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Transcript of the Testimony of Shannon Dickens

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CONFIDENTIAL STATEMENT UNDER OATH
OF
SHANNON DICKENS

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 Wednesday, August 11, 2010, beginning at 10:05 a.m.

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A P P E A R A N C E S

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I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Hampton	6 - 17
5	STATEMENT	
6	By Mr. Farley	17 - 18
7	WITNESS: SHANNON DICKENS	
8	EXAMINATION	
9	By Mr. Sherer	19 - 46
10	EXAMINATION	
11	By Mr. Farley	46 - 53
12	RE-EXAMINATION	
13	By Mr. Sherer	53 - 59
14	CLOSING STATEMENT	
15	By Attorney Hampton	60 - 61
16	DISCUSSION AMONG PARTIES	61 - 63
17	CERTIFICATE	64
18		
19		
20		
21		
22		
23		
24		
25		

1		EXHIBIT PAGE	
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P R O C E E D I N G S

1
2 -----
3 ATTORNEY HAMPTON:

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

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

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

22 ATTORNEY HAMPTON:

23 Okay. And there are also other members
24 of the accident investigation teams here in the
25 audience. All members of the safe --- Mine Safety and

1 Health Accident Investigation Team and all members of
2 the State of West Virginia Accident Investigation Team
3 participating in the investigation of the Upper Big
4 Branch Mine explosion shall keep confidential all
5 information that is gathered from each witness who
6 voluntarily provides a statement unless the --- until
7 the witness statements are officially released. MSHA
8 and the State of West Virginia shall keep this
9 information confidential so that other ongoing
10 enforcement activities are not prejudiced or
11 jeopardized by a premature release of information.

12 This confidentiality requirement shall
13 not preclude investigation team members from sharing
14 information with each other or with other law
15 enforcement officials. Your participation in this
16 interview constitutes your agreement to keep this
17 information confidential. Okay?

18 MR. DICKENS:

19 All right.

20 ATTORNEY HAMPTON:

21 Government investigators and specialists
22 have been assigned to investigate the conditions,
23 events and circumstances surrounding the fatalities
24 that occurred at the Upper Big Branch Mine-South on
25 April 5th, 2010. The investigation is being conducted

1 by MSHA under Section 103(a) of the Federal Mine
2 Safety and Health Act and the West Virginia Office of
3 Miners' Health, Safety and Training. We appreciate
4 your assistance in this investigation.

5 You may have a personal attorney present
6 here during the taking of this statement and you may
7 consult with this attorney at any point. Your
8 statement is completely voluntary. You may refuse to
9 answer at any --- any question at any time and you may
10 terminate the interview at any time.

11 Since this is not an adversarial
12 proceeding, formal Cross Examination won't be
13 permitted, but your attorney can ask any clarifying
14 questions; okay? So the record is clear, I see you do
15 have an attorney here; is that right?

16 MR. DICKENS:

17 Yes, I do.

18 ATTORNEY HAMPTON:

19 Okay. I'm just going to ask a couple
20 background questions about that.

21 ATTORNEY SEARS:

22 Again, I'm going to state an objection at
23 this point.

24 ATTORNEY HAMPTON:

25 Okay.

1 ATTORNEY SEARS:

2 For the record, I know that we had a
3 discussion before we went on the record, and I might
4 repeat some of the things I said. But I have
5 indicated to you before --- I have to this Board
6 before --- that beyond the fact that I represent the
7 person who's appearing here today to provide testimony
8 and that I am his legal representative, we're not
9 going to answer any --- neither him nor I are going to
10 answer any questions regarding the legal
11 representation itself.

12 I believe that you have indicated and
13 agreed, and you correct me if I'm wrong, that you were
14 going to ask these questions anyhow to ensure my
15 compliance with Rule 4.2 of the West Virginia Rules
16 for Professional Conduct. And it is my position that
17 the offices --- Office of the Solicitor General or
18 Department of Labor or any entity other than the
19 Office of Disciplinary Counsel for the West Virginia
20 Bar had absolutely no authority to make any inquiry or
21 investigation into my ethical conduct.

22 And frankly, I've raised this issue with
23 you before. I understand John McCuskey's raised this
24 issue before, yet you all continue to ask these
25 questions. I believe it completely inappropriate. I

1 have indicated to you, well, if you're going to ask me
2 questions, I might as well ask you questions, and you
3 have indicated that it would be inappropriate for me
4 to ask you questions regarding your ethical conduct.
5 And if that's the case, then it's got to cut both
6 ways.

7 Personally, whenever you inquire as to
8 whether or not I have done certain things, explained
9 certain things to my client, you're questioning my
10 integrity. You're questioning my understanding and
11 you're questioning my compliance with the Rules of
12 Professional Conduct that I took an oath to adhere to.
13 If you have a problem with anything that I'm doing, if
14 this Board or any other member of the Department of
15 Labor or anyone else has a problem with what I'm
16 doing, make a report to the Office of Disciplinary
17 Counsel. Let them conduct an investigation. Other
18 than that, I'm making a request not to ask any more
19 questions.

20 And if you continue to persist in asking
21 the questions, notwithstanding the fact that I've
22 already told you that neither I nor any of my clients
23 are going to answer those questions, then I can only
24 presume that you're asking those questions only for
25 the purpose of harassing, intimidating or trying to

1 cause some other type of stressful situation for my
2 clients, who are here to answer questions about the
3 investigation itself. Not the investigation; about
4 the accident itself. And with that said, I
5 strenuously object to you even asking any questions.

6 ATTORNEY HAMPTON:

7 Okay.

8 ATTORNEY SEARS:

9 And if you're going to ask those
10 questions, I'm going to ask my client to leave the
11 room so he doesn't have to hear those questions ---

12 ATTORNEY HAMPTON:

13 Okay.

14 ATTORNEY SEARS:

15 --- because I think that they have no
16 genuine purpose of being asked.

17 ATTORNEY HAMPTON:

18 Okay. I appreciate your viewpoint and I
19 appreciate you sharing this information with us. I
20 would like to make it very clear that the purpose of
21 these questions is not to harass or to intimidate or
22 to create a negative situation before we go into the
23 content of why we're here today, which is to elicit
24 information so that we can conduct our investigation
25 and figure out what happened at Upper Big Branch.

1 That is the purpose for being here today. And the
2 reasons we have been asking this questions is just to
3 ensure that you are his attorney and that you are here
4 only for him in that role.

5 ATTORNEY SEARS:

6 And we've already been ---.

7 ATTORNEY HAMPTON:

8 That's all.

9 ATTORNEY SEARS:

10 We've already ---

11 ATTORNEY HAMPTON:

12 Okay; good.

13 ATTORNEY SEARS:

14 --- indicated that to be the case.

15 ATTORNEY HAMPTON:

16 Okay. Well ---.

17 ATTORNEY SEARS:

18 So there's no need to even ask any more
19 questions.

20 ATTORNEY HAMPTON:

21 Okay. Let me just look at my notes real
22 quickly. Actually, just so that we are clear, I don't
23 know that you stated your name.

