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**Transcript of the Testimony of Steven Daniel**

**Date:** July 17, 2010

**Case:**

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STATEMENT UNDER OATH  
OF  
STEVEN DANIEL

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 Saturday, July 17, 2010, beginning at 8:15 a.m.

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

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Map

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\* Exhibit not attached

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

Today is July 17, 2010. We're here to conduct an interview of Steven Daniel. With me is David Steffey, an investigator with the Mine Safety and Health Administration. Also present are individuals with the State of West Virginia. I ask that they state their appearances.

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. MCGINLEY:

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

ATTORNEY WILSON:

All members of the Mine Safety Health Administration Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep



1 confidential all information that is gathered from  
2 each witness who voluntarily provides a statement  
3 until witness statements are officially released.  
4 MSHA and the State of West Virginia shall keep this  
5 information confidential so that other ongoing  
6 enforcement activities are not prejudiced or  
7 jeopardized by a premature release of information.

8 This confidentiality requirement shall  
9 not preclude investigators from sharing information  
10 with each other or with other law enforcement  
11 officials. Everyone's participation in this interview  
12 constitutes their agreement to keep this information  
13 confidential.

14 Mr. Daniel, government investigators and  
15 specialists have been assigned to investigate the  
16 conditions, events and circumstances surrounding the  
17 fatalities that occurred at the Upper Big Branch Mine-  
18 South on April 5th, 2010. The investigation is being  
19 conducted by MSHA pursuant to Section 103(a) of the  
20 Federal Mine Safety and Health Act and by the West  
21 Virginia Office of Miners' Health, Safety and  
22 Training. We appreciate your assistance in this  
23 investigation.

24 You may have an attorney or a personal  
25 representative present during this interview. Do you

1           have an attorney with you?

2   MR. DANIEL:

3   No.

4   ATTORNEY WILSON:

5   Your statement is completely voluntary.

6           You may refuse to answer any question and you may  
7           terminate your interview at any time. This is not an  
8           adversarial proceeding. Formal Cross Examination will  
9           not be permitted; however, each of the parties will be  
10          allowed to ask follow-up questions.

11   Your identity and the content of this  
12          conversation will be made public at the conclusion of  
13          the interview process and may be included in a public  
14          report issued by MSHA unless you request that your  
15          identity remain confidential or if revealing your  
16          information would otherwise jeopardize a potential  
17          criminal investigation. If you request us to keep  
18          your identity confidential, we will do so to the  
19          extent permitted by law. In other words, if a judge  
20          orders us to reveal your name or some other law  
21          requires that we reveal your name, we may do so.

22   Also, there may be a need to use the  
23          information that you provide to us in other  
24          enforcement actions such as hearings concerning the  
25          explosion. Do you understand or have any questions

1           concerning your rights to request confidentiality?

2   MR. DANIEL:

3   I understand.

4   ATTORNEY WILSON:

5   After the investigation is complete, MSHA

6       will issue a public report detailing the nature and  
7       the causes of the fatalities in the hope that greater  
8       awareness about the causes of accidents can reduce  
9       their occurrence in the future. Information obtained  
10      through witness interviews is frequently included in  
11      those reports. We will be interviewing other  
12      individuals, so we request that you not discuss your  
13      testimony with anyone outside of this room.

14   A court reporter will record the  
15      interview, so please speak loudly and clearly. If you  
16      do not understand a question, please ask that the  
17      question be rephrased. Please answer each question as  
18      fully as you can, including any information that you  
19      may have learned from someone else.

20   I would like to thank you in advance for  
21      your appearance here today. We appreciate your  
22      assistance in this investigation, and your cooperation  
23      is critical in making the nation's mines safer.

24   After we have finished asking questions,  
25      we will provide you with an opportunity to add any

1 additional information that you think might be helpful  
2 to the investigation. And at that time you may, if  
3 you have a statement that you would like to make, you  
4 may do so at that time. I have a copy of the letter  
5 that we had sent to you requesting your appearance  
6 here today, and we do appreciate you coming in.

7 If after the interview you recall any  
8 additional information that you would like to provide  
9 to us that you think might be helpful, you can contact  
10 Norman Page, who is the lead investigator for MSHA.  
11 Mr. Page is there at the back of the room, and his  
12 contact information is here in the letter. The letter  
13 also contains information concerning your rights as a  
14 miner under the Mine Act. Terry?

15 MR. FARLEY:

16 Steven, on behalf of the Office of  
17 Miners' Health, Safety and Training, wanted to advise  
18 that the West Virginia Mine Safety Health Regulations  
19 also provide protection against potential  
20 discrimination for participating in these interviews,  
21 and will give you a memo here with some contact  
22 information for the West Virginia Board of Appeals.  
23 They hear complaints regarding discrimination. Also,  
24 there's a phone number there for myself and for Bill  
25 Tucker, our lead underground investigator. And I

1 would caution you that should you have a problem with  
2 discrimination, you would need to file a complaint  
3 within 30 days of the time it occurs. All right.

4 ATTORNEY WILSON:

5 Okay. Patrick, anything you want to  
6 note?

7 MR. MCGINLEY:

8 Yes, just that the reason we're here is  
9 to try to find the cause of the explosion, and the  
10 families of the men that were lost are counting on us  
11 to figure out what happened and give them some  
12 closure, so your honest testimony will be of great  
13 assistance to us, and we appreciate you being here.

14 ATTORNEY WILSON:

15 All right. Mr. Daniel, if you would,  
16 face the court reporter and she'll swear you in.

17 -----  
18 STEVEN DANIEL, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
19 AS FOLLOWS:

20 -----

21 ATTORNEY WILSON:

22 Could you state your full name for the  
23 record?

24 A. Steven Edward Daniel.

25 ATTORNEY WILSON:

1 And would you tell us your mailing  
2 address and telephone number?

3 A. [REDACTED]

4 [REDACTED]

5 ATTORNEY WILSON:

6 Thank you. David Steffey is going to  
7 start the questioning for MSHA.

8 EXAMINATION

9 BY MR. STEFFEY:

10 Q. Good morning.

11 A. Good morning.

12 Q. Are you appearing here today voluntarily?

13 A. Yeah.

14 Q. Has anybody made any promises concerning the  
15 testimony you're about to give?

16 A. No.

17 MR. MCGINLEY:

18 When you're answering, it's better that  
19 you say yes rather than yeah, for the court  
20 reporter ---

21 A. Okay.

22 MR. MCGINLEY:

23 --- to be clear. Thank you.

24 BY MR. STEFFEY:

25 Q. Has anyone given you anything in exchange for the

1 testimony you're about to give?

2 A. No.

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

5 A. No.

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

9 A. Yes.

10 Q. And who was that?

11 A. The FBI and Massey lawyers.

12 Q. Okay. When did the Massey lawyers interview you?

13 A. It was about end of June, I believe.

14 Q. The end of June?

15 A. Yeah.

16 Q. How soon after the FBI interviewed you? Right  
17 away?

18 A. Yeah, I guess.

19 Q. What kind of --- who were these lawyers?

20 A. I don't know. They just said they were just  
21 representing for Massey.

22 Q. Where did this interview take place?

23 A. Marfork Office down at Whitesville.

24 Q. What kind of questions did they ask you?

25 A. Asked me about, like, the conditions and how often

1 I seen mine inspectors and --- I'm trying to think of  
2 all they was asking me. It was about a month ago,  
3 over a month ago. I think they was asking about how  
4 was they, I think, in violations and correcting them?  
5 How quick it take them to get them get it fixed and  
6 stuff like that.

7 Q. Did they caution you about this interview?

8 A. Yes.

9 Q. And what'd they tell you?

10 A. They told us we had a right not to speak to you  
11 all and if we did, tell the truth. And they actually  
12 sent a letter to the mine, giving to people who worked  
13 at UBB our rights about we don't, you know, have to  
14 and stuff like that.

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

17 A. The only thing they said was, like, cooperate.  
18 They said, just tell the truth.

19 Q. How many years of mining experience do you have?

20 A. Three.

21 Q. Can you give me a brief description of your coal  
22 mine employment history?

23 A. First I started out as a contractor through  
24 Universal Coal. They put me up Marfork at Slip Ridge.  
25 I think I was --- and then they hired me on about for



1 two months. And I was mostly just outby until I got  
2 my 90 days and they put me on section, running scoop  
3 approximately about eight months. Then since then  
4 I've been on the roof bolter.

5 And I went form Slip Ridge to UBB about maybe  
6 April of last year. Then right after that happened  
7 they sent me to Ellis Eagle for about a month, and now  
8 I'm at Horse Creek Eagle. I've been there for a  
9 little bit over a month now.

10 Q. Okay. So this Horse Creek Eagle, is that where  
11 you're currently employed?

12 A. Yes.

13 Q. Okay. And when did you start there?

14 A. I think end of May, beginning of June, somewhere  
15 right there.

16 Q. And what's your present job title?

17 A. Roof bolter.

18 Q. Have you worked anywhere beside Massey?

19 A. No.

20 Q. Okay. So your entire coal mine employment history  
21 is with Massey?

22 A. Yes.

23 Q. Your first day at UBB, Approximately when was  
24 that?

25 A. It was around April, I believe, because that's

1 when --- I believe that's when they shut Slip Ridge  
2 down, the section I was on.

3 Q. April of this year?

4 A. Last year.

5 Q. Last year.

6 A. 2010, or '09.

7 Q. '09 ---

8 A. Yes.

9 Q. --- 2009? Okay. And did you receive the Massey  
10 Initial Training?

11 A. No, they just told me Monday, go over there.

12 Q. Okay. What was your first day like? What'd they  
13 do?

14 A. Oh, God. I worked, I think 16 hours, I believe.

15 Q. Where'd you work at?

16 A. I was up here on the tailgate. I can't remember  
17 what's this tailgate's number's called. I was up here  
18 toward the crosscut, like, driving across towards the  
19 headgate. And we had to stay to punch them breaks  
20 through, build stoppings before we could go home.

21 ATTORNEY WILSON:

22 Okay. Just for the record, you were  
23 referring to the tailgate side ---

24 A. Yeah, tailgate.

25 ATTORNEY WILSON:

1 --- of the longwall?

2 A. Yeah.

3 ATTORNEY WILSON:

4 And then the setup entries going across

5 the bottom longwall; is that right?

6 A. Yes.

7 BY MR. STEFFEY:

8 Q. Okay.

9 A. That's where I first started, was right there at  
10 the --- going across. We was about ready to punch  
11 through to the headgate to connect them.

12 Q. What did they tell you about escapeways on your  
13 first day?

14 A. Nothing really.

15 Q. They didn't go over the escapeways with you?

16 A. No.

17 Q. Did you receive any type of initial training when  
18 you came onto the property?

19 A. Only thing I got was when I was up on the section,  
20 was, say, when I pulled the roof bolter. For the  
21 train for the roof bolter.

22 Q. Who was your supervisor then?

23 A. I think the supervisor at the time was --- I'm  
24 trying to think of his name. He done retired. Oh,  
25 God. I can't think of his name right now. I know who

1 the mine foreman and my boss was. My mine foreman was  
2 Andy Kolson.

3 A. And my boss was Rick Hutchinson. I just can't  
4 remember the superintendent's name. I really can't.

5 Q. Were they aware that this was your first day up  
6 there?

7 A. Yeah.

8 Q. Okay.

9 A. I don't know the superintendent knew or not, but I  
10 know my boss did and the mine foreman did.

11 Q. Did anybody go over the approved ventilation plan  
12 with you?

13 A. No.

14 Q. Did go over the --- did they go over the approved  
15 roof control plan?

16 A. No.

17 Q. Did they go over any plans?

18 A. No, you had to ask.

19 Q. Okay. And what was your job assignment that first  
20 day up there?

21 A. Roof bolter.

22 ATTORNEY WILSON:

23 I was just going to ask, did they walk  
24 the intake escapeway with you?

25 A. The most I walked --- I ain't lying --- with

1       anybody was we walked from up here to the mouth  
2       section. That's the farthest I ever walked. I helped  
3       put the leaky feeder in. I'm talking about from the  
4       air shaft.

5   ATTORNEY WILSON:

6   The Bandytown fan?

7       A. Yeah. I walked through the mouth of the soon ---  
8       the headgate right now down towards the mouth of the  
9       tailgate. And that's the farthest I ever walked.

10  ATTORNEY WILSON:

11  Was that your first day or you're saying  
12       ever?

13       A. Ever. That was back in --- I'm trying to think.  
14       It was July of last year, I believe.

15  BY MR. STEFFEY:

16  Q. Did you ever travel the intake escapeway?

17       A. Only thing I ever done relating intake is when I  
18       worked over Thanksgiving vacation, I helped put the  
19       leaky feeder system in, in the intake. But that was  
20       going down the main line.

21       Q. But you never walked it as a part of an escapeway  
22       drill?

23       A. No. The next time we was supposed to walk it ---  
24       and that was, I think, end of last year, I missed that  
25       day, but I wasn't up here on these mines. I was down

1 around Old Four section.

2 Q. Uh-huh (yes), okay. What about SCSRs? Were you  
3 trained in the use of SCSRs?

4 A. Retraining.

5 W. Retraining? And how do they do that?

6 A. They made us get on the floor, have two SCRs in  
7 front of us. They made us put these goggles on that  
8 they spray-painted black. We couldn't see out of them  
9 and practice putting them on and switching rescuers,  
10 because they said, like, if there was smoke, this is  
11 what it might be like.

12 Q. Did you ever do the expectation training or  
13 anything like that?

14 A. No. What do you mean?

15 Q. Like a little canister on the end of the breathing  
16 piece?

17 A. Yes, we done that. We went through the --- we put  
18 that on, went through a smoke building.

19 Q. Okay. So you had the annual refresher training  
20 there?

21 A. Yeah.

22 Q. Was this while you were with UBB?

23 A. Yeah.

24 Q. And what type of subjects did they tell you?

25 A. They went over accidents. They went over, like,

1 EMT. They went over rescuers, how to put them on and  
2 took us through the building. And they just talked to  
3 us pretty much about safety. That's about it.

4 Q. Did they go over any of the approved plans?

5 A. Yes, Jim Walker. He went over some of the roof  
6 control plan.

7 Q. Some of it?

8 A. Yeah.

9 Q. What about the ventilation plan? Did they cover  
10 that?

11 A. I ain't too for sure, like, really.

12 Q. Okay. Are you qualified by MSHA to take methane  
13 and oxygen deficiency checks?

14 A. Like what, like --- what do you mean?

15 Q. Gas checks with a spotter?

16 A. Yeah, I take them.

17 Q. You take them?

18 A. Yes.

19 Q. Okay. Do you know how you were qualified?

20 A. No.

21 Q. Anybody ever watch you do this or did they just  
22 give you a spotter and --- how were you shown how to  
23 do this?

24 A. The first time I got on the bolter, the only thing  
25 they said was, we got a spotter. And they said, put

1       it on a probe and stick it out to the face and take a  
2       gas check. We had to figure out the buttons --- or I  
3       had to figure out the buttons myself.

