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Transcript of the Testimony of William Graham

Date: August 28, 2010

Case:

Printed On: September 1, 2010

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STATEMENT UNDER OATH
OF
WILLIAM GRAHAM

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, August 28, 2010, beginning at 8:00 a.m.

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

One

Subpoena

14*

Two

Return Receipt Card

14*

* Exhibit not attached

P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Pollyanna Hampton. Today is August 28th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer. He's an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. And also present are several people here from the State of West Virginia, and I ask that they now state their appearance for the record.

MR. FARLEY:

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.

ATTORNEY KOERBER:

Barry Koerber. I'm an Assistant Attorney General, and I'm assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. SPENCE:

I'm Beth Spence with the Governor's

1 independent investigation.

2 ATTORNEY HAMPTON:

3 There also other members of the various
4 teams in the audience today. All members of the Mine
5 Safety and Health Administration --- excuse me, Mine
6 Safety and Health Accident Investigation Team and all
7 members of the State of West Virginia Accident
8 Investigation Team participating in the investigation
9 of the Upper Big Branch Mine explosion shall keep
10 confidential all information that is gathered from
11 each witness who provides a statement until the
12 witness statements are officially released.

13 MSHA and the State of West Virginia shall
14 keep this information confidential so that other
15 ongoing enforcement activities are not prejudiced or
16 jeopardized by a premature release of information.
17 This confidentiality requirement shall not preclude
18 investigation team members from sharing information
19 with each other or with other law enforcement
20 officials. Your participation in this interview
21 constitutes your agreement to also keep this
22 information confidential.

23 Government investigators and specialists
24 have been assigned to investigate the conditions,
25 events and circumstances surrounding the fatalities

1 that occurred at the Upper Big Branch Mine-South on
2 April 5th, 2010. The investigation is being conducted
3 by MSHA under Section 103(a) of the Federal Mine
4 Safety and Health Act and the West Virginia Office of
5 Miners' Health, Safety and Training. We appreciate
6 your assistance in this investigation.

7 You may have a personal attorney present
8 during the taking of this statement or a personal
9 representative if MSHA has permitted it. Since this
10 is not an adversarial proceeding, formal Cross
11 Examination of you won't be permitted. However, a
12 personal legal representative can ask clarifying
13 questions as appropriate. And so that we have it on
14 the record, did you bring a personal attorney with you
15 or a personal representative with you today?

16 MR. GRAHAM:

17 Yes, ma'am.

18 ATTORNEY HAMPTON:

19 Okay. And who is that?

20 MR. GRAHAM:

21 Dave Blake?

22 ATTORNEY HARDY:

23 No, David Hardy.

24 MR. GRAHAM:

25 Hardy; I'm sorry. I had Blake in my mind

1 for some reason.

2 ATTORNEY HARDY:

3 Your name's easy to remember, Bill.

4 MR. GRAHAM:

5 Yeah. I'm terrible with names.

6 ATTORNEY HAMPTON:

7 And Dave, could you introduce yourself

8 for the record?

9 ATTORNEY HARDY:

10 Yes, I'm David J. Hardy with Allen

11 Guthrie & Thomas.

12 ATTORNEY HAMPTON:

13 Okay. And you are a legal representative

14 for Performance Coal Company; correct?

15 ATTORNEY HARDY:

16 Yes.

17 ATTORNEY HAMPTON:

18 Okay. Your identity and the content of

19 this conversation will be made public at the

20 conclusion of the interview process and may be

21 included in the public record of the accident, unless

22 you request that your identity remain confidential.

23 If you do request that your identity is confidential,

24 we can only do so to the extent permitted by law.

25 So that means if a judge orders us to

1 reveal your name or if there's another law enforcement
2 reason for having to reveal your name or if another
3 law requires us to reveal your name, we will have to
4 do so. As well, the State has their own
5 confidentiality requirements. Also, there may be a
6 need to use the information you provide to us or other
7 information you provide to us in the future in other
8 investigations into or hearings about the explosion.
9 Do you have any questions about that?

10 MR. GRAHAM:

11 No.

12 MS. FERGUSON:

13 Okay. Do you understand?

14 MR. GRAHAM:

15 Yes, ma'am.

16 ATTORNEY HAMPTON:

17 All right. After the investigation is
18 complete, MSHA will issue a public report detailing
19 the nature and causes of the fatalities in the hope
20 that greater awareness about the causes of accidents
21 can reduce their occurrence in the future.
22 Information obtained through witness interviews is
23 frequently included in these reports. Since we will
24 be interviewing other individuals, we do ask that you
25 not discuss your testimony with other people aside

1 from a personal representative or an attorney.
2 A court reporter is here. She is
3 recording your interview, so please speak loudly and
4 clearly. If you don't understand a question, please
5 ask the person to rephrase, and they can certainly do
6 so. We want to make sure that you understand
7 everything that people are asking you. And please
8 answer each questions as fully as you can, including
9 giving us any information that you might have learned
10 from somebody else.

11 We'd like to thank you in advance for
12 your appearance here. We do appreciate your
13 assistance in this investigation. Your cooperation is
14 very critical in making the nation's mines safer.

15 After we have finished asking you
16 questions, you'll then have an opportunity to make any
17 statement that you'd like or to clarify any of the
18 answers that you've given to us. And if at any time
19 after you leave the room today, if you have further
20 information that you would like to provide to the
21 teams, we can be contacted through the information
22 that was provided you in the letter that I handed you
23 before we started the interview.

24 Norman Page is the team leader for the
25 Federal Accident Investigation Team. His contact

1 information is in that letter.
2 Any statements given by miner witnesses
3 to MSHA are considered to be an exercise of statutory
4 rights and protected activity under Section 105(c) of
5 the Mine Act. If you believe any discharge,
6 discrimination or other adverse action is taken
7 against you as a result of your cooperation with this
8 interview, you may contact MSHA and file a complaint
9 under Section 105(c) of the Act.