24 ATTORNEY SEARS:

25 My name's Chris Sears with the law firm

1 Shuman, McCuskey & Slicer.

2 ATTORNEY HAMPTON:

3 Okay. And you are here as his personal
4 legal attorney?

5 ATTORNEY SEARS:

6 That's correct.

7 ATTORNEY HAMPTON:

8 Okay. All right. Well, I think that the
9 content of the things that I would be asking you
10 covered in your speech, so I think that we can move
11 on.

12 ATTORNEY SEARS:

13 Okay.

14 ATTORNEY HAMPTON:

15 Is that appropriate?

16 ATTORNEY SEARS:

17 Thank you.

18 ATTORNEY HAMPTON:

19 Do you feel comfortable?

20 ATTORNEY SEARS:

21 I'm sorry. I don't understand the
22 question.

23 ATTORNEY HAMPTON:

24 Do you feel comfortable proceeding on
25 from this point?

1 ATTORNEY SEARS:

2 If you're going to ask questions about
3 what happened, yes.

4 ATTORNEY HAMPTON:

5 Okay. I'm going to continue with ---.

6 ATTORNEY SEARS:

7 Not questions about my representation.

8 ATTORNEY HAMPTON:

9 I'm going to continue with my statement,
10 then.

11 ATTORNEY SEARS:

12 With your statement, not ---

13 ATTORNEY HAMPTON:

14 Right.

15 ATTORNEY SEARS:

16 --- with any questions?

17 ATTORNEY HAMPTON:

18 Correct.

19 ATTORNEY SEARS:

20 Okay. If you're going to ask any
21 questions, please let me know and we'll remove
22 ourselves from the room while you put it on record.

23 ATTORNEY HAMPTON:

24 Okay.

25 ATTORNEY SEARS:

1 Thank you.

2 ATTORNEY HAMPTON:

3 All right. Your identity and the content
4 of this conversation will be made public at the
5 conclusion of the interview process and may be
6 included in the public report of the accident unless
7 you request that your identity remain confidential and
8 --- or, excuse me, or your information would otherwise
9 jeopardize a potential criminal investigation. If you
10 request us to keep your identity confidential, we will
11 do so to the extent only permitted by the law.

12 That means that if a judge asks us to
13 reveal your name or if another law requires us to
14 reveal your name or if there are other law enforcement
15 purposes, then we may do so. As well, the State team
16 has their own considerations in terms of what they are
17 able to keep confidential, so this is only a statement
18 coming from the Federal side.

19 Okay. Also, there might be a need to use
20 the information that you provide to us or other
21 information we may ask you about in the future in
22 other investigations into or hearings about the
23 explosion. Do you understand this?

24 MR. DICKENS:

25 Yes.

1 ATTORNEY HAMPTON:

2 Do you have any questions about this?

3 MR. DICKENS:

4 No.

5 ATTORNEY HAMPTON:

6 Okay. After the investigation is

7 complete, MSHA will issue a public report detailing

8 the nature and cause of the fatalities in the hope

9 that greater awareness about the causes of accidents

10 can reduce their occurrence in the future.

11 Information obtained through witness interviews is

12 frequently included in these reports. Since we will

13 be interviewing other individuals, we do request that

14 you not discuss your testimony with any other person

15 other aside from your personal attorney.

16 A court reporter will record your

17 interview, so please speak loudly and clearly. If you

18 don't understand a question, please ask that person to

19 rephrase it, and please answer each question as fully

20 as you can, including any information that you have

21 learned from another source.

22 We would like to thank you in advance for

23 your appearance here. We appreciate your assistance

24 in this investigation. Your cooperation is critical

25 in making the nation's mines safer.

1 After we have finished questions, you
2 will have an opportunity to make a statement and
3 provide to us any other information that you believe
4 is important. If at any time you --- after you leave
5 this interview, you think if other information that
6 you would like to share with us, please contact us or
7 have your attorney contact Norman Page. His contact
8 information is in that letter I handed to you before
9 we began today. He is the lead investigator on the
10 MSHA team.

11 MR. DICKENS:

12 Okay.

13 ATTORNEY HAMPTON:

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

23 MR. FARLEY:

24 Mr. Dickens, in the interest of --- I
25 want to give you some contact information in the event

1 that you should have any problems with anyone trying
2 to discriminate against you for participating in these
3 interviews. You have any problems of that nature ---

4 MR. DICKENS:

5 No.

6 MR. FARLEY:

7 --- you can feel free to contact any of
8 the people listed on that memorandum, and we'd be more
9 than happy to try to help you out. We would caution
10 you that if you have to file a claim, you need to do
11 it within 30 days of the event. Okay?

12 MR. DICKENS:

13 All right.

14 MR. FARLEY:

15 Also, from the State's perspective
16 concerning confidentiality, we're governed by the
17 Freedom of Information requirements, and at the end of
18 our investigation, everything we gather will be
19 available to the public under that Freedom of
20 Information Act, so confidentiality will last about
21 that long.

22 MR. DICKENS:

23 Okay.

24 MR. FARLEY:

25 Very well.

1 ATTORNEY HAMPTON:

2 Okay. Could you please swear in the
3 witness?

4 -----

5 SHANNON DICKENS, HAVING FIRST BEEN DULY SWORN,
6 TESTIFIED AS FOLLOWS:

7 -----

8 EXAMINATION

9 BY MR. SHERER:

10 Q. Okay. I want to thank you for coming in this
11 morning, Mr. Dickens.

12 A. Uh-huh (yes).

13 Q. We're looking into the conditions and
14 circumstances that led up to the explosion at Upper
15 Big Branch on April the 5th. There's two reasons
16 we're doing that. The first one is the families and
17 the friends and the coworkers of these people deserve
18 some answers. The second one is we want to prevent
19 this sort of thing from happening in the future, and
20 one of the keys to doing that is to understand what
21 the causes were. How many --- well, first of all,
22 would you please state your name and spell your last
23 name for the record?

24 A. My name is Shannon Dickens, D-I-C-K-E-N-S.

25 Q. Okay. What about your address and telephone

1 number, please?

2 A. My address is [REDACTED]

3 [REDACTED]

4 Q. Okay. Thank you. Roughly, how many years of
5 mining experience do you have?

6 A. About 15.

7 Q. Okay. Has that all been with the Massey
8 Organization?

9 A. No.

10 Q. Where'd you start out at?

11 A. I started out with Consolidation Coal Company
12 while I was in college.

13 Q. Oh, okay. What did you get a degree in?

14 A. Electrical engineering.

15 Q. Electrical engineering, I'm impressed. That's a
16 tough field.

17 A. Yeah.

18 Q. When did you start with the Massey Organization?

19 A. May of '97.

20 Q. May of '97. And when did you first become
21 associated with Upper Big Branch?

22 A. In the May of '97.

23 Q. Okay. Have you worked at Upper Big Branch the
24 entire time up until the explosion?

25 A. No. I was there --- see, when I first started, I

1 started with Massey Coal Services. So I've moved
2 around, but I was at UBB mostly. And then I became a
3 --- on their payroll, I think in '98.

