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**Transcript of the Testimony of Richard Hutchens**

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CONFIDENTIAL STATEMENT UNDER OATH

OF

RICHARD HUTCHENS

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, July 12, 2010, beginning at 6:05 p.m.

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1                   A P P E A R A N C E S

2

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P R O C E E D I N G S

1  
2 -----  
3 ATTORNEY WILSON:

4 Good evening. My name is Bob Wilson. I  
5 am with the Office of the Solicitor, United States  
6 Department of Labor. With me is Erik Sherer, an  
7 accident investigator with the Mine Safety and Health  
8 Administration. Today is July 12, 2010, and we're  
9 here to conduct an interview of Richard Hutchens.  
10 Also present are individuals with the State of West  
11 Virginia. I'll ask that they state their appearance  
12 for the record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

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

22 ATTORNEY WILSON:

23 All members of the Mine Safety and Health  
24 Administration Accident Investigation Team and all  
25 members of the State of West Virginia Accident

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

16 Mr. Hutchens, government investigators

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



1 representative present with you. Do you have a  
2 representative or an attorney present?

3 MR. HUTCHENS:

4 No.

5 ATTORNEY WILSON:

6 Your statement is completely voluntary.

7 You may refuse to answer any question and you may  
8 terminate your interview at any time. You may request  
9 a break at any time. This is not an adversarial  
10 proceeding. This is a fact-gathering process.

11 Although follow-up questions will be permitted, Cross  
12 Examination will not be appropriate.

13 Your identity and the content of this  
14 interview will be made public at the conclusion of the  
15 interview process and may be included in the public  
16 report of the accident unless you request that your  
17 identity remain confidential or if your information  
18 would otherwise jeopardize a potential criminal  
19 investigation. If you request that we keep your  
20 identity confidential, we will do so to the extent  
21 permitted by law. In other words, if a judge orders  
22 us to reveal your name or if some other law requires  
23 us to reveal your name, we may do so. Also, there may  
24 be a need to use the information that you provide to  
25 us in other investigations or hearings concerning the

1 explosion. Do you understand your right to request  
2 confidentiality?

3 MR. HUTCHENS:

4 Yes.

5 ATTORNEY WILSON:

6 And do you have any questions about that?

7 MR. HUTCHENS:

8 No.

9 ATTORNEY WILSON:

10 After the investigation is complete, MSHA  
11 will issue a public report detailing the nature and  
12 causes of the fatalities in the hope that greater  
13 awareness about the causes of accidents will reduce  
14 their occurrence in the future. Information obtained  
15 through witness interviews is frequently included in  
16 those reports.

17 We will be interviewing additional  
18 witnesses, and so we request that you not discuss your  
19 interview with anyone outside of this room. A court  
20 reporter will be recording the interview, so please  
21 speak loudly and clearly. If you do not understand a  
22 question, please ask that the question be rephrased.  
23 Please answer each question as fully as you can,  
24 including any information that you may have learned  
25 from someone else.

1 Again, I want to thank you in advance for  
2 your appearance here today. Your cooperation is  
3 critical in making the nation's mines safer. When  
4 we're finished, we will provide you with an  
5 opportunity to add anything to the record that you  
6 believe may be important. If after the interview you  
7 recall any additional information, please contact  
8 Norman Page, who is the lead investigator for MSHA,  
9 and his contact information is included in the letter  
10 that we provided to you here this evening.

11 Terry, do you have something that you  
12 want to add?

13 MR. FARLEY:

14 Yes, sir. Mr. Hutchens, I want to advise  
15 you on behalf of the Office of Miners Health, Safety  
16 and Training that the West Virginia Coal Mine Health  
17 and Safety Regulations also protect miners against  
18 potential discrimination for participating in these  
19 type of interviews. I'll give you some contact  
20 information along with my business card and the  
21 business card of Mr. Bill Tucker, who's our lead  
22 underground investigator, and you can contact us  
23 should you experience any such discriminatory  
24 treatment. But we advise you that if you have to file  
25 a claim, you need to do so within 30 days of the

1 event. All right?

2 ATTORNEY WILSON:

3 Beth, anything?

4 MS. SPENCE:

5 No.

6 ATTORNEY WILSON:

7 Mr. Hutchens, can you please face the  
8 court reporter and she'll swear you in?

9 -----

10 RICHARD HUTCHENS, HAVING FIRST BEEN DULY SWORN,  
11 TESTIFIED AS FOLLOWS:

12 -----

13 ATTORNEY WILSON:

14 Would you please state your full name for  
15 the record?

16 A. Richard C. Hutchens.

17 ATTORNEY WILSON:

18 And would you please give us your mailing  
19 address and telephone number?

20 A. [REDACTED]

21 [REDACTED]

22 ATTORNEY WILSON:

23 All right. I'm going to turn it over to  
24 Erik Sherer to start the questioning.

25 EXAMINATION

1 BY MR. SHERER:

2 Q. First of all, I want to thank you for coming down  
3 here this afternoon. We're trying to do a couple  
4 things. The first one is figure out what led up to  
5 this explosion, and hopefully we can change the way we  
6 do business and possibly some of the regulations to  
7 try to prevent this in the future.