10 MR. FARLEY:

11 Mr. Graham, on behalf of the Office of
12 Miners' Health, Safety and Training, I want to inform
13 you that the West Virginia Mine Safety Regulations
14 also provide protection against potential
15 discrimination for participating in these type
16 interviews. I want to pass along some contact
17 information for the West Virginia Board of Appeals.
18 It's a Board which is charged with the responsibility
19 of investigating discrimination complaints from coal
20 miners, and should you experience any problems, you
21 should contact the Board immediately at that address.
22 And I would caution you that should you have a
23 problem, you need to file a claim within 30 days of
24 whenever the event occurs. Thank you.

25 MR. GRAHAM:

1 Thank you, sir.

2 MR. FARLEY:

3 Okay.

4 ATTORNEY KOERBER:

5 Could you swear in the witness, please?

6 -----

7 WILLIAM GRAHAM, HAVING FIRST BEEN DULY SWORN,

8 TESTIFIED AS FOLLOWS:

9 -----

10 ATTORNEY KOERBER:

11 Sir, would you please state your full

12 name for the record and spell your last name?

13 A. William Jack Graham, G-R-A-H-A-M.

14 ATTORNEY KOERBER:

15 And would you state your address and your

16 telephone number?

17 A. Physical address or mailing address?

18 ATTORNEY KOERBER:

19 Mailing address.

20 A. [REDACTED] .

21 ATTORNEY KOERBER:

22 And your phone number?

23 A. [REDACTED] .

24 ATTORNEY KOERBER:

25 Mr. Graham, are you appearing here today

1 because you received a subpoena?

2 A. Yes, sir.

3 ATTORNEY KOERBER:

4 And would this be a copy of that
5 subpoena?

6 A. Yes, sir.

7 ATTORNEY KOERBER:

8 Could I have that marked as Exhibit One?

9 (Graham Exhibit One marked for
10 identification.)

11 ATTORNEY KOERBER:

12 And this is a return receipt card showing
13 that it was signed for by [REDACTED] . I assume
14 that's your wife?

15 A. Yes, sir.

16 ATTORNEY KOERBER:

17 And I'd like that to be marked as Exhibit
18 Two.

19 (Graham Exhibit Two marked for
20 identification.)

21 ATTORNEY KOERBER:

22 Sir, the statute that authorizes the
23 Director to issue subpoenas compelling people to
24 attend here at interviews such as this also requires
25 the Director to offer to each witness subpoenaed a \$40

1 per day witness fee. You'll be here one day, so it'll
2 be \$40. Also, roundtrip mileage from to here and
3 back, so long as you drove in your personal vehicle,
4 at the rate of 15 cents a mile plus reimbursement for
5 any tolls that you may have passed on your way here or
6 on your way back.

7 In order to receive that money, I have
8 two forms that have to be filled out, one of which is
9 a IRS Form W-9, which is a request for your Social
10 Security Number. It is my understanding that the \$40
11 witness fee is considered income and would be reported
12 to the IRS, and you'd receive a 1099 miscellaneous at
13 some later date so that you could put that on your tax
14 return.

15 If you would like to fill out those forms
16 and receive that money, we can do so at the end of
17 this interview. I have the forms with me. If you do
18 not want to give me your Social Security number or you
19 do not want to accept the money, you can decline to do
20 so and the choice is yours, but you need to make your
21 decision at this point in time and state it for the
22 record.

23 A. I decline to accept the money.

24 ATTORNEY KOERBER:

25 Okay. Thank you.

1 ATTORNEY HAMPTON:

2 Okay. Let's get started.

3 MR. SHERER:

4 Okay.

5 EXAMINATION

6 BY MR. SHERER:

7 Q. Thank you for coming down here this morning, Mr.
8 Graham. This is an important part of this
9 investigation. We're trying to look at the conditions
10 and practices and what caused this explosion, and
11 we're doing that for two reasons. The first one is
12 the family and the friends and the coworkers of these
13 29 miners, they really deserve to know what happened.
14 The second reason is we want to prevent this from ever
15 happening again, so anything you can share with us
16 that will help us determine those things is greatly
17 appreciated. Roughly, how many years of mining
18 experience do you have?

19 A. I think it's around ten years.

20 Q. Okay. When did you start with the Massey
21 organization?

22 A. My first day underground I worked for a contractor
23 at Performance Coal Company, and that was February 9th
24 of '99.

25 Q. Okay.

1 A. I'm not positive on the day. I mean, like, I know
2 it was in February.

3 Q. Okay. So you started with a contractor. About
4 how long did you work for that contractor?

5 A. Approximately eight to ten months.

6 Q. Okay. And then did you get hired on at
7 Performance Coal?

8 A. I was hired on with Massey, but it was at an Elk
9 Run operation.

10 Q. Oh, okay. When did you first start working at
11 Upper Big Branch?

12 A. As a member of Upper Big Branch I started, I'm
13 pretty sure, in 2001.

14 Q. Okay.

15 A. I think it was November.

16 Q. Okay. And have you been at Upper Big Branch since
17 2001?

18 A. Yes, sir.

19 Q. Okay. What was your job title prior to the
20 explosion?

21 A. I was third shift maintenance foreman, outby ---

22 Q. Okay.

23 A. --- area of the mines.

24 Q. Okay. Any particular area of the mine that you
25 worked in, or just all areas outby?

1 A. Mainly the high voltage and belts ---

2 Q. Okay.

3 A. --- on the outby part of the mine, six-foot belts.

4 Q. Okay. Those are big belts.

5 A. Yes, they are.

6 Q. What was the last shift you worked prior to the
7 explosion?

8 A. Friday night and Saturday morning.

9 Q. Okay. And then you had a long weekend?

10 A. Yes, sir.

11 Q. Okay. When were you scheduled to come back?

12 A. I was going to come back Tuesday night.

13 Q. Okay. Now, that last shift you worked, Friday
14 night, Saturday morning, when you first ---? First of
15 all, where were you working that night?