4 Q. Okay.

5 A. And just stayed there, but I moved around from
6 place to place for a while.

7 Q. Sure. We understand that people on the longwalls,
8 in particular, have been around quite a bit in that
9 organization.

10 A. Yeah, sometimes.

11 Q. Have you been associated with the longwall in the
12 current panel ---

13 A. Uh-huh (yes).

14 Q. --- since its inception?

15 A. Yeah.

16 Q. Okay. Do you recall when this particular panel
17 was first discussed? When did you first become aware
18 of moving this wall into this panel?

19 A. Well, I was at Logan's Fork and we moved the
20 longwall from Elk Run back to here.

21 Q. Okay.

22 A. But when it was first discussed ---.

23 Q. Yeah, when did you first hear about they were
24 going to move this to back to UBB?

25 A. I'm not sure. I'm not sure.

1 Q. Okay. Just roughly, was it a month or two before
2 you had to move back or ---?

3 A. No, we knew, you know, a few months, I guess, we
4 was going back ---

5 Q. Okay.

6 A. --- to Big Branch.

7 Q. Did you participate in any planning meetings
8 concerning this current panel?

9 A. No. No, no meetings.

10 Q. Okay. So you pretty much moved with the
11 equipment?

12 A. Yeah, yeah.

13 Q. Okay. Were you involved in setting up the wall?

14 A. Yes, I was.

15 Q. Okay. About how long did that take?

16 A. When I came back, they had already started setup.
17 And I was probably there a month and a half or two
18 before they actually started up ---

19 Q. Okay.

20 A. --- I think.

21 Q. Okay. Any particular problems that you remember
22 from that setup?

23 A. No.

24 Q. Okay. Once you got the wall set up and going ---
25 and we understand that started up sometime in

1 September of 2009.

2 A. Uh-huh (yes).

3 Q. Did the first panel or first moths or two of
4 operation, did that go smoothly?

5 A. Just a lot of --- you know, nothing out of the
6 ordinary, just startup type problems.

7 Q. Yeah, yeah.

8 A. Yes.

9 Q. Okay. Once you got those little problems fixed,
10 how about up until the time of the explosion? Do you
11 recall anything unusual about the operation of that
12 wall?

13 A. No.

14 Q. Okay. Did you have any maintenance problems
15 associated with that wall?

16 A. Just general. I mean nothing, like, out of the
17 ordinary, no.

18 Q. Nothing unusual?

19 A. Nothing unusual.

20 Q. Okay. Do you recall an event in --- we think it
21 was late October, maybe early November when there was
22 a large quantity of water that came down on the wall,
23 and required ---. Several days the wall was down and
24 water was pumped.

25 A. The water coming from where? I mean ---.

1 Q. It probably came from an overlying mine. We're
2 not sure, but it inundated the wall supposedly at
3 about halfway up the backboards.

4 A. I know we had water in a swag, you know, what I'm
5 saying? I guess you would call it a low-lying area.
6 I mean, that's nothing uncommon, you know what I mean?
7 Just ---

8 Q. Okay.

9 A. --- nothing ---.

10 Q. Do you recall a couple days when the wall didn't
11 operate because of the water?

12 A. I don't remember any days we didn't run, but like
13 I said, the schedule we worked, sometimes I'm not
14 there.

15 Q. Oh, okay.

16 A. You know, we work a seven-day schedule. It may've
17 been while I was off.

18 Q. Okay.

19 A. I don't know.

20 Q. Sure. So do you recall setting pumps to pump the
21 water off the ---?

22 A. Yeah, I remember setting pumps. Yes.

23 Q. Okay.

24 A. Or we had before, yeah.

25 Q. Okay. How about in the second half of December?

1 We understand that the wall had got off into an
2 overlying seam, maybe a rider seam and had to be
3 walked back down into the main coal seam.

4 A. As far as getting out of the seam, I ---

5 Q. Okay.

6 A. --- don't work on the production crew.

7 Q. Okay. You didn't know the --- you notice that the
8 shields were all titled at odd angles and ---?

9 A. No, not anything out of the ordinary. Like I
10 said, I don't ---

11 Q. Okay, okay.

12 A. --- do nothing like that.

13 Q. Okay. If you look at this map in front of you,
14 this is a map supplied by the company that charts the
15 progress of the wall, and you'll notice that late
16 December and early January, very little production.
17 Does anything stand out to you about that particular
18 time period?

19 A. It would be around Christmas; right?

20 Q. Uh-huh (yes).

21 A. Not in particular, no. I mean, I don't ---.

22 Q. Okay. Well, let's go to the time period
23 immediately preceding the explosion.

24 A. Okay.

25 Q. We understand that you worked primarily on the

1 third shift.

2 A. Yeah.

3 Q. We understand that you swap out with another ---
4 other crew.

5 A. Yeah.

6 Q. What sort of rotation do you guys have?

7 A. Five days on, three days off.

8 Q. Okay. What was the last shift that you recall
9 working prior to the explosion?

10 A. I wasn't there five days before, because I had
11 some vacation days from the year before I hadn't used.
12 And I turned in two days, plus my three days off, and
13 I actually went to Charlotte to watch a UFC fight. I
14 hadn't been --- I was supposed to come back that
15 night.

16 Q. Okay.

17 A. And I hadn't been there for five days.

18 Q. Okay. So you hadn't been on the wall
19 approximately a week prior to the explosion?

20 A. Before it happened. I think that Tuesday before,
21 most of the week ---

22 Q. Okay.

23 A. --- is the last day that I was there.

24 Q. Okay. Let me ask you some questions about the
25 month or so prior to the explosion.

1 A. Uh-huh (yes).

2 Q. Do you normally wear a coat on the wall, a jacket,
3 a hoodie, something like that?

4 A. Different times of the years. I mean, it's
5 according ---

6 Q. Uh-huh (yes).

7 A. --- you know. It's according, you know, the
8 temperature outside.

9 Q. Sure. We understand that there was quite a bit of
10 air on that face.

11 A. Yeah.

12 Q. And do you recall if you wore a jacket or anything
13 the last days that you worked?

14 A. Probably a hooded sweatshirt.

15 Q. Okay.

16 A. Coats kind of aggravate me, personally.

17 Q. Sure, uh-huh (yes). Okay. Do you recall if it
18 had gotten hotter on the face immediately preceding
19 the explosion?

20 A. No.

21 Q. Okay.

22 A. Not that I know of, no.

23 Q. Okay. Thank you. Do you recall the last time the
24 high voltage cable was changed on the wall?

25 A. On what part of the wall?

1 Q. Coming out of the --- out at mid-face and going
2 through the britby and going to the shearer.

3 A. Going to the shearer itself?

4 Q. Uh-huh (yes).

5 A. We changed out the entire britby water line,
6 britby and cable probably --- as far as time, no, but
7 probably two breaks before this happened. I don't see
8 the break man, so I'm not sure where it was at.