8 The other thing we're trying to do is just provide  
9 some closure for the families and friends of the  
10 victims so they can understand what happened to their  
11 loved ones.

12 Are you appearing here today voluntarily?

13 A. Yes.

14 Q. Has anyone from the company or any of their  
15 attorneys interviewed you concerning the explosion?

16 A. No.

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

18 A. I'm going to say 30.

19 Q. Can you give me just a rough outline of where you  
20 worked at during those 30 years?

21 A. I started out in the mines in 1980 for New River  
22 Coal Company. It was called Bonnie --- or Bonnie  
23 Mines. CSX owned it. It went through several names,  
24 Bonnie, Beckley Lick Run Company.

25 Q. Sure.

1 A. So I worked there nine years. And it was a gassy  
2 mines. It worked in Beckley seam, ---

3 Q. Sure.

4 A. --- and I got acquainted with how methane was  
5 then. And then they laid off, and Maben Energy bought  
6 it. So I worked three years for Maben Energy at the  
7 same mines, and then went on to a couple old punch  
8 mines down in Pineville and different places. Then I  
9 got on with Elk Run Coal Company and then stayed with  
10 them. And then Performance started up, and then I  
11 transferred and went to Performance when they started,  
12 more or less, over on the Upper Big Branch side.

13 Q. Roughly, when did you go to Upper Big Branch?

14 A. I'm going to say around '96, 1996.

15 Q. So you've been there almost the entire time at  
16 this mine?

17 A. Pretty close to it, yeah.

18 Q. I think they mentioned they started in 1994?

19 A. Yeah. I started there just a few years after they  
20 started, and then I quit for about three years and  
21 come back.

22 Q. Okay. What have you done at Upper Big Branch?

23 A. I run a miner, ran a shearer on the longwall. And  
24 when they moved the longwall, run a mule pulling jacks  
25 off the face.

1 Q. Sure.

2 A. And then I took a bossing job, and I've been  
3 bossing on a section.

4 Q. Okay. And I understand that you recently left  
5 Upper Big Branch?

6 A. (Indicates yes).

7 Q. Approximately when did you leave?

8 A. It was approximately four-and-a-half weeks before  
9 the explosion happened, so I left around the end of  
10 February.

11 Q. Okay. Can I ask you why you left?

12 A. One of it, (b)(7)(C)

13 (b)(7)(C)

14 (b)(7)(C) because I was  
15 bossing. And the other is because of the pressure  
16 that they was putting on me about running coal and  
17 threatening to fire me and just what have you, and I  
18 just got tired. I said, I don't have to work like  
19 this, ---

20 Q. Sure.

21 A. --- don't have to live under them conditions.

22 Q. Okay. Well, we'll come back to that pressure in a  
23 little while. So you got your state bossing papers.

24 Do you have any other federal or state certifications?

25 A. No.

1 Q. Okay. And how long have you been a section boss  
2 at Upper Big Branch?

3 A. I'd say --- I'm just going to guess and say maybe  
4 two years. I've been there about two years.

5 Q. That's close enough. What areas did you boss in  
6 at Upper Big Branch?

7 A. I bossed on what they call Two section.

8 Q. Okay. That would be the headgate of the current  
9 longwall panel?

10 A. It was the panel coming over before you got to the  
11 headgate section. Let me find it here on the map.

12 Q. Here's the current face. Here's that little  
13 connector section we've been calling it.

14 A. It was --- they called this Two section here.

15 Q. Okay. So you were running on the tailgate side?

16 A. Yeah.

17 Q. How long did you --- or how much of this did you  
18 work on?

19 A. From about back here.

20 Q. About 20 Break?

21 A. Yeah, about 20 Break.

22 Q. Okay. Did you drive it --- how far did you drive?

23 A. Drove it all the way up, cut across this and all  
24 the way up to the fan.

25 Q. Okay. So you drove the tailgate of the current



1 longwall panel from 20 Break all the way up to --- and  
2 you drove the setup runs?

3 A. Right.

4 Q. And you drove the diagonal?

5 A. Uh-huh (yes).

6 Q. And then you continued on where it merged with the  
7 headgate all the way to the Bandytown fan?

8 A. Right.

9 Q. Okay.

10 A. And come back here and drove this across and was  
11 working on the Headgate 22.

12 Q. Okay. So you drove the connector out from the  
13 headgate of the current longwall panel and then you  
14 bossed the driveage of the 22 Headgate section?

15 A. Right.

16 Q. Okay. That's a lot of mining.

17 A. Yeah.

18 Q. What shift did you normally work?

19 A. Straight evening shift.

20 Q. Okay. About what time did that shift start?

21 A. Well, we was starting at 4:00, and then they  
22 changed it when we switched over to Ellis at three  
23 o'clock and went to ten-hour shifts.