16 A. To be honest with you, I cannot exactly recall.

17 Q. Just approximately.

18 A. It would've been between the North Portal and
19 Headgate 22.

20 Q. Okay. When you first got underground, started
21 working, did you notice anything unusual?

22 A. No.

23 Q. Okay. During the shift that you worked, did you
24 notice anything unusual?

25 A. No, sir.

1 Q. When you were going out of the mine and even when
2 you were out on the yard or in the bath house, did you
3 notice or hear anything unusual?

4 A. No, sir.

5 Q. Just a normal night?

6 A. As normal as it ever was there.

7 Q. Okay. Let me ask you a little different type
8 question. While you were in the mine that last day or
9 two, did you smell anything unusual, smell anything
10 that smelled like maybe kerosene?

11 A. No, not that I can recall.

12 Q. Okay. Did your eyes burn any?

13 A. No.

14 Q. Okay. Who'd you work for, Mr. Graham?

15 A. That's a broad question.

16 Q. I've found that out, asking other people.

17 A. I worked for anybody that was higher on the totem
18 pole than myself.

19 Q. Well ---?

20 A. Mainly I reported to Paul Thompson, ---

21 Q. Sure.

22 A. --- Everett Hager, Wayne Persinger, ---

23 Q. Uh-huh (yes). Well, that's ---.

24 A. --- several of the management team ---

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

1 A. --- would give me jobs to do.

2 Q. Sure.

3 A. My main boss was Paul Thompson, though.

4 Q. Okay. And actually I think we all work for
5 whoever's higher on the totem pole than we are.

6 A. When I first started in the mines as a red hat,
7 somebody asked me who I worked for.

8 Q. Uh-huh (yes).

9 A. I told him, I said, I work for everybody.

10 Q. I've been a red hat. I can understand that.

11 Okay. Now, you say you were working between the
12 portal and the --- I think you said the drive on the
13 Number Seven belt or the headgate of 22's drive?

14 A. One night --- I'm not sure whether it was the last
15 night I worked before the explosion or the night
16 before that, I worked up close to the face on Headgate
17 22.

18 Q. Okay.

19 A. The third shift maintenance ---

20 Q. Sure.

21 A. --- up there needed some help with the bolter
22 axel, and me being outby electrician ---

23 Q. Sure.

24 A. --- I take it to them, and then when you order a
25 part like that, it's usually late in the shift when

1 you get it, so I helped put it together, so ---.

2 Q. Sure.

3 MR. FARLEY:

4 I'm sorry. When was that again?

5 A. I'm not sure whether it was Thursday night or

6 Friday night.

7 MR. FARLEY:

8 Okay.

9 BY MR. SHERER:

10 Q. When you were up there, what did you think about
11 the Headgate 22 Section?

12 A. I thought that it was a really long walk from the
13 end of the track to where I was going.

14 Q. Okay.

15 A. I also thought that if the scoop operator would've
16 brought the axel up, had not crushed my bucket and all
17 my drinks, I would've been a lot happier that night.

18 Q. Okay. I understand that.

19 A. I'm not positive, but I think directly in front of
20 the power center there was a little bitty slag that's
21 kind of muddy and mucky from where the shuttle car had
22 --- the right shuttle car had run through it. But
23 generally I didn't notice nothing out of the ordinary
24 on that section that night.

25 Q. Did you guys get that axel installed that shift?

1 A. Yes.

2 Q. Did you notice the ventilation on the section? Do
3 you think there was enough air up there?

4 A. I didn't notice nothing out of the ordinary. I
5 thought it was just normal routine.

6 Q. Okay. When you went on the section, did you have
7 a jacket on or anything like that?

8 A. I think I probably did until I got to the end of
9 the track. Normally I wear a jacket, driving the
10 mantrip.

11 Q. Sure.

12 A. Take it off when I get to where I'm going.

13 Q. Okay. Did you notice it --- was it comfortable up
14 there? Was it kind of hot?

15 A. When you're working on equipment, you're about hot
16 all the time, but I didn't really notice it being ---.
17 Walking from the end of the track to the section, I
18 cannot recall thinking that it was hot or anything out
19 of the ordinary.

20 Q. Okay.

21 A. Of course it's going to be warmer on the upper end
22 of the mines than it is out closer to outside and down
23 the beltlines, anyways.

24 Q. Sure. Did you go by the power center, going in
25 there?

1 A. Yes, sir, and I cannot recall what side I walked
2 by on it.

3 Q. That's okay. Do you remember a high voltage sign
4 hanging over the power center?

5 A. I don't remember one hanging there, but I'm sure
6 there was there.

7 Q. Okay.

8 A. It was standard practice to keep one in front of
9 the high voltage power center and one behind the sled,
10 the high voltage sled that had the extra cable
11 attached to the power center.

12 Q. I want you to do something for me. Next time you
13 go on a section, look at that sign. If that sign is
14 swinging, you got decent air. If it's not, you don't
15 have any. It's a good way of telling. Do you
16 remember if that sign was swinging or not?

17 A. No, I don't recall looking at the sign, period.

18 Q. Okay. Thank you. Tell me about the rock dust on
19 the 22 Headgate. What did you think about the rock
20 dust?

21 A. The best I can recall, the area we was working in,
22 which would've been probably one break outby the face
23 in the intersection there, I don't recall nothing more
24 than, you know, hand dust. But that's pretty common
25 close to the face.

1 Q. Sure. What about outby as you were traveling in?
2 What did it look by out near the mouth section, if you
3 recall?

4 A. I'm not really sure what it looked like. I'm
5 pretty sure that all the way up the main line was
6 pretty good and white.

7 Q. Okay.

8 A. The closer you get to the sections, typically you
9 get a little --- a little less rock dust, but they
10 track dust that eventually.

11 Q. Sure. Did you ever have a chanced to go down
12 through this connector or crossover between the two
13 miner sections?