9 Q. Okay.

10 A. But it's still laying over there. I saw it the
11 other day.

12 Q. Oh, okay. Are you still working up at UBB?

13 A. I'm back there now.

14 Q. Okay. Have you been down the face since the
15 explosion?

16 A. Parts of it, yes.

17 Q. Okay. What condition is that face in?

18 A. It's hard to explain. Some of it --- some of it
19 looks fine, some if it don't look fine. Some of it's
20 been hot, some of it hasn't been hot. Concussions in
21 some places, some places no concussions.

22 Q. Sure.

23 BRIEF INTERRUPTION

24 A. Okay. I'm sorry. I said, you know, some places
25 look untouched. Some places look like it's been hot

1 or been concussion, I guess you would say.

2 BY MR. SHERER:

3 Q. Have you noticed if there's any coal on the pan
4 line?

5 A. In spots. What area are you wanting to know
6 about?

7 Q. We understand that there's no coal near the head,
8 no coal near the tail, but between about shields 40
9 and maybe 110 or so, there's a little bit of coal and
10 some rock. They all have soot on it.

11 A. The only coal around the head area is stuff that's
12 rolled out. It wasn't mined ---

13 Q. Sure.

14 A. --- that I could see. And at the shearer at the
15 tail itself, I can't see any coal, I mean for a ways.
16 But you know, around mid-face or so, there's a few
17 hunks here and there.

18 Q. Sure. And we just actually learned about that
19 yesterday. Previous reports was that there wasn't any
20 coal on the face.

21 A. There's a little bit here and there. I mean ---.

22 Q. Okay. Thank you. Now, we understand that the ---
23 some of the flights on the chain may've been starting
24 to get worn. Do you recall that?

25 A. Yeah, I mean normal wear. I mean that happens.

1 We went a mile, it's going to happen.

2 Q. Had you replaced any of those flights?

3 A. We had put some flights in the chain to help keep
4 it in deck, but I mean it was just precautionary type
5 deal.

6 Q. Sure.

7 A. It wasn't because they were ---.

8 Q. Sure, uh-huh (yes). Let me --- let me explain
9 what we think we know right now.

10 A. Go ahead.

11 Q. And you've probably seen some of this, and I would
12 certainly appreciate any input you may have on it. We
13 know the shearer was pretty close to being cut out on
14 the tail. And we know that the pan didn't have a lot
15 of coal on it, and as we discussed, it was primarily
16 toward the middle of the pan.

17 A. Yeah.

18 Q. We know that the visual disconnects for the high
19 voltage had been manually pulled.

20 A. In the shearer?

21 Q. For the shearer, yeah. We know that the waterline
22 had been turned off at the headgate.

23 A. The two incoming waters are off, yes.

24 Q. We know that the --- I think three or four of the
25 victims were located about mid-face.

1 A. Uh-huh (yes). Yeah, about 100 feet. Yeah.

2 Q There was another three of the victims, I think,
3 located about halfway between the mid-face and the
4 headgate.

5 A. There was two guys inby 80.

6 Q. Two guys; okay. Thank you. And then there was a
7 couple --- two or three people up around the headgate.

8 A. Uh-huh (yes). There was two, one at Two shield,
9 one at stage loader, yes.

10 Q. Okay. What do you think happened? What could
11 possibly be going on that wall at the time of the
12 explosion?

13 A. I don't think they were running, but in my own
14 opinion, it doesn't look like it was running.

15 Q. Uh-huh (yes), sure.

16 A. I mean, I don't know. I really don't know.

17 Q. Okay.

18 A. It's a puzzle to me when I look at it.

19 Q. Okay. Now, some other information. The wall
20 supposedly started up Monday morning just fine.

21 A. As far as I know, I wasn't there. You know, like
22 I said, I hadn't been there for five days, so I don't
23 know.

24 Q. Sure. Supposedly they had problems with the hinge
25 pin during the day.

1 A. Yeah, that's what I was told. They had a problem
2 with the ranging arm.

3 Q. Okay. We think they may've made about one pass
4 during the day.

5 A. I think.

6 Q. That's our best information. We know the wall ---
7 they called out from the wall about 2:42 in the
8 afternoon and they said they were back up. And that's
9 the last contact that anybody had with the crew, that
10 we know of. Again, given your knowledge of the wall
11 itself, would you care to help us out?

12 A. I wish I could more, but I really --- I don't
13 know.

14 Q. Okay.

15 A. I don't know.

16 Q. Sure. We understand that.

17 A. Because I want to know what happened as much as
18 you do.

19 Q. Sure.

20 A. Honest.

21 Q. Oh, I understand completely. And that's why we're
22 talking to you guys. Every little bit --- this is
23 like a big puzzle.

24 A. Very big.

25 Q. Sometimes just the right little piece, if we can

1 stick it in with another piece, will help us out
2 tremendously. Let me ask you about the ventilation on
3 the face. We know that there had been some air
4 changes. MSHA issued an order on March the 9th. Do
5 you recall anything that was going on with the
6 ventilation?

7 A. We had plenty of air. I mean, basically
8 ventilation stuff I don't ---.

9 Q. Okay.

10 A. You know what I'm saying? I really don't ---. As
11 long as I've got plenty of air here.

12 Q. Sure.

13 ATTORNEY HAMPTON:

14 I'm sorry. When you say here, where are
15 you pointing to?

16 A. On the longwall face.

17 ATTORNEY HAMPTON:

18 Okay.

19 A. I mean, that's basically ---

20 BY MR. SHERER:

21 Q. Sure.

22 A. --- where I'm at.

23 Q. Sure.

24 A. But as far as anything other than that, I
25 don't ---.

1 Q. Okay. Do you recall any instance where you didn't
2 have enough air on the face?

3 A. No.

4 Q. Okay.

5 A. No, I do not.

6 Q. And do you recall the curtains in the entries near
7 the headgate?

8 A. They were always up, if that's ---

9 Q. Okay.

10 A. --- what you're wanting to know.

11 Q. Okay. Now, they were always up. Did you ever
12 notice if they were tight? Did you ever see them
13 flapping?

14 A. Maybe a little corner or something, but as far as
15 --- you know what I mean? I mean it's just ---.

16 Q. Okay.

17 ATTORNEY SEARS:

18 I don't know if it was clear what his
19 answer to, were they always tight, was. Maybe
20 visually it was clear, but I wasn't --- for the
21 record. Can you answer his question of whether or not
22 they were tight?