24 Q. So you were portalling out of the Ellis Portal?

25 A. At the end of it we was, yeah.

1 Q. Do you recall about when you changed portals?

2 A. No. I don't recall the month and date or nothing.

3 Q. Okay. By the end of 2009?

4 A. Yeah, whenever they got that permit to start on  
5 that Ellis side portal.

6 Q. Oh, okay. Who was your immediate supervisor?

7 A. Starting out it was Gary May and Andy Kolson, and  
8 Terry Moore was last.

9 Q. Okay.

10 A. That was my mine foreman.

11 Q. Yeah. Sure. You went through a lot of mine  
12 foremans in a two-year time period?

13 A. Mine foreman and superintendents.

14 Q. Who were the superintendents during that time  
15 period?

16 A. Homer Wallace and then Everett Hager.

17 Q. Okay. So you reported to the mine foremen. They  
18 reported to the mine superintendent. Was there  
19 another level above that, above the superintendent?

20 A. Above the superintendent was Chris Blanchard.

21 Q. And then what was his position; do you recall?

22 A. President of Marfork Coal.

23 Q. Okay. Could you give me a just a real rough idea  
24 of what you did during a typical shift?

25 A. More or less maintained a driving working section,

1 your ventilation, examined work areas to make sure men  
2 didn't get hurt or travelways, stuff like that, and  
3 always happened to make a decision on which way or  
4 what way to do things.

5 Q. Sure. Do you do pre-shift examinations?

6 A. Yes.

7 Q. Did you take them out or call them out?

8 A. Call them out.

9 Q. Okay. I assume you also did on-shift  
10 examinations?

11 A. Correct.

12 Q. And you probably filled those out when you got out  
13 outside?

14 A. Yes.

15 Q. Do you recall who normally countersigned your  
16 examinations?

17 A. Kenny Farmer was on the midnight, and I called out  
18 to him. I think I followed Kenny or Kenny followed me  
19 for a long time, through most of this driving.

20 Q. Okay.

21 A. And then this other foreman that was on midnight  
22 when I got over on Headgate 22 was Kyle Anderson.

23 Q. Okay. And then the mine foreman would  
24 countersign ---

25 A. Right.

1 Q. --- all the examinations?

2 A. Right.

3 Q. Why do you think that we have you record all those  
4 examinations?

5 A. For incidents like we're in right now, that you  
6 can back up and you can look and see what kind of  
7 stuff was going on with the mines and sections  
8 and ---.

9 Q. Sure. Do you also think it was useful for the  
10 upper mine management to know what was going on at the  
11 mine?

12 A. Yeah. That's what it's mainly used for is me  
13 following dayshift to look on his report to see what's  
14 --- what encounters he's got, you know, if it's ---

15 Q. Sure.

16 A. --- wet, methane, conditions, that's called out on  
17 his pre-shift that I have to ---.

18 Q. Sure. Do you think it's very important that if  
19 you run into a problem during the shift, that that be  
20 recorded so the next guy has a heads-up?

21 A. Right.

22 Q. How would you describe the roof, ribs and floor on  
23 the 22 Headgate?

24 A. I would describe them as bad conditions. They  
25 wasn't good.

1 Q. How was the roof?

2 A. It wasn't good.

3 Q. Any particular problem that you recall?

4 A. It was --- you encountered what I called stack  
5 rock, layered rock.

6 Q. Was it sandstone and shale or did it have coal  
7 streaks?

8 A. It had all, sandstone, shale, coal streaks. Sand  
9 rock would be stacked. It had coal streaks in it.  
10 And we used ten-foot cable bolts in some places where  
11 we thought we needed them. We used six-foot torque  
12 tension bolts and we bolted the ribs. As they cut the  
13 rock, we bolted the ribs back where the rock was cut  
14 on the rib.

15 Q. Sure. Roughly, what is the mining height up in  
16 there?

17 A. It run seven foot and above.

18 Q. A pretty high section?

19 A. Yeah. We cut a lot of rock. The coal seam run  
20 about 40 inches, 45.

21 Q. You did cut a lot of rock.

22 A. And we cut a lot of rock.

23 Q. Any particular reason you cut so much rock?

24 A. For the longwall. And the equipment we had was  
25 12-by-12 miners, big bolters.

1 Q. Big equipment.

2 A. And you had to have at least six foot and above.

3 Q. And that was mainly the roof you were cutting or  
4 did you cut into the floor?

5 A. Well, if the roof was sand rock, we cut the floor.

6 Q. Okay.

7 A. If the roof was slate, we cut the top.

8 Q. And you say that you bolted the ribs where you had  
9 some rock on top of the coal?

10 A. Right.

11 Q. What about the ribs themselves, were they taking  
12 much weight?

13 A. Yeah. They was fluffy, flakey, soft.

14 Q. Okay. What about the floor, was it solid floor or  
15 was it hooving up?

16 A. The floor, just where we encountered water, I  
17 don't know --- water was coming through the ribs.  
18 Sometimes it come through the bottom. And when you  
19 put water on a mine floor, you keep running over it  
20 and it just busts up and you create crevices of where  
21 it's irregular conditions to try to stay on top of it.