14 A. Yes, I've been down through there a couple times.

15 Q. What did you think about the rock dust through
16 this area?

17 A. That I cannot recall at all.

18 Q. Okay. Do you recall ---?

19 A. I remember the fall, but --- because I remember
20 they cleaned it up partially and bolted overtop and
21 kind of ---. I think they ---. If I recall they was
22 a hump where the fall was where they just laid track
23 up over the top.

24 Q. I've heard that.

25 A. That fall took my high voltage cable out that

1 connected these two sections ---

2 Q. Oh, okay.

3 A. --- one night, and I had to hurry up and put stuff
4 back together.

5 Q. I imagine you did. So when you were working up
6 there around that fall, did you --- do you recall
7 seeing any float dust up through there?

8 A. No, sir.

9 Q. Okay. Would it surprise you that we've had people
10 testify there was up to 12 inches of float coal dust
11 in this connector?

12 A. Well, I didn't see ---

13 Q. Okay.

14 A. --- none myself.

15 Q. Okay.

16 A. And that sounds like an awful lot.

17 Q. Sounds like a tremendous amount.

18 A. I mean considering no longer than this connector
19 was there.

20 Q. Sure. Have you been back in this mine since the
21 explosion?

22 A. Yes, sir.

23 Q. Have you been through those connector?

24 A. No, sir. The furthest I've been is 120 Break on
25 --- that would be Seven North belt.

1 Q. Okay.

2 A. Not in the belt entry, on the track entry.

3 Q. I just had from a very reputable source that their
4 scoops just twisted up there. Head drive twisted up,
5 the sort of forces that developed through this area.

6 A. See, I've not been to this new belt since the
7 explosion, the Headgate 22 head drive discharge.

8 Q. Uh-huh (yes).

9 A. But I have been by the Mother Drive of the
10 longwall.

11 Q. Okay.

12 A. Main belt, and it did not appear to be ---

13 Q. Yeah.

14 A. --- destroyed down in that area.

15 Q. Yeah. This area around the North Glory mains
16 seemed to --- skipped a lot of the blast.

17 A. I noticed that the red starter box ---. In the
18 Mother Drive there's a D.C. drive unit.

19 Q. Uh-huh (yes).

20 A. And I did notice that it's supposed to have little
21 plastic high voltage signs down the side of it.

22 There's three panels on it. The first one, all that
23 was there left was a little plastic around the rivets.

24 And I thought it may have just been torn off prior to
25 the explosion, because I looked at the second one and

1 it was melted three quarters of the way off and had
2 melted towards the track entry from the head drive.
3 And the third one had just barley started to melt.
4 Q. Okay. You see some strange things in a mine after
5 an explosion like this, but this seems to be one of
6 the worst hit areas, this connector. And we don't
7 know, but we think it may've had a significant amount
8 of float coal dust in it. And that's one of the
9 things we're looking at right now. Let's talk a bit
10 about ventilation. Do you think this mine was
11 adequately ventilated?

12 A. I think they had plenty of air in the areas I
13 worked in, at least. Know that they had had
14 ventilation problems, where they had made a few air
15 changes in the past few months.

16 Q. Sure.

17 A. One night in particular I had a couple Federal
18 mine inspectors with me. And I do not recall the
19 names, but they were checking fire suppression and
20 checking CO's at belt drives.

21 Q. Uh-huh (yes); sure.

22 A. I picked them up at the longwall Mother Drive
23 around 100 ---.

24 OFF RECORD DISCUSSION

25 MR. SHERER:

1 The longwall Mother Drive.

2 A. 100, 101. I guess it's between 101 and 102

3 Break ---

4 BY MR. SHERER:

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

6 A. --- on Six North belt. That's where I started
7 with them, and we checked fire suppression on the way
8 outside and we knew there was an air change going to
9 be made that night. It was posted and the whole nine
10 yards. And I was trying to get them to hurry with me
11 so we could check what we needed to check and get on
12 out, because I was told no one allowed in the mines
13 unless you were working on that ventilation change.

14 Q. Uh-huh (yes).

15 A. They kept wanted to check a few more belts, and I
16 said, we got to go. That's the end of it.

17 Q. Actually, they didn't have to and you didn't have
18 to.

19 A. That's not the impression that I was under, but
20 somebody told me I was not an affected area.

21 Q. Well ---.

22 A. The change was up this way.

23 Q. Yeah. The way it works is only the people doing
24 the ventilation change can be underground plus State
25 and Federal inspectors plus miners' reps. So if

1 you're assisting a Federal inspector, you can be
2 underground. And if they knew it was far enough
3 outby, that's ---. If you're with a mine inspector,
4 you fall under that exception.

5 A. Oh, okay.

6 Q. But you guys checked the fire suppression all the
7 way out?

8 A. We checked it down to Four North belt drive ---

9 Q. Okay.

10 A. --- from the longwall Mother Drive around 102
11 Break on Six North belt down to Ellis Switch, which is
12 Four North belt drive.

13 Q. Okay. How was the fire suppression?

14 A. It was all functional.

15 Q. Good, good.

16 A. The new systems are a lot better than the old
17 systems. They don't work one minute and not work the
18 next minute. They work all the time.

19 Q. Sure.

20 A. If you have a problem, it's there. The old
21 system, you never knew whether you had it. You might
22 have a relay not go run on the old system.

23 Q. Sure. How does a newer fire suppression work? Is
24 it program logical controllers, PLCs?

25 A. The fire suppressions that we have on our six-foot

1 belts basically just operate off a flow switch and
2 keep --- it's got that sprinkler system. You keep
3 water pressurized all the time on your fire
4 suppression.

