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Transcript of the Testimony of Wesley Curry

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
WESLEY CURRY

taken pursuant to Notice by Alicia R. Brant, 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 Thursday, June 3, 2010, beginning at 9:03 a.m.

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

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

PATRICK C. MCGINLEY
West Virginia Independent Investigation
West Virginia University College of Law
P.O. Box 6130
Morgantown, WV 26506-6130

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

2

3 DAVID STEFFEY

4 National Mine Safety and Health Academy

5 1301 Airport Road

6 Room C-137

7 Beaver, WV 25813-9426

8

9 JOHN O'BRIEN

10 Safety Inspector

11 West Virginia Office of Miners' Health,

12 Safety and Training

13 Welch Regional Office

14 891 Stewart Street

15 Welch, WV 24801-2311

16

17

18

19

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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 BAXTER:

4 My name is Derek Baxter. Today is June
5 3rd, 2010. I'm with the Office of the Solicitor, U.S.
6 Department of Labor. With me is David Steffey, an
7 accident investigator with the Mine Safety and Health
8 Administration, MSHA, an agency of the United States
9 Department of Labor. Also present are several people
10 from the State of West Virginia. I ask that they
11 state their appearance for the record.

12 MR. FARLEY:

13 Terry Farley, West Virginia Office of
14 Miners' Health, Safety and Training.

15 MR. O'BRIEN:

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

18 MR. MCGINLEY:

19 Pat McGinley, independent investigation
20 team.

21 ATTORNEY BAXTER:

22 There are also several members of the
23 investigation teams present in the room today. Mr.
24 Steffey, Mr. Farley and Mr. McGinley will be
25 conducting the questioning today.

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's 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 other law enforcement
16 officials. Your participation in this interview
17 constitutes your agreement to keep this information
18 confidential.

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

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.
3 You may have your personal attorney
4 present during the taking of this statement, or
5 another personal representative if MSHA has permitted
6 it, and may consult with your attorney or the
7 representative at any time. Your statement is
8 completely voluntary. You may refuse to answer any
9 question and you may terminate your interview at any
10 time or request a break at any time.

11 Since this is not an adversarial
12 proceeding, formal Cross Examination will not be
13 permitted. However, your personal legal
14 representative may ask clarifying questions as
15 appropriate. Do you have a personal representative
16 here today?

17 MR. CURRY:

18 No, just me.

19 ATTORNEY BAXTER:

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

1 investigation. If you request us to keep your
2 identity confidential, we will do so to the extent
3 permitted by law. That means that if a judge orders
4 us to reveal your name or if another law requires us
5 to reveal your name or if we need to reveal your name
6 for other law enforcement purposes, we may do so.

7 We request that you refrain from
8 discussing your statement with others who may be
9 interviewed. Also, there may be a need to use the
10 information you provide to us or other information we
11 may ask you to provide in the future in other
12 investigations and, too, in hearings about the
13 explosion. Do you understand?

14 MR. CURRY:

15 Yes, sir.

16 ATTORNEY BAXTER:

17 Do you have any questions?

18 MR. CURRY:

19 No, I don't.

20 ATTORNEY BAXTER:

21 Okay. After the investigation is
22 complete, MSHA will issue a public report detailing
23 the nature and causes of the fatalities in the hope
24 that greater awareness about the causes of accidents
25 can reduce their occurrence in the future.

1 Information obtained through witness interviews is
2 frequently included in these reports. Since we will
3 be interviewing other individuals, we request that you
4 not discuss your testimony with any person aside from
5 your personal representative or counsel.

6 A court reporter will record your
7 interview. Please speak loudly and clearly. If you
8 do not understand a question asked, please ask us to
9 rephrase it. Please answer each question as fully as
10 you can, including any information you've learned from
11 someone else.

12 I would like to thank you in advance for
13 your appearance here. We appreciate your assistance
14 in this investigation. Your cooperation is critical
15 in making the nations' mines safer. After we've
16 finished asking questions, you'll have an opportunity
17 to make a statement and provide us with any other
18 information you believe to be important.

19 If at any time after the interview you
20 recall any additional information you believe might be
21 useful, please contact Norman Page at the telephone
22 number or e-mail address provided to you. And please
23 swear the witness in.

24 -----
25 WESLEY CURRY, HAVING FIRST BEEN DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 -----

3 MR. FARLEY:

4 Wes, I have to offer you something here

5 also.

6 A. Okay.

7 MR. FARLEY:

8 I need to advise you that the West

9 Virginia Mine Health and Safety regulations also

10 provide protection against discrimination. I want to

11 offer you a memorandum with contact information in the

12 event that you should experience ---

13 A. Okay.

14 MR. FARLEY:

15 --- any such treatment. Just advise you

16 that such a complaint must be filed within 30 days if

17 it occurs.

18 A. Okay.

19 MR. FARLEY:

20 All right.

21 A. Thanks.

22 EXAMINATION

23 BY MR. STEFFEY:

24 Q. Okay. Please state your full name and spell your

25 last name.

1 A. Wesley Guy Curry, C-U-R-R-Y.

2 Q. Please state your address and telephone number.

3 A. [REDACTED]

4 Q. And your phone number?

5 A. [REDACTED]

6 Q. Okay. Are you appearing here today voluntarily?

7 A. Yes, sir.

8 Q. Okay. Has anybody made any promises concerning
9 the testimony you're about to give?

10 A. Uh-uh (no).

11 Q. Anybody given you anything ---?

12 MR. MCGINLEY:

13 Excuse me. You have to say something.

14 A. No, sir.

15 MR. MCGINLEY:

16 You can't just ---.

17 A. No, sir.

18 MR. STEFFEY:

19 Okay.

20 MR. MCGINLEY:

21 Okay.

22 BY MR. STEFFEY:

23 Q. Has anyone given you anything in exchange for the
24 testimony you're about to give?

25 A. No.

1 Q. Has anyone made any threats concerning the
2 testimony you're about to give?

3 A. No.

4 Q. Has anyone else interviewed you concerning the
5 accident and your knowledge of the conditions in the
6 mine?

7 A. Yes, two times a Massey lawyer did.

8 Q. Okay. When did this occur?

9 A. Two weeks --- about three weeks ago, you know,
10 just two days back to back.

11 Q. Where did this interview take place?

12 A. Marfork Main Office.

13 Q. Do you remember the types of questions they asked?

14 A. Yeah. Take me a while to tell you. You need me
15 to tell you just a few?

16 Q. Just ---.

17 A. Just to kind of ---.

18 Q. Yeah.

19 A. Well, just to ---. Asked if I know, you know,
20 where it happened at or --- I don't exactly, no. Was
21 I up around there and how close was it from, you know,
22 our mines our section? About the problem with the air
23 and stuff, if I knew anything about it, the only thing
24 I knew about it, they had trouble with the longwall
25 air up there.

1 Q. Okay. Were you cautioned about anything that you
2 were to say in this interview?

3 A. Was I cautioned?

4 Q. Uh-huh (yes).

5 A. Just all I heard was they had trouble with the
6 longwall air, and we had pretty good air up at the
7 barrier section.