23 A. Oh, yeah, they were tight.

24 MR. SHERER:

25 Okay. Thank you.

1 A. I mean, the part would be flapping would be, like,
2 an overhang, extra, you know what I mean?

3 BY MR. SHERER:

4 Q. Okay. You've never seen those curtains bowed back
5 toward the face, have you?

6 A. Bowed back toward the face?

7 Q. Yes, sir. In other words, instead of being blowed
8 out away from you, blowed back toward you?

9 A. Like air coming down?

10 Q. Uh-huh (yes).

11 A. No, never happened.

12 Q. Okay. Thank you. Did you ever notice any strange
13 smells along the longwall, maybe like kerosene or some
14 chemical or something like that?

15 A. Never.

16 Q. Okay. Did you guys do a lot of welding and
17 burning up along that longwall?

18 A. From time to time. I mean, just according to what
19 was going on, yeah.

20 Q. Okay.

21 A. I was on the maintenance shift. That's what we
22 do.

23 Q. Sure, uh-huh (yes). Did you keep bottles of gas
24 along the face or did you keep them in the headgate?

25 A. Oxygen acetylene, you mean?

1 Q. Uh-huh (yes).

2 A. We never kept them on the face. I mean we kept
3 them outby. We had a place we stored them.

4 Q. Okay. What about the welding? Did you have a
5 welding lead down the face?

6 A. Uh-huh (yes).

7 Q. Where was that at?

8 A. It was in the pan in the backboard.

9 Q. Okay. Was that a single cable or a double cable?

10 A. It was a single cable with two conductors.

11 Q. Okay. So you had a hot lead and a ground lead?

12 A. Right.

13 Q. How would you use that? Did you have plugs or
14 would you have to splice into it?

15 A. Mainly plugs that had, you know, just quick
16 connect.

17 Q. Okay.

18 A. Plugs.

19 Q. Okay. Was that cable in good shape?

20 A. Pretty much, yeah.

21 Q. Okay. Thank you. On the headgate near the
22 pullout point ---

23 A. Okay.

24 Q. --- we understand that there had been some
25 contractors, we think gluing up the roof. Do you

1 recall anything like that?

2 A. That was a while back, yes.

3 Q. Do you recall if they had removed their chemicals,
4 their drums and tanks and such?

5 A. I think it's all gone. I mean, I would be lying
6 if I --- I don't know.

7 Q. Okay.

8 A. I really don't know.

9 Q. Okay, sure. But you think it was?

10 A. Yeah, I think it was all gone. They hadn't been
11 there for a while.

12 Q. Okay. Another question in that same area. We
13 understand that there had been two doors going onto
14 the wall for some period of time, and there was two
15 additional doors constructed fairly recently before
16 the explosion. Do you recall those particular doors?

17 A. Yeah, yeah. I think those was outby, yeah.

18 Q. Okay. Do you know about when those doors were
19 constructed?

20 A. No, I'm not sure. No.

21 Q. Okay. It was obviously prior to a week before the
22 explosion, because you ---?

23 A. Yeah, it was longer than that. Yeah.

24 Q. Okay.

25 A. Unless they had put some up while I was gone.

1 Q. We don't think so.

2 A. Okay.

3 Q. Do you recall if those doors were open on one
4 side?

5 A. They were always closed.

6 Q. No, no. The door was probably closed, but we
7 understand there may have been an opening on the side
8 of the door.

9 A. I don't know.

10 Q. Okay.

11 A. Not that I know of.

12 Q. Okay. Do you recall if there was any change in
13 the ventilation along the longwall after those doors
14 were installed versus prior to those doors being
15 installed?

16 A. I don't know of any change, no.

17 Q. Okay. How about the other doors in the mine? We
18 understand that there was quite a few doors that you
19 had to pass through, getting onto the working face.

20 A. Yeah.

21 Q. Were those doors all in good shape?

22 A. Yeah, they stayed closed and sealed up, if that's
23 what you wanted to know.

24 Q. Sure, uh-huh (yes). You ever come up and find any
25 of them open?

1 A. Never, not that I can remember. No.

2 Q. Okay. Do you know if it was common for --- at
3 shift changes for one crew to open the doors up and
4 the last crew to close them?

5 A. I mean, if there was two rides together, you know.
6 We didn't open two at the same time. You know, you
7 didn't open the inby and outby set together. The
8 first crew might open this set, and then both crews
9 would go through. Then they'd shut them and they open
10 the outby set, but ---

11 Q. Okay.

12 A. --- as far as opening them both, no.

13 Q. Okay. Thank you. Did you ever get up in this,
14 what we're calling the connector area that went up to
15 the development sections?

16 A. No, the very first time the other day, first I
17 ever been there.

18 Q. Okay.

19 ATTORNEY SEARS:

20 For the record, you're referring to the
21 cut-through going to Headgate 22? Is that where it's
22 at?

23 MR. SHERER:

24 Yes, uh-huh (yes).

25 A. The cut-through. Before this, no I never had. I

1 never had been up in there in my life.

2 BY MR. SHERER:

3 Q. Okay. Thank you. Did you ever get out on the
4 tailgate?

5 A. Yeah. From time to time, yes.

6 Q. What were the conditions like down there?

7 A. Low, lower than out here (indicating).

8 Q. Okay. Thank you.

9 ATTORNEY SEARS:

10 I'm sorry. What do you mean by lower?

11 A. Just the height. It's just, you know, it's lower
12 on that side than that side.

13 BY MR. SHERER:

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

15 A. For the most part, yeah.

16 Q. Sure. Did you notice any floor hooving or floor
17 heaving while you were down there?

18 A. Nothing abnormal, if that's what you --- I mean
19 just general longwall hoovage.

20 Q. Sure. Okay. Do you recall if it was a practice
21 to knock a block or two out of a stopping either
22 adjacent to the longwall or a break or two outby?

23 A. I don't know.

24 Q. Okay. Did you ever see anybody go do something
25 like that?

1 A. No.

2 Q. Okay. Do you recall where the daytime initials
3 were placed on the tailgate?

4 A. They may've had a date board hanging down here.
5 I'm not sure, ---

6 Q. Okay.

7 A. --- to be honest with you.

8 ATTORNEY HAMPTON:

9 You just pointed to the map and said down
10 here. Where ---?

11 A. The tail side ---

12 ATTORNEY HAMPTON:

13 Okay.

14 A. --- down towards the tail somewhere, and they ---.

15 BY MR. SHERER:

16 Q. Okay. You don't recall, any?

17 A. I don't know.

18 Q. Okay.

19 A. I don't know.

20 Q. Okay. Do you recall if there were chalk marks on
21 the tail drive or tail shield or ---?

22 A. Sometimes down around the tail drive, I'd see
23 where guys had dated up.

24 Q. Uh-huh (yes). Okay.

25 A. As far as fire boss stuff, you know.

1 Q. Sure, uh-huh (yes). Who was the section boss on
2 the crew you worked on?

3 A. Keith Stanley.

4 Q. Who else was on that crew, please?

5 A. As far as face people, my people?

6 Q. Uh-huh (yes). Sure, uh-huh (yes).

7 A. Myself, Kelton Cozart, Greg Meadows. The way we
8 worked we had different people there at different
9 times, but Steve Gration, a young boy named Blake. I
10 can't remember his last name. He was a trainee shield
11 guy.