5 Q. Okay.

6 A. And then if a little heat sensor on the fire
7 suppression gets hot, it busts and water dumps out on
8 the fire.

9 Q. What if the CO monitors go off? Does that trigger
10 the fire suppression?

11 A. No, sir.

12 Q. Okay.

13 A. Different, two different systems.

14 Q. Okay. So you still have to have a point type heat
15 sensor go off?

16 A. Just like in a building, the sprinklers in this
17 building. It's the same style.

18 Q. Okay.

19 A. Basically the same style sprinklers, the same fire
20 suppression system as underground.

21 Q. Okay. So it's a fusible link or a glass capsule?

22 A. A glass capsule.

23 Q. Okay. Thank you. Didn't know that. So the
24 ventilation where you worked outby was sufficient.

25 Did you hear anybody complain about ventilation

1 anywhere else in the mine?

2 A. Every once in a while you would hear somebody call
3 out they didn't have enough air. They had to go
4 tighten a curtain up or something like that, but I
5 didn't hear anybody complain that they didn't have no
6 air and there was nothing they could do about it. It
7 was always in a pre-shift report that I would catch on
8 the telephone. Cannot recall any exact instances.

9 Q. Okay. So on the pre-shift report they'd call out
10 the air quantity was too low or something like that?

11 A. Occasionally that would happen; right.

12 Q. Okay. Did you do, like, permissibility exams or
13 weekly electrical exams?

14 A. Weekly electrical exams.

15 Q. What did you have to examine weekly? Was there
16 certain equipment or certain belt drives?

17 A. There was a lot of equipment.

18 Q. I imagine.

19 A. Basically if we had the electrical map up here, it
20 was from Ellis Five head and all the way up to ---.
21 Along the main line track all the way up to --- I
22 believe it was 160 Break.

23 Q. Well, that's way higher up.

24 A. There's a two-circuit D box at 160 Break.

25 Q. I guess you have some pumps up at this North Mains

1 area?

2 A. Yes, sir.

3 Q. Okay. That is a long way to go, a lot of ---
4 probably a lot of power centers and electrical boxes.

5 A. Well, yeah, I can't count how many there are right
6 now without the current map ---

7 Q. Yeah.

8 A. --- looking at that map, but ---.

9 Q. You hit the jackpot. You asked for the one map
10 that we don't have.

11 A. I got it out in my truck.

12 Q. That's okay, buddy. I appreciate it.

13 A. Well, I'm afraid that the maps will get messed up
14 some through the investigation, that maybe something
15 won't be --- one of the maps will get redone and it'll
16 come back wrong. So I want to keep a copy of ---

17 Q. Sure.

18 A. --- the map prior to the explosion, to help me in
19 the future.

20 Q. Sure. I understand that. That's a good thought.
21 I'll tell you, from what I saw of this mines, I think
22 a lot of electrical stuff will be redone.

23 A. From 78 Break inby ---.

24 Q. Yeah.

25 A. Well, actually I think it's about 81 Break inby,

1 cause the box at --- I think it's 79 Break --- just
2 had a shield tore up on it.

3 Q. Okay.

4 A. The 93 Break capacitor box which was not being
5 used at the time, every time I walked by it I was
6 really disturbed by the way it was torn up. It's a
7 small box, probably about five foot by five foot, four
8 foot high or so.

9 Q. Sure.

10 A. It was relocated a hundred foot outby from where
11 it had been in service. Well, I say in service where
12 it was running on a feed through. We had the blade
13 --- the breaker knocked on the capacitors and the
14 blades pulled up. The shields off the top of it had
15 blowed straight across the track from 92 Break. The
16 capacitor box had blowed out against the track. Our
17 high voltage cable had blowed down the track a hundred
18 foot towards the outside of the mines. I didn't
19 understand how that got tore up so bad where it was
20 located at.

21 Q. What you see in a lot of mine explosions is the
22 pressures get concentrated. Particularly if you
23 notice along this North Mains, you have various cut-
24 through's where flames and forces can come out at a
25 very high pressure and a very high rate of speed. And

1 walking up this North Glory Mains, it just depends on
2 where you're at. Each crosscut is totally different.

3 A. The reason I had been up as far as 120 Break is
4 they asked us to examine the high voltage and track
5 and see I guess help them get a cleanup plan
6 together ---

7 Q. Sure.

8 A. --- so they could use the track.

9 Q. Uh-huh (yes).

10 A. As soon as me and Paul and --- I can't recall what
11 Federal and State inspector was with us that day. But
12 as soon as we started up through there, I looked at
13 Paul and told him as far as I was concerned, all the
14 high voltage cable needed to be throwed away. It
15 wasn't worth trying to save.

16 Q. Well, you could probably get the copper out of it.

17 A. He agreed that we nee to just replace it with new
18 when the time comes, anyways.

19 Q. Sure.

20 A. There's no reason that little bit of cable
21 delaying people getting back and forth still use it.

22 A. Yeah. It's pretty rough up there. Do you carry a
23 methane detector with you?

24 A. Yes, sir.

25 Q. What model is that?

1 A. I'm not sure what the model number is, but it's a
2 Solaris.

3 Q. Okay. That thing ever alarm on you?

4 A. True alarms, no. Occasionally it'll get battery
5 gas to set your detector off.

6 Q. Sure.

7 A. And being a mechanic, cutting and welding, we all
8 keep it clipped onto your bibs, your clothing and you
9 go to cutting and welding, it'll start going off and
10 you'll have to hold it over fresh air and reset it,
11 set it on the fresh air side of you.

12 Q. Okay.

13 A. The only time I recall it ever going off as a true
14 reading was when they were driving the longwall
15 tailgate.

16 Q. Down here. Where did it go off on the tailgate?
17 Do you recall?

18 A. If you give me just a moment, I'll try to ---.

19 Q. Sure. Take your time.

20 A. I'll try to locate it.

21 OFF RECORD DISCUSSION

22 A. Up close to probably 105 Break.

23 BY MR. SHERER:

24 Q. Okay.

25 A. It alarmed at --- it alarmed at .5 percent.

1 Q. Okay.

2 A. The Solaris alarmed lower than most detectors.

3 Q. Sure.

4 A. That was methane, I'm sorry.

5 Q. Okay. So you encountered .5 percent methane at
6 about 105 Break. Did you go through a long stretch of
7 it or was it just a little bit?