4       Q. Did he give you any instructions on use of the  
5       probe and how close to the face you had to get?

6       A. No, nobody went over that with me.

7       Q. Nobody ever covered anything like that with you?

8       A. No.

9       ATTORNEY WILSON:

10      Who was this that gave you the methane  
11      detector for the first time?

12      A. I think Jim Walker, I believe, was my  
13      superintendent at the time when I first got on the  
14      roof bolter.

15      BY MR. STEFFEY:

16      Q. Was he the one that gave you the spotter?

17      A. Yeah. Well, they just had them out there. We  
18      just went and got them. Well, we asked for them and  
19      they gave us one. That was about it.

20      MR. MCGINLEY:

21      Was this at UBB?

22      A. No, this is when I was at Slip Ridge.

23      BY MR. STEFFEY:

24      Q. Okay. What about at UBB?

25      A. No, nobody ever went over a spotter with me. We



1 was shorthand on spotters, though. If we had a good  
2 charge, you had to leave the spotter in the bolter  
3 deck for the next crew would have one.

4 Q. You did what, now?

5 A. If the spotter we had --- methane spotter, if it  
6 was good enough charge, we had to leave it in the  
7 bolter for the next crew to have a spotter.

8 Q. Okay.

9 A. And we got low, we had a charger at the power  
10 center we can charge it.

11 Q. Was the management outside aware that there was a  
12 shortage of spotters?

13 A. I would believe, because there's where all the  
14 spotter goes on charge. That was upstairs and where  
15 all the bosses and stuff are.

16 Q. Did anybody ever request that they buy more?

17 A. I really don't know. Just when you ask for one  
18 and you don't have one, they tell you just get it off  
19 somebody else, usually.

20 Q. What other kinds of training did the company  
21 provide prior to you starting work?

22 A. Where at, UBB or just ---?

23 Q. At UBB.

24 A. No, nothing, really.

25 Q. Nothing really, just took you in there and put you

1 to work?

2 A. Yeah. And they got a, I think a violation on that  
3 for us not being signed over to Performance, because I  
4 think if we would've got hurt or something about the  
5 insurance or whatever. I think we --- I was still on  
6 Marfork payroll, I think, maybe, I think a month  
7 before they got --- before I got in trouble for it.  
8 Then they signed us all over.

9 Q. So they had you on Marfork Payroll but you were  
10 working at Performance?

11 A. Yes.

12 Q. Did you know anybody to get hurt up there on the  
13 section?

14 A. Not on the crew I was on, but this just --- I was  
15 told when they moved punches altogether, I was working  
16 ---. We were scheduling this headgate of the wall  
17 right now. A rib rolled on a boy and just pinned his  
18 leg up against the bolter and, like I think it went  
19 into him. And that was all I heard on the section I  
20 was on.

21 Q. About when did this happen?

22 A. It was back of last June, July, I believe. It was  
23 right before we got done driving that headgate towards  
24 the fan.

25 Q. Anybody call MSHA?

1 A. I don't know if anybody did or not.

2 Q. Do you know who that employee was that got hurt?

3 A. No, I don't.

4 Q. What was the company's attitude toward an employee  
5 when they got injured?

6 A. Like, this other boy, he got hurt. I think a rib  
7 rolled out on the crew I worked on when I was on Four  
8 Section.

9 Q. Okay. And who was this?

10 A. His name was [REDACTED]

11 Q. Mike Smith?

12 A. Yeah. Rib rolled out on him and he thought he was  
13 fine. He came to work next day and I think they say  
14 you have, like, 24 hours to fill an accident report  
15 out. And I think the fan was off, so we was sitting  
16 outside for a while, and he said he couldn't take it  
17 no more. He had to leave, and I think he said when he  
18 went upstairs and told them that they was being, like,  
19 a little sort of like an, well, ass about it.

20 Q. And who acted that way?

21 A. I think he said it was Everett, I believe it  
22 might've been. I think he was the superintendent. I  
23 believe that's who he talked to. I ain't really for  
24 sure if it was him or Gary May or really who it was.

25 Q. And what happened to that boy after that?

1 A. He went to the doctor. He came back the next day  
2 and they said he might've, like, bruised his ribs.

3 Q. And then what did the company officials say?

4 A. Nothing that I know of.

5 Q. Did they send him home for any period of time?

6 A. No, he left work early that day.

7 Q. Okay. How many miners typically work on the  
8 section with you?

9 A. When I was up here, like, most of the time I was  
10 at UBB I think we usually had, I think to usually  
11 about ten, I believe, average, about ten.

12 Q. About ten?

13 A. Yeah.

14 Q. Did you run with sweeping air or split air?

15 A. For a little while we ran sweep air, driving the  
16 tailgate part. And we was on sweep air driving this  
17 angle panel right there at the end of the wall towards  
18 the new headgate. Then when we was finished driving  
19 towards --- we was on that. They put us all together  
20 on the headgate and we was driving towards the fan,  
21 and they changed the mine. We was on sweep air at the  
22 time. Then they changed the mine and told us where  
23 our air was on four entries where we could run both  
24 miners.

25 Q. Did they tell you anytime leading up to that that

1 they'd submitted anything to split their air?

2 A. No, not I know of. They just told us they were  
3 going to split our air. That's all I know of.

4 Q. Did anyone ever go over anything that was ever  
5 being proposed in the ventilation plan?

6 A. Usually, like, they'll go over it a little bit,  
7 like, when we get to be on the section, like, get off  
8 the mantrips. We usually go over a little bit. Like,  
9 sometimes they'll go over, like, roof control plan  
10 sometimes.

11 Q. With the ventilation plan, did they ever go over  
12 when they were about to make changes with that?

13 A. No, only ventilation change I ever heard of was  
14 when they was putting that new fan in. That's the  
15 only one time I knew they was doing a ventilation  
16 change.

17 Q. Are you aware that they're supposed to go over  
18 ventilation changes with all affected persons?

19 A. No, wasn't aware of that.

20 Q. You wasn't aware of that?

21 A. No.

22 Q. Did they have these proposed plans posted on the  
23 mine bulletin board outside?

24 A. Not that I know of.

25 Q. Are you aware that they're supposed to post those?

1 A. No, I wasn't aware.

2 Q. Well, they are --- and they're supposed to make  
3 you aware of that.

4 A. See, like, when we --- like, that last air change,  
5 we didn't know they done anything until my boss called  
6 me. Like, when we got up on the section at the end of  
7 the week, he said they --- telling us, you know, they  
8 just done a air change. That's about all how we knew.

9 Q. And who was your boss?

10 A. Brian Collins at the time.

11 Q. Okay. Do you know who was your designated  
12 responsible person during the shift?

13 A. No. It was the boss, the one we always go to.

14 Q. Okay. How were you informed of the responsible  
15 person? Anybody ever talk to you about who was  
16 designated as the responsible person?

17 A. No.

18 Q. Okay. When they made this change over to split  
19 air, did they just come in and just tell you to split  
20 your air? How'd this occur?

21 A. I think they said, told us --- it's hard to  
22 remember because it was about a year ago. They just  
23 --- my boss just told me. He said they was just ---  
24 they were going --- he just said they're going to try  
25 to split our air, and the next day they split our air.

1 I think they done it over hoot owl, I believe.

2 Q. Did they ever make a ventilation change while you  
3 were underground working?

4 A. Not that I know of.

5 Q. Not that you know of?

6 A. I just helped put like a set of doors in, that's  
7 about it. That's all I ever done.

8 Q. They did what now?

9 A. They just put set of like, doors in, a set of  
10 double doors for, like ---.

11 Q. Equipment doors?

12 A. Yeah.

13 Q. Did they do that while you were running coal?

14 A. No, no, no. That was when they was putting up ---  
15 starting that new fan up. We had to go to the mouth  
16 of, well, the beginning of the headgate and put a set  
17 of double doors up, and that's all we done.

18 Q. Okay. The beginning of the headgate.

19 A. Yeah.

20 Q. And that would be this headgate, the current  
21 headgate for the current longwall; right?

22 A. Yes.

23 Q. Could you show me where these doors are at on the  
24 map?

25 A. Yeah. I think they was about where you come off

1       this track. I think it was about right in this area  
2       right here.

3       Q. Okay.

4       A. That road began where that crosscut is.

5       ATTORNEY WILSON:

6       Can you describe where he's pointing to?

7       MR. STEFFEY:

8       Yeah, he was pointing to the mouth of the  
9       headgate.

10      BY MR. STEFFEY:

11      Q. Now, the track entry's right here in the Number  
12      Two entry?

13      A. Yeah, it was right here, because I remember these,  
14      where they ---

15      Q. All right.

16      A. --- pushed these through.

17      Q. And that big D is a symbol for equipment doors?

18      A. Yeah.

19      Q. So is that the doors that you're talking about?

20      A. Yes, that'd be it.

21      Q. Okay. So those are the doors that you put in?

22      A. Yeah.

23      Q. Were these automatic or manual?

24      A. Manual.

25      Q. Manual?



1 A. I believe PT state. They're PT or something like  
2 that. They're supposed to be all automatic.

3 Q. Uh-huh (yes). It does state that.

4 A. And in the whole mines I think we only had two  
5 doors that was automatic out of, I think, like, 12, 14  
6 doors, I believe.

7 Q. Okay.

8 ATTORNEY WILSON:

9 And so just for the record, he's  
10 referring to the door that is shown on the map of the  
11 --- on the Headgate One North mouth area between  
12 Crosscuts 7 and 12 or 13; is that right?

13 A. Yeah.

14 MR. STEFFEY:

15 Yeah.

16 ATTORNEY WILSON:

17 Okay.

18 BY MR. STEFFEY:

19 Q. Let's talk about equipment doors. How many sets  
20 did you say there were in this mine that you knew of?

21 A. I knew of --- I think there was about 12 or 14  
22 that I knew of ---

23 Q. Okay.

24 A. --- because you had two when you ---. The main  
25 UBB side, you had two right there. And then you go up

1 a main line before they call the --- what they call  
2 the Ellis Switch. There's two more right up there.  
3 Then you go on up towards the mouth of the tailgate on  
4 the main line, going up towards the main --- the  
5 headgate of the wall. I think there was four doors  
6 right there. Then if you go towards the headgate of  
7 the current longwall, there's --- I think there's four  
8 doors there now, I believe. No. Yeah, I think  
9 there's four, I believe.

10 Q. That's a lot of equipment doors.

11 A. Yeah.

12 Q. What'd they want that many doors for?

13 A. You got me. Then when they changed our track,  
14 because we was coming up towards the current headgate,  
15 traveling that way, we was walking, I think 16 breaks  
16 from the track all the way to the new tailgate that we  
17 was starting to drive. I don't know --- that's called  
18 what?

19 ATTORNEY WILSON:

20 On the map, MMU-40?

21 A. Yeah. I think we was walking about 16 breaks to  
22 the face. Then they finally got track in, so they  
23 moved us, made us go up the main beltline, go past  
24 what they call the Glory Hole, come across, then go  
25 down. There's two more doors right there at the mouth

1 of Headgate 22, and then went through a track switch.  
2 There's two more doors going down through --- what is  
3 this called right here, the ---?

4 ATTORNEY WILSON:

5 Crossover?

6 A. Yeah, the crossover. And then you get on down  
7 there toward the track. I think there's, I believe,  
8 two more doors sitting there that the track's supposed  
9 to go through.

10 BY MR. STEFFEY:

11 Q. Okay.

12 A. That's quite a bit of doors.

13 Q. Yeah, it is.

14 A. I believe only --- out of all of them there's only  
15 two doors I know of that was automatic.

16 Q. What kind of condition were these doors in?

17 A. I know the ones up here at the mouth of Headgate  
18 22, I know one of them, they wouldn't shut. Like, you  
19 shut them and they open back up. They had problems, I  
20 believe, with ones on the main line, going from the  
21 mouth of the current tailgate of the wall up the main  
22 line about between the Glory Hole and the mouth of the  
23 headgate, going with the tailgate. These doors right  
24 here, they was always damaged, but they kept on  
25 replacing those, these doors.

1 Q. Now, the yellow line is your secondary escapeway?

2 A. Yes.

3 Q. So ---?

4 A. Yeah, down through here somewhere. I can't  
5 remember exactly.

6 Q. The big Ds are your equipment doors.

7 A. Yeah, that's what I was trying to look for, is D.  
8 Yeah, there they are, right there.

9 Q. Oh, okay. So those are the doors at approximately  
10 around Break 78 to Break 83; right?

11 A. Yeah. They was constantly getting damaged and  
12 they kept on replacing, though. It took them a little  
13 while, but they replaced them.

14 Q. And why were thy constantly getting damaged?

15 A. I believe some --- I believe they'd be getting hit  
16 with the --- somebody would be hitting them with the  
17 motor, I believe.

18 Q. When you opened those doors, was there enough room  
19 for a motor and a supply car?

20 A. I believe there was, but I never, like, ran one,  
21 so I really don't know.

22 Q. Okay. When you approached these equipment doors,  
23 what can you tell me about what the air would do when  
24 you opened them?

25 A. The ones down right between 78 and 83, them's the

1 ones for the intake to push the air up towards that  
2 longwall and the MMU-04 there, that new Tailgate and  
3 Headgate 22.

4 Q. Okay.

5 A. So both of them was open, like, on the outby and  
6 both ends open, all the air would probably shoot down  
7 the track.

8 Q. Okay. Have you ever found both of them open?

9 A. No, I never seen both of them open.

10 Q. When you were traveling in or out of the mine, did  
11 they ever open both of them, coming or going?

12 A. No, I never seen anybody do that.

13 Q. So they would open one at a time?

14 A. Yes.

15 Q. Okay. What type of condition were these doors in,  
16 again?

17 A. They usually --- most of the time they wasn't  
18 good, in good condition. They was all dented up and  
19 everything, but they kept on replacing them, though.

20 Q. Was there a lot of leakage around those doors?

21 A. I really don't know. I hear --- you hear, like,  
22 the sucking, but that's about it.

23 Q. Okay. Have you ever found these --- ever found  
24 equipment doors open anywhere else in the mine? Ever  
25 came upon them and just found them open?

1 A. No.

2 Q. So in general they kept their --- tried to keep  
3 their doors shut?

4 A. Yeah.

5 Q. Is that ---?

6 A. Yes.

7 Q. Okay.

8 A. But I did bring it up during retraining, though,  
9 about where we was walking about 16 breaks to the  
10 section, well, to the face.

11 Q. Yeah.

12 A. That's 1,600 feet, 100 by 100.

13 Q. Yeah, that's a lot.

14 A. And usually only allowed 500. I had brought that  
15 up, because we had no safety ride or nothing. And we  
16 also brought up, like, when they first built the ---  
17 we started that new tailgate that they put a set of  
18 overcasts there that the intake was going across that  
19 they didn't have no steps on them. We brought that  
20 up, but they finally got us emergency ride and they  
21 put steps on it. I think it was --- I think they put  
22 steps on it maybe a couple days after we started  
23 running, I believe.

24 Q. Okay.

25 A. But that emergency ride, it took them a while to

1 get it.

2 Q. So the steps on the overcasts, it took them a  
3 couple days after you all --- so for a couple days  
4 there you --- really, you had an obstruction in your  
5 primary escapeway; is that what you're saying?