8 Q. Okay.

9 A. Are you going to talk about barriers, where we was
10 at?

11 Q. Yeah. We'll talk about that here in just a
12 minute.

13 A. All right.

14 Q. And did they tell you anything else or give you
15 any other instructions concerning this interview?

16 A. No, sir.

17 Q. Okay. How many years' mining experience do you
18 have?

19 A. Six.

20 Q. Okay. Can you give me brief history of your coal
21 mine employment?

22 A. Now, what have I done, you mean?

23 Q. Yeah.

24 A. Where have I worked at?

25 Q. Yeah.

1 A. Okay. I started at the UBB six years ago. I was
2 there for five months. I was on the --- I run the
3 buggy. Then I got transferred to Shumate for four
4 years, then they shut down. And then I come to Parker
5 for about a year and a half. Then I come to
6 Performance again. Been there for two months before
7 that explosion happened. I'm back to Parker now. All
8 of it's running the shuttle car.

9 Q. Okay. And then --- and you are presently
10 employed?

11 A. Yes, Parker.

12 Q. Okay; at Parker. And you started this job ---?

13 A. Parker about, probably about a month ago.

14 Q. Okay. And you're currently a shuttle car
15 operator?

16 A. Yes.

17 Q. Okay. Okay. And how much of your mining
18 history's with Massey, all ---?

19 A. All of it.

20 Q. All of it?

21 A. All of it, yeah.

22 Q. Okay. How many miners typically work on the
23 barrier section?

24 A. How many on our section?

25 Q. Yeah.

1 A. Our section, about ten. Nine, ten.

2 Q. Which portal did you enter traveling to the
3 section?

4 A. The UBB Portal to the right, UBB Portal. I think
5 this (indicating) would be the one ---

6 Q. Okay.

7 A. --- to the right there, yes.

8 Q. And approximately how long was your travel time?

9 A. Fifteen (15) minutes.

10 Q. Minutes?

11 A. Yeah.

12 Q. Did you travel through any equipment doors?

13 A. Yeah, two airlock doors, you know, the ones you
14 push the buttons.

15 Q. Okay.

16 A. Yeah.

17 Q. So they were automatic?

18 A. Automatic.

19 Q. Okay. What condition were these doors in?

20 A. Good. As far as I could see, they was good.

21 Q. Did you ever find any of these doors open?

22 A. No, not since --- no, we'd close them every time.
23 We'd close them when we'd come in or ---

24 Q. Okay.

25 A. --- out, whatever.

1 Q. When you opened the doors, could you feel a
2 difference in the pressure of airflow direction from
3 inside the mantrip?

4 A. No, I couldn't.

5 Q. Did you ever feel the airflow reverse?

6 A. I didn't feel it reverse, no.

7 Q. Okay. Did you ever travel up toward the headgate
8 or tailgate section?

9 A. No, the first we went to was --- I think it was
10 the LLB switch at 69 or 70 Break. You know, that's
11 where we had to put our mantrip at before. Then we
12 had a switch there. That's the farthest I've --- that
13 we've traveled.

14 Q. Okay. How would you describe the roof, rib and
15 floor on the barrier section?

16 A. They were starting to get bad, you know. Fluff
17 out ribs real bad. Top, cracks in it, but ---.

18 Q. Did you all ---?

19 A. The bottom was all right.

20 Q. Okay.

21 A. And big rocks falling out the top, you know.

22 Q. What about the ribs?

23 A. They was fluffing out, getting real bad.

24 Q. Okay.

25 A. They started to pull.

1 Q. Okay.

2 A. Mining 22 longwall panel isn't the smartest thing
3 anyway, you know?

4 Q. Did you ever have any incidents where the floor
5 suddenly hooved up?

6 A. Not at the time. No, not since we've been there.

7 Q. Okay. Did your section ever mine through a gas
8 well, known or unknown?

9 A. Not that I know of.

10 Q. Did you ever --- did the mine ever encounter any
11 problems with unknown gas wells? Did you ever hear
12 anybody talk about it?

13 A. Talking about just the whole mines, period?

14 Q. Uh-huh (yes).

15 A. Not about gas wells. I heard they had some
16 methane. Don't know how much.

17 Q. Did anybody ever discuss the Lower Eagle seam
18 that's below the Eagle seam that you were mining in?

19 A. No, I hadn't heard nothing about it.

20 Q. Okay. Were there ever any methane outbursts on
21 your section?

22 A. Not on ours. No, we hadn't got none.

23 Q. Any problems with excessive water?

24 A. No, we didn't have no water really.

25 Q. And you mentioned you had some problems with the

1 roof.

2 A. Yeah, ribs more than the roof, but you know.

3 Q. Okay. And you believe it was because you were
4 between two longwall panels?

5 A. Uh-huh (yes).

6 Q. Okay.

7 A. It was about, about ten foot high.

8 Q. Okay. Did you have a multi-gas detector?

9 A. Did I?

10 Q. Uh-huh (yes).

11 A. I don't carry one around, but either the bolt man
12 or miner man.

13 Q. Okay. So the bolt man and the miner man had one.
14 What about the section boss, did he have one?

15 A. Yeah, he had one, too.

16 Q. Okay. Was any methane ever detected on the
17 barrier section?

18 A. Not that I recall. Ain't nobody say nothing or
19 hit me or nothing.

20 Q. Okay. Do you know who took the methane check
21 prior to cutting the coal?

22 A. The miner man or the bolt man before he bolted.

23 Q. Okay. Were there any other methane gas checks
24 taken during the cut? Did you ever see any others
25 took?

1 A. Yeah, I seen some took before we cut, but other
2 than that I haven't, you know, really.

3 Q. Okay. Was the continuous miner equipped with a
4 methane sensor?

5 A. Yes.

6 Q. Did you ever see it pick up any methane?

7 A. Not much or hardly much at all.

8 Q. Okay. Did you ever see the methane monitor in a
9 malfunction mode?

10 A. Have I?

11 Q. Uh-huh (yes).

12 A. Yes.

13 Q. On this section?

14 A. No. Well, no, not on that section but just ---
15 no, not on that section.

16 Q. Anywhere in this mine?

17 A. No, not that I remember.

18 Q. Okay. Did you ever hear of anybody bridging out
19 the methane monitor or otherwise disabling it?

20 A. I haven't heard about that, no. Not that I ---.

21 Q. And what about anywhere else in the mine, on the
22 longwall or the ---

23 A. No.

24 Q. --- headgate section or anything?

25 A. I haven't heard any.

1 Q. Okay. Anybody ever discuss the approved methane
2 and dust control plan with you and the section crew?

3 A. Yeah. Yeah, they done that on Mondays.

4 Q. Done that on Mondays?

5 A. Yeah.

6 Q. Who did this?

7 A. You talking about the --- talked about the roof
8 control and dust control?

9 Q. Uh-huh (yes).

10 A. The boss did.

11 Q. Okay. What was the nature of that discussion?

12 A. They just talked about the --- you know, about the
13 top and everything, what kind of bolts inspection and
14 everything we were supposed to put up, your dust
15 control and everything.

16 Q. And who was your section boss?

17 A. Jack Moore.

18 Q. And what about changes in the approved ventilation
19 plan, anybody ever discuss the changes in the approved
20 plan?

21 A. Not that I can recall.

22 Q. Did you ever notice if the ventilation plan was
23 posted on the mine bulletin board?

24 A. Well, I don't recall any, to be honest.

25 Q. Okay. Was ventilation adequate at all times in

1 the mine?