8 A. A couple breaks up in there, but it didn't get no
9 higher.

10 Q. Okay.

11 A. They were driving. They were having a little bit
12 of a rough time with air when they drove out toward
13 the Bandytown fan. Of course you put a fan out there,
14 it's kind of an indication that they needed more air
15 as they got up in there.

16 Q. Sure. Okay. And that's the only time you say
17 you've had a true alarm on it?

18 A. The only time I can recall having a true alarm,
19 just ---. Now, as a coal miner I'm curious.

20 Q. Sure.

21 A. If I'm walking around and there's a water hole
22 that's got a little bit of bubbles coming up ---

23 Q. Sure.

24 A. --- my detector's not going off, I stick my
25 detector over top the bubbling and make it alarm.

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

2 A. I do recall when mine went off. This has been a
3 long time ago when they drove that. I went ahead and
4 stopped my ride and I got out and I checked around a
5 little bit.

6 Q. Sure.

7 A. I even went over to the return, across the belt
8 and over to the return to see what we had, and we had
9 the same thing.

10 Q. Uh-huh (yes).

11 A. And the only way I could make it go any higher was
12 I leaned against the rib and blocked the air coming
13 down the return off so that the air couldn't sweep it
14 away, just to see if that was where I was getting it
15 from, out of the coal.

16 Q. Uh-huh (yes).

17 A. And I got it to go up there, but that was it.

18 MR. FARLEY:

19 How much did you get it to go up?

20 A. I got it to go to one percent, but I had to try
21 really hard to get the detector to go off at one
22 percent. I had to block all the air off and smother
23 it.

24 MR. FARLEY:

25 Okay. Excuse me.

1 MR. SHERER:

2 No, no problem. Okay. Thank you.

3 BY MR. SHERER:

4 Q. When you were checking them bubbles out, did you
5 ever find much methane?

6 A. You can get your detector alarm at .5. Several
7 years ago I got one of the test holes in the roof to
8 go up higher than .5, but you had to hold the detector
9 completely over the hole to get it.

10 Q. Sure. Okay. What sort of certificates, State or
11 Federal mining certificates do you have?

12 A. Got an underground card with the State Department,
13 electrical card with the State Department, and I have,
14 of course, Federal electrical, but it's a card from
15 when you take a refresher every year.

16 Q. Sure.

17 A. And I have a EMT card.

18 Q. Okay.

19 A. EMT/DM.

20 Q. Okay. Thank you. Did it surprise you when this
21 explosion happened?

22 A. Yes, absolutely. I could not believe it. I had
23 considered moving closer to home and working at ICG,
24 but I know that ICG's a gassy mines, and I decided I
25 would be better off to stay at Performance where you

1 didn't hardly ever get no signs of gas, than go up to
2 ICG and get blowed up.

3 Q. Have you reconsidered that?

4 A. I think it would be stupid for me to go to ICG
5 where I know there's an added risk.

6 Q. Actually, a lot of our accidents show that real
7 gassy mines are probably safer than less gassy mines,
8 because people know it and try to do what they need to
9 do to take care of it.

10 A. Now, you were asking me about gas earlier. This
11 is before I --- long before this area. I'm sure it's
12 even in some documentation and stuff at the U.S.
13 Department or State Department. When we drove
14 Headgate 20, it was a little bitty small panel on the
15 bottom of that map there.

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

17 A. The longwall, I believe, was on Headgate 18 and
18 they withdrew us out of the mines. They told us to
19 leave everything where it was laying. Just bring a
20 hammer and a screw driver or something to help get the
21 pins out of the doors. They were knocking the power.
22 We had high concentrations of methane on the longwall.
23 I think they were down for three days. What I had
24 been told about it is that the bottom cracked and gas
25 was spewing in like a gas line ---

1 Q. Okay.

2 A. --- had ruptured. I'm pretty sure we were down
3 three days, the company controlling the gas, trying to
4 get the mine cleaned up.

5 Q. Do you think that was in, what, 2004?

6 A. That sounds approximately right, but like I said,
7 I'm sure it's in the documentation somewhere.

8 Q. We know of gas outbursts in 2003 and 2004. It
9 sounds like the 2004 was a bigger outburst. In fact
10 you can look at that map if you want to.

11 A. Yeah, it would've been 2004, because that panel
12 was mined in July and August of '05, according to this
13 map.

14 Q. Okay.

15 A. That's assuming the map's dated correctly.

16 Q. Oh, yeah. It seems to have been. Okay. Thank
17 you. Do you recall if Wendell Wills was the
18 superintendent when that happened?

19 A. I believed he was. He was either superintendent
20 or mine foreman.

21 Q. Okay. Thank you. He described that for us
22 several months ago.

23 A. Everybody misses Wendell.

24 Q. That's what I understand. A lot of people say a
25 lot of good things about Mr. Wills. When you were

1 working underground, did you ever hear anybody call in
2 on the mine phone or did anybody tell you that there
3 were inspectors coming in?

4 A. Yes.

5 Q. Okay. Thank you. I'm sure you've seen the press
6 about a month ago about methane monitors. Have you
7 ever seen a methane monitor being bridged out at this
8 mine?

9 A. For what purpose being bridged out? Could you be
10 more specific, please?

11 Q. First, for any purpose?

12 A. Yes.

13 Q. Okay. And what was that purpose?

14 A. I bridged them out myself, because if the sensor
15 gets wet, it'll give you, I'm pretty sure --- I'm not
16 positive --- but an F4 fault, but it tells you on the
17 readout. The sensors fault.