6 A. Yeah, because we --- my boss brought that up  
7 during the retraining, I believe.

8 Q. Okay. And who was your boss?

9 A. Brian Collins.

10 Q. Brian Collins. And who'd he bring this up to?

11 A. We brought, we brought it up to I think Jim  
12 Walker, the safety guy that goes to the mines. And  
13 I'm trying to think of the Marfork safety --- he just  
14 retired. I'm trying to think of his name. I can't  
15 think of his name, though. And I think we brought it  
16 up to --- god, I can't remember names --- Berman, I  
17 believe. Yeah, I think he brought it up to Berman,  
18 too.

19 Q. Okay.

20 A. I believe he was the safety guy over UBB.

21 Q. And what was their reaction to this?

22 A. I know that one, that safety guy over Marfork, he  
23 said, they need to get --- they need to get a safety  
24 ride up there. And Berman told us they're working on  
25 one, getting us one. And I don't believe Jim really

1       said too much, but he might've said something, but I  
2       don't really remember him saying anything, really.  
3       They just trying to get us one up there.

4       Q. How high was the cutout over these overcasts?

5       A. It was our height if you walked over it, but you  
6       went under, it was really low.

7       Q. Okay. So it was cut out to at least the same  
8       height over it?

9       A. Yeah.

10      Q. Okay. And what about your steps? Could you take  
11      a --- could you have took a stretcher up and down  
12      those steps easily?

13      A. Yeah, they was good.

14      Q. Okay. How would you describe the roof, rib and  
15      floor, both on the tailgate section where you started  
16      working at and on the current tailgate section?

17      A. When I first started their ribs was pretty bad up  
18      through there. Like, when they rolled out, they  
19      rolled all the way across the entry, and usually I'd  
20      take a miner or scoop, try to clean it all up.

21      But when we got on the current headgate, driving  
22      towards the fan, we ran --- that's when we ran into  
23      --- the top was good. The bottom, it busted up. Mark  
24      would have to come through, but the ribs was pretty  
25      --- they wasn't too bad. But on the new one, the



1 tailgate we was driving, the bottom was always hooving  
2 up, top's always setting down, the ribs was popping  
3 out.

4 Q. Anybody ever express any concerns about that?

5 A. There's been a few times we just stopped bolting,  
6 because where it all of a sudden stops, set down. The  
7 whole place would stop. We'd just quit bolting.

8 Q. Did you ever --- what'd your boss say about that?

9 A. He always told us wait for a little while, see  
10 what it does. He was good about that, though.

11 Q. Did you ever talk to anybody outside about what it  
12 was doing?

13 A. I think we might've brought it to Wayne Persinger,  
14 vice-president, about how the top was, like, how it  
15 was setting down, and the bottom, how it was hooving  
16 up real bad.

17 Q. What'd he say?

18 A. I don't believe really nothing, anything.

19 Q. Anybody ever come and look at that?

20 A. I really don't know if anybody ever has or not.

21 Q. You don't know if anybody ever went up there and  
22 looked at it?

23 A. No. I believe they was more worried about trying  
24 to get that new ---

25 Q. Now ---?

1 A. --- headgate started up where they can get it  
2 drove across to the wall.

3 Q. Okay. Have you ever had an incident where the  
4 floor suddenly hooved up, either in the face or outby?

5 A. Yeah.

6 Q. Where'd this happen at?

7 A. We was on the new tailgate right here, on the ---  
8 right there at that MMU-0400. Like, that one time  
9 they was just bolted. The bolter was sitting in there  
10 level. The time they got done bolting, I believe the  
11 bolter was up on a angle where it hooved up so much.  
12 And this other time I was bolting, and we was bolting.  
13 The boss shut us down because of our air was wrong.  
14 For some odd reason all of our air was coming up the  
15 beltline.

16 But then ten minutes we came back. It was already  
17 hooved up probably about six inches to a foot within,  
18 like, ten minutes. And we was only halfway done  
19 bolting. The time we got --- would've probably got  
20 done bolting, it'd probably been already hooved.

21 Q. Any water associated with this hooving?

22 A. Usually it was outby, all the water. Like, we can  
23 --- like, you'd be dry. The next day you come in,  
24 water would be there.

25 Q. What about methane?

1 A. I never picked methane up on a spotter on the new  
2 tailgate. But I believe when we was starting that, my  
3 boss, he picked a little bit up. This One section, on  
4 the Headgate 22, the air return --- but it wasn't  
5 their return yetm it was just a neutral at the time  
6 --- he said he picked a little bit up there. But once  
7 --- when we was driving the headgate towards the fan  
8 we picked gas up all the time, water real bad.

9 Q. About how high --- how much gas did you pick up?

10 A. Most I picked up was about 1.1, 1.2.

11 Q. Percent?

12 A. Yeah.

13 Q. And what .1 or .2? It was 1.1 and 1 point ---?

14 A. Yeah. In other words, we took our --- where we  
15 didn't have much air. It was usually in Number --- I  
16 think it was Number Four entry, like, we'd take our  
17 gas check. And it'd be all right because the miners  
18 got out of there. That one time I think we --- within  
19 15 minutes we decided to go ahead, check the gas just  
20 at the T Bar and it was, like, 1.1, 1.2, so we didn't  
21 run a probe up in there. We just went in and got our  
22 boss.

23 Q. Well, what happened then?

24 A. He shut the buggies down from running. He put  
25 curtains over the fly pads. He, I think, ran the

1 curtain up the middle far as he could to push more  
2 air, and he got it out of there, the gas out of there.

3 Q. You mentioned you had problems with air up in  
4 there.

5 A. Yeah, we didn't have much air. I think they said  
6 we had just the minimum amount of air we was supposed  
7 to have.

8 Q. What was the minimum you were supposed to have?

9 A. I believe I heard somebody say 22. I believe  
10 that's what I heard, was 22,000.

11 Q. And where were you supposed to have that at?

12 A. I believe that was in the intake.

13 Q. Okay. How much were you supposed to have in the  
14 last open crosscut?

15 A. I really don't know.

16 Q. Were you supposed to keep a curtain hung at your  
17 bolter?

18 A. Yeah, we always kept it hung always beside the  
19 bolter.

20 Q. How much air did you have at the bolter?

21 A. I really don't know. The boss --- I just --- the  
22 boss check it. He'd tell me, okay. I go bolt.

23 Q. Okay. So you did your job and you expected him to  
24 do his?

25 A. Yes.

1 Q. Okay.

2 A. That water was bad up there. There's been plenty  
3 of times I've refused to bolt, because there's so much  
4 water.

5 Q. Did the waters --- where'd it come from, now?

6 A. Out of the bottom, I believe.

7 Q. Out of the bottom?

8 A. Like, you can watch. Like, the water would be  
9 sitting there, like, and walk --- the water would be  
10 up there. You can watch the water bubble and you put  
11 your methane monitor down there and you pick up .2,  
12 .3, stuff like that.

13 Q. So you could sit and watch the water bubble and  
14 methane would be bubbling up through the water?

15 A. Yes.

16 Q. Did you ever --- did anybody ever express any  
17 concerns about this?

18 A. Yeah, I believe we mentioned that a couple times  
19 outside to, I think --- our mine foreman at the time  
20 was Andy Kolson, because it wasn't ---. At the time  
21 we was driving this towards the fan, we wasn't at the  
22 main UBB side. They had us over at that punch-out  
23 over Ellis.

24 Q. Uh-huh (yes).

25 A. So we really wasn't --- didn't get to talk to

1           anybody.

2           Q. Is that where you portaled from, was Ellis?

3           A. For a little while ---

4           Q. For a little while.

5           A. --- when I first got over there.

6           Q. Okay.

7   MR. MCGINLEY:

8   Can I interrupt just for a second?

9   MR. STEFFEY:

10   That's fine.

11   MR. MCGINLEY:

12   This last conversation, can we make clear

13         for the record where this was occurring? Was it up at  
14         --- near the Bandytown fan and how would you describe  
15         that?

16         A. I started right there at the --- when the tailgate  
17         punch --- the angle panel punched into the headgate.  
18         That's where I started at. And the water started not  
19         maybe Break 100, I believe. I think that's where we  
20         started picking water and gas up at.

21   MR. MCGINLEY:

22   From there to where?

23         A. All the way up until we ended. I believe there  
24         was one time I think they got a (d) order or something  
25         for not enough air, and I think too much gas in Number

1 Two entry. And that was the intake.

2 MR. MCGINLEY:

3 Well, you said --- just again to clarify  
4 the record, where you ended was ---?

5 A. Right past the new fan, Bandytown fan.

6 MR. MCGINLEY:

7 Thanks. I'm sorry to interrupt.

8 MR. STEFFEY:

9 No, that's fine. That's fine.

10 BY MR. STEFFEY:

11 Q. Okay. Let's talk about that low air up in there.  
12 Did anybody --- did you talk to anybody from  
13 management about that? Did you talk to anybody  
14 outside about that and the gas? You mentioned you  
15 spoke to some --- you all had expressed some concerns  
16 about the gas and the water.

17 A. Yeah, we talked to the mine foreman, because  
18 that's the only one we've ever seen, because that's  
19 the only one we ever seen, because we --- where we was  
20 portal in, they just gave us a little trailer to  
21 change in and let us portal in out there. Usually the  
22 mine foreman was the only one that was there for us to  
23 talk to.

24 Q. What did he say?

25 A. He said, not --- ain't right, not enough air. He

1       said, don't run. But he just --- I think most of  
2       them, they just say to cover your own hind end,  
3       though.

4       Q. And who was this mine foreman, again?

5       A. Andy Kolson.

6       Q. Andy Kolson.

7       A. Said we got a (d) order. I think --- my boss said  
8       we had a (d) order in Number Two entry because of not  
9       enough air, too much gas. So to get un-(d) order we  
10      had to get enough air so we had to drive a Number  
11      Three entry up, turn it left-handed and punch into our  
12      intake where it'll pull and get the gas and stuff out  
13      of there and where we had enough air in there.

14     Q. About when did this happen?

15     A. Back in May or June of last year.

16     Q. Okay. Let's come back over here to the  
17     current ---

18     A. Okay.

19     Q. --- tailgate section. Now, you mentioned earlier  
20     that you had a problem one day with air coming up your  
21     belt.

22     Q. Yes.

23     Q. Now, when I look at this map, I see arrows go ---  
24     the air going outby. Now, the beltline, was that how  
25     your air went normally in the beltline?



1 A. Normally. At first it did, but that one day we go  
2 up there an we just think we've been running for a few  
3 days, but he just shut us down because he had more air  
4 coming up the beltline than he did the intake. And  
5 that's what he told me. He didn't say how much he had  
6 but he said he just had more coming up the beltline.  
7 So we had to shut down. Our electrician went to find  
8 the problem. He said he couldn't really find  
9 anything, so I think we ended up being on a stopping  
10 across the beltline, I think right past the overcast  
11 the belt went under.

12 Q. Uh-huh (yes).

13 A. I think we built a stopping there to help stop the  
14 air from going up the beltline. I ain't sure what  
15 else they done, but it fixed it. All the air started  
16 coming back up the intake.

17 Q. Nobody ever said what the problem was?

18 A. No, nobody never talked to say what the problem  
19 was.

20 Q. Did anybody say anything outside, just reported to  
21 management outside?

22 A. Yeah, they called Everett, the superintendent at  
23 the time. I think they called Terry Moore. Terry  
24 Moore --- I think they say that Terry Moore actually  
25 came down to the mines that night.

1 Q. Okay.

2 A. And just my boss said, boss said Everett said it  
3 ain't right, don't run, so we didn't run.

4 Q. Did you ever see anybody from Engineering come  
5 down there and look at it?

6 A. No.

7 Q. Did you ever see engineers underground at all?

8 A. No, I never seen engineers. I seen them come  
9 outside, but I never seen them underground. That's I  
10 guess where I was on straight evening shift, I reckon.

11 ATTORNEY WILSON:

12 When did this incident occur when you had  
13 to build the stopping to correct the air coming up the  
14 belt?

15 A. It was, well, a couple of --- I believe a couple  
16 of days of us driving this, and that was back in ---.  
17 I think we started that back in May, I believe.

18 ATTORNEY WILSON:

19 May of '09?

20 A. '09, yeah.

21 BY MR. STEFFEY:

22 Q. So from that point where you built that stopping  
23 inby, then there was no air moving along that  
24 beltline?

25 A. After we built it, it was fine. You could feel,

1       like, air pulling back outby, but it was none coming  
2       inby.

3       Q. Okay. So this area inby that point, if you would,  
4       could you draw on this map where you built that  
5       stopping?

6       MR. STEFFEY:

7       Can we have a blue pen?

8       ATTORNEY WILSON:

9       Yeah, we've got a blue marker, blue pen.

10       BY MR. STEFFEY:

11       Q. Blue marker. If you would, would you draw where  
12       you built that stopping and the approximate date this  
13       occurred?

14       A. All right. I'm trying to think of which one's the  
15       track entry here. I believe that's the track right  
16       there.

17       Q. The yellow line would be --- that's the secondary  
18       and the belt course.

19       A. I think it was right up in there, that area up  
20       there. And where you want me to write the date at.

21       ATTORNEY WILSON:

22       Do you want to put an arrow? Just  
23       approximately.

24       A. No, it was March. Yeah, March, about beginning.

25       BY MR. STEFFEY:

1 Q. March of what year?

2 A. '09.

3 Q. Okay. If you would, put an arrow from there to  
4 there.

5 MR. FARLEY:

6 Is it possible that you could --- excuse  
7 me, but is it possible you mean March 2010?

8 A. Yeah. Yeah, '10, '10. Okay. I don't know ---.

9 MR. FARLEY:

10 That's fine.

11 ATTORNEY WILSON:

12 Okay. So you correct it here.

13 A. Yeah, I corrected it.

14 ATTORNEY WILSON:

15 You put 10 and crossed out the 9?

16 A. I can mark it out ---.

17 MR. FARLEY:

18 Yeah, mark ---.

19 BY MR. STEFFEY:

20 Q. Just put a line through it and write 2010 above it  
21 and initial it, please.

22 A. All right.

23 WITNESS COMPLIES

24 BY MR. STEFFEY:

25 Q. Okay. So they built a stopping across here in

1 March of 2010.

2 A. Yeah.

3 Q. And what you're telling me is that that stopped  
4 your airflow from coming back up your beltline to the  
5 section?

6 A. Yeah.

7 Q. Now, I see an arrow right here going out. Did you  
8 still had air going --- did you still have air going  
9 out, outby?

10 A. After we built that, we could feel the air --- he  
11 said the air started going outby and you could feel  
12 the air coming back outby.

13 Q. Okay. And then you could feel your air coming  
14 back up your intake?

15 A. Yes, all the air went up the intake. I don't know  
16 what all they done. Just I know we built a stopping  
17 there. I don't know if there were doors up here was  
18 open, closed, like, door was opened or what, but ---.

19 Q. Did you ever hear if there were doors open or  
20 closed or anything?

21 A. No, never did hear.

22 Q. Okay. Were there any other incidents or problems  
23 with ventilation that you can tell us about?

24 A. Not right offhand, I don't believe. I know that  
25 new --- this is what I heard, like, on this new

1 headgate that they had a problem with lack of air.