22 Q. So the equipment busted it up?

23 A. Yeah, with the mine water that we mixed with it.

24 Q. Did you notice, say, some of the crosscuts after  
25 you had got past them several breaks, did they start

1 hooving up in the middle of the roadway?

2 A. Yeah, there was hoovage problems behind us in  
3 certain places, but I never did have to turn around  
4 and go back and regrade it, but ---.

5 Q. That's good. What about the --- any puddles on  
6 the section? Did you notice methane bubbling up  
7 through those puddles?

8 A. There was bubbles. Sometimes you'd check it and  
9 you might read some methane. Sometimes it wouldn't  
10 read nothing, so ---.

11 Q. Oh, okay.

12 A. You know, I guess air, water would cause bubbles  
13 in water to ---.

14 Q. Sure.

15 A. And sometimes you'd get a little methane bubbling  
16 up, but you could put your methane detector down there  
17 and ---.

18 Q. Sure. Was it a lot bubbling up or just a few  
19 bubbles every now and then?

20 A. It would come and go. I mean, you could say a  
21 lot, but it would come and go.

22 Q. Okay. Sure.

23 A. Areas, different areas.

24 Q. What did you think about the ventilation on this  
25 section?

1 A. On Headgate 22?

2 Q. Uh-huh (yes).

3 A. Headgate 22 had pretty good ventilation until they  
4 started working on this Mother Drive behind us, on ---  
5 behind the section here on 22.

6 Q. That's the Mother Drive for the longwall?

7 A. Well, yeah. It was the original Mother Drive for  
8 the longwall. The section was dumping on it from over  
9 here. We put the longwall belt in Number One entry  
10 and we drove it.

11 Q. Uh-huh (yes). Sure.

12 A. And the belt originally come across over here and  
13 dumped on this belt.

14 Q. So it came down the little crossover you cut?

15 A. Right. And when the longwall got back to this  
16 area, I had to do away with this belt and have this  
17 one ready, so when the longwall got back to here we  
18 was dumping on this one then.

19 Q. Okay. So once the longwall got up to possibly  
20 past that crossover area, that's when your air  
21 problems started?

22 A. Well, when they --- the longwall panel was  
23 probably about right here.

24 Q. Okay.

25 A. The mule train goes back ---



1 Q. Oh, okay.

2 A. --- and takes it out.

3 Q. Okay. So ---

4 ATTORNEY WILSON:

5 Right here, around ---

6 BY MR. SHERER:

7 Q. --- by the end of February?

8 ATTORNEY WILSON:

9 --- 34, 35 crosscut, is that what you're  
10 referring to?

11 A. Right. When the longwall face got back here, they  
12 pulled back. So their mule train and the power box,  
13 when it pulled back, they had to take this head and  
14 stuff out.

15 BY MR. SHERER:

16 Q. Oh, okay. Okay.

17 A. And that took this belt out. And then we started  
18 dumping on this. But when they was developing this,  
19 we was mining coal. But when they was developing this  
20 Mother Drive, putting it in, that's when we started  
21 encountering --- our air started getting weaker. When  
22 we started out, it was pretty good.

23 Q. Do you have any thoughts of why the air started  
24 getting bad?

25 A. Our air originally was coming down here, the

1 return, and they was having water encounters back up  
2 here in the 70 Break on the headgate side.

3 Q. Okay.

4 A. So MSHA said, if you can't travel it, you can't  
5 use it, so they made our return to come back over here  
6 and come down across this way and go back up.

7 Q. So instead of your return going down and dumping  
8 on the headgate, that return was rerouted to go back  
9 down the Number Seven North belt and the mains with  
10 the Number Seven North belt and then across the outby  
11 end of the longwall down to the tailgate side of the  
12 longwall?

13 A. Right.

14 Q. Okay. Were a lot of ventilation changes  
15 associated with that?

16 A. Well, I don't know exactly what they done outby my  
17 section to correct their problems. Sometimes I'd say,  
18 I ain't got enough air. They'd say, well, we opened  
19 this regulator up back here and re-plastered stoppings  
20 or do whatever, you know. The return run all the way  
21 across, they had stoppings here and then it went all  
22 the way up back to that fan. So as far as the outby  
23 foremans, what they done, I couldn't tell you exactly  
24 what they done. But I know in mining you got to have  
25 a good return and good intake.

1 Q. Sure.

2 A. And if your return is weak, then it cuts your  
3 circulation off on your air.

4 Q. Sure. What sort of air problems did you have on  
5 the section? Would you come up on the section and  
6 just not have enough air to run the section?