18 Q. Uh-huh (yes).

19 A. If the miner's in a cut and it gives you the
20 sensor fault, for safety reasons and personal safety
21 to work on the equipment, if you cannot get --- if the
22 machine is not equipped with a methane monitor
23 override to retreat it from the unsupported top, you
24 can bridge it out from the back of the machine after
25 taking a gas test, making sure it really ain't picked

1 up nothing.

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

3 A. And get the machine back to supported top, and
4 then you can replace the sensor. And the sensor's
5 real easy to replace. After you replace it you got to
6 calibrate it, and that's self-explanatory, too. If
7 you can ---.

8 Q. Uh-huh (yes).

9 A. If you can read just a little bit, you can go
10 through the calibration ---

11 Q. Uh-huh (yes).

12 A. --- mode on the machine, but only for --- to get
13 the machine out for repairs.

14 Q. Okay.

15 A. Not for production at all.

16 Q. Sure. Do you know if all of the miners at UBB
17 just right prior to the explosion, did they have the
18 methane monitor override?

19 A. To be honest with you, I'm not sure. I'm fairly
20 positive most of them did. But at the same time, it's
21 kind of complicated to use the methane monitor
22 override.

23 Q. Uh-huh (yes).

24 A. You got to use two or three buttons in two or
25 three different fashions. And I have stickers inside

1 my hardhat that tells you about the traction breaker
2 reset that you can do remotely, the methane monitor
3 override. I think there's an emergency stop override,
4 the three stickers with instructions in my hardhat.

5 Q. Okay.

6 A. And even with those stickers, sometimes you can't
7 get it to work the way you want. The traction breaker
8 reset, there's a shield overtop of it, overtop the
9 lever on the outside of the panel.

10 Q. Uh-huh (yes).

11 A. And little bits of coal and stuff from rubbing the
12 rib will get down in there and foul it up.

13 Q. Uh-huh (yes).

14 A. The only good thing about the traction breakers is
15 on the back of the machine, you can support up to it
16 fairly easy. However, the methane sensor, the sniffer
17 itself is located on the front of the machine, and
18 it's pretty difficult to support top up to a sensor,
19 especially if the miner's in a one ripper head wide
20 cut.

21 Q. Sure.

22 A. And then if you do get up to it, I don't know if
23 you could ever get it replaced in position anyways,
24 because you'd have about four inches to work.

25 Q. Oh, jeez, yeah. Okay. Thank you. Where were you

1 at when you had to do that?

2 A. It's been quite a while since I had to do that,
3 because I've been off the section for two or three
4 years, but the amounts of water that they got on the
5 miners and the amount of sprays and water pressure
6 they have on the miners, it's probably about, for a
7 production electrician like I was for a while, it's
8 probably about a once every six month thing when
9 you're working the face to have the sensor get water
10 logged and ---

11 Q. Sure.

12 A. --- have to replace it.

13 Q. Okay.

14 A. I worked with the crew we lost on Headgate 22 for
15 a long time.

16 Q. Uh-huh (yes).

17 A. They were a fine group of men. They didn't
18 smother and they wouldn't let people overrun it.

19 Q. Okay. We heard some real good things about Mr.
20 Jones in particular.

21 A. Dino was a very good guy. Eddie Mooney, the
22 center shuttle car operator, he actually was saved.
23 He found religion during the time I worked with him,
24 so I saw him go from --- make a complete turn around.
25 All the guys up there was good guys.

1 Q. Okay. Heard a lot of good things about that crew.

2 A. Mr. Marcum, I used to bring him raccoons from the
3 house. Raccoons were tearing up stuff at the house.
4 I'd trap them in a cage and take them to him and he'd
5 chase them with his dogs ---

6 Q. Oh, okay.

7 A. --- and use them to train.

8 Q. Okay. I'm glad that he chased them with his dogs.
9 I was worried about somebody who just wanted raccoons.

10 A. He coon hunts. He used them for training.

11 Q. Okay.

12 A. Apparently you don't coon hunt. I don't.

13 Q. I've coon hunted before, a long time ago.

14 A. I don't care much for it.

15 Q. I can drink beer with the best of the coon
16 hunters. That's about all I was good for.

17 A. I'd say my coon hunting crew was the only one that
18 didn't drink beer.

19 MR. SHERER:

20 Oh, okay. That's about all the questions

21 I've got right now, Mr. Graham. I appreciate talking
22 to you and I'll let Terry follow up.

23 EXAMINATION

24 BY MR. FARLEY:

25 Q. Mr. Graham, just a couple of things. When you

1 were discussing your miner certifications, do you also
2 have a mine foreman/fire boss certification?

3 A. Yes, sir, but I thought I mentioned that. I
4 mentioned three cards. Nah, electrical, underground
5 electrical and EMT, I'm sorry. Yes, sir, I do have a
6 mine foreman card.

7 Q. Okay. How long you had it?

8 A. I believe no more than two years. I can check the
9 date in my pocket.

10 Q. That's not important.

11 A. You know, I don't do that job. I just retain the
12 card ---

13 Q. Okay.

14 A. --- for added job security if things got tough in
15 the coal market.

16 Q. Well, let's --- I don't want to be redundant here,
17 but I just want to make sure I understood what I heard
18 here. Erik asked you if all the continuous mining
19 machines at UBB Mine in years prior to April 5th were
20 equipped with methane monitor override, and you were
21 not sure that all of them worked; is that correct?

22 A. That's correct. I'm not sure.

23 Q. Okay. I don't think ---. How long have you been
24 a supervisor and maintenance foreman?

25 A. I'm wanting to think three, maybe four years. The

1 first experience I had as a supervisor was I took a
2 third shift position on the crew that would've been
3 Headgate 22's midnight crew, you know, on the section.

4 Q. Uh-huh (yes).

5 A. And I worked with that crew for a little while,
6 and then I transferred to outby.

7 Q. Okay. Now, you are actually a salaried employee,
8 or were as of April 5th?

9 A. Salaried, but not straight salary. Salary for 40
10 hours a week and overtime for any extra hours. I'd be
11 silly to --- as a maintenance foreman or any
12 electrician would be silly to take a straight salary
13 position unless it was very high, because maintenance,
14 you never know when you're going to have to go to work
15 and when you're going to come --- get to come home.