2 A. Our section it was really good, really good up
3 there on our barrier section.

4 Q. Okay. What about on the other sections? Did you
5 ever hear anything?

6 A. No. They had trouble with the longwall. That's
7 all I heard, you know.

8 Q. So you heard that they had trouble with the
9 longwall?

10 A. Yeah, that's all I heard.

11 Q. What kind of problems did they have, did you hear?

12 A. Couldn't get enough air to the longwall.

13 Q. Anybody ever say why?

14 A. Never mentioned why, you know. They don't go in
15 no details and stuff.

16 Q. Okay.

17 A. I mean, I haven't heard.

18 Q. Were major ventilation changes ever made with
19 miners working underground?

20 A. With anybody was still there?

21 Q. Uh-huh (yes).

22 A. Not up on our section. They sent us home about an
23 hour early because they had to fix the air, do stuff
24 to the air that I don't know what they done.

25 Q. What about the other sections?

1 A. Well, I guess they sent them home. I don't know
2 if they sent them home or not.

3 Q. You don't know if they sent them home or not?

4 A. We did. Like, I think they sent us home. Our
5 crew got outside at 15 after 2:00.

6 Q. And when was this?

7 A. A few days before it happened. They done
8 something to the air. I don't know what they done.
9 They didn't really go into details with nobody.

10 Q. Did mining ever take place on your section without
11 ventilation curtains?

12 A. Oh, we had curtain and fly pads.

13 Q. Fly pads. What about the curtains at the miner
14 that direct the air into the cut? What type of air
15 did you use, exhausting or blowing face ventilation?

16 A. I think we used exhausting, I believe, if I ain't
17 mistaken. I ain't positive.

18 Q. Exhausting face ventilation. And did you always
19 see the curtain --- did you ever roll the curtain up
20 for any reason while you was cutting?

21 A. Nope. No, nothing.

22 Q. Okay. Did you use a scrubber on your section?

23 A. Yeah, with the deep cut thing you could. If it
24 was the 20-foot cut thing, you could.

25 Q. Did you ever run it with the 20-foot cut?

1 A. No, sir. Not if we can't, you know. We wasn't
2 supposed to.

3 Q. Did you ever hear anybody running it?

4 A. Not on our section.

5 Q. Who did the on-shift check on the --- for the dust
6 parameters in your section?

7 A. Should be the boss who run it. Anybody says
8 much ---.

9 Q. Anybody says anything much? Did you ever see him
10 checking the scrubber prior to starting it?

11 A. Yeah, I seen a miner man over in there, just to
12 make sure it works all right.

13 Q. How did he do that?

14 A. Well, he just cleaned the scrub off. You got gob,
15 you know, gob and stuff in the scrubber. He took the
16 screen out and wash it out and clean it up, you know.

17 Q. And did he check his airflow?

18 A. Yeah, behind the curtain? Yeah.

19 Q. Yeah. Well, did he check the airflow ---?

20 A. Check in the fans.

21 Q. Did he check the airflow at the scrubber?

22 A. Yeah, usually. Most of the time. I mean, not
23 every day, but ---

24 Q. How'd he do it?

25 A. --- on occasion. I just heard he done it.

1 Q. Okay.

2 A. I had to go to ---.

3 Q. You never did see him?

4 A. I had to go to the other miner.

5 Q. Okay. Did you have split ventilation on your
6 section?

7 A. Split air?

8 Q. Yeah.

9 A. I believe so. They said they had split air. I
10 think they might have changed it. So I'm confused on
11 that part. I don't know.

12 Q. So you're not sure if you had a return on both
13 sides?

14 A. Not a hundred percent. I ain't sure.

15 Q. Did they run both miners at the same time?

16 A. Sometimes.

17 Q. Sometimes? Did they run both miners at the same
18 time with an inspector there?

19 A. No, no.

20 Q. Did you know when an inspector was coming?

21 A. No. Well, usually he came on --- he didn't come a
22 lot on dayshift, on his shift. I mean he came
23 sometimes, you know?

24 Q. Did anybody ever call and tell you there was one
25 coming?

1 A. A couple times.

2 Q. Couple times?

3 A. That was all.

4 Q. And why'd they call and tell you that?

5 A. They just said that the State man was coming.

6 Q. What about the Federal inspector? Anybody ever
7 call and tell you, you had a Federal man coming?

8 A. Not that I can recall.

9 Q. What typically happened after somebody called the
10 section and said you had an inspector on the property?

11 A. Well, we didn't have to do nothing. We done have
12 everything right. Like, up at Parker we don't do it
13 illegally like some people do, you know.

14 Q. Did anybody ever make any complaints as far as
15 safety in the mines? Did you ever hear anybody
16 complain about the conditions?

17 A. Up there at UBB? Well, we just --- really they
18 treat the ---. How people worked up there, we didn't
19 talk to a lot of people, because our portal, we didn't
20 talk to a lot of people on the UBB --- up there at the
21 longwall. I mean, they didn't really talk a lot about
22 their problems and stuff they had.

23 Q. Yeah. Do you think miners were --- do you think
24 there would have been any retaliation against them if
25 they'd known somebody had complained?

1 A. Yeah. Yeah, I believe.

2 Q. So do you feel like it would've been a threatening
3 environment had they known someone would have
4 complained, that that person would have been in danger
5 of losing their job?

6 A. Yeah. Well, I heard that mines up there had
7 methane in it before I even went up there, you know,
8 before they transferred me over there. I didn't want
9 to go over in the first place, so I told my wife, you
10 know, I knew something was going to happen. I just
11 didn't know what.

12 Q. Why'd you feel like something was going to happen?

13 A. Well, I thought a roof fall was going to happen
14 because in 22 longwall panel there wasn't good top
15 over there anyway.

16 Q. Uh-huh (yes).

17 A. I mean, it was methane. I didn't know what was
18 going to happen.

19 Q. Did you ever hear of any air reversals up at the
20 longwall?

21 A. I heard. I don't know if it's true or not. I
22 ain't going to say they did or not, ---

23 Q. Okay.

24 A. --- because I don't know.

25 Q. Okay.

1 A. That's just hearsay.

2 Q. I understand.

3 A. Yeah.

4 Q. Did you hot seat with the other crews working on
5 this section?

6 A. Did we ever hot seat?

7 Q. Uh-huh (yes).

8 A. Well, a couple times if we didn't got our footage
9 up to par or whatever. Other than that, not a lot.

10 Q. Not a lot?

11 A. Uh-uh (no).

12 Q. Anybody ever discuss the hazards in the pre-shift
13 book with you before going in the mine?

14 A. No, just the Monday meetings.

15 Q. Just on the Monday meetings?

16 A. Yeah. I mean, most the time whenever we got
17 there, sometimes even, you know, a few days a week, he
18 would --- yeah, out of his book before we got to the
19 section he'd read them and everything.