2 Q. Okay.

3 A. But I think that's about it.

4 Q. About it? Come back to this stopping here. Now,  
5 who was the boss that built this?

6 A. Brian Collins.

7 Q. Brian Collins?

8 A. Yeah.

9 Q. And who would he talk to outside?

10 A. He talked to the --- he said he talked to the  
11 dispatcher and the dispatcher called Everett and Terry  
12 Moore to tell them what we had up there. And he told  
13 me Everett said, don't run unless it's right. And he  
14 told me that Terry Moore actually came to the ---  
15 well, outside, but he never did come underground. He  
16 just came to the mines and talked to Brian himself to  
17 see what was going on.

18 Q. Okay. Do you know of any other air reversals?  
19 Were you ever --- did you ever have to miss a work  
20 shift because of an air reversal or a ventilation  
21 problem of some kind?

22 A. Yeah, we missed three days when they first changed  
23 the air, when they put that new --- what is that,  
24 Brandytown fan?

25 Q. The Bandytown fan?

1 A. Yeah. I think they red-flagged the mines.

2 Q. Okay. Tell me about that. When did that happen?

3 A. It was probably August, September, somewhere in  
4 that area when they first change it. And I heard Gary  
5 May say that they were going to be a lot of stoppings  
6 and a lot of stoppings knocked and a lot of stoppings  
7 got to be built, but he ---. And I also heard him say  
8 he can --- might be able to go --- might be able to do  
9 it with only having to knock a couple and build a few.  
10 And they done it there way. Then that's the day we  
11 had to come up here and build that double-doors up in  
12 the mouth of the headgate. And that's all we done all  
13 day, was done that.

14 Q. Did they tell you what those double doors were  
15 for?

16 A. No, they just told us ---

17 Q. Just told you to build them?

18 A. --- build them.

19 MR. FARLEY:

20 Just for the record, August and  
21 September, you meant 2009?

22 A. Yes.

23 MR. STEFFEY:

24 Okay. Do you guys have any follow-up  
25 questions on what we've covered so far?

1 MR. FARLEY:

2 Let me see.

3 ATTORNEY WILSON:

4 We'll mark this map as Daniel Exhibit One

5 (Daniel Exhibit One marked for

6 identification.)

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. You said earlier that the last air change you knew  
10 anything about was you were told of it by ---

11 A. My boss.

12 Q. --- Brian Collins?

13 A. Yes.

14 Q. Now, do you recall when that was, about when that  
15 occurred?

16 A. I believe it was maybe a week or two right before  
17 I think the mine blew up.

18 Q. Okay. Now, did Brian give you any details of what  
19 changed, what was different?

20 A. He told me that --- and they calling Old Four  
21 Section ---. I guess they call it recovery section  
22 where they're splitting the longwall block. He told  
23 me that one of their returns quit pulling.

24 Q. Do you mean what was called the barrier section?

25 A. Yeah, the barrier section. He told me that one of



1 their returns quit pulling. And I actually went down  
2 on the wall before the last air change. They had a  
3 lot of air. You could kick the dust and it would go  
4 flying down the entry.

5 Q. Was that in the longwall?

6 A. Yeah.

7 Q. Okay.

8 A. But the last time, like, after he told me they  
9 done an air change, I walked to the longwall just to  
10 watch it run, because we got done bolting. They said  
11 they didn't care if we'd walk over there. But you  
12 could kick the dust and it would just fall right back  
13 down. It was like --- seemed like there was no air.

14 Q. So you noticed a significant reduction in the  
15 amount of ---

16 A. Yes.

17 Q. --- air crossing the longwall face?

18 A. Yeah.

19 Q. Okay. Now, again, about when was that?

20 A. It was back in about around mid or end of March.

21 Q. Okay. When this ventilation change took place,  
22 did it increase the amount of air coming to the  
23 Tailgate 22 section when you were working?

24 A. Yes.

25 Q. How much? Significant? I mean, was it a very

1 noticeable difference?

2 A. Yeah, it was very noticeable. Before, like, when  
3 we started, you could tell it was really hot, sweating  
4 all the time. After they done that air change, it was  
5 cold up there then.

6 Q. Okay. Now, what about the 22 Headgate section,  
7 the other miner section, did it also increase the  
8 quantity of air going to that section?

9 A. I really don't know, but --- I really don't know  
10 but just what they told me, they said it really didn't  
11 help them at all.

12 Q. Okay.

13 A. But I did see the regulator they built at the  
14 intake of the mouth of the wall and where ---. This  
15 is where they put them, I think, other two doors in  
16 for the intake, but the only thing they done was left  
17 a little corner of it out. It wasn't a very big  
18 corner. It was probably about big as that.

19 Attorney Wilson:

20 Can you mark that regulator that you're  
21 referring to?

22 WITNESS COMPLIES

23 BY MR. FARLEY:

24 Q. Okay. Now, when you say you left the corner open,  
25 do you mean the panel on one side that the door

1 attaches to?

2 A. It was a inby left corner on the top where they  
3 left a hole out.

4 Q. Okay.

5 A. They have a set of double doors there ---

6 Q. Okay.

7 A. --- and they just left the left corner out.

8 Q. Okay. Now, were the blocks used to construct the  
9 panel, were they plastered or dry stacked?

10 A. I believe they was plastered.

11 Q. Okay. All right. Can you estimate how large the  
12 opening was that was left open?

13 A. Oh, in my estimate, how it looked, it might've  
14 been five by five foot, something like that. Five  
15 foot wide by five foot tall.

16 Q. All right. Were you aware of some construction  
17 going on in the area near the Glory Hole, which  
18 would've been in the area where the 22 Headgate belt  
19 dumps onto Seven North belt?

20 A. I know when we first --- when we was moving  
21 section right there I knew they was trying --- they  
22 was putting a new belt head in for them. And I  
23 believe they took one of our miner men over towards, I  
24 think the Glory Hole to load water out or something.  
25 I think they said they had to load water out where it

1 was so deep.

2 Q. Okay.

3 A. That was about all I know was going on over there.

4 Q. Okay. Did the work that was going on there have  
5 any impact on your ventilation on your 22 Tailgate  
6 section?

7 A. Not that I know of.

8 Q. Okay. Did Brian Collins ever say that something  
9 these guys are doing at that construction site is  
10 having a negative affect on the ventilation?

11 A. Uh-uh (no), because during that time, we really  
12 didn't come up through this way. We was still  
13 traveling ---

14 Q. Okay. All right.

15 A. --- the headgate. We wasn't coming up past the  
16 Glory Hole. We was just traveling the headgate. When  
17 we was moving, we stayed down here all the time, and  
18 they told us that they were setting a belt head up  
19 through there.

20 Q. Okay. At what point did you change your direction  
21 of travel and travel up Seven North by the Glory Hole  
22 and south through the crossover?

23 A. It was about mid March of this year.

24 Q. All right. You, of course, were a roof bolter.

25 How often did your section foreman review any part of

1 the roof control plans?

2 A. He usually --- we went over it when we got off the  
3 mantrip, when we first got off the mantrip.

4 Q. When you were drilling holes in the roof for roof  
5 bolt installation, did you ever encounter any methane  
6 when you were drilling those holes?

7 A. No.

8 Q. Okay. You and David were talking about doors  
9 earlier and you said that if you'd leave a door, doors  
10 open at 78 that the air would shoot down the track.  
11 Now, when you say it would shoot down the track, do  
12 you mean ---?

13 A. It would go outby.

14 Q. Meaning it would go toward the longwall tailgate  
15 entries or the other direction?

16 A. I know when we'd leave the outby door, it did.  
17 Like, once we, like, open one of the doors, you could  
18 feel the air pulling outby. But the inby doors, like,  
19 the inby doors, you could feel them, right towards  
20 those doors at Glory Hole.

21 Q. Okay. All right.

22 A. But if you left them doors open, they lost air  
23 somewhere.

24 Q. Okay. In other words, you didn't get any?

25 A. Yeah, if they left that open.

1 Q. Okay. One other little thing here. You said at  
2 some point you were working at Performance, but you  
3 were on the Marfork payroll?

4 A. Yeah.

5 Q. Now, how recently was that, or was that the entire  
6 time you were working at UBB?

7 A. No. It was last year, back in --- I think it was  
8 April when I first went over there.

9 Q. April of 2009?

10 A. Yes. I think we stayed on Marfork payroll until I  
11 think about May of 2009 when they finally got a  
12 violation on it. See, the first guys they brought  
13 over, they was on Four section. They had made them  
14 guys come all the way back outside and sign over  
15 before they was allowed to go back underground.

16 Q. Okay. All right. You just answered my next  
17 question, which was, was the company sited because of  
18 this payroll and contract situation?

19 A. See, I was on ---. I was off --- I believe I was  
20 off that day that they done all that. And the next  
21 day the superintendent came over. He gave me papers  
22 to fill out told me to bring them back tomorrow.

23 Q. Okay.

24 A. So I didn't know what was going on until, like,  
25 after he left.

1 Q. Okay. All right.

2 A. See, right now I'm on --- still on Performance  
3 payroll. Right now I'm at Marfork, but they signed  
4 --- they gave us some papers to fill out, like their  
5 contract, and that's through Performance.

6 Q. Okay. All right. Was it the State agency that  
7 sited the company at that time for that problem?

8 A. I don't know who, like ---.

9 Q. All right.

10 A. Like, some of the violations they get is retarded  
11 violations, like, stupid. Like when they was --- like  
12 Three section. It was low so they had canopies off  
13 everything like, 42 inches everywhere. When they got  
14 done they told them, drive across where they could  
15 punch through and bring, bring the bigger equipment  
16 through. So they was cutting about six foot high  
17 every entry, running buggies and scoops with no canopy  
18 on anything and they got a (d) order.

19 Q. That'll do it every time.

20 A. Yeah. And like, my brother --- I think my brother  
21 was tilling me or ---. It might've been brother or  
22 somebody else saying that the superintendent said he  
23 knew better than to run a piece of equipment that high  
24 with no canopy.

25 ATTORNEY WILSON:

1 Pat, did you have any follow-ups so far?

2 Are you all right or you need to take a break?

3 A. Oh, I'm fine.

4 EXAMINATION

5 BY MR. MCGINLEY:

6 Q. Yeah. I'm going to go over and clarify some of  
7 the things that you said for the record. You said the  
8 FBI interviewed you and then the Massey lawyers did an  
9 interview, as well. And that was after the FBI  
10 interview; correct?

11 A. Yes.

12 Q. How long after?

13 A. Maybe two weeks after the FBI interview.

14 Q. Now, how did you find out about the interview with  
15 the Massey lawyers?

16 A. They called my house, told me to be here tomorrow  
17 at this certain time.

18 Q. And when you got there --- where was it at?

19 A. Marfork office.

20 Q. The Marfork office. Did they know that you'd been  
21 interviewed by the FBI?

22 A. No, they didn't know it at first.

23 Q. Did they ask you whether you had been interviewed  
24 by the FBI?

25 A. They telling me that they were going to come by,



1       like, FBI and you all was going to call and stuff like  
2       that. I said, yeah, I know. And they was like, FBI  
3       already talked to you? I said, yeah. Well, first  
4       they said, who --- like, anybody interview you? And I  
5       was like, yeah, and they ---. I actually told them it  
6       was the FBI

7       Q. And they asked you what questions the FBI ---

8       A. Yes.

9       Q. --- had posed and asked you how you'd responded?

10      A. They just mostly asked, like, what they asked.  
11      What questions was they more looking for?

12      Q. Right.

13      A. I guess they was wanting to know if they was  
14      trying to pin it on the company or what.

15      Q. The lawyers that interviewed you were two men, a  
16      man and a woman?

17      A. Two men.

18      Q. Did they ask you anything, any questions you  
19      thought were unusual or that were --- you thought this  
20      is unexpected? You know, why are they asking me this?

21      A. Only one I didn't really get is what --- like,  
22      they started asking about inspectors, how often I seen  
23      them. That was about one, like, I thought was ---  
24      because I believe they're trying to blame inspectors,  
25      because ---

1 Q. Right.

2 A. --- they kept on asking a couple questions about  
3 inspectors and stuff like that.

4 Q. Ask you anything about inspectors taking  
5 bribes, ---

6 A. Yeah

7 Q. --- something like that?

8 A. Yeah.

9 Q. Did they ask you that?

10 A. If I overheard, like, knew if anybody --- if any  
11 inspector has.

12 Q. Well, how did you respond to that?

13 A. As far as I know, I know the first --- that's the  
14 first I ever heard of that.

15 Q. Okay. You were talking about being short on  
16 spotters, and you said if you were working and the  
17 spotter lost a charge, would you --- while you were  
18 working would that happen?

19 A. Yeah, we had to put it on charge a couple of  
20 times.

21 Q. So where would you have to go to put it on charge?

22 A. The power center.

23 Q. Okay. And how far was that from where you were  
24 working?

25 A. Not far.

1 Q. How long did it take to charge the spotters  
2 usually?

3 A. Usually when it gets about to 3 --- 3.4, we  
4 usually put it on charge for maybe about an hour, hour  
5 and a half. And usually it usually goes up to at  
6 least 3.5, so --- when we start, when we use it.

7 Q. Was it common for the spotter to loose a charge  
8 before the end of your shift?

9 A. Yeah. If you'd use it right it was a lot of  
10 charge.

11 Q. I didn't catch this. What shift did you work on?

12 A. Evening shift.

13 Q. The whole time?

14 A. Yes.

15 Q. And you were asked about your knowledge of the  
16 responsible person. Do you know what that term means,  
17 responsible person? Does it have any special meaning  
18 to you?

19 A. The only thing I see is the person you have to go  
20 to if there's a emergency or anything, need to talk to  
21 anybody.

22 Q. Was that part of your safety training? They use  
23 that term, responsible person?

24 A. No. What do you mean, like ---?

25 Q. Well, I'm just wondering if that was a term

1 that ---?

2 A. Oh, they used?

3 Q. Yes.

4 A. Every now and again you'd hear them say that word,  
5 but not ---

6 Q. Okay.

7 A. --- like, often. They just --- they'll usually  
8 say if you're got anything, go to this person, pretty  
9 much.

10 Q. The doors that you said were damaged, they were  
11 hit, were they being run into intentionally to open  
12 them? Do you know?

13 A. Not that I know of.

14 Q. Did anybody talk about that?

15 A. Uh-uh (no), no.

16 Q. When you say uh-uh, you mean no?

17 A. No.

18 Q. When you were working up around the Bandytown fan  
19 you said you got 1.1 and 1.2 methane. How often did  
20 that happen?

21 A. Quite frequently.

22 Q. Every shift that you worked?

23 A. Yeah. Yeah, like, every shift you usually pick up  
24 gas like that, when usually ---. Most time our boss  
25 made us run one buggy, keep enough air to keep the gas

1 out.

2 Q. And how long would that period have been until you  
3 get cited?

4 A. I think we was like that maybe --- I think we was  
5 running maybe a month like that until they finally got  
6 cited one time for it.