16 MR. FARLEY:

17 I understand where you're coming from.

18 All right. Beth?

19 EXAMINATION

20 BY MS. SPENCE:

21 Q. What do you think happened here, your opinion?

22 A. My opinion changes every time I hear something
23 from an investigative team, just a little whisper here
24 or whisper there, but what I originally thought
25 happened is I was told that the longwall was sitting

1 on a line here according to the map. This map shows a
2 line here, but it don't come out as far as one of them
3 I saw. One of them I saw came out a little bit
4 further into the panel. So I'm sure that's just an
5 estimation anyway.

6 Originally I was under my personal opinion that
7 they had another break in the bottom like they did
8 back in '04 and that the gas rushed in at a rate that
9 the sensor could not keep up with it, and it reached
10 --- I thought it may have reached an explosive level
11 before the machine actually caught up with the amount
12 of gas that was rushing in. I've calibrated methane
13 monitors before, not on the longwall. I have no idea
14 what kind of sensors they had. I've been told it's
15 different than the ones on the continuous miners.

16 But when you put the calibration gas on a methane
17 monitor, it climbs up. And just about any inspector
18 or any electrician knows that it's a process that it
19 starts picking up the gas, and then it reaches the
20 point that it shuts the machine off. And I think it's
21 possible that gas could rush in faster than the
22 machine could keep up with it.

23 MS. SPENCE:

24 Thank you. Okay. That's all.

25 RE-EXAMINATION

1 BY MR. SHERER:

2 Q. I've got a couple follow-up questions. You say
3 you were maintenance supervisor. Did you have anybody
4 that worked for you?

5 A. No. Greg, Gregory Shrewsberry, he was kind of in
6 charge of the south side, Ellis switch out.

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

8 A. But we worked together as much as possible. If I
9 needed something or if he needed something, we're
10 there ---

11 Q. Sure.

12 A. --- to work together. And then I also had Brian
13 Wade Farley worked up there.

14 MR. FARLEY:

15 What was the name, again?

16 A. Brian Wade ---

17 MR. FARLEY:

18 Brain; okay.

19 A. --- Farley.

20 MR. FARLEY:

21 All right.

22 BY MR. SHERER:

23 Q. Okay. You can't beat either one of those
24 individuals? Okay.

25 A. Not like tablecloths.

1 Q. Did you have the authority to hire or fire
2 anybody?

3 A. No, sir.

4 Q. Did you have the authority to purchase materials
5 or services?

6 A. To actually purchase them, no. However, on the
7 third shift, if somebody called and said they were
8 down, needed a certain part, we did not have it in
9 stock, between me and the dispatcher, we could get it
10 ordered and a P.O. issued for it.

11 Q. Did you have the ability to requisition parts or
12 supplies?

13 A. Yes, sir.

14 Q. Okay. You say you bridged the methane sensor.
15 How did you bridge that thing out?

16 A. Back inside the readout and then you pull the
17 readout off and put a wire between two of the lugs.
18 And I'm not sure which one it is at the current time,
19 but I think it's four and eight.

20 Q. Okay.

21 A. If I needed to get the miner out of a place or if
22 I needed to load a machine up to haul it or something,
23 to move it outside and the readout was screwed up or
24 the sensor was screwed up ---

25 Q. Okay.

1 A. --- you just stick it on there and if it works,
2 you're in the right place.

3 Q. Okay. Have you ever seen a bag over any of the
4 sensors?

5 A. No, sir. Absolutely not.

6 Q. Have you heard of anybody putting a bag over the
7 sensors?

8 A. Not this operation.

9 Q. Okay. When you bridged that monitor out, do you
10 recall what the display shows?

11 A. It still showed the fault sense, the sensor fault.

12 MR. SHERER:

13 Okay. Thank you.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. You mentioned adjusting the methane monitor
17 outside in order to haul the machine. Did you ever
18 participate in any major equipment moves such as
19 transporting continuous mining machines or other large
20 pieces of mining equipment into the mine?

21 A. Yes, sir, but I cannot recall dates. I can't even
22 --- probably once or twice a year I would help move a
23 machine in or out of the mine.

24 Q. Okay. Were such moves usually made with people
25 working inby in the same split of air?

1 A. When the machine is moved on rail, that still
2 constitutes a major equipment move if it's hauled in
3 on flat cars and so forth? Not a flatcar; a lowboy
4 that you pull behind the motor on the rail?

5 Q. Yes.

6 A. Yes, sir, there probably was.

7 Q. Okay. Do you recall when that occurred?

8 A. No, sir, I do not.

9 MR. FARLEY:

10 Okay. All right.

11 ATTORNEY HAMPTON:

12 Okay. On behalf of MSHA and the Office
13 of Miners' Health, Safety and Training we'd like to
14 thank you for appearing and answering questions today.
15 Your cooperation is very important to the
16 investigation as we work to determine the cause of the
17 accident.

18 So as we mentioned earlier, we do request
19 that you not discuss your testimony here today with
20 any other person, other than an attorney or a personal
21 representative. And after questioning other
22 witnesses, we might have some follow-up questions for
23 you. And as I mentioned, if you have any additional
24 information you'd like to provide to the teams after
25 you leave here today, we can be contacted through the

1 information provided to you in the letter that I gave
2 you earlier. So now, at this point if you would like
3 to go back over any answer that you've given and give
4 any further information or clarify anything that you
5 said, or if you'd like to make any statement, you may
6 do so now.

7 A. I cannot think of anything I'd like to add.

8 ATTORNEY HAMPTON:

9 Okay. Thank you very much. We really
10 appreciate your cooperation. Off the record.

11 * * * * *

12 STATEMENT UNDER OATH CONCLUDED AT 8:58 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Alison Salyards