20 Q. Did they ever have any hazards noted?

21 A. On our section?

22 Q. Uh-huh (yes).

23 A. Not that I know of. I mean ---.

24 Q. No bad top or anything like ---?

25 A. Well, yeah, we had bad top and ribs, but ---.

1 Q. Did anybody ever put it in the book and note that
2 there was a problem?

3 A. I'd say so.

4 Q. You'd say so?

5 A. Ain't nobody ever spoke to me, though.

6 Q. Nobody ever told you about it?

7 A. Nope. I don't hardly --- I didn't hardly know
8 nothing up there. Ain't nobody said nothing.

9 Q. When you got up to the section, did you find
10 hazards occasionally that had to be corrected right
11 then?

12 A. Yeah, we had ribs. They had to clean ribs and put
13 sand jacks up against the ribs and stuff.

14 Q. So you had to take care of your problems right
15 then?

16 A. Yeah, we had to take care of our problems
17 before ---

18 Q. Okay.

19 A. --- they got worse.

20 Q. Okay. How many production crews run on the
21 barrier section?

22 A. Two.

23 Q. How many maintenance shifts did you have, just
24 one?

25 A. Yeah, it should have been, yeah.

1 Q. Did you ever know of them running coal on the
2 maintenance shift?

3 A. Not that I know of, they didn't. I don't believe
4 they had. When we come in, they didn't --- said
5 nothing. We noticed no difference, you know, when we
6 come in.

7 Q. And when you arrived on the section, typically
8 what was the first thing you all did?

9 A. Check the ventilation.

10 Q. Checked the ventilation.

11 A. Yeah.

12 Q. And service your equipment when you first come?

13 A. Check your buggies and everything.

14 Q. Which entry did your intake come up on that
15 section?

16 A. Number Six.

17 Q. Number Six?

18 A. Yeah.

19 Q. And was this your primary escapeway?

20 A. It was the primary escapeway, yeah.

21 Q. And when was the ---?

22 A. Yeah, primary escapeway.

23 Q. When was the last time you traveled that?

24 A. It should have been a month before it happened.

25 Q. Okay. Should have been but did that take place?

1 A. Yeah, I exactly remember what --- you know, when
2 it was.

3 Q. And what did you all do that day?

4 A. We walked in and we walked out.

5 Q. Okay.

6 A. Yeah. There was a couple of us that hadn't done
7 it yet, you know.

8 Q. Okay.

9 A. We had to do it.

10 Q. And how often did you all do that?

11 A. Walk the intake?

12 Q. Uh-huh (yes).

13 A. Well, we just done it once when we was there.
14 Didn't have much time to do it, you know, after that.

15 Q. I understand. Okay. And you said your section
16 had --- your section had two continuous miners?

17 A. Two.

18 Q. Did they have two roof bolters?

19 A. Yes, and three buggies.

20 Q. And three buggies.

21 A. Uh-huh (yes).

22 Q. Okay. Now, when a miner on one side was running a
23 cleanup car, was the miner on the other side loading?

24 A. Yeah, he started loading, yeah.

25 Q. Started loading?

1 A. And that left side would clean the --- clean it up
2 and --- I'd go to the right side, on the right and run
3 the right side.

4 Q. Okay. And you mentioned that sometimes they'd run
5 both miners at the same time?

6 A. Yeah, sometimes. Not a lot.

7 Q. And why was that?

8 A. I don't know.

9 Q. Was there a lot of pressure at this mine for
10 production?

11 A. Well, probably because the cost of coal is high, I
12 guess, up there.

13 Q. Section bosses seem like they smothered a lot of
14 production like that?

15 A. Ours didn't, no. Ours didn't. Well, we can run,
16 we can run, you know. And they used to smother.
17 That's the way he is and he don't smother.

18 Q. And you mentioned you all would, you know, run
19 your scrubber on a deep cut.

20 A. Yeah, yeah. Right against it, yeah, on the deep
21 cut.

22 Q. Anybody ever go over the components of the
23 scrubber with you guys, what it would do and what it
24 won't do? Anybody ever conduct any training on it?

25 A. Not that I know of, no.

1 Q. Okay. Do you remember any air reversals on your
2 section ever?

3 A. Not on ours. I've just heard about --- now, I
4 don't know where they done that. I just heard that
5 they reversed --- they were supposed to be in reversed
6 air. I don't know if they did for sure. That's just
7 what I heard.

8 Q. Okay. Did you ever see Chris Blanchard or Jason
9 Whitehead underground?

10 A. No, I seen --- Chris Blanchard was, but not up
11 there. If you want up there, I didn't see him up
12 there underground, or Whitehead. I didn't see him
13 underground either ---

14 Q. Okay.

15 A. --- not at UBB.

16 Q. Did they ever speak to your crew outside?

17 A. Just --- no, not much, maybe one time when we come
18 up there. We got transferred up there. But other
19 than that, no.

20 Q. Other than that, no? Was there anything ever
21 posted on the board saying if production didn't pick
22 up that there might be vacation days took away in
23 order to make up for it?

24 A. Well, it wouldn't surprise me, but I haven't seen
25 it.

1 Q. Haven't seen that?

2 A. No.

3 Q. Anybody ever talk about something like that or
4 talk about the mine being shut down if production
5 doesn't pick up?

6 A. I ain't heard that either.

7 Q. Ain't heard that either? Were you ever on a
8 section when a citation was issued?

9 A. Whenever it --- yeah.

10 Q. See here.

11 A. Well, not up there I haven't, I mean, unless they
12 ordered it and nobody told us about it. I haven't
13 been.

14 Q. Okay. Did you ever hear about the citation being
15 issued at this mine?

16 A. Yeah, I heard about ---. I mean on TV. Other
17 than that, I haven't heard about ---

18 Q. Oh, okay.

19 A. --- UBB.

20 Q. Okay. Carbon monoxide system in the mine, but did
21 it ever go into the alert or alarm status when you
22 were underground?

23 A. No, sir.

24 Q. Okay. The longwall had a three-year gap in
25 production. Do you know anything about that?

1 A. That's the first I heard about it. I

2 never ---

3 Q. Okay.

4 A. --- heard nothing about it.

5 Q. Do you know anything about the methane outburst on
6 the longwall panel? Hear anything about that?

7 A. Before it happened, you mean?

8 Q. Yeah.

9 A. I've heard it. I don't know if it's true.

10 Q. Don't know if it's true?

11 A. I've heard about it.

12 Q. Okay. Let's talk about the day of the accident.

13 MR. STEFFEY:

14 Or you guys got any questions you want to

15 ask before we go any farther?

16 MR. FARLEY:

17 Sure.

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. Wes, ---

21 A. Yeah.

22 Q. --- as a shuttle car operator, as you approach the
23 coal ---

24 A. Uh-huh (yes).

25 Q. --- is there usually a box check curtain hanging

1 on the belt there?

2 A. Oh, behind the feeder?

3 Q. Yes.

4 A. Yes, sir. And I make sure it's there.

5 Q. Did you ever notice which way it's blowing, or is
6 it blowing?

7 A. To be honest with you, I put --- you know, I mean,
8 I put the --- make sure it's down on the ground and
9 everything. I don't know which way. I should have
10 paid attention.

11 Q. Okay. But did you ever notice which way the air
12 was moving on the belt?

13 A. No, sir. I'm sorry.

14 Q. That's all right. All right. Now, was the mine
15 idle on April 4th?

16 A. April 4th?

17 Q. Yes, sir.

18 A. Yes, sir. As far as I can recall, it was.

19 Q. And what was your last shift worked before April
20 the 4th?

21 A. April the 3rd.

22 Q. Okay. You worked Saturday?

23 A. Yeah.

24 Q. Now, of the 29 people that are now deceased, did
25 you know any of them personally, very well, where you

1 talked to them on a regular basis?