7 Q. Were you concerned about that?

8 A. Yeah, a little bit.

9 Q. And probably more concerned after the explosion?

10 A. Yeah. I believe there was another time, yeah, I  
11 can remember, that I think they came, inspectors came  
12 on hoot owl that they went to the fire boss and they  
13 had ---. This is what they told me, that they picked  
14 up a lot of gas up there and they had ---.

15 Q. Who told you this?

16 A. My boss. It was Rick Hutchinson at the time. And  
17 we was on, working that schedule and we was on our  
18 days off. And we got back and they said that they had  
19 --- on our days off that the hoot owl boss went ---  
20 dated up and he picked a lot of gas up. They had  
21 enough to --- they knocked the power from there all  
22 the way to the mouth of the section, enough gas to  
23 knock the power. And they told us that they had built  
24 some stoppings while we was off to try to get with the  
25 return pulling for them, get some of that gas out of

1       there.

2       Q. When you say you were off, was that a weekend or  
3       were there other --- strike that.

4       About when would that have occurred, if you have  
5       any idea? I mean just a ballpark estimate.

6       A. It might've been around --- like, the month?

7       Q. Yeah, that would be great if you could pin it  
8       down.

9       A. I think it was in June.

10      Q. Of 2009?

11      A. '09, yeah. It was May, June, somewhere in that  
12      area.

13      Q. So that was after the violation where you were  
14      getting the 1.1, 1.2? Is that a separate time?

15      A. Yeah, that's a separate time. I just can't  
16      remember which one came first.

17      Q. Sure. And what generally --- I'm sure that we  
18      could check the citation, but generally what time  
19      period would you say this was occurring in 2009?

20      A. Like, what, like, during the day?

21      Q. Months. Months --- the months.

22      A. What, the gas we was picking up?

23      Q. Yeah.

24      A. From once we got there. I think it was May --- in  
25      May, June. We picked it up until we was done. We got

1 to the air shaft and got all that done. We was  
2 picking up gas like that.

3 Q. And that would have been a couple of months?

4 A. Yes.

5 Q. Well, you talked about the time there was reversed  
6 air. That was on 22 Tailgate, was it? Where was  
7 that?

8 A. It was that new tailgate. It was at --- oh, I  
9 can't remember. I can't remember the number of that.

10 Is that 22, this tailgate right here?

11 ATTORNEY WILSON:

12 Is it MMU-040?

13 A. Yeah.

14 BY MR. MCGINLEY:

15 Q. Okay.

16 A. Is that what he's talking about?

17 Q. Right. You said the electrician couldn't find the  
18 cause of the reversed air?

19 A. He went looking to see what he could find, but I  
20 never did hear him say if he found anything or not.

21 Q. Who was that?

22 A. Scott. I don't know his last name.

23 Q. Does he have a nickname?

24 A. I believe that's his first name, I believe.

25 Q. Yeah, but did he have a nickname?

1 A. No.

2 Q. Did you have a nickname?

3 A. No.

4 Q. A lot of folks that work in there do. You were  
5 asked whether any engineers had come underground,  
6 whether you ever saw any engineers.

7 A. No, I never seen any, but, like, when I was --- I  
8 have seen them come outside from underground, though.

9 Q. So you would recognize engineers if you saw them?

10 A. Yes.

11 Q. Do you know who the --- you said Brian called out  
12 and talked to the dispatcher, who talked to Everett  
13 and Terry Moore. Do you know who the dispatcher was?

14 A. No, I don't.

15 Q. And that was, you said, in late March of 2010?

16 A. Yeah, it was in March. I can't remember. It was  
17 mid March or in March. I ain't really for sure.

18 Q. Do you have any recollection when during that  
19 shift that occurred?

20 A. It was right beginning of the shift.

21 Q. At the beginning of the evening shift?

22 A. Yes.

23 Q. When you had the air change and then there was  
24 more air where you were working, you said you walked  
25 --- was it across the longwall?



1 A. No, I didn't go across. I was at the headgate ---

2 Q. Okay.

3 A. --- beginning part of the wall.

4 Q. And you'd been there before and there was a lot of  
5 air?

6 A. Yes.

7 Q. And then after that air change at the end of March  
8 of 2010, you said dust just fell down?

9 A. Yes. You could tell big difference of air up  
10 there.

11 Q. Did it seem like there just wasn't any air  
12 movement?

13 A. Yeah. Like, when you walked, didn't feel like  
14 there was any air.

15 Q. Did you mention that to anybody? I mean, did you  
16 think that was odd at the time? Whether you mentioned  
17 it to anybody or not, was that ---?

18 A. I thought it was odd, but ---.

19 Q. Yeah, who are you to say; ---

20 A. Yeah.

21 Q. --- right? I understand that. Did anybody else  
22 talk about that?

23 A. No. I think we was talking about it at one time  
24 because of where we was still traveling up that track  
25 way.

1 Q. For the record, can you just ---?

2 A. We was still traveling up towards the headgate of  
3 the current wall.

4 Q. Yes.

5 A. And I believe everybody noticed, like, there was a  
6 big change of air.

7 Q. Everybody in your crew?

8 A. Yes.

9 Q. And that would have been from the time of the air  
10 change until the end of the time you worked there?

11 A. Yes, because that's all we was talking about,  
12 because when we got off the mantrip, we noticed there  
13 wasn't much air, and then that's when he was telling  
14 us that they done a air change.

15 Q. So every shift you worked, you noticed there  
16 wasn't enough air there, that there wasn't air  
17 movement?

18 A. Yes. Like, every time I went down there, like,  
19 after that last air change it seemed like there wasn't  
20 much air. But once --- but that was about pretty much  
21 the last time I was down next to the --- at the wall,  
22 though. I know before the explosion I believe that  
23 the wall was down for, like --- I think they had a (d)  
24 order or something, I believe. I know they was down  
25 for a couple of days.

1 Q. When would that --- you mean right before the  
2 explosion?

3 A. Yes. It was, like, a week or two before the  
4 explosion, I believe.

5 Q. You were also asked about when that air change was  
6 made, you had more air where you were working. It  
7 went from hot and sweating to cold. But you talked to  
8 some, some of the people that were working over at the  
9 Headgate 22 and they told you they still didn't have  
10 air there?

11 A. Yes.

12 Q. Who did you talk other? Do you know?

13 A. I believe it was a couple of bolt men, I believe,  
14 but I don't know who they was if we were just, just  
15 talking.

16 Q. The bath house?

17 A. Yeah. No, it wasn't in the bath house; it was ---  
18 I think we walked up here for some reason. I think to  
19 see about the belt heads, see how much, like, before  
20 we get to run and stuff, and we seen a couple of them  
21 guys up there building overcasts. And we were talking  
22 to them and asked them if they, like, had enough, a  
23 lot of air and stuff. They said no, they didn't  
24 really change anything for them.

25 Q. Now, explain that a little more.

1 A. Like, it didn't really change the air up there.  
2 They said it just, like, stayed, like, the same. And  
3 I guess they pushed --- most of the air, when they  
4 done the air change most of it had gone on our  
5 section, I believe.

6 Q. And Headgate 22 just didn't have air for a long  
7 period of time?

8 A. Far as I know.

9 Q. Did you talk to anybody that worked up at Headgate  
10 22 before and after the change that mentioned the air?

11 A. No, no.

12 Q. Did you ever talk to anybody that worked up there  
13 that at any time that mentioned ventilation or  
14 adequacy of air?

15 A. No, that was about the only time I've talked to  
16 anybody that worked up there.

17 MR. MCGINLEY:

18 That's all I have right now.

19 RE-EXAMINATION

20 BY ATTORNEY WILSON:

21 Q. I just had a couple questions I want to ask you.  
22 The Massey lawyers that interviewed you, you said  
23 there were two men; is that right?

24 A. Yes.

25 Q. Were they both asking questions or did one

1 primarily ask the questions?

2 A. Seemed to me like one asked more of the questions.

3 Q. And the one that asked more of the questions, can  
4 you describe that person?

5 A. I knew he was skinny, not very --- I don't know,  
6 about average height. I just --- been a while. I  
7 can't really remember what he really looked like.

8 Q. Was he --- you know, the age group, say, 30s, 40s,  
9 50s?

10 A. Probably 30s.

11 Q. Younger?

12 A. Yes.

13 Q. Okay.

14 A. Both of them was pretty young guys, to me, looked  
15 like.

16 Q. And did they give you business cards?

17 A. No.

18 Q. And when you were talking with them about the FBI,  
19 as best you can remember, did you bring that up and  
20 tell them that you had been approached by the FBI or  
21 did they ask you about that?

22 A. They was pretty much asking me about if I had  
23 talked to anybody. They was telling me that they was  
24 going to come around and they was like --- have you  
25 talked, like, have anybody talk to you? And I was

1 like, yeah. Name? It don't bother me to tell them I  
2 talked to anybody.

3 Q. You have rights under the Mine Act. One of those  
4 rights is that you have the right to speak with MSHA  
5 about conditions at the mine.

6 A. Yes.

7 Q. And you don't have to tell anybody that you talked  
8 to us, and in fact, if somebody questions you about  
9 that, that can be considered a violation of your right  
10 to talk to us. So if anyone else approaches you about  
11 whether or not you talked to MSHA, whether it's a  
12 company person or lawyer, anybody else, we would like  
13 to know about that.

14 A. Okay.

15 Q. Okay.

16 MR. MCGINLEY:

17 Can I ask just one follow-up to that one?

18 RE-EXAMINATION

19 BY MR. MCGINLEY:

20 Q. You said you got a letter from Performance?

21 A. It was from Massey.

22 Q. From Massey. Could you --- would you provide that  
23 to us?

24 A. Like, what it said?

25 Q. Do you have a copy of the letter, just ---?

1 A. I got it at the house. I was going to bring it,  
2 because somebody asked me to bring it, but I just ---  
3 I was tired. I just forgot.

4 Q. No, I understand. That's not a problem, but it  
5 would be great --- maybe we can give you an address if  
6 you'd make a copy of it and just put it in the mail to  
7 ---

8 A. Yeah, I can ---.

9 Q. --- Mr. Wilson.

10 A. If I'm down this way, I can drop it off or  
11 anything?

12 MR. MCGINLEY:

13 All right. We'll talk about that after.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. Am I allowed to make one follow-up on that, too,  
17 if you don't mind? You indicated that you didn't know  
18 the names of these two attorneys. Now --- and that  
19 they didn't give you business cards. Did they  
20 identify themselves? Did they say, hi, I'm John Doe,  
21 or did they just simply not tell you their name and  
22 say, I am an attorney for Massey.

23 A. Yes, the told me their names.

24 MR. FARLEY:

25 Okay. All right.

1 RE-EXAMINATION

2 BY ATTORNEY WILSON:

3 Q. Do you remember if they told you where they were  
4 from, if they were from West Virginia?

5 A. I'm pretty sure they said they wasn't from West  
6 Virginia. I believe they was out of state somewhere.

7 Q. All right. You don't know where, though? Did  
8 they say they were from Washington, D.C.?

9 A. No, I don't believe ---. I believe that they said  
10 something about maybe North Virginia or something like  
11 that.

12 Q. Okay. Richmond, maybe?

13 A. Might've been. I can't remember. I know it  
14 wasn't in West Virginia.

15 ATTORNEY WILSON:

16 Okay. Why don't we --- let's go off the  
17 record.

18 SHORT BREAK TAKEN

19 ATTORNEY WILSON:

20 Okay. We're back on the record. Dave?

21 RE-EXAMINATION

22 BY MR. STEFFEY:

23 Q. Okay. Let's talk about gas wells for a couple  
24 minutes. Did any of the sections ever mine through a  
25 gas well that you know of, known or unknown?



1 A. Not that I know of.

2 Q. Okay. Did you ever --- do you know of any  
3 problems that were ever encountered with unknown gas  
4 wells?

5 A. No.

6 Q. Okay. There's a seam that's below the Eagle Seam  
7 that you were mining in, just a few feet below you,  
8 called the Little Eagle. I think I've also heard it  
9 referred to as the Lower Eagle. Has anyone ever  
10 discussed this seam with you or your crew? Anybody  
11 ever talk about that?

12 A. No. I forgot that there was even a coal seam  
13 underneath of us.

14 Q. Did anybody ever discuss the overlying works with  
15 you?

16 A. Like the ---?

17 Q. The mining that's overlying Upper Big Branch?

18 A. No.

19 Q. All right. Well, methane outbursts. Did you ever  
20 hear of any methane outbursts from the floor, roof or  
21 rib in this mine?

22 A. Like pop-off, like ---?

23 Q. Yeah.

24 A. I never seen it but that's what I heard, just that  
25 Friday before the blow-up I heard it popped off once

1 in a while. That was after the blow-up and that's  
2 what I was told.

3 Q. Who told you this?

4 A. I believe it --- I can't remember if it was a guy  
5 over at Ellis or Horse Creek was telling me about  
6 that.

7 Q. Do you remember his name?

8 A. No, I can't remember his name.

9 Q. What'd he tell you about the pop-off on the wall?

10 A. I think he said once that he talked to somebody  
11 that worked on there at the time, and he said the only  
12 thing they was --- it just popped off. That's all he  
13 pretty much said, that he knew someone that worked up  
14 there and they said it popped off.

15 Q. This person that you knew that worked up there,  
16 was this one of the deceased or ---?

17 A. I don't know.

18 Q. You don't know?

19 A. no.

20 Q. Okay. Any other incidents of methane outbursts  
21 that you are aware of?

22 A. No.

23 Q. And you mentioned had you a multigas detector.  
24 Did you take this home with you?

25 A. No.

1 Q. You kept it at the mines?

2 A. Yes.

3 Q. Do you know who maintained that multigas detector  
4 and calibrated it?

5 A. No.

6 Q. Just assume someone took it?

7 A. Yeah, every once in a while they would --- every  
8 couple months they tell us bring our spotters out  
9 where they can recalibrate them.

10 Q. Okay.

11 A. Okay. When you were working on the section, both  
12 the current tailgate then going toward the Bandytown  
13 fan and on the current tailgate section here, the 04-  
14 MMU, did you ever --- did you ever see who took the  
15 methane check prior to the miner cutting coal?

16 A. No. I always go straight to my bolter.

17 Q. Always went straight to your bolter. Tell me  
18 about what you'd do after the cut. You know, the  
19 miner bums out of the cut, you pull the bolter up.  
20 Take me through that. What do you do?

21 A. I usually, when the miner gets out of the cut, get  
22 out of the way. I usually pull the bolter up in  
23 there, make sure my curtain --- because they usually  
24 roll up a little bit where we would be just there at  
25 the scrubber, and I would usually ---. He hadn't

1 dropped it yet or whatever I'll go drop it. Then I  
2 would, like, set the T bar and wait for him, just  
3 check the air and make sure it's right. He'll tell  
4 me, okay. And I'll bolt.

5 Q. What about a methane check?

6 A. Yeah, I do it, too, when I get up there, like,  
7 check methane. And usually he does it while I'm  
8 taking a methane test. He'll check the air.