12 Q. Blake Acord?

13 A. Is that his name? I ---.

14 OFF RECORD DISCUSSION

15 BY MR. SHERER:

16 Q. Acord, Acord (changes pronunciation). Acord,
17 Blake Acord, maybe.

18 A. I don't know.

19 Q. Okay.

20 A. And as far as outby, we had, you know, Keith,
21 Terry Dillon, who just had retired, so they really
22 hadn't replaced him yet, and Ray Ara.

23 Q. Okay.

24 A. Greg Meadows.

25 Q. Okay.

1 A. I think I said Greg? Okay. I didn't know if I
2 did or not.

3 Q. Okay. Thank you. Do you recall --- well, first
4 of all, who did you report to? Who was your ---?

5 A. Danny Laverty.

6 Q. Danny Laverty. Okay. And then what's his title,
7 please?

8 A. His actual title was probably longwall maintenance
9 chief.

10 Q. Okay.

11 A. I don't know.

12 Q. Okay. How often would you run into Mr. Laverty?

13 A. Every day.

14 Q. Okay. When you were coming out?

15 A. Sometimes, sometimes outside.

16 Q. Okay.

17 A. Usually one time or another. I'd talk to him
18 every day, and some days I wouldn't see him, but I'd
19 talk to him every day.

20 Q. Okay. How did you guys get your jobs? How did
21 you know what to do when you got on the face?

22 A. He'd leave me a note every day of what to do, but
23 I talked to him every night.

24 Q. Okay.

25 A. He's good at communicating like that to me.

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

2 A. Every night that I was working.

3 Q. Sure, uh-huh (yes). Thank you. Now, when you got
4 --- the last day or two that you worked, when you got
5 to the --- the mantrip got to the section, what's the
6 first thing you did before you started working?

7 A. We'd get of the ride and just --- safety meeting.
8 Now, as far as me and my guys, I kind of talked about
9 what we was going to do, what was going on. And then
10 we'd wait on the evening shift to come for the ride.

11 Q. Okay. So you guys basically passed each other
12 there near the ride?

13 A. Yeah, there or close. Yes.

14 Q. Did you ever talk about the conditions on the
15 wall?

16 A. Yeah. I mean, what do you mean by conditions?

17 Q. Just ---

18 A. Me and my guys ---

19 Q. --- you know ---.

20 A. --- or me and the evening shift?

21 Q. You and the evening shift.

22 A. Yeah, if something was --- if something was wrong,
23 of course they would tell me, you know.

24 Q. Okay, sure.

25 A. You know, and what's this, what's that, you know?

1 Q. Do you recall any, anything they may've told you
2 to watch out for or to look out for the last shift or
3 two you worked?

4 A. Nothing.

5 Q. Okay. The last shift you worked, do you recall
6 anything that was unusual?

7 A. No.

8 Q. Where were you at when you heard about the
9 explosion?

10 A. I was at Champion Karate and Fitness in Beckley.

11 Q. What's the first thing you thought about when you
12 heard about that?

13 A. Just who was there, just wondered who was there,
14 because, you know, they rotated. I just kind of --- I
15 forgot who was there, because I hadn't been there for
16 a while and I was trying to remember who was on days
17 and who ---. Actually I went down there that evening
18 because --- to try to help, see what to do.

19 Q. Were you involved in any of the rescue and
20 recovery routine?

21 A. No, I was not.

22 Q. What's the first thing you thought may have
23 happened in the mine?

24 A. I really didn't know. I mean, just --- it just
25 didn't make sense, but ---.

1 MR. SHERER:

2 Okay. That's all the questions I've got,
3 Terry.

4 EXAMINATION

5 BY MR. FARLEY:

6 Q. Okay. Mr. Dickens, I probably have a few things
7 to clarify. I may be jumping around, please bear with
8 me. I think you indicated you reported to Danny
9 Laverty?

10 A. Danny Laverty, yeah, with a V.

11 Q. Right. I don't think we heard, what was your
12 actual job title at UBB?

13 A. I'm a chief electrician on the midnight on the
14 longwall, one of them. There's two of us.

15 Q. Okay.

16 A. I've got one crew. They other guys got the other
17 crew.

18 Q. Who's the other guy?

19 A. Robert Hale.

20 Q. Robert Hale. Both of you report to Mr. Laverty?

21 A. Yeah.

22 Q. Okay. Now, were you a salaried employee or an
23 hourly?

24 A. I'm salary.

25 Q. Okay. Now, I think you named some people who were

1 part of your crew, Cozart, Meadows, Gration, Black
2 Acord.

3 A. And like, from time to time, if both crews were
4 there ---

5 Q. Okay.

6 A. --- you know, Mike Medley, different guys.

7 Q. Okay. Now, did the individuals ---? I just ---.

8 ATTORNEY SEARS:

9 Excuse me. It's important for you to let
10 him finish his question before you answer.

11 A. Okay.

12 MR. FARLEY:

13 I appreciate that.

14 BY MR. FARLEY:

15 Q. You mentioned some individuals in your crew,
16 Cozart, Meadows, Gration and Acord. Now, did these
17 individuals all report to you?

18 A. Yes.

19 Q. Okay. So you were officially their supervisor
20 that ---?

21 A. Yes.

22 Q. Okay. Now, when the crews overlap --- I know you
23 had five on, three off. When the crews overlap, who
24 was in charge, you or the other fellow, or was it an
25 issue?

1 A. It wasn't an issue. It was just --- we just
2 worked tighter, I guess you could say.

3 Q. Okay. Erik asked about your familiarity with some
4 air changes that were made in the month of March that
5 affected the longwall. My reading of the pre-shift
6 and on-shift report book for the month of March
7 indicates that in the first week or so of March that
8 the last open break air reading for the longwall was
9 around 110,000 to 115,000 cubic feet per minute. Now,
10 before the end of the month this had reduced to
11 somewhere in the vicinity of 55,000 to 60,000 cubic
12 feet per minute.

13 Now, I know Erik asked if you'd noticed any
14 changes in the air. Now, that seems to reflect a
15 considerable change in the quantity of air passing the
16 longwall face. Did you notice this at any time?

17 A. I never --- not myself. I mean as long as I had
18 what I thought was plenty of air and ---.

19 Q. Okay. Well, I wasn't trying to suggest that you
20 didn't have enough air.

21 A. Yeah.

22 Q. I'm just trying to ascertain, did you notice the
23 change?

24 A. Not really.

25 Q. Okay. Did you recall anyone else mentioning as if

1 they had noticed a change?

2 A. No.

3 Q. Okay. All right. Did Mr. Lavery or any other
4 superior ever advise you that any type of a
5 ventilation change had been made, affecting the
6 longwall face?

7 A. No, I don't recall that.

8 Q. Okay. Now, when Erik was advising you of the
9 conditions on the longwall face following the
10 explosion that the investigators are now aware of, it
11 appeared that you were familiar with what he was
12 telling you.