2 A. Robert Clark, I talked to him a lot.

3 Q. And which section was he on?

4 A. I think --- I never did know what section he was
5 on.

6 Q. Okay. And did he ever --- did he ever mention any
7 problems to you about his section?

8 A. Not that --- no, he never mentioned to me about
9 it.

10 MR. FARLEY:

11 Okay. All right. That's all I have.

12 EXAMINATION

13 BY MR. MCGINLEY:

14 Q. Wes, you said you met with Massey lawyers twice?

15 A. Yes.

16 Q. Two different days?

17 A. Yes.

18 Q. At the Marsh Fork main office; right?

19 A. Yeah.

20 Q. Each time you met with them, how long did those
21 meetings last?

22 A. The first one lasted 45 --- about 45 minutes. The
23 second one lasted about probably 35, 40 minutes,
24 because I remember what time I come out.

25 Q. Do you have any idea why they asked you to come

1 back a second time?

2 A. Said they forgot to ask me some more questions,
3 but it was just the same thing, just in more detail.

4 Q. And what were the questions they asked you the
5 most detail?

6 A. Asked if --- about what you all is asking me,
7 about the air reversal and all that. And they asked
8 if anybody took any bribes. You know, any officials
9 took any bribes, you know?

10 Q. What did they mean? Did you understand their
11 question?

12 A. Oh, say, like, they had a problem they didn't want
13 to take care of or something illegal, try to pay the
14 inspectors off. I said I hadn't heard anything and
15 you know. They asked if we had any air problems up
16 there at our section. And I said we didn't, because
17 we had good air up on our section.

18 Q. Did they ask you if you knew of air problems in
19 other sections?

20 A. They asked just about the other section. I said,
21 the only thing I know is the longwall. I mean, I
22 don't --- other than anything else ---. You figure
23 they had problems, the longwall, the other sections
24 probably would have had problems, too, I guess. I
25 don't know.

1 Q. Did they ask you a lot of questions about
2 ventilation?

3 A. Yes. They asked if --- like you said, about the
4 inspectors, if they found a problem, asked if our
5 section or anybody else would take care of it, you
6 know, after it happened or before, so we did. I mean,
7 if we had any bad ribs, we'd take care of it, you
8 know, put jacks or timbers on it, you know, around it.
9 We'd shut down. I mean, if you got to shut down, you
10 got to shut down.

11 Q. Did you think that any of the questions they asked
12 were strange or odd?

13 A. No, not to me they wasn't, I guess.

14 Q. You said the longwall panel 22 wasn't the smartest
15 thing?

16 A. No.

17 Q. What did you mean by that?

18 A. Well, mining between two longwall panels, you got
19 a lot of weight up overtop those anyway, don't you? I
20 mean ---.

21 Q. And that's what you were feeling in the section?

22 A. Yeah, yeah. It wasn't no worse than Shumate over
23 there. There's still a lot of rib or top falling on
24 occasion and stuff.

25 Q. Similar ---

1 A. Yeah, yeah.

2 Q. --- problems?

3 A. I figured --- I'm sorry. I figured the further
4 we'd go in, we'd probably run into bigger problems.
5 We'd have to probably back out. Go ahead.

6 Q. You said you heard they had some methane problems
7 on the longwall.

8 A. Yeah, yeah. That's what I heard before I come up
9 there.

10 Q. And what about when you got there? Did you hear
11 any people continue to talk about concerns about
12 methane problems?

13 A. Yeah, yeah, I remember now. A few days before it
14 happened, somebody was saying that they hit a big
15 pocket of methane up in the face, up on one of the
16 faces. Said be careful. I don't know where it was
17 at. And that's just what I heard him say before we
18 went underground.

19 Q. When they say the face, you meant the longwall?

20 A. Probably more than likely.

21 Q. Was it a boss that said that or ---?

22 A. I just --- when I was leaving, I heard somebody
23 say. I don't know who it was. I can't remember who
24 it was.

25 Q. Was that about the time when you had the --- they

1 sent you home early?

2 A. It might have been that day. I don't know. We
3 was on dayshift. I can remember that.

4 Q. Did that make you concerned when you heard that?

5 A. Yeah.

6 Q. So the methane burst that people were talking
7 about would have happened a few days before the
8 explosion?

9 A. You figure, I guess. You figure. That's just
10 what I heard.

11 Q. So did you know anything about the ventilation
12 plan?

13 A. The longwall? No. No, sir.

14 Q. How about in your section? You understood what
15 you did there, but ---?

16 A. Yeah.

17 Q. Okay. And did anyone discuss the ventilation plan
18 for the barrier section with you?

19 A. They just made sure we knew about it, or --- yeah.
20 Yeah, they did.

21 Q. Said got to make sure you got enough air?

22 A. Oh, yeah, you got to have enough air to run, yeah.
23 You got to have enough air when you're bolting, you
24 know, enough air in the face for the miner to run,
25 enough air to run, period. You got to have your fly

1 pads there, got to put your curtain, you know, over
2 your fly pads. To have air you got to, you know?
3 Just one buggy running, you got to have one, just one
4 buggy running.

5 Q. All right. So you also said a little earlier that
6 you'd heard they had trouble with ventilation on the
7 longwall section in addition to methane; right?

8 A. Yeah.

9 Q. So did you hear that before you came back to work
10 at UBB or when you got there?

11 A. When we got there --- a little bit after we got
12 there. They had --- about a week before it happened,
13 I think maybe in four or five days, they said they had
14 trouble getting air to the longwall and everything, or
15 they done something to the air, you know.

16 Q. So when you heard about the methane burst and they
17 had trouble getting air on the longwall section, was
18 that a concern to you or ---?

19 A. Kind of, yeah. A lot done to the air exactly, it
20 can mess the whole mine's air up. They all kind of be
21 hush, hush about stuff, I guess.

22 Q. So none of the bosses talked about that?

23 A. No.

24 Q. And you said you're confused about whether they
25 --- you were using split air on your section?

1 A. Yes. Yeah. I don't know if they'd use sweep or
2 split. Don't know.

3 Q. Did any of the bosses ever talk to you about what
4 --- how they wanted it set up?

5 A. I think we was running split air. When they done
6 something to the air, we was --- I think we just run a
7 sweep overtop of it, I believe.

8 Q. You said we don't do anything illegal on your
9 section ---

10 A. No, not our section.

11 Q. --- like some people do. What did you mean by
12 that?

13 A. This year some people, you know, run without
14 curtain or whatever. I don't know if it's true or
15 not.

16 Q. Sure. Run without curtain, run when there's not
17 adequate air? You heard that, too?

18 A. Just over the years, you know. You know, over the
19 years and stuff. Not at that particular mines or
20 nothing.

21 Q. Okay. Not ---?

22 A. It could be, but --- you know what I'm saying? I
23 don't know.

24 Q. Okay.

25 A. So I can't give you no good answer to that.

1 Q. I understand. All right. You heard there was
2 reversed air at UBB. You heard it, you don't know
3 whether it was true?