7 A. We have. We've come up on the section, and I'd  
8 have a safety talk with the men. And then when I'd go  
9 across doing my pre-shift realize I didn't have enough  
10 air, and I'd go back to the power box, pull all the  
11 men back, knock the breaks. And I have walked them  
12 back as far as 25 breaks, seeing what was wrong back  
13 here, ---

14 Q. Sure.

15 A. --- find out where my intake was going. And I'd  
16 find different things, like a stopping partially  
17 knocked, intake coming out and going down that returns  
18 topping, shortening it coming up on a section.

19 Q. Was that just a single instance or did that happen  
20 several times?

21 A. It happened two or three times I've had to come  
22 back off a section and do different stuff to get my  
23 intake back up. I wasn't --- I want to verify, I  
24 wasn't changing ventilation. I was correcting the  
25 problem that was leading up to my intake coming to the

1 section.

2 Q. Sure. Were there any doors that could be left  
3 open that would affect your airflow?

4 A. Yes. There was a set of doors back here. There's  
5 an overcast somewhere right in here.

6 Q. Okay.

7 ATTORNEY WILSON:

8 And you're pointing outby the mouth of  
9 the 22 Headgate section?

10 A. Yeah. Right. It was outby --- they called this  
11 the Glory Hole, another set of doors. And I had to  
12 keep the doors closed and the intake come up by these  
13 rooms and come down, and it come straight up on the  
14 section, Number Two entry.

15 BY MR. SHERER:

16 Q. Did you ever find those doors open or partially  
17 open?

18 A. Yeah, I found them open. We had to close them.  
19 And over here on this return side, I found them open  
20 and had to put curtain across them because they had  
21 their return, then their intake and they had a set of  
22 supply doors for the scoop to go through to get to the  
23 section. So he was coming from the intake to the  
24 return to go through the section. So lack of scoop  
25 man not properly closing the doors, what have you.

1 Q. Sure.

2 A. And there was a set of fly pads right here. I  
3 don't know what break that is. I guess that's showing  
4 a regulator there or something.

5 Q. Yeah. That's a regulator now.

6 ATTORNEY WILSON:

7 And that's --- again, you're pointing to  
8 the R on the map just outby the mouth of Headgate 22?

9 A. Yeah. They had a set of fly pads and air on the  
10 section would come up, and if these wasn't up, your  
11 air would just come straight back here and go on this  
12 longwall air and it would short this section. So they  
13 kept fly pads and curtain right here that would help  
14 push that air to the section. If these wasn't up,  
15 your air is going to go the easiest route, and it  
16 wanted to pull to the longwall.

17 ATTORNEY WILSON:

18 Let's ---.

19 BY MR. SHERER:

20 Q. Let me have you mark ---.

21 ATTORNEY WILSON:

22 If you could circle that R and then in  
23 the margin here put fly pads.

24 A. They might have been on that regulator. Let's  
25 see. You had the overcasts, the door. Are they

1 showing the track?

2 BY MR. SHERER:

3 Q. The L was probably the track.

4 A. That's where the belt was.

5 Q. Oh, okay.

6 A. This is where the track was. They had track up to  
7 right here where this fall cleaned up. And I pulled  
8 the track back to these double doors and it stopped  
9 right there.

10 ATTORNEY WILSON:

11 And again, you're referring now to this

12 crossover between MMU-040 and Headgate 22; is that  
13 right?

14 A. Right. See, we'd park our mantrip right here  
15 between the doors at the end of the track, and we'd  
16 walk through this door right here, and it's showing it  
17 on the map, and ride this little Jeep up through here.  
18 And there was fly pads and curtain right in this area  
19 right here.

20 BY MR. SHERER:

21 Q. Okay. Want to mark that for us?

22 A. Where they're showing the door?

23 Q. Uh-huh (yes).

24 WITNESS COMPLIES

25 BY MR. SHERER:

1 Q. Okay. Thank you.

2 ATTORNEY WILSON:

3 And you wrote in red fly pads and you've

4 circled --- what's shown on the map is a door. You  
5 were saying that's where fly pads were?

6 A. Now, this map might have changed since I left.

7 They might have made a regulator in this door because  
8 what happened, after I left they started this section.

9 So the track come from right here and split, come  
10 across here. So I'm sure they did. They had to put  
11 that overcast in and they probably had to put a set of  
12 doors there for this section.

13 ATTORNEY WILSON:

14 And when you refer tot his section,

15 you're referring to the MMU-040?

16 A. Right. They was just starting this ---

17 BY MR. SHERER:

18 Q. Twenty-two (22) Tailgate?

19 A. Right. They started this when I was still bossing  
20 up there, so --- actually, I left when they started  
21 developing this Three entry section down here.

22 Q. Okay. So sometimes when you'd get on a section  
23 there wasn't much air. Was that reflected in the  
24 pre-shift books? Do you recall?

25 A. The best I can recall, I would put low air or put

1 down shut down, worked on ventilation.

2 Q. Okay. But I mean, the pre-shift that was done  
3 prior to you coming on the section.

4 A. Oh. I forget what he called out. He called out  
5 some number. But when I got up there, that number  
6 didn't match what I found, so ---.