13 A. Yeah.

14 Q. Is that correct? Is that correct?

15 A. Am I familiar now?

16 Q. Are you familiar with what Erik was telling you at
17 that time?

18 A. Yes.

19 Q. Okay. How did you become familiar with those
20 conditions as he was describing it?

21 A. I've been up there.

22 Q. Okay. Now, did you have any conversations with
23 any folks who described the circumstances along the
24 longwall face?

25 A. Did I do what, now?

1 Q. I'm sorry. Let me just try that again. Did you
2 have any conversations with any individuals? Were you
3 briefed on the conditions on the longwall face that
4 you would expect to find?

5 A. Are you talking about on the face or in the gate
6 entry? As far as the ---.

7 Q. Longwall face.

8 A. I mean, I ---. Two of the other guys, you might
9 want to say --- or the mine rescue guys would be there
10 and say, you know, you've got a few shields down on
11 the pan, ---

12 Q. Okay.

13 A. --- you know, which that's to be expected. But I
14 mean some of the stuff I've been in on finding ---

15 Q. Okay. All right.

16 A. --- if that's what you wanted to know.

17 Q. Have you traveled with some of the investigation
18 teams?

19 A. Yeah, that's what I do.

20 Q. Okay. I understand now. You indicated that as
21 part of your normal routine on your shift, Mr. Laverty
22 would leave you a note indicating what he wanted you
23 to do that particular shift. You indicated you talked
24 to him every night. I assume that was a phone
25 conversation?

1 A. Yeah. Oh, yeah.

2 Q. Did your responsibilities on your midnight shift
3 include calibration or maintenance of the longwall
4 methane monitoring system?

5 A. Yes.

6 Q. Okay. As of your last shift, which would've been
7 approximately the Tuesday preceding the explosion, to
8 the best of your knowledge, was the longwall face
9 methane monitoring system fully operational?

10 A. Yes.

11 Q. Now, what do you base that response on?

12 A. Well, the last time it was calibrated, I'd done
13 it, and I had two Federal mine inspectors with me.
14 Showed up one night and wanted to do permissibility.

15 Q. Okay.

16 A. And we went to the tail. The shearer was on the
17 tail that night. And we made sure they was both right
18 and we gassed them both and everything worked, ---

19 Q. Okay.

20 A. --- so yeah. Never had any problem out of them.

21 Q. Okay. So I guess my ---. Let me ask my next
22 question anyway. Prior to April 5th, did you
23 experience any problems? Were you instructed at any
24 time to perform any repair or maintenance on the
25 longwall methane monitoring system at any time?

1 Q. No, no.

2 Q. Okay. Did you ever find any conditions with the
3 longwall methane monitoring system that were not fully
4 operational that you had not been advised about?

5 A. There was one night I do remember. I have no idea
6 what month. It was several months ago. I come in and
7 the evening shift had had some problems with one of
8 the monitors, the one on the tail, actually. And they
9 had been down for a couple hours and there was a small
10 junction box on the tail that the lead going from the
11 head to the tail had got pulled loose.

12 Q. Okay.

13 A. And this required a lot of ---. It was hard to
14 get to and we fixed it, but that was the only time I
15 can remember on this panel, really.

16 Q. Okay. Now, you estimated a couple of months prior
17 to ---?

18 A. It was more than that. It was probably --- it was
19 probably Thanksgiving time, around ---. I mean it was
20 a while back.

21 Q. Okay.

22 A. We came in and they had been down for a while. It
23 had been a while, two or three months.

24 Q. Now, when you say they'd been down for a while,
25 that means they were not producing coal?

1 A. They were not running coal, no. And it was down
2 when I got there and we fixed it that night.

3 Q. Okay. Do you recall how long it took to make the
4 repairs?

5 A. I don't recall. I mean three hours. I don't
6 know. I'm not for sure.

7 Q. All right. In making the repairs, did it appear
8 in any way that the methane monitoring system might
9 have been overridden in any way?

10 A. No.

11 MR. FARLEY:

12 Okay. Okay. Next?

13 ATTORNEY HAMPTON:

14 Beth?

15 MS. SPENCE:

16 I don't have anything. Thank you.

17 RE-EXAMINATION

18 BY MR. SHERER:

19 Q. I have a few follow-up questions, Mr. Dickens.

20 A. Uh-huh (yes).

21 Q. You said that you were on the face when some
22 Federal inspectors showed up and you calibrated a
23 methane monitor.

24 A. Both of them, yeah. And then permissibility on
25 the entire longwall.

1 Q. Okay. Was there any particular problems with ---
2 or were there any problems with permissibility?

3 A. I don't think they wrote a violation on me. They
4 wrote some other stuff outby and Larry Hedrick was the
5 guy. I mean, I'm sure you probably got the violations
6 he wrote, but ---.

7 Q. Sure.

8 A. And the guy with him, I cannot remember his name.
9 I think he was a new guy that was traveling with
10 Larry.

11 Q. Okay.

12 A. But we had no problems whatsoever.

13 Q. Okay. Everything was in pretty good shape?

14 A. Yes.

15 Q. Okay. Thank you. Now, when you were down
16 calibrating those two methane monitors, we understand
17 there was one on the shearer and there was one on the
18 tail drive.

19 A. Well, the sniffer's on the tail drive. The
20 readout's at the head.

21 Q. Okay.

22 A. Yeah.

23 Q. The one on the shearer, was it relatively clean or
24 did it have any, like, mud and dust and stuff like
25 that on it?

1 A. It was fine.

2 Q. Okay. Was it clean?

3 A. Yes.

4 Q. Okay. How about the one on the tail drive?

5 A. Yeah, it was fine. It was clean.

6 Q. Okay. Do those ever get dirty? Do you ever have
7 to clean them off?

8 A. Maybe a little dusty, if that's what you want to
9 know. There's, like, dust on it. That's normal. I
10 mean ---.

11 Q. Okay. Do you ever ---?

12 A. As far as plugging the holes up or something, no.

13 Q. No. Okay. Thank you. Do you ever have to clean
14 that dust off of them?

15 A. I mean, if I see it, I'll wipe it off, but do I
16 have to? No.

17 Q. Okay. What do you wipe it off with, just a rag?

18 A. Just a rag and just, you know, wipe it clean.

19 Q. Okay. Do you ever use a solvent to do that?

20 A. No, I never spray nothing on it.

21 Q. Okay. Did anybody ever tell you if one of those
22 methane monitors was down for any reason, you could
23 continue to operate using a handheld methane detector?