4 A. No.

5 Q. But you heard that since you came back and started
6 working there?

7 A. Yeah, that's what I heard.

8 Q. Okay.

9 A. I don't know if it's true.

10 MR. MCGINLEY:

11 Okay. No further questions. Thank you.

12 A. You're welcome.

13 RE-EXAMINATION

14 BY MR. STEFFEY:

15 Q. Okay. Let's talk about the day of the accident.

16 A. Okay.

17 Q. Where were you at the time of the accident?

18 A. I was up at barrier section, 62 Break.

19 Q. Okay. How did you know about the explosion?

20 A. Three o'clock the power went off. We were getting
21 ready to, you know, make sure everything's right, you
22 know, around the section. The power went out and we
23 don't know what was wrong. And Jack came back, said,
24 hurry up. We should get out of here. Let's go. You
25 better hurry up. And he said he'd felt the --- he

1 said he felt it up in the --- I guess felt the
2 explosion up in the intake where he was checking the
3 rescue chamber before we left.

4 Q. Uh-huh (yes).

5 A. And he said he felt air sucking in, is what he
6 said.

7 Q. Now, well, what did he mean by that, he just felt
8 the ---?

9 A. Yeah, he just ---. I guess he felt from the
10 bottom, I guess. Felt it from his feet, I guess. I
11 don't know.

12 Q. Okay.

13 A. That's all he said. And by the time we got to the
14 switch, we look off the road and they said better ---
15 we'll get a headcount when we come outside. When I
16 turned the track, we seen a bunch of smoke. It
17 wouldn't have been smoke. Dust, I guess. Plus that
18 mildew smell, whatever that smell would be. What
19 would that be? Do you know?

20 Q. No, I don't know.

21 A. I don't, either.

22 Q. So you saw dust blowing out the UBB Portals?

23 A. Oh, yeah. We couldn't see nothing but dust
24 running on the track.

25 Q. Okay.

1 A. They said the --- our CO monitors were going off.

2 Q. Okay. And did you ever don your rescuer?

3 A. Ever don --- did we don it?

4 Q. Uh-huh (yes).

5 A. No, sir.

6 Q. Did you have your rescuers out where you can get
7 to them?

8 A. We had them --- had them on our side.

9 Q. Did the section boss --- well, when you all got
10 out on the mantrip, did you ---? Take me through what
11 happened there to the best you can remember. I know
12 it's probably ---

13 A. Okay.

14 Q. --- a lot going on.

15 A. When the power went off, you mean?

16 Q. Uh-huh (yes).

17 A. Okay. Three o'clock we was --- we just got done
18 running the last buggy. We was making sure
19 everything, you know, was right for the other crew
20 when they come in. When the power went off, I think
21 it was at --- it might have been 3:02. I can remember
22 what time it was. And we wondered what was going on.
23 Jack said we better get out of here. We better get
24 out. I ain't kidding. He says, hey, we better get
25 out of here if you want to live. And we left, wanted

1 to know what's going on. He said all the --- he said
2 he felt the --- I guess under his feet, I guess,
3 rumbling or something. He said he felt it up there in
4 the intake, said the air about sucked him in. He said
5 that --- when we left on the mantrip we caught outside
6 at the switch he said I'm going to take a headcount,
7 you know. He said as far as I know, it was a rock
8 fall, at first.

9 Q. Okay.

10 A. Which all we seen was dust on the track. We
11 couldn't see nothing besides dust. We could see
12 pretty good, but it --- we knew it was dust, smelled
13 the mildew smell.

14 And Gary May, the --- I guess he's their
15 superintendent up there --- said we can go ahead and
16 get a headcount and he'd go walk underground and see
17 if he could see what's going on, if he --- you know,
18 find out what's going on. He was walking underground.
19 And they took a headcount of us outside. And they
20 told us it was a rock fall.

21 Q. Did they take a headcount when you first got on
22 the mantrip underground?

23 A. No, they took a headcount when we got outside,
24 make sure everybody's all there.

25 Q. Okay.

1 A. And had to sign a yellow sheet, our names. And
2 that was it.

3 Q. Anybody ---?

4 A. That's everything.

5 Q. Anybody's methane spotter go off coming out?

6 A. No, I didn't hear nobody's go off?

7 Q. You didn't pick up any, didn't pick ---?

8 A. No.

9 Q. Okay.

10 A. Not at the time.

11 Q. Anybody say they got any CO on their ---?

12 A. Not that I --- not that I ---.

13 Q. Not that you know of?

14 A. Didn't nobody say anything about that.

15 Q. Now, you mentioned you signed a yellow sheet when
16 you got outside. What was that for?

17 A. You had to just make sure --- just sign our names
18 to say that ---

19 Q. Okay.

20 A. --- we're out.

21 Q. Did anybody ask you to make any statements that
22 day?

23 A. Not that day.

24 Q. Not that day? What happened after that? Did you
25 leave the mine property or what did you do after that?

1 A. Well, we just took a shower and left. And when I
2 got home the ambulance was starting to go up road.
3 Right when I got home, I knew what happened. Twenty
4 (20) ambulances went down.

5 Q. Now, you mentioned somebody went underground.
6 Now, who was that?

7 A. Gary May.

8 Q. Gary May?

9 A. Yeah.

10 Q. Did you see him come back out?

11 A. I didn't see him come back out, but he did. I
12 didn't see him come back out, but when we got outside.

13 Q. Yeah. Did you see him when he was going in?

14 A. I seen him.

15 Q. How many --- so how many SCSRs did he have?

16 A. I just seen him walking.

17 Q. You just see him walking, didn't see if he had
18 several on him?

19 A. Didn't see --- no, I don't think he did. Just,
20 you know, what was on his side, I guess.

21 Q. Did anybody mention --- did you hear anything
22 outside while you were just outside at the portals?
23 Anybody say anything?

24 A. No, sir. All I just signed that and put my light
25 up, took a shower and went home.

1 Q. Anybody seem surprised by what had happened?

2 A. They figured it was a rock fall to begin with. I
3 mean, they said it was a major rock fall, is what they
4 thought to begin with, so ---.

5 Q. Did anybody say anything about the longwall crew
6 calling out just before the explosion? Did anybody
7 call out and say there was a problem? Did you hear
8 anybody talk about that?

9 A. Well, I didn't hear nobody talk about it, but I've
10 heard people say that something about they called out
11 before it happened. I don't know what they said or
12 nothing.

13 Q. They called out and ---- you don't know the nature
14 of that conversation?

15 A. No. No.

16 Q. Do you know who would know? Would the dispatcher
17 know?

18 A. He might. If you talked to him, he might know,
19 yeah.

20 Q. And who was that?

21 A. Here we go. Yeah. To be honest with you, I don't
22 know their names.

23 Q. Okay.

24 A. So many people working there.

25 Q. It's a big mine.

1 A. Yeah. Yeah, about 300 people used to be working
2 there.

3 Q. Were you surprised by what happened?

4 A. Yes and no.

5 Q. Yes and no?

6 A. Well, I'm going to try to find a --- figure how to
7 answer. Well, I heard it had methane, but I don't
8 ---. I had heard stuff about how they'd like to run
9 coal a lot and stuff, you know, where the longwall
10 runs a lot of coal. It costs a lot and everything.

11 Q. Yeah.

12 A. So ---.

13 Q. What type of shape were the belts in?

14 A. Our belts were in good shape.

15 Q. And did you hear anything about the rest of the
16 mine about float dust on the belts or anything?

17 Anybody ever talk about that?

18 A. No, I don't know. Nobody talked about it. I
19 might have heard that on their section, but never
20 talked about it where --- you know, on ours.