9 Q. How do you take that methane check?

10 A. With a probe.

11 Q. With a probe?

12 A. Yeah.

13 Q. Could your probe reach all the way to the face?

14 A. Yeah, because we was only on 20 foot cuts.

15 Q. Only on 20 foot cuts. Did you ever know them to  
16 exceed the 20-foot cut?

17 A. No.

18 Q. Did you ever know them to cut without a curtain?

19 A. No.

20 Q. Did you ever two miners up there?

21 A. Yeah, we had two miners.

22 Q. Did you ever know them to run, both of them, in  
23 the same split air?

24 A. Well, in split air, they have, but not with sweep  
25 air.

1 Q. Not on sweep air. And the continuous miners, did  
2 they have a methane sensor?

3 A. Like, methane monitor on it?

4 Q. Yeah.

5 A. Yes.

6 Q. Did you ever watch the miner cut or you just went  
7 straight to your bolter?

8 A. I watched them cut a couple times, like, to see  
9 how much they've got left or whatever.

10 Q. Did you ever see any methane show up on the  
11 monitor?

12 A. I seen, like, .2, .3. I actually seen, like,  
13 flash before, like, right before it's supposed to kick  
14 off. I've actually seen it flashing.

15 Q. And when was this?

16 A. That's when I was driving the headgate towards the  
17 Bandytown fan.

18 Q. Okay. So you saw it flashing right before it  
19 kicked off?

20 A. It never did kick off. It got ---

21 Q. It never did kick?

22 A. --- almost right there where it was supposed to  
23 kick off and you watch it just drop back down.

24 Q. Did you ever know of anybody to bridge out one of  
25 these methane monitors?

1 A. Not that I know of?

2 Q. Okay. Did anybody ever go over the approved  
3 methane and dust control plan with you?

4 A. Mostly they ever done with me was dust parameters  
5 on the bolter, was about it. And they just pretty  
6 much tell us how often we're supposed to dust and dust  
7 the section and stuff. That was about it.

8 Q. Did you hot seat with the other crew?

9 A. Like the dayshift staying until evening shift got  
10 in?

11 Q. Yeah.

12 A. Yeah, we done that before. I think --- well, I  
13 think we might have done that one time or two times.

14 Q. Okay.

15 A. That was when this --- when we was driving that  
16 crosscut from the tailgate to the headgate.

17 ATTORNEY WILSON:

18 On the longwall panel?

19 A. Yeah.

20 BY MR. STEFFEY:

21 Q. Okay.

22 A. And I done it another time because I think they  
23 had us a couple guys off and it was on the headgate  
24 and for the current wall, and they told me and the  
25 other boy to go up there and they hot seated until we

1 got there.

2 Q. Anybody ever discuss the hazard listed in the pre-  
3 shift book with you or your crew?

4 A. What do you mean, like ---?

5 Q. Well, the section's supposed to be pre-shifted  
6 prior to you guys going to work up there. Did anybody  
7 ever discuss the findings of that pre-shift  
8 examination with you or your crew?

9 A. No.

10 Q. Were you aware that they were supposed to pre-  
11 shift that section before you went up there?

12 A. Yeah, I know they was pre-shift.

13 Q. You just assumed that they did that, put the  
14 hazards in there. Did you ever find any hazards when  
15 you went up to the section that nobody had told you  
16 about?

17 A. Oh, I seen some ribs that was bad that need to be  
18 pulled. Ribs need to be pulled. That's about it.

19 Q. And you weren't aware of those prior to arrival?

20 A. No.

21 Q. Or let me rephrase those. Nobody had told you  
22 about those --- had anyone told you about those  
23 hazards prior to arrival?

24 A. No.

25 Q. Okay. And so what happened then with the hazards

1 that you found, the ribs that need pulled.

2 A. I'd usually go pull them.

3 Q. Pull them? So you guys just, you know, when you  
4 found a hazard, you took care of it?

5 A. Yeah, like when I was on 04, like, they actually  
6 gave us another guy where we have four bolt men  
7 instead of three because we run both miners on sweep  
8 --- on split air. And that's what me and my bolt  
9 partner done all day. We pulled ribs and the spot  
10 bolts up.

11 Q. Okay. You know when the section boss typically  
12 did his own shift examination? Did you ever see him  
13 do his own shift exam?

14 A. Like, well, when I'd been bolting I'd see him come  
15 by, date up and --- like that.

16 Q. Okay. How many production shifts were ran every  
17 day on the 040-MMU?

18 A. Like, before this happened?

19 Q. Yeah.

20 A. I really don't know how many shifts, really. I  
21 think we might've been up there.

22 Q. I mean you got, you know, 24 hours in a day.  
23 Probably three shifts. How many of those shifts were  
24 production?

25 A. Oh, just two shifts were production.



1 Q. Just two shifts?

2 A. Yes.

3 Q. Was the third shift a maintenance shift?

4 A. Yes.

5 Q. Did they ever run coal on the maintenance shift?

6 A. Not that I know of.

7 Q. When you guys arrived on a section, typically  
8 what's the first thing you would do?

9 A. Like, after we got off the mantrip and went up on  
10 the section?

11 Q. Uh-huh (yes).

12 A. We usually just go through our equipment, make  
13 sure --- like, I put wire in my wire box and check my  
14 dust box and all that. And I wait for electrician.  
15 He would usually come check my suction before I would  
16 even start.

17 Q. Okay. And how much suction were you supposed to  
18 have on this?

19 A. I think I had between 12 and 17.

20 Q. Did you ever have less than that?

21 A. Not that I can remember, I haven't.

22 Q. Did you ever have any problems with your dust  
23 collection system on your bolter?

24 A. Like, I had problems with, like, the head clogging  
25 up sometimes and the hose, it clogged up. And not

1 when I was over UBB, but over Slip Ridge I had a  
2 problem with the --- oh, that back part of the bolter  
3 where all the dust comes out when you dump it, the  
4 cyclone. I had a problem with it and when I was over  
5 at Slip Ridge, a problem clogging up, but nothing over  
6 here at UBB.

7 Q. Okay. Now, this 040-MMU here, this new tailgate  
8 section, it appears on the map here that there are  
9 three entries; is that correct?

10 A. Yes.

11 Q. And what entry did your intake come up?

12 A. It came up Number ---- I'm trying to think ---  
13 Three.

14 Q. Okay. And what entry was your belt air course?

15 A. It was Number Two.

16 Q. Okay. And then your return was ---?

17 A. One.

18 Q. Okay. And was ventilation always adequate?

19 A. Right.

20 Q. Yeah, in compliance with the plan.

21 A. As far as I know, it was. Always kept mine up and  
22 we always had our fly pads and everything.

23 Q. I mean was the air quantity sufficient?

24 A. Oh, yeah, we had all kinds of air.

25 Q. What about prior to the ventilation change?

1 A. Not the intake, didn't feel like they had much  
2 before the air change, but in the return you could  
3 feel a lot, I guess where that fan ---.

4 Q. Uh-huh (yes).

5 A. You could feel all kinds, but after that air  
6 change, you could tell a difference.

7 Q. What all changed when they made that air change?  
8 They had more intake air. Did your belt air course  
9 change direction or anything?

10 A. I believe, like, when that belt ---. I'm trying  
11 to think if they done the air change before or after  
12 we got that stuff. And I think that they might've  
13 done it before we got that stopping. I think they  
14 might've built --- done a air change and I think a  
15 couple days later, whatever, like, our air started  
16 pulling up the belt line.

17 Q. Uh-huh (yes).

18 A. And that's where we had to build a stopping. I'm  
19 pretty sure that happened after air change.

20 Q. Okay. Did anybody ever go over the cut sequence  
21 with you prior to going underground?

22 A. Like, the cut cycle?

23 Q. Uh-huh (yes).

24 A. No, he usually would tell us when we got up on,  
25 because how they got it, like, offices upstairs and we

1 --- bath houses downstairs. The bosses mark up. He'll  
2 write it down on a piece of paper and give it to the  
3 miner man what all we was going to cut, and tell us.

4 Q. And did you know where your bolter was at prior to  
5 going underground?

6 A. No. Just go up there and look for it.

7 Q. Just go up there and look for it, huh?

8 A. Usually I knew where mine was at, because it  
9 usually stays in Number One.

10 Q. How many roof bolters did you have up there?

11 A. Two.

12 Q. In three entries?

13 A. Yeah.

14 Q. It's awful crowded, ain't it?

15 A. Yeah, we got three buggies, two miners.

16 Q. Typically after a belt move, how many breaks outby  
17 the face was the feeder?

18 A. Usually after a belt move, maybe one break from  
19 the face, usually.

20 Q. One break from the face?

21 A. Yeah, usually. They usually try to get the belt  
22 entry drove up at least a cut, like, at least two cuts  
23 where side buggies could get underneath the miner.

24 Q. And did you all use exhausting or blowing face  
25 ventilation?

1 A. It was all exhausting.

2 Q. All exhausting.

3 A. Yep, a lot of air was going up the left side.

4 Q. Okay. Now, when you had your belt here, can you  
5 explain to me --- and you had two miners up here?

6 A. Uh-huh (yes).

7 Q. Was I correct in hearing that?

8 A. Yes.

9 Q. Can you explain to me how they conducting mining  
10 operations up here, just a brief --- what they did in  
11 three entries?

12 A. Usually the belt entry, like, they always used the  
13 right miner most of the time in the belt entry. And  
14 Number Two entry and Three would usually get the right  
15 miner. So they'll usually use the middle buggy and  
16 the right buggy to go up through there. Sometimes if  
17 it's still cramped up, they usually have to run just  
18 one buggy, because no buggy's straight up.

19 Q. Uh-huh (yes).

20 A. I kind of hated where I was left side, because the  
21 scoop man came and I had to take my bolter outby it,  
22 because I usually had to park my bolter right there at  
23 edge of the break of the feeder line for that left  
24 buggy to run. And then the scoop man come. I'd have  
25 to stop the buggy, pull the bolter over here next to

1 the buggy, let the scoop man by, then back, back  
2 around. I hated it, being the left side bolt man.

3 Q. So it was tough up there, huh?

4 A. Yeah.

5 Q. Did the miners use a scrubber?

6 A. No.

7 Q. No? Okay. What about inspectors? Did you see  
8 inspectors pretty often?

9 A. The honest truth, I only seen maybe one.

10 Q. Maybe one?

11 A. Yeah.

12 Q. Did you know when they were in the mine?

13 A. Yeah, when we got that one. He was outside. Said  
14 he was going to come underground. We didn't know,  
15 like, where he was going to.

16 Q. But you knew there was one outside?

17 A. Yeah.

18 Q. How'd you know?

19 A. Oh, I seen the vehicles and the bosses tell us  
20 there's an inspector outside.

21 Q. Okay. Anybody ever call underground and tell you  
22 about an inspector?

23 A. I don't know if they called underground, but my  
24 boss told me that there was an inspector outside.

25 Q. How did he know?

1 A. I don't know if he called outside, called a report  
2 out or they called up there and tell him or ---.

3 Q. Somehow he knew.

4 A. Somehow he knew.

5 Q. Okay. Now, you said --- did I hear you right when  
6 you said that there was an inspector up there one time  
7 while you were there?

8 A. And that wasn't up on this end of mine. This was  
9 when I was on Old Four section.

10 Q. Okay. What do you know about advance notice for  
11 inspectors? Did you hear about it on other shifts,  
12 that they called in and told them?

13 A. No, not that I know of.

14 Q. Then you don't know anything about that?

15 A. No.

16 Q. Okay.

17 A. Because I always got there the last minute.  
18 Didn't want to be on the straight evening shift,  
19 getting there last minute. I ain't getting there for  
20 anybody.

21 Q. Okay. Do you know --- do you think miners were  
22 ever subjected to retaliation and threats for reported  
23 safety issues at the mine?

24 A. I know, like, a lot of people, they were scared to  
25 say anything because they were afraid that they were

1 going to get fired.

2 Q. And why was that?

3 A. They just got --- Massey's got a bad reputation  
4 about stuff like that. I don't know if they --- this  
5 is what Brian has told me, my boss, that ---. He used  
6 to boss before. He said --- I can't remember what  
7 part of the miens he was bossing, but he didn't have  
8 enough air, so he wouldn't run. And the inspector  
9 came up there and he didn't ---. I think he ended up  
10 running maybe 20 foot that day. So they --- I think  
11 they suspended him. So the next day he had to go in  
12 the office and talk to Chris Blanchard and Jason  
13 Whitehead. I think they got in an argument, I think.

14 He said that they fired him. Now, I don't know,  
15 because where they got in an argument or where he shut  
16 down and wasn't running coal because there was not  
17 enough air.

18 Q. He didn't --- who was this boss?

19 A. Brian Collins.

20 Q. Brian Collins?

21 A. Yeah.

22 Q. How long did you work for Brian?

23 A. I'm trying to think when he come up there. I  
24 believe he came up there --- I'm thinking October  
25 until this happened.



1 Q. Until this happened?

2 A. Yeah.

3 Q. About when did that happen?

4 A. Well, until the mine blew up.

5 Q. Until the mine blew, okay. Now, you said  
6 Blanchard and Whitehead fired him at one point. Did  
7 they hire him back or ---?

8 A. Yeah. I think like a couple months later he went  
9 to Peabody, and he decided to come back or something  
10 like that.

11 Q. Did you ever see Chris Blanchard or Jason  
12 Whitehead underground?

13 A. A couple times.

14 Q. A couple times?

15 A. No, I never seen them here, at this mines, but I  
16 heard of them being underground out here. But I never  
17 seen ---.

18 Q. What did you hear of them being underground?

19 A. Mostly it was when we was driving this headgate, I  
20 guess to see why we wasn't running the coal or  
21 anything. I know Blanchard ended up suspending two  
22 bolt men up there.

23 Q. What did he suspend them for?

24 A. I think they was up there bolting, and I think a  
25 miner man or somebody rolled their curtain up through

1 a crosscut right there, and they rolled their curtain  
2 up to take the miner through, and I reckon --- I don't  
3 know if they knew or not, and they was bolting, and  
4 Blanchard suspended them for it. But most of the time  
5 you only see them is when you usually don't run that  
6 much coal.

7 Q. Did you ever --- well, what did you hear about  
8 Blanchard and Whitehead, they were underground? You  
9 said the only time you saw them was when you wasn't  
10 running much coal. What did they do besides come up  
11 there and look and see what was going on? Did they  
12 talk to the crews or ---?

13 A. I really don't know. The only thing they told me  
14 is he came up there. I think he suspended a bolt crew  
15 and he --- I think he suspended --- he might have  
16 suspended a boss, too, or something. I think he might  
17 have suspended a boss.

18 Q. Okay. Did he ever talk to you outside or ---

19 A. Who?

20 Q. --- have any meetings with --- Whitehead and  
21 Blanchard, your crew outside or anything?

22 A. No. Blanchard, he came to the mines one day  
23 because he may --- because we was on a schedule. He  
24 made guys work on the Fourth of July. He came out  
25 there and fixed some food, but nobody didn't really

1 care about it. They was too mad. They said they  
2 brought their own food and ate it, went up there and  
3 ate it.

4 Q. What was your impression of Mr. Blanchard?

5 A. Didn't like him. I really didn't.

6 Q. Well, what did he do? What was --- how did he  
7 treat his people?

8 A. Well, put it this way. We went three months, I  
9 think, with one Saturday off, I believe. And in '08  
10 then we worked like three months in a row with one  
11 Saturday off.