7 Q. Sure. Did you ever run into any methane problems  
8 on that section?

9 A. No, not really. No, not no methane that would ---  
10 you know, four or five tenths, .05, stuff like that.  
11 I didn't ---.

12 Q. Did the miner ever gas out?

13 A. No. We had methane malfunctions on that section  
14 that I just had to back the miner up and the  
15 electrician would put a new sniffer on it, calibrate  
16 it and ---.

17 Q. Sure. What about the warning, did it ever go over  
18 one percent?

19 A. Not on this section I didn't have no methane  
20 problems.

21 Q. Okay.

22 A. Up here I did a little bit.

23 Q. When you were driving the tailgate?

24 A. When I was driving the headgate.

25 Q. Okay.



1 ATTORNEY WILSON:

2 Can we go back just so that the record is

3 clear? When you were describing how the return air

4 course came off the section and went outby and then

5 over to the tailgate side, can we use a highlighter,

6 an orange highlighter, and have you just trace what it

7 was that you were describing earlier because I'm

8 afraid the record may not be very clear on that?

9 MR. SHERER:

10 The section return.

11 ATTORNEY WILSON:

12 And this was after they rerouted your

13 return air.

14 A. Right. I'm sure they changed some of this

15 ventilation around because of this other section.

16 BY MR. SHERER:

17 Q. Sure. Just draw it in as best you remember it.

18 A. Number Three entry right here was your return.

19 And it come down, went across these headings right

20 here, which you had two of them, so --- then it come

21 back and it come underneath the overcasts --- it come

22 over top this overcast, come back up this way. Let's

23 see here. It might have come through here, but I'm

24 trying to figure out which entry it come down. I

25 might be on the wrong entry, but I'm going to just say

1 to the best of my knowledge it come across and come  
2 down through here.

3 Q. Sure.

4 A. And it done something like this. And then this  
5 here was the return. Now, exactly --- I know it come  
6 up this way and worked its way up to that fan. But I  
7 know when I drove this over this way, I drove this  
8 part, this was return and this was return.

9 ATTORNEY WILSON:

10 When you say you drove this area, you're  
11 talking about the crossover entries immediately outby  
12 the active longwall?

13 A. Right.

14 BY MR. SHERER:

15 Q. Okay. Thank you. Do you want to just label that  
16 return?

17 ATTORNEY WILSON:

18 Yeah. Just put it ---.

19 WITNESS COMPLIES

20 BY MR. SHERER:

21 Q. Did you ever hear anybody joking that there was  
22 low air or no air on Headgate 22?

23 A. I wouldn't use the phrase joking. Men knowed it,  
24 but --- low air, you could be minimum of what you  
25 need. Know what I mean?

1 Q. Sure.

2 A. The law requires you to have 9,000, 13,000 in the  
3 last open break. Sometimes it's just barely enough,  
4 6,000 up there where the miner is at. And for a miner  
5 operator to be up there cutting with that much  
6 rock ---

7 Q. Sure.

8 A. --- when you ain't got no air ---. You know,  
9 that's the way they look at it. I ain't got enough  
10 air because it's dusty.

11 Q. Sure.

12 A. And I've have to go behind the curtain. A lot of  
13 times the curtain corner would be sucked in. And if  
14 it's sucked in, it resists your air. I'd stick a bolt  
15 out there, a six-foot bolt, in the rib and it would  
16 open it up. Take an air reading. He'd have enough  
17 air, but you know, he wasn't convinced that there was  
18 enough. But I told him, I said, when you get ten foot  
19 of height, top fall and you're grinding rock, your  
20 scrubber is not big enough to carry all the volume  
21 clear down, so ---.

22 Q. When you were driving the 22 Headgate, were you  
23 taking 40-foot cuts or 20-foot cuts?

24 A. We was taking 40-foot --- 35, 40.

25 Q. Okay.

1 A. And then they lost their long cut permit, I think,  
2 for dust pumps, so they ended up having to go back  
3 down to 20.

4 Q. Do you recall about when that was?

5 A. It was shortly before I left, so I'm going to say  
6 in January sometime they lost their permit for deep  
7 cuts.

8 Q. Okay. And then they had to cut back to 20 feet?

9 A. Yeah.

10 Q. Was the air --- when you were on the section, was  
11 the air always constant or did it fluctuate?

12 A. It would fluctuate. You know, you'd have it and  
13 then it would come back and you wouldn't have very  
14 good air. It's like there's times when they had a  
15 little reflector thing at the power box, a high  
16 voltage sign.

17 Q. Sure.

18 A. And I could always tell by that thing moving when  
19 I had enough and I didn't have enough just by the air  
20 coming through there.

21 Q. Sure.

22 A. And sometimes it could be a motor crew with the  
23 doors open and unloading back here, because they'd  
24 take their supplies off and put them over here.

25 Q. Sure. So just somebody coming through and leaving

1 the door open would cut the air off on the section?

2 A. And back here was your intake coming across the  
3 main track. And if they'd leave them doors open, it  
4 would short your air coming all the way back up.