21 Q. How was the rock dusting on your section?

22 A. The rock dusting was pretty good, top and bottom,
23 you know, ribs.

24 Q. Were you ever back on the mine property after the
25 explosion?

1 A. Yeah, just to see if my clothes or stuff ---.

2 Other than that, I ain't been up there.

3 Q. Okay. Do you know how people were accounted for
4 when they were exiting or entering the mine?

5 A. You talking about the people that passed away?

6 Q. No, just the people ---

7 A. Oh, okay. All right.

8 Q. --- that went in afterwards.

9 A. No, I don't.

10 Q. And do you know of any problems with the tracking
11 system? Did they ever talk about that?

12 A. The radios?

13 Q. Uh-huh (yes).

14 A. Well, I heard that they're supposed to --- I heard
15 a while back they had problems with them, with the
16 radios, that they was interfering with the miners and
17 the frequence on it made them start up, is what I
18 heard. I guess --- they said they fixed them. I
19 don't know if they did or not, you know?

20 Q. Did Upper Big Branch have any type of incentive
21 program for production?

22 A. Are you saying --- well ---?

23 Q. You know, the more coal you run and you're
24 rewarded for more coal.

25 A. Well, if you were --- say, if you run your

1 footage, you know, you'd go above your footage, you're
2 supposed to get a bonus.

3 Q. Uh-huh (yes).

4 A. Well, every time we run our footage, you know,
5 they'd up it, so we wouldn't get no bonus. So other
6 than that, that's all I know. So it seemed like the
7 more you run, the more they want you to run.

8 Q. The more you ---?

9 A. Ain't never good enough.

10 Q. Did they have any type of incentive program for
11 working safely?

12 A. Yeah, they said just do the right thing.

13 Q. And what'd they mean by do the right thing?

14 A. Just keep the curtains up, the fly pads. That's
15 what we do.

16 Q. Did you have the Massey initial training?

17 A. What do you mean about that?

18 Q. The videos that go over S1, P2 and all that?

19 A. Oh, yeah. We've had that a few times.

20 Q. Had that a few times?

21 A. Yeah, quite a few times.

22 Q. Did it seem like it was more safety and regulatory
23 oriented or was it more production and ---?

24 A. It was more safety and some production.

25 Q. Some production?

1 A. Yeah.

2 Q. What other kinds of training did they give you?

3 A. About the --- at the rescue chamber.

4 Q. Uh-huh (yes).

5 A. They give it to us a couple times, and how to don
6 your rescuer. Done that quite a few times.

7 Q. Did you ever have the annual refresher training?

8 A. Yeah, we have that every year.

9 Q. Have that every year?

10 A. Yeah, every year around springtime.

11 Q. What'd they cover?

12 A. Well, they just covered --- they just done the
13 First Aid, how to hang, you know, cables and
14 everything, how to hang your cables, electricity and
15 stuff, ventilation. Like, your ventilation, if, you
16 know, you don't do the right thing something will
17 happen. Something bad will happen.

18 Q. You been running a shuttle car a while; haven't
19 you?

20 A. Yeah, six years.

21 Q. Did you ever see a new guy that they brought up to
22 the section, a new black hat?

23 A. Just to run anything, not particular?

24 Q. Yeah. Well, just a new guy that they bring up
25 there. You're not real experienced, doesn't know how

1 to run anything? How do they go about ---

2 A. Teaching him?

3 Q. --- teaching him?

4 A. I was going to say, if you run a buggy they have
5 --- sometimes they have me or whoever to show them how
6 to, you know, run it and everything, get them used to
7 it and stuff.

8 Q. And do you think the training that they gave the
9 new guys was adequate or did they just more or less
10 just kind of give them a brief overview and then just
11 put them on a piece of equipment and see how they do?

12 A. Usually if they have a bolt man or something ---
13 we've had a bolt man up there. If they need a bolt
14 man, he come up there. If somebody had a red hat up
15 there, just getting ready to get his black hat, they
16 have ---. The bolt man's been up there for a long
17 time. He trained him on it, you know?

18 Q. Kind of ---?

19 A. They done it right.

20 Q. Kind of watch out for him?

21 A. Yeah.

22 Q. Okay.

23 A. Or a scoop, you know, just show him how to run a
24 scoop or the boss would show him, you know. Boss
25 would show him how to do everything. Watch the boss,

1 run a scoop or whatever.

2 Q. Did you all have any problems associated with this
3 stair-step bleeder system that they like to use?

4 Anybody ever talk about that?

5 A. That's the first I heard --- I haven't heard about
6 that.

7 Q. You haven't ever heard about that?

8 A. No. I don't know what that is.

9 Q. Do you think that Upper Big Branch was a safe
10 mine?

11 A. Well, I heard they had methane. Other than ---.

12 Q. But it had some problems, though?

13 A. Yeah, it had some problems.

14 Q. Yeah.

15 A. I've heard it had a bunch of problems before I
16 came there, so --- yeah.

17 Q. Do you think that ---?

18 A. They said it ---.

19 Q. No, go ahead.

20 A. They said it had the inspectors up there every
21 day. There had to have been something wrong for
22 inspectors to be up there all the time, you know. I
23 mean, it's normal for inspection to come up there to
24 do their job, but 24/7, I mean, there had to have been
25 something wrong with that mines there.

1 Q. Do you think that production and profitability was
2 sometimes placed above safety?

3 A. About that mines, I don't know about that mines,
4 because they ---. Some Massey mines they'd rather
5 have the --- I figure they'd rather have production.

6 Q. And you mentioned that they got a high price for
7 this coal?

8 A. Yeah, that's what I hear.

9 Q. Did you know Josh Napper.

10 A. Josh Napper. He'd look familiar. I don't believe
11 I knowed him ---

12 Q. Okay.

13 A. --- I knew him.

14 Q. Did you hear about the letter that he wrote to his
15 family ---

16 A. Prior to that.

17 Q. --- prior to the incident? Why do you think he'd
18 write a letter like that?

19 A. Because either --- he didn't feel safe there as
20 far as ---. That's what I'd get if I wrote it. Did
21 he work on the longwall?

22 Q. I think he --- well, he was up there working
23 around ---

24 A. Okay.

25 Q. --- the longwall. What do you think would have

1 happened if he'd have complained to management? Did
2 management listen?

3 A. I don't know if they'd take it and shrug it off
4 because he just started there or they'd look into it.
5 I don't know what they'd do there.

6 Q. Did you ever know of anybody that complained to
7 management about an unsafe condition in the mine?

8 A. I heard a couple people been there a long time and
9 said that he had feared for his life the first --- the
10 last day before he went back there.

11 Q. Did what now?

12 A. He feared for his life. He didn't want to --- he
13 didn't want to go back there.

14 Q. And what management say to him?

15 A. I don't know. I don't know if he told his family
16 that or if he said it to management or what. It's
17 just the guy they called, you know, Pee Wee.