12 Q. Did he have any Saturdays off during that time?

13 A. Oh, probably.

14 Q. What about Mr. Whitehead?

15 A. I don't know if he had Saturdays off, but he  
16 probably did.

17 Q. What was your impression of him?

18 A. I didn't like him either. He was a prick.

19 Q. Let's talk about the day of the accident. Where  
20 were you at the time of the accident?

21 A. Like when the ---?

22 Q. When the explosion occurred.

23 A. Because I got in the parking lot and drove up to  
24 the parking lot. I sat in the parking lot for about  
25 five or ten minutes. I was listening to the radio and

1 I got out. I went to the bath house because I park on  
2 the far end, went in the bath house and a fire boss  
3 came down and told me --- he said, I wouldn't even  
4 bother getting ready. I believe we might have a big  
5 old roof fall or something like that. Stuff started  
6 blowing out the drift mouth. I said, okay. Outside,  
7 the buggy man, he always got there usually about two  
8 hours there before we even started. They said he was  
9 sitting there and I think he said it might have been  
10 right after I pulled up or something. He said all of  
11 a sudden that fan --- he thought the fan was blowing  
12 up. All of a sudden it just stopped and started  
13 reversed.

14 Q. And where was this at? Where were you at when  
15 this happened?

16 A. I believe we talked --- I was in my truck.

17 Q. Were you at Upper Big Branch Portal, though?

18 A. Yeah, Upper Big Branch Portal.

19 Q. About what time was this?

20 A. I believe I got at work a little bit earlier that  
21 day. I believe it might have been about 3:15, 3:20,  
22 something like that.

23 Q. About what time does your shift start?

24 A. Four o'clock.

25 Q. Four o'clock. So at that point you --- did

1 anybody have any idea what had happened?

2 A. No.

3 Q. What happened after that?

4 A. Nothing really. They just didn't really --- they  
5 didn't tell us really anything. I know that when I  
6 went over there like to my lights and stuff and I seen  
7 all those CO monitors, they were going crazy. And  
8 that was about it.

9 Q. Did you know --- did you hear if anybody had  
10 called anything out on the mine phone just prior to  
11 the explosion?

12 A. No. They told me the dayshift boss on the section  
13 I worked on, it was --- I'm trying to think of his  
14 name. They call him Head. Steve Harrah. I believe  
15 they said he just called from the road at Ellis Switch  
16 and that's the last they said they --- the last I  
17 heard anybody talked to anybody about a report.

18 Q. So nobody called outside and said they had any  
19 problems or anything?

20 A. As far as I know.

21 Q. So what happened after that? You saw all of the  
22 CO sensors going off, and what was going on then?

23 A. They had them bosses out there at the drift mouth  
24 taking air readings. And you go upstairs, they don't  
25 really tell you nothing. And Don Blankenship, he gets

1       there.

2       Q. What time did he arrive?

3       A. Shoot, it was --- it was after 4:00. Maybe it was  
4       between 4:00 and 5:00 he got there.

5       Q. Had you seen Mr. Blanchard or Mr. Whitehead at any  
6       point?

7       A. I had seen --- I never seen Blanchard. I never  
8       seen Whitehead. The only one that I really seen was  
9       Don Blankenship get out of the helicopter.

10      Q. Did it occur to you at that point that you may  
11      have something more than a roof fall?

12      A. Oh, yeah.

13      Q. And did anyone --- had anyone been talking  
14      explosion at that point? When was the first time you  
15      heard someone say that we have had or may have had an  
16      explosion?

17      A. We didn't really hear --- nobody said it. We just  
18      pretty much assumed it was an explosion.

19      Q. What did Mr. Blankenship do?

20      A. Nothing. He just stayed upstairs. He had his  
21      secretary or whatever she was to come down there and  
22      if there was any EMTs or whatever, need them to go to  
23      Ellis Portal.

24      Q. Okay. Do you know if anyone had called MSHA at  
25      this point?

1 A. Not that I know of.

2 Q. How long were you on the property after this  
3 occurred?

4 A. I was up there for --- until they brought the  
5 first set of guys out and they told us, get all the  
6 first aid boxes and a couple people take them over.  
7 So me and this other boy took the first aid boxes over  
8 there. And by the time we got there, they had some  
9 guys already loaded up in the ambulance. And some,  
10 they was still there, they had them hooked up.

11 Q. Okay. So you took the first aid boxes over to  
12 Ellis Portal?

13 A. Yeah.

14 Q. And then what?

15 A. That's about it, just --- there was just a lot of  
16 people up there. And that other guy I rode with said  
17 I couldn't stay any longer, so we went back over to  
18 the main place and --- well, UBB.

19 Q. Okay. Then what did you do?

20 A. I just changed clothes and left.

21 Q. Did anybody give you any instructions other than  
22 taking the boxes to the Ellis Portal?

23 A. No. They said --- told us to gather all the first  
24 aid boxes up and take them over there.

25 Q. Did you go into the mine at all ---

1 A. No.

2 Q. --- that day?

3 A. No.

4 Q. Do you know people were accounted for when exiting  
5 or entering the mine?

6 A. What's that again?

7 Q. How people were accounted for when they exited or  
8 entered the mine. There were people who were going  
9 into the mine, obviously. Do you know how they were  
10 accounting for those people, ---

11 A. No.

12 Q. --- tracking them?

13 A. No, I don't know how they tracked, like made sure  
14 everyone was out or whatever.

15 Q. About what time did you leave the property that  
16 day?

17 A. Maybe six o'clock.

18 Q. Six o'clock?

19 A. Yeah, I believe. I believe it was about six  
20 o'clock when we left.

21 Q. What was going on when you left?

22 A. Nothing really. They wouldn't come tell us  
23 anything. Like when they first told us call EMTs,  
24 need to go over there, we asked what is going on. She  
25 said something bad happened. That was it. Just



1 turned around, went back upstairs. So that pretty  
2 well made a lot of people mad.

3 Q. I can understand that.

4 A. Because that one boss that got killed up there,  
5 you know, he was a boss of Headgate 22, that was one  
6 of my old bosses.

7 MR. MCGINLEY:

8 Dean Jones?

9 A. Uh-huh (yes).

10 BY MR. STEFFEY:

11 Q. Dino?

12 A. Yeah, Dino.

13 Q. What do you --- do you have any idea what  
14 happened?

15 A. I believe it came from the wall.

16 Q. Why would you think that?

17 A. Because that air felt up there --- it didn't feel  
18 right to me. It really didn't.

19 Q. Didn't feel right in what way?

20 A. Like there was enough.

21 Q. So it was inadequate?

22 A. Yes.

23 Q. Inadequate volume?

24 A. Yes. That's what it felt like to me. And that  
25 was about pretty much the only thing running at the

1 time, except for the belts and mantrip going down the  
2 track, but ---.

3 Q. Now, you watched the longwall run that day; right?

4 A. Not the day it blew.

5 Q. Not the day --- the day that you went over there  
6 and saw the air or you felt the air and you thought it  
7 was inadequate, ---

8 Q. Yeah, I watched the wall run that same day.

9 A. --- about when was that?

10 A. That was --- I'm trying to think. It was right  
11 after this --- he done that air change. I'm trying to  
12 think when they done it. It was --- it was like in  
13 March. I'm pretty sure it was March.

14 Q. Could you feel any air movement at all?

15 A. Not really.

16 Q. Not really?

17 A. No.

18 Q. What was --- when you watched the wall cutting,  
19 what way was the dust moving, coming off the wall?

20 A. Oh, it was going toward the tailgate side.

21 Q. It was going toward the tailgate side. So air was  
22 going toward the tailgate that day?

23 A. Yeah.

24 Q. Did you hear of any air reversals on the wall?

25 Did you ever hear of any?

1 A. Haven't heard anything like that.

2 Q. How about water sprays on the wall, did you hear  
3 water sprays in use that day?

4 A. Yes, they had their water on.

5 Q. What type of water sprays did they have on the  
6 shearer, the shield or ---?

7 A. I don't know. It was coming from the tailgate  
8 side to the head. And we was there at the first  
9 couple jacks watching them cut, so I really don't  
10 know.

11 Q. What about float dust along the belts, did you  
12 ever see any float dust?

13 A. Like what do you mean? Like dust coming off the  
14 belt or ---?

15 Q. Black coal dust around in the belt air courses,  
16 around the belt lines and around the belt heads, did  
17 you ever see that?

18 A. Up there towards the Glory Hole where they was  
19 putting that new belt head in, I know it looked awful  
20 black up through there.

21 Q. What about around the longwall Mother Drive?

22 A. I don't know about the Mother Drive.

23 Q. Don't know about that?

24 A. No. Last I was there it was nice. It was clean.  
25 It was white.

1 Q. What about rock dusting? What can you tell me  
2 about rock dusting in this mine?

3 A. I know we --- most of the time when we was up on  
4 --- driving that one panel across, we stayed back  
5 about every other day and dusted.

6 Q. Hand dusted?

7 A. No, bolt dusted.

8 Q. Bolt dusted. Did you think the rock dust in this  
9 mine was adequate?

10 A. I don't believe. I don't know about the other  
11 sections. I know our section, but I heard the other  
12 sections, they say it was black and ---.

13 Q. What section was that?

14 A. Three section.

15 Q. Where is Three section?

16 A. Oh, God. It was ---.

17 Q. Was that the barrier section?

18 A. No, it was --- it was right before they shut it  
19 down. That was --- it was on the right-hand side of  
20 that map, I believe.

21 Q. Okay. That was at the south end?

22 A. Yeah.

23 Q. What about here around Headgate 22, what did you  
24 hear about it?

25 A. I just heard just like they didn't really have no

1 scoop man. Like I heard they didn't have a scoop man  
2 and I heard it was like it was --- hardly been dusted.  
3 That was about it.

4 Q. Did you ever see anybody using a track duster or  
5 anything to dust the courses?

6 A. No.

7 Q. You ever hear anybody talk about that?

8 A. Yeah. I heard the evening shift motor man at one  
9 time told them to dust around --- like when they moved  
10 him on out hoot owl they told him to dust like every  
11 night, but I don't know if he did or not. Never did  
12 really see a change.

13 Q. How would you describe the attitude at this mine  
14 on production versus safety? What was your feeling on  
15 that?

16 A. If they really were worried about safety, I  
17 believe they would have a safety meeting with us every  
18 Monday, if they was really worried. I might have ---  
19 I think the whole time I was there I had one safety  
20 meeting.

21 Q. You had one safety meeting?

22 A. Yeah.

23 Q. How long were you there?

24 A. About a year.

25 Q. A year?

1 A. About a year.

2 Q. So you had one safety meeting in a year?

3 A. Yeah, outside. Like sometimes like we'd get on a  
4 section, he'll go over like safety and we'll sign the  
5 book there, but we never --- I think we had one  
6 outside, and that was by Berman.

7 Q. What about production meetings?

8 A. I never been to production meetings.

9 Q. Never been to a production meeting?

10 A. No. I know a lot of boys said they'd go to safety  
11 meetings. They'd get chewed out a lot, not running  
12 enough coal.

13 Q. Do you think there was a lot of pressure at this  
14 mine to run coal?

15 A. To get that longwall going.

16 Q. Who put that pressure on them?

17 A. I believe Blanchard. It was Blanchard or  
18 Whitehead. Mostly Blanchard because he was wanting  
19 that coal. He would be putting that pressure to work  
20 that mine seven days a week to get it done.

21 Q. Where did this pressure originate from? Do you  
22 think it originated with him or do you think it came  
23 from above him?

24 A. I really don't know.

25 Q. You don't know?

1 A. Just about the whole time, you know, I hear about  
2 the --- they got Elk Run. They said he's as good guy,  
3 never complained, never pressured us or anything.

4 Q. Did you ever fill out a survey?

5 A. Yeah.

6 Q. Did you ever hear about the results of that  
7 survey?

8 A. One of them they're retraining about. It was  
9 mostly about your supervisor and how you feel, like  
10 safety and stuff like that.

11 Q. What did they tell you about the results?

12 A. Nothing really. They just went over about where  
13 they asked like our supervisor, like our president,  
14 like about Chris Adkins and stuff like that, who you  
15 like --- I guess like pretty much like more and stuff  
16 like that. That's the only thing they really went  
17 through with us.

18 Q. Did anybody ever go over the S1 handbook with you  
19 guys?

20 A. (Indicates no).

21 MR. MCGINLEY:

22 You have to say yes or no.

23 A. No.

24 BY MR. STEFFEY:

25 Q. They didn't go over the company safety policies?

1 A. No, not like ---.

2 Q. Did you --- did they ever talk about S1?

3 A. Yeah, they talked about S1, like --- they always  
4 told us, like don't do --- if you can't do your job  
5 right, we can replace you and stuff like that.

6 Q. I don't know if that's in the S1 handbook.

7 A. I don't believe it is either, but ---.

8 Q. That sounds more like a threat.

9 A. That's what they always said, if you can't do your  
10 job right, we can find somebody who can.

11 Q. How would you describe the atmosphere at this  
12 mine?

13 A. Actually, like the guys we had, like the  
14 superintendents, they wasn't bad. Like they never  
15 like pressured us or anything. It was mostly, I  
16 believe, coming from Blanchard, pressure, wanting you  
17 to run. Like Gary May, you could go to him, like talk  
18 to him. He was good to you.

19 Q. You mentioned you never saw Blanchard come in and  
20 talk to anybody.

21 A. No. Like they go over safety and stuff like that,  
22 but I believe it's mostly to cover their own hind end.

23 Q. Did people seem like they were afraid of  
24 Blanchard?

25 A. Yeah.



1 Q. Why would they be afraid of him?

2 A. Afraid they would get fired if they do something.

3 Like if they do one thing wrong, they're afraid they

4 would get fired.

5 Q. Did he fire a lot of people?

6 A. I really don't know if he has or not. But after

7 talking to Brian about what they done to him because

8 of that --- but I really never was afraid of him. I

9 really don't care about him.

10 MR. STEFFEY:

11 You guys got any follow-up questions?

12 MR. FARLEY:

13 Maybe one or two.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. I know there was some questions asked about rock

17 dusting. Now, you worked on a continuous miner, a

18 coal producing section. How and when were the faces

19 rock dusted?

20 A. We usually tried to dust every other day, and it

21 was usually at the end of the shift. That's usually

22 when we dusted.

23 Q. Did you do --- did the scoop operator or anyone

24 else do any hand dusting ---

25 A. Yeah.

1 Q. --- during the shift?

2 A. Yeah. Sometimes like if they got dust back on the  
3 bolter, like when we get up there we'll dust. Or if a  
4 scoop man is up there, we'll roll the curtain up for  
5 him where he can clean it, drop the curtain, help him  
6 hand dust. Because they had three bolt men up there,  
7 and we wasn't running maybe a hundred foot, so we  
8 always tried to help the scoop man out to keep the  
9 section clean.

10 Q. Now, you discussed Brian's story about being fired  
11 by Whitehead and Blanchard. Did you have confidence  
12 in Brian as a section foreman?