5 Q. That was down around 78 Break?

6 A. It was --- yeah.

7 Q. Was that common for these doors to be left open?

8 A. Well, I didn't find them left open common, but  
9 you'd find one set maybe left open, where there was  
10 improper --- I actually --- my opinion on it, should  
11 have been overcasts put there. But a quick fix, they  
12 put two sets of double doors up, sends your intake  
13 through it.

14 Q. Sure. Why would somebody put up doors instead of  
15 an overcast?

16 A. I think it was not preparing their mines properly.  
17 I mean, if they knowed they was going to have all this  
18 development, they would have shot that out and built  
19 an overcast overtop the track. But mine management at  
20 that time, that was before I was there, they put a set  
21 of double doors up and they went on down through here  
22 developing, and it should have been corrected. Never  
23 interrupt your air, that's just a common practice.

24 Q. Sure. How were those doors maintained? Did you  
25 ever see them beat up or bummed up?

1 A. I've seen them bent up, but they'd eventually get  
2 around to replacing them or fixing them.

3 Q. Sure. Much leakage around those doors?

4 A. I would say, yes. But for me to take an air  
5 reading to tell you how much leakage, I wouldn't know.

6 Q. Sure. Could you hear the air leaking when you  
7 went up to them?

8 A. No, not really, I mean, because you went through  
9 so many doors to get through it.

10 Q. Sure. Okay. What about air changes, do you think  
11 any of these fluctuations were caused by people  
12 messing with regulators or something?

13 A. Could have been. They never would come to me as a  
14 section boss and tell me what they had done or didn't  
15 do or whatever. I would just find out when I got to  
16 the section what was been changed.

17 Q. Okay. Are you aware of any changes --- major air  
18 changes, with people underground?

19 A. Not offhand I couldn't say yea or nay.

20 Q. When you were driving the tailgate, do you recall  
21 changing the air on the section, sweep air to split  
22 air?

23 A. Right.

24 Q. How did you do that?

25 A. I was told when I come in, and it was up here.

1 Q. Going to about 95 Break?

2 A. We'd cut through I'm going to say around 105.

3 Q. Okay.

4 A. I was told to come in and build a stopping across  
5 Number Two entry and knock the stopping in Number One  
6 and build a stopping between Two and Three and put the  
7 intake air in Number One. I went up to the section,  
8 talked to the boss, told him what I was going to do.  
9 And he didn't know what to do, so I advised him that  
10 whenever I got this ready down here to change I'd come  
11 back up there and get him. I put all the men and one  
12 woman, pulled them back to the power box, told them  
13 what I was going to do. And I told them, I said, if  
14 you don't feel comfortable, you can go back to the  
15 mantrip. What do you want to do? And I gave okay to  
16 go ahead and knock this stopping, finish filling that  
17 with plaster. And after I got the air coming up  
18 Number One entry, me and another employee walked the  
19 faces, checked for methane, turned the ventilation  
20 around that was all sweeping and corrected anything  
21 that --- I felt like what needed to be done was done,  
22 and so then after I cleared the section up, told the  
23 employees that it was all clear, no methane, it was  
24 fire bossed, and they went back up to the face. And  
25 the next day I come to find out, we didn't have a

1 permit to change them.

2 Q. Oh, jeez.

3 A. So they changed it back, so ---.

4 Q. Okay. Do you recall who told you to do that?

5 A. I couldn't swear to it. I don't know who was ---  
6 where I was at right here, who was the mine foreman at  
7 that time, if it was Gary May or who it was.

8 Q. Okay. So you think every time you were running  
9 coal you had the minimum air quantity, at least the  
10 minimum air quantity?

11 A. (Indicates yes).

12 ATTORNEY WILSON:

13 Is that a yes?

14 A. Yes. Now, on some of these sections, when I was  
15 on Two section, which was the tailgate and longwall,  
16 we had real good air and punched that through, backed  
17 up, had good air. We punched this through. And I  
18 just assumed that all this intake air, what they had  
19 going up, you know, they wouldn't have a bit of a  
20 problem up there. But you know, I'm not no  
21 ventilation expert. I don't know what happened. That  
22 air should have come up and give them all kind of air  
23 when they was driving this on out. But the only thing  
24 I can refer back to would be the return, something was  
25 wrong with the return on this section that it didn't



1 let it --- let that intake air come up and breathe to  
2 go back down this side.

3 BY MR. SHERER:

4 Q. We've heard reports of very high methane  
5 concentrations back near the Bandytown fan before they  
6 got that tied in.

7 A. It was liberating methane up in here. And I made  
8 suggestions to drop down to two entries, drive them  
9 up, punch them through, set over and get two more  
10 entries instead of trying to get four places on the  
11 curtain. And I think some of the other bosses might  
12 have been afraid to do that. They would go ahead and  
13 mine a place if they didn't want to wait on the  
14 bolter. But most of the time when I found methane up  
15 there it would be the scoop man or the buggy man has  
16 come through, tear a curtain down, and then I'd go in  
17 there and fix the curtain back and ---.