18 Q. Uh-huh (yes).

19 A. They called him Pee Wee. That's what I heard.

20 Q. Do you know anything about the management
21 structure at this mine?

22 A. About how they run things?

23 Q. Yeah, about who's in charge.

24 A. Oh, I think Gary May is the superintendent. And
25 Rick Foster, I think he's the mine foreman.

1 Q. And who do they answer to?

2 A. Who do they --- I guess Blanchard when he was
3 president, I guess.

4 Q. And do you think that Foster and May had a lot of
5 pressure on them?

6 A. From Blanchard? More than likely.

7 Q. Did you ever hear anything? Have they ever
8 talked?

9 A. No. Being up my way, I don't know hardly
10 anything.

11 Q. Okay.

12 A. Upstairs they --- you know, I guess they don't
13 talk to nobody else but the bigwigs up there. I don't
14 know.

15 Q. Do you know of anything you'd like to add,
16 anything that could help us?

17 A. To be honest with you, I don't have much. Or I
18 didn't work up there, you know. I don't have a lot.
19 Well, that's about all I can give you, like them other
20 --- I interviewed that two other times. Wish I could
21 give you more information.

22 Q. I understand.

23 MR. STEFFEY:

24 Do you want to take a break, see if
25 anybody has got any questions?

1 ATTORNEY BAXTER:

2 Sure. We'll take a break.

3 SHORT BREAK TAKEN

4 MR. STEFFEY:

5 Yeah, on the record. Just got a few

6 follow-up questions.

7 A. Okay.

8 BY MR. STEFFEY:

9 Q. You mentioned one of the other sections had a
10 methane pocket?

11 A. Yes.

12 Q. Do you know if that was an outburst from the floor
13 or if that was in the face or what ---?

14 A. He told me. He said he ran into a methane pocket
15 at the face.

16 Q. And who was that?

17 A. It might have been Steve Harrah. I ain't for
18 sure.

19 Q. Okay. Do you know what section that was on or if
20 it was on the longwall or the gate roads?

21 A. Probably the headgate.

22 Q. Headgate?

23 A. Might have been.

24 Q. Okay. Do you know about when that happened?

25 A. Maybe a few days before it happened.

1 Q. So just a week prior?

2 A. A few days prior.

3 Q. Okay. You mentioned Pee Wee, that you'd heard
4 he'd made the statement that he was fearful for his
5 life.

6 A. That's what they said. I didn't hear him say it,
7 but that's what I heard he said.

8 Q. Now, who was Pee Wee?

9 A. I don't remember --- I don't know his real name.

10 Q. Okay.

11 A. They just said Pee Wee.

12 Q. How'd you hear of this? Did he tell you directly
13 or did someone else tell you?

14 A. On TV.

15 Q. Oh, heard it on TV?

16 A. Yes. I guess the family told them.

17 Q. And you've had a few minutes to sit here. Is
18 there anything that you can think of that may help us?

19 A. I heard they messed with the seals.

20 Q. They messed with the seals?

21 A. That's what I heard.

22 Q. And who messed with the seals?

23 A. Don't know. I heard somebody say, well, yeah,
24 they messed with the seals trying to get the air
25 right.

1 Q. Do you know when this happened, where, anything
2 about it at all?

3 A. No.

4 Q. Do you remember ---?

5 A. A couple days priors.

6 Q. Do you remember who told you that?

7 A. Not off the top of my head. I can't remember
8 every single thing.

9 Q. Okay.

10 A. I just remember ---

11 Q. Okay.

12 A. --- that's what I heard. Like I said, I don't
13 know if it's true.

14 Q. Well, anything, you know ---

15 A. Yeah.

16 Q. --- may give us some information and may give us a
17 lead. Do you have any comments you'd like to add in
18 close?

19 A. Well, I think they should shut the mine down.

20 That's it.

21 MR. STEFFEY:

22 Need anything? You guys got any
23 questions?

24 MR. FARLEY:

25 No, sir.

1 MR. MCGINLEY:

2 I've got a couple.

3 RE-EXAMINATION

4 BY MR. MCGINLEY:

5 Q. What was your normal quitting time on your shift?

6 A. 3:30.

7 Q. Did you ever stay over?

8 A. A few times.

9 Q. You said no one asked you to make a statement the
10 day of the explosion. Did they ask you to make a
11 statement later? You know, you never --- they never
12 asked you to write anything down or ---?

13 A. No.

14 Q. When you came out and the first thing you heard,
15 they were saying it was a major rock fall, a roof
16 fall. Did you wonder about that considering there was
17 all the dust?

18 A. Yes, I was wondering.

19 Q. Did that make sense to you at all?

20 A. They said the CO monitors were going, you know,
21 crazy. I figured the fire probably --- I mean, they
22 didn't say. That's what I figured, though.

23 Q. Do you know of any miner since you were back at
24 UBB or any other time when you've been working for
25 Massey when someone was disciplined because there was

1 a State or Federal citation?

2 A. No, nobody was disciplined that I know of.

3 Q. Did you ever --- when you were working with
4 Massey, were you ever told that there were violations
5 in your section or ---?

6 A. Any other mines or just ---?

7 Q. Yeah, not just ---

8 A. Okay.

9 Q. --- this one.

10 A. Shumate had violations on bad ribs, bad top, float
11 dust.

12 Q. So did anybody ever get --- so nobody ever got
13 disciplined? Nobody --- there were no ---

14 A. Not that I remember.

15 Q. --- no consequences?

16 A. Not that I know of it.

17 Q. Okay.

18 A. They might have got a pat on the hand or
19 something. I don't know.

20 Q. All right. So you can't remember who told you
21 about ---

22 A. No.

23 Q. --- the methane burst, but if you do --- you know,
24 if you think about it ---?

25 A. Tell you?

1 Q. That'd be real helpful if you --- and if you'd get
2 back ---

3 A. All right.

4 Q. --- in touch with us. If you could remember,
5 that'd be great.

6 A. All right.

7 MR. MCGINLEY:

8 Okay. No further questions.

9 ATTORNEY BAXTER:

10 Okay. On behalf of MSHA and the Office
11 of Miners' Health, Safety and Training, I want to
12 thank you for appearing and answering questions today.
13 Your cooperation is very important to the
14 investigation as we work to determine the cause of the
15 accident. We request that you not discuss your
16 testimony with any person aside from your personal
17 representative.

18 After questioning other witnesses, we may
19 call you if we have any follow-up questions that we
20 feel we need to ask you. If at any time you have
21 additional information regarding the accident that
22 you'd like to provide to us, please contact us at the
23 contact information that was previously provided to
24 you. Any statements given by miner witnesses to MSHA
25 are considered to be an exercise of statutory rights

1 and protected activity under Section 105(c) of the
2 Mine Act. If you believe any discharge,
3 discrimination or other adverse action is taken
4 against you as a result of your cooperation with this
5 investigation, you are encouraged to immediately
6 contact MSHA and file a complaint under Section 105(c)
7 of the Act. Remedies under the Mine Act include back
8 wages and immediate temporary reinstatement to your
9 most recent position with the company pending a
10 complete investigation of your complaint. In order to
11 file such a complaint, you should contact the MSHA
12 District 4 Office.

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

17 A. I hope you find out what happened and put them in
18 jail, if it could be prevented, which you probably
19 could.

20 ATTORNEY BAXTER:

21 Again, I want to thank you for your
22 cooperation in this matter.

23 * * * * *

24 STATEMENT UNDER OATH CONCLUDED AT 10:06 A.M.

25 * * * * *

1 STATE OF WEST VIRGINIA)

2)

3

4 CERTIFICATE

5 I, Alicia R. Brant, 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.



22 *Alicia R. Brant*

24

25