24 A. I have been told that, but as far as doing it,
25 I've never had to do it.

1 Q. Okay.

2 A. I haven't been on a production crew in a while. I
3 just don't like that end of it, but ---.

4 Q. Sure.

5 A. But I've heard that and then I've heard that it's
6 not true. I mean I have been told that before, yes.

7 Q. Okay. Do you recall who told you that?

8 A. I don't, I don't.

9 Q. Do you think that was a general ---?

10 A. It's actually in the State law book.

11 Q. Okay.

12 A. I looked at it the other day.

13 Q. Do you know if it's in the Federal law book?

14 A. I do not know. I don't know.

15 Q. Okay. Do you know if that's a general --- was a
16 general perception at UBB prior to the explosion?

17 A. I don't know.

18 Q. Okay. Thank you. You mentioned there was a
19 problem with a junction box going to the tail end
20 sniffer. What condition was that cable in prior to
21 the explosion?

22 A. It was fine. I mean, it's a tough, tough cable.
23 It's a cable with two braids of steel line. Actually
24 when I took the sniffer off the tail drive for Mr.
25 Kritz one time --- I know ya'll know the name Kritz

1 ---

2 Q. Sure.

3 A. --- and Jacy I had to cut it with a hammer. I
4 mean, ---

5 Q. Okay.

6 A. --- you can't cut it. This thing is like a steel
7 rope with a lining.

8 Q. Thank you. When the high voltage power is pulled
9 using the manual disconnect at the head ---

10 A. For the shearer?

11 Q. --- for the shearer, do you know if that cuts the
12 power to the pan line?

13 A. Do you mean does it stop the conveyor?

14 Q. Yes.

15 A. No.

16 Q. Okay. Is there a separate system that would have
17 to be de-energized to stop the conveyor?

18 A. It wouldn't have to be de-energized. It would
19 just be stopped by a lockout or several ways.

20 Q. Okay.

21 A. But if the blades were pulled on the shearer
22 itself, it was --- you know, of course the shearer's
23 not going to run, but everything else will run.

24 Q. If the conveyor, face conveyor stopped, was it a
25 common practice to turn off the water at that point in

1 time?

2 A. Absolutely.

3 Q. Do you know any reason why the water would be
4 turned off if the face conveyor was still running?

5 A. No.

6 Q. Okay.

7 A. I mean, if the water's off, it's not running.

8 Q. Okay. Thank you. Did you ever talk to any of the
9 folks working on the miner sections?

10 A. Outside, you know. I mean, as far as underground,
11 not really, not at all. I mean ---.

12 Q. Okay. Anybody express any concerns with
13 ventilation to you from the miner --- that worked on
14 the miner sections prior to the explosion?

15 A. Never said anything to me about it. I never
16 really discussed any of that stuff with those guys.

17 Q. Okay, sure. How about methane? Did you carry a
18 methane detector?

19 A. Yeah, every day.

20 Q. Every day. How many people on the wall on your
21 shift had a methane detector?

22 A. Probably four or five of us, anyway.

23 Q. How about the production crews? Do you know about
24 how many people on a production crew would have a
25 methane detector?

1 A. Probably the boss and shearer man. The jack man
2 may've had one. I'm not sure. The maintenance guy.

3 Q. Okay. So the boss, the shearer man ---.

4 A. Most the time the chief that was on that crew.
5 There was four or five, anyway.

6 Q. Okay.

7 A. They got all of them, so I mean ---.

8 Q. Actually, we found one.

9 A. That's it, one?

10 Q. Yeah. We found one about mid-face. Yeah. I'm
11 not sure whose it was. Okay. Appreciate the
12 information. Did you recall if everybody on your crew
13 had these Solaris type methane detector?

14 A. Yeah, that's all we had, ---

15 Q. Okay.

16 A. --- I think. Yeah, that's it.

17 MR. SHERER:

18 Okay. That's all the questions I've got.

19 ATTORNEY HAMPTON:

20 Terry?

21 MR. FARLEY:

22 I don't think I have anything else.

23 ATTORNEY HAMPTON:

24 Okay.

25 ATTORNEY SEARS:

1 Hold on a second.

2 ATTORNEY HAMPTON:

3 Okay.

4 A. Hope that's helpful anyway.

5 ATTORNEY HAMPTON:

6 Okay. Well, on behalf of MSHA and the

7 Office of Miners' Health, Safety and Training, we'd

8 like to thank you for appearing and answering

9 questions today. Your cooperation is very important

10 to the investigation as we work to determine the cause

11 of the accident. As we mentioned earlier, we are

12 still ongoing doing interviews, so we do request that

13 you not discuss your testimony here today with anybody

14 other than with your attorney.

15 A. Okay.

16 ATTORNEY HAMPTON:

17 And after --- as we go through this

18 process and learn more and question more witnesses, we

19 might have some follow-up questions for you. So if we

20 do, we'll be reaching out to you.

21 As well, again, after you leave here

22 today if you think of something else you'd like to

23 share with us or if you have anything you'd like to

24 clarify, then please feel free to contact us. And as

25 I had told you before we got started, I now will give

1 you an opportunity to make any statement that you
2 would like, or if there is any answer that you've
3 given to us that you'd like to clarify, please go
4 ahead and do that now.

5 A. Well, he was talking about they only found one
6 monitor on a guy or I don't know if it was on him, but
7 there was a lot of things, they had been moved, ---

8 MR. SHERER:

9 Sure.

10 A. --- you know what I'm saying. So I mean, other
11 than that, no. I mean, but I know that --- I know for
12 sure that Grover carried one and I know that Rick Lane
13 carried one, and probably the shear man, too, but I
14 mean I don't --- it's hard to tell where they're at.

15 MR. SHERER:

16 Sure, uh-huh (yes).

17 A. I mean ---.

18 MR. SHERER:

19 We appreciate that. There was a
20 tremendous amount of debris along the wall, as you
21 know.

22 A. Oh, yeah.

23 MR. SHERER:

24 We have recovered one detector about
25 mid-face.

1 A. And they've only found one shear remote, too.

2 MR. SHERER:

3 Exactly.

4 A. Yeah, so they don't know where it's at. I mean
5 and things have moved a lot of different ways.

6 MR. SHERER:

7 Sure. Thank you.

8 ATTORNEY SEARS:

9 He'd like to evoke the confidentiality as
10 permitted under law, and ---

11 ATTORNEY HAMPTON:

12 Okay.

13 ATTORNEY SEARS:

14 --- would like to have the opportunity to
15 read if you all will give him that opportunity.

16 ATTORNEY HAMPTON:

17 Okay. And so in terms of the opportunity
18 to read, I think you've made this request in other
19 interviews and this, to read for clarifying just to
20 ensure that the court reporter has appropriately
21 recorded all of the information that you've shared
22 with us today; is that correct?

23 ATTORNEY SEARS:

24 Yeah.

25 ATTORNEY HAMPTON:

1 Okay. Yes, we will certainly note that.

2 And thank you for coming here.

3 ATTORNEY SEARS:

4 All right.

5 A. Okay. Thank you.

6 ATTORNEY HAMPTON:

7 Okay. Thank you. Off the record.

8 * * * * *

9 CONFIDENTIAL STATEMENT UNDER OATH CONCLUDED

10 AT 11:02 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



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Alison Salyards

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