there.

3 Q. Sure. Did you ever have to --- did anybody ever
4 have to go out and bust out one of the stoppings on
5 the tailgate on the hoot owl shift?

6 A. I had heard. I don't know if they was still doing
7 it or what was going on, but they had to knock a
8 stopping out when they went by it. I'm not for sure
9 what it is, because you've got your crew guy that does
10 that and your outby guys and we're just here, there
11 and everywhere. And I heard that they was doing that,
12 but as far as me physically seeing it or knowing that
13 was done or what was supposed to be done, I didn't
14 know anything about it.

15 Q. Okay.

16 A. I don't know what the reasoning would be for it,
17 but ---.

18 Q. Well, that's what we're trying to ---. We're
19 asking questions about it, also.

20 A. Yeah. Pretty much I went in there, I tried to get
21 my job done and I got outside. I didn't like talking
22 to nobody because they might say, hey, why don't you
23 stay late and do this or something? And I wanted to
24 get home.

25 Q. Okay. You can't blame a man for that.

1 A. No, sir. I didn't go upstairs and talk to
2 anybody. I usually run and got dressed and didn't
3 look back.

4 MR. SHERER:

5 That's all the questions I've got.

6 A. They usually have ---. They'll tell the boss and
7 they'll let you know if you need to know it.

8 MS. SPENCE:

9 I don't have any questions.

10 MR. SHERER:

11 Any more questions, Terry?

12 MR. FARLEY:

13 No.

14 ATTORNEY HAMPTON:

15 No?

16 MR. FARLEY:

17 Yeah.

18 ATTORNEY HAMPTON:

19 Okay. On behalf of MSHA and the Office
20 of Miners' Health, Safety and Training we'd like to
21 thank you for appearing and answering questions today.
22 Your cooperation is very important to the
23 investigation as we work to determine the cause of the
24 accident.

25 We do request that you not discuss your

1 testimony with any other person other person, as we
2 mentioned earlier. After questioning other witnesses
3 we might call you if we have any follow-up questions.
4 And as I had mentioned before, if you leave this room
5 today and you have something else that you think of
6 that we didn't discuss or some additional information
7 you'd like to share with us, please contact us at the
8 information provided to you in the letter for Norm
9 Page. So now, as I'd mentioned before we started, you
10 have an opportunity to either go back over any answer
11 that you've given to give us any additional
12 information, to clarify anything, or if you have any
13 statement you would like to make or anything else
14 you'd like to tell us.

15 A. No, ma'am.

16 ATTORNEY HAMPTON:

17 Okay. Thank you very much for your
18 cooperation. Off the record.

19 * * * * *

20 STATEMENT UNDER OATH CONCLUDED AT 1:40 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Alison Salyards