13 A. Yeah. Yes, I did.

14 Q. Okay.

15 MR. FARLEY:

16 Next?

17 RE-EXAMINATION

18 BY MR. MCGINLEY:

19 Q. Just to clarify that interchange you had with Mr.  
20 Steffey, you were describing what it was like to run  
21 equipment in that area where there was so much  
22 congestion. And I'm not sure the record reflects  
23 exactly where that area was and when that time period  
24 was. Can you give us some idea of that?

25 A. What was it again?

1 Q. We were talking about down here. You were talking  
2 about all the different equipment running back and  
3 forth and what you had to do ---

4 A. Yes.

5 Q. --- in that congestion. When was that and where  
6 was that so we can identify it when somebody reads the  
7 transcript?

8 A. Right there at that MMU-0400 on that tailgate  
9 side, on the new tailgate. And it ---.

10 Q. Approximately what month or months?

11 A. Probably the beginning --- it was around March  
12 because we wasn't up there very long.

13 Q. March of 2010?

14 A. Yeah.

15 Q. Okay. That's good enough.

16 A. It was around that area.

17 Q. Okay.

18 A. They always preach about safety and stuff, but I  
19 really don't know like if they really care about it or  
20 not. Like they'll talk about it, but always the way I  
21 see, you go up there and do your job right, you got  
22 nothing to worry about, because they can't fire you  
23 doing your job right. So that's why I really don't  
24 care.

25 Q. When you say they talk about safety, what do you

1 mean by that?

2 A. Like sometimes like they say --- like Blanchard  
3 said --- wanting coal and stuff, but he said to be  
4 safe and stuff like that. But most of the time you  
5 don't think he really does mean it, but ---.

6 Q. Why do you think he doesn't mean it? Does that  
7 have anything to do with you observed inside the mine  
8 when you're working?

9 A. I believe he mostly does it just to cover his own  
10 hind end, like I say.

11 Q. Because what he says is different in terms of  
12 safety practices in the mine, is that ---?

13 A. Like what do you mean?

14 Q. Like he's saying, you know, work safely, but  
15 that's inconsistent with what you're seeing when  
16 you're in the mine working. There's not safety first  
17 going on there all the time.

18 A. No. Like everybody thinks like Blanchard wants  
19 that. But how he is and stuff, you don't --- like  
20 that's just a bunch of crap, S1, of what we think of  
21 Blanchard when he mentions it, like it's a bunch of  
22 --- he don't really care about S1.

23 Q. Well, for example --- an example of that would be  
24 when you were working up in the area near the  
25 Bandytown fan and you had gas for a long period of

1 time, there was a lot of water and nothing was done  
2 about it, is that an example of ---?

3 A. Yeah. Like he wants us to work safe and  
4 everything, but we've got to go up there --- as soon  
5 as you get off the mantrip, you step in water. Your  
6 feet is already wet. Like S1, you would have pumps up  
7 there or order pumps and stuff to get it to where you  
8 can keep the water down where you'll be able to work  
9 safe.

10 Q. What's the deepest water you were working in?

11 A. That one time I believe I stepped almost in to my  
12 knees. I was bolting.

13 Q. Did you know that there were any areas that were  
14 roofed out with water?

15 A. I've heard that this end of the mines with the  
16 longwall and the --- I think Headgate 22 was down for  
17 a while because they said water filled all the way to  
18 the top across all --- I think all three entries and  
19 blocked the return off. And I also, like during  
20 vacation ---.

21 Q. When would that have been?

22 A. It was about the end of last year when that  
23 happened.

24 Q. Okay.

25 A. Like we --- I was working during Thanksgiving

1 vacation a couple days, and I talked to a couple red  
2 hats and they said they had been having them chest  
3 waders, walking, through that waterhole. I believe  
4 --- up to your chest in water, I don't believe that's  
5 really right.

6 Q. You were going to say after vacation. I sort of  
7 cut you off. Just a second ago you were saying after  
8 vacation. Did something happen?

9 A. Yeah. I think like after vacation, that's when  
10 they like --- it filled completely to the top and  
11 blocked the return off.

12 Q. And what vacation would that have been?

13 A. That was after Thanksgiving vacation I worked.

14 Q. 2009?

15 A. Yes.

16 Q. Mr. Steffey was asking you whether you felt that  
17 there was adequate volume of air, and you said you  
18 didn't think it was --- you agreed it wasn't adequate.  
19 For how long? What period of time? I'm not trying to  
20 pin you down to the days or hours, but was that  
21 consistent or did it go for a long period? Can you  
22 just give us some idea?

23 A. I believe it was like a couple weeks it was like  
24 that, about three weeks maybe.

25 Q. Was that all after the ---

1 A. Air change.

2 Q. --- air change?

3 A. Yes.

4 Q. And that would have been late March, ---

5 A. Yeah, it was ---.

6 Q. --- early April of 2010?

7 A. It was maybe the beginning of March.

8 Q. Okay.

9 A. Because I believe we was up there about a month  
10 running.

11 Q. So that's the period before they made the air  
12 change. Where you were working it wasn't adequate  
13 air. You felt it was hot and so forth?

14 A. Yeah. Are you talking about the longwall or where  
15 I was at on the tailgate?

16 Q. Well, either one. Maybe both if you can just  
17 clarify that a little more.

18 A. Like once we first like got ready to run and you  
19 just got started, they did. They changed our air, and  
20 you could tell a big difference on our section, the  
21 intake. But you could also tell a difference on the  
22 longwall about the lack of air.

23 Q. And before they made that change, you didn't have  
24 enough air; is that right?

25 A. The boss said we had enough air.

1 Q. It didn't feel like it to you?

2 A. It just didn't feel like it.

3 Q. It was hot?

4 A. Yeah.

5 Q. You were sweating. And that was --- it was cold  
6 outside, March?

7 A. Yeah. Like Massey lawyers, they asked me if I  
8 felt safe and stuff. I was like, yeah, I felt safe  
9 because I done my job right, so I had no reason to  
10 feel unsafe. Because if I done mine, there was like  
11 no reason to feel unsafe.

12 Q. Well, you didn't feel completely safe when you had  
13 all that gas for a long period of time?

14 A. No, not when that gas was like --- after they put  
15 a new fan in, I didn't worry about no gas or nothing.  
16 I thought it was all --- it was token care of because  
17 of lack of air. That's why I didn't push it out of  
18 there.

19 Q. Right. You said that there was an area around the  
20 belt head, near the Glory Hole, that looked awfully  
21 black?

22 A. Yes.

23 Q. How long did it look like that?

24 A. It was about the whole time we was traveling up  
25 through that way. I can't exactly remember what date,



1 month ---.

2 Q. No, no, but just generally.

3 A. Yeah.

4 Q. Would that have been 2010?

5 A. Yeah.

6 Q. So how long were you traveling up that way?

7 A. It was --- I know it was at least three weeks.

8 Q. And what side --- what was the area where it was  
9 black?

10 A. It was mostly down towards the belt head because  
11 they went across re-cutting the top and bolting up  
12 there where they could put that new motor drive in  
13 right there.

14 Q. so it was really a small area or ---?

15 A. It was for a couple of breaks they done that. But  
16 towards the head, that's where it looked the blackest  
17 to me. But that's the side of the mantrip I sat on,  
18 too, so that's the side I was always facing.

19 Q. Right. When you were working, did the methane  
20 detectors on any of the equipment ever gas off?

21 A. I've never seen, but I've heard that --- the miner  
22 man told me that it gassed off, but I never seen the  
23 miner gas off, though.

24 Q. Who told you that?

25 A. Our miner --- our miner man.

1 Q. Oh, okay. And what --- while you were working?

2 A. Yeah.

3 Q. And what did he do or what was done?

4 A. He --- as far as I know, he said he went and got  
5 the boss and I think they --- I think they double hung  
6 curtain to make sure they'd get more air up in there.  
7 But I really didn't know what was going on at the  
8 time.

9 Q. Right. What about methane detectors just  
10 malfunctioning?

11 A. I seen one methane monitor didn't work. It was  
12 down for a long time until they got a new sniffer put  
13 on it.

14 Q. And what equipment was that?

15 A. It was a miner. It was a left miner on the  
16 section I was on. It was that --- oh, the crosscut,  
17 that would be the mouth of the longwall connected to  
18 the tailgate and the headgate. We was driving this  
19 across --- I'm trying to think of what you would call  
20 that. It was just a little panel of rock. Just a  
21 panel.

22 MR. STEFFEY:

23 I've heard it called a cut-through. Have  
24 you ever heard it called that?

25 A. The cut-through right here?

1 MR. FARLEY:

2 Old Two North maybe? Is that possible?

3 A. I really don't know what you would call it.

4 ATTORNEY WILSON:

5 You're referring to the panel outby the

6 longwall section?

7 A. Yes.

8 BY MR. MCGINLEY:

9 Q. It's a continuous miner section ---

10 A. Yes.

11 Q. --- outby the longwall.

12 A. Yeah, that's the only time I seen a sniffer that  
13 didn't work.

14 Q. And what happened? How was that dealt with? Did  
15 they send out for a new ---?

16 A. Yeah.

17 Q. Did they ever replace it?

18 A. Yeah. They told the outby electrician. I don't  
19 know if he's the --- he's the outby electrician. I  
20 don't know if they consider him a mine foreman or  
21 whatever. We had to wait for him to get up there and  
22 bring a new sniffer and where they could put it on the  
23 miner, and they calibrated it before they would run.

24 Q. So they shut it down as soon as it malfunctioned?

25 A. Yeah. As soon as we got there, it was messed up.

1 It was showing like I think F4, something like that.  
2 so the miner man shut it down and waited until they  
3 got a new sniffer. He's the current boss. He was the  
4 current boss that was on Headgate 22, on evening  
5 shift.

6 Q. Who was that?

7 A. Pat ---.

8 Q. Hilbert?

9 A. Yeah, Hilbert.

10 Q. Did you work on Easter weekend before the  
11 explosion?

12 A. No.

13 Q. When was the last day you worked?

14 A. It was that Friday.

15 Q. Did you notice anything unusual?

16 A. No.

17 Q. Did you hear anything about air changes being made  
18 over that Easter weekend?

19 A. No.

20 Q. They weren't telling you about air changes when  
21 they were made?

22 A. No. Usually when I heard is when the boss told  
23 me.

24 Q. When your boss told you there were air changes  
25 made, did he indicate how those changes might affect

1 the place where you were working?

2 A. No. He told us that they had an air change, but  
3 we did notice like a difference on the section. But  
4 he didn't know like it changed anything in our  
5 section, though.

6 Q. Okay. Mr. Steffey was asking about S1 and P2. Do  
7 you know what P2 is?

8 A. Production.

9 Q. What about production?

10 A. They say it's safety first, production second, and  
11 I think measurement third or something like that.

12 Q. M3?

13 A. Yeah.

14 Q. Do you know anything more about those S1, P2, M3,  
15 other than safety first, production second?

16 A. That was about it.

17 Q. So just a slogan?

18 A. Yeah, as far as --- that's all we know about it.

19 Q. Did you ever hear of an S1 manual?

20 A. I heard of something like that, like an S1 book,  
21 but I never like seen one.

22 Q. Did anybody ever say something you were doing  
23 wasn't S1?

24 A. No.

25 Q. Did you ever hear that expression, what you're ---

1 apply to some other situation, well, that isn't S1?

2 A. Not that I can think of.

3 MR. MCGINLEY:

4 All right. That's all the questions I

5 have. Thanks.

6 MR. STEFFEY:

7 Just a couple more questions.

8 RE-EXAMINATION

9 BY MR. STEFFEY:

10 Q. At any point in your employment at Upper Big  
11 Branch, did you ever have a situation where you were  
12 either --- had to be evacuated form the mine or  
13 whether you had an upcoming work shift cancelled due  
14 to an unsafe condition?

15 A. We --- like I said earlier, like they red flagged  
16 the mines like when they done an air change, so we was  
17 off for like three days. We couldn't work.

18 Q. Was that the only time?

19 A. That I can remember. That's --- I believe that's  
20 the only time.

21 Q. Okay.

22 MR. STEFFEY:

23 That's about all I've got, Bob.

24 MR. MCGINLEY:

25 Just one more.

1 RE-EXAMINATION

2 BY MR. MCGINLEY:

3 Q. The only time you can remember the three-day  
4 period, would you remember it if you were off work  
5 because of an air change?

6 A. What was it again?

7 Q. Would you remember it? I mean, you remember the  
8 three days. Is there any chance there was some other  
9 period when you were off for an air change and you  
10 don't remember it?

11 A. No.

12 Q. That's pretty significant to you?

13 A. Yeah. Like that was the only time I knew of. It  
14 could have happened like when I was off, but I had  
15 never heard of it happening.

16 Q. In 2010, you weren't still working seven days a  
17 week, were you?

18 A. No.

19 Q. What was your shift? I mean, how does that work?

20 A. Five days one week, six days the next.

21 Q. Alternate five/six?

22 A. Yes.

23 Q. Throughout, from the beginning of January to the  
24 time of the explosion?

25 A. Yes.

1 MR. MCGINLEY:

2 Thanks. I don't have any more.

3 ATTORNEY WILSON:

4 All right. Mr. Daniel, on behalf of MSHA

5 and the State of West Virginia, I want to thank you

6 for coming in here and answering our questions today.

7 We really appreciate you taking your Saturday morning

8 and coming in here. Your cooperation is very

9 important to the investigation as we work to determine

10 the cause of the accident. Again, I remind you that

11 we request that you not discuss with anyone what was

12 discussed here today.

13 After questioning other witnesses, we may

14 call you if we have any follow-up questions. If at

15 any time you have any additional information you want

16 to provide to us, please contact us at the information

17 that was provided to you. And when we go off the

18 record, I'll --- we'll talk about getting that

19 document that we had discussed earlier.

20 I discussed a little bit earlier about

21 your rights under the Mine Act. I want to inform you

22 a little bit more of that. Any statements given by a

23 miner to MSHA are considered to be an exercise of

24 statutory rights and protected activity under Section

25 105(c) of the Mine Act. If you believe that any



1 discharge, discrimination or any other type of adverse  
2 action is taken against you as a result of your  
3 cooperation with this investigation, you are urged to  
4 immediately contact MSHA and file a complaint under  
5 Section 105(c) of the Act. Remedies under the Mine  
6 Act include back wages and immediate temporary  
7 reinstatement to your most recent position, pending a  
8 complete investigation of your complaint. The way you  
9 would go about filing such a complaint is to contact  
10 the MSHA district office in Mount Hope, West Virginia.  
11 You can find their contact information at the MSHA  
12 website. And the website is provided in the letter,  
13 and that's msha. --- www.msha.gov.

14 Before we conclude and go off the record,

15 I just wanted to give you an opportunity at this time  
16 if there was anything else that you would like to tell  
17 us about, please do that now. Or if you just want to  
18 make any kind of statement, you have that right to do  
19 so right now.

20 A. No, I don't have nothing to say.

21 ATTORNEY WILSON:

22 Nothing further. Okay. Well, again,  
23 thank you for coming in, and we'll go off the record.

24 \* \* \* \* \*

25 STATEMENT UNDER OATH CONCLUDED AT 10:35 A.M.

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*