18 Q. Sure. Do you recall what sort of methane  
19 levels --- maximum methane levels you ran into up  
20 through there?

21 A. I think the highest I ever seen up in there was  
22 probably about four percent. And it was just a matter  
23 of fixing my curtain and sweeping it out. Now, there  
24 was times when I had to bring my curtain --- if it was  
25 on the left side, I'd bring it across to the other

1 side of the face. That way the air would have to  
2 sweep the whole face.

3 Q. Sure. Run it diagonal?

4 A. Right.

5 Q. What did you do when you ran into four percent  
6 methane?

7 A. I just found the problem, the reason, what was  
8 wrong. And nine out of ten times it was a problem  
9 with the curtain tore down or sucked in a rib or  
10 something like that.

11 Q. Would you knock the power?

12 A. Yeah.

13 Q. What about the men on the section? What did you  
14 do about them?

15 A. I'd pull them back to the power box and tell them  
16 to wait and let me fix the problem or maybe one of  
17 them would help me with it or whatever had --- knock  
18 the power and keep them pulled out and then correct  
19 it, fire boss it. We didn't run much coal up here.  
20 It was 90 feet, 60 feet, so ---.

21 Q. Kind of slow?

22 A. Real slow moving. Once we got this through and  
23 they was drilling for that fan, we really didn't  
24 accumulate much methane after that was all connected,  
25 while they was drilling.

1 Q. Sure. Was all of that in the pre-shift or the  
2 on-shift books?

3 A. If I was pre-shifting, I would put it in the  
4 on-shift. If it was in between my pre-shift, I would  
5 just put what it was at the time I was doing it.

6 Q. Okay.

7 A. I would put in there worked on ventilation or  
8 whatever, whatever corrections I made to --- that I  
9 had to do, you know.

10 Q. So if I understand you right, you may have gotten  
11 into high levels of methane, and if you could have  
12 corrected those at the time you took your normal  
13 reading, you wouldn't put anything unusual in the  
14 pre-shift book --- or the on-shift book, excuse me?

15 A. I would put --- if it was in between my every two  
16 hours, I'd fix it and maybe put in there worked on  
17 ventilation. I might put in there high readings of  
18 methane, something like that.

19 Q. Okay. Thank you. When you were on Headgate 22,  
20 did you ever cut backwards or cut into the air?

21 A. Yeah, there was times when I had to cut back into  
22 the air because of the other crew would drive them up  
23 and leave me no way to do it, which I told my miner  
24 operator to cut over within one foot, set over, cut in  
25 within one foot, and then just punch it through with

1 just the bare minimum. And sometimes I didn't cut one  
2 side through, pull out of there, have a bolter come  
3 there and bolt it, bring the miner right on the other  
4 side and just finish, straighten it out.

5 Q. Okay. Roughly, how many times do you think you  
6 had to do that?

7 A. Right after everybody got on the same page, it  
8 wasn't that often, unless they would overdrive it.  
9 But they seemed to do better after we got --- after  
10 everybody got on the same page, they'd just go in  
11 there and, you know, mine it any way they wanted to.  
12 But they realized that they had to do it right. I  
13 mean, you couldn't --- it was too much rock up there  
14 cutting for the dust.

15 Q. Did anybody tell you to drive it that way?

16 A. No. They never did tell me to drive it wrong as  
17 far as cut into the air. They wanted me to turn one  
18 break and then get it through and then back up and  
19 turn another break. But their blocks was so large  
20 that you'd have other places drove out past the breaks  
21 before you could --- by the time you got them blocks  
22 through.

23 Q. Sure.

24 A. 125, about 120 was a lot of coal to try to get  
25 through and mine like that, so ---. I had my own

1 method of mining when I done it. I put the right  
2 miner in Three and the left miner in Two and let Three  
3 get drove up because it was returns. So I'd punch  
4 into it, and it worked out pretty good.

5 Q. Was it a problem having two miners on these  
6 development sections?

7 A. Well, if you mined it right --- three entries,  
8 really one miner and two buggies would do it.

9 Q. Sure.

10 A. But the way they like to drive these up, they want  
11 all this equipment in three entries, and it's just so  
12 crowded, you ain't got room to move around.

13 Q. Sure.

14 A. But me being a section boss, I could have done it  
15 with one miner, one bolter, two shuttle cars.

16 Q. Who laid out these panels, do you know? Who  
17 designed all of this?

18 A. I'm just going to say engineers. You know, I know  
19 Chris Blanchard had his hands in on a lot of stuff on  
20 the developing end of it, so ---. I really can't  
21 answer that question.

22 Q. Okay. You just got diagrams and cut sequences and  
23 things like that?

24 A. Right, a map of the section, when to turn, what  
25 angles to cut with.

1 Q. Sure. Would the engineers come in and put up  
2 spads and saw lines for you?

3 A. Yeah.

4 Q. Did they keep those up pretty regular?

5 A. Yeah. They did real good. When I'd say I needed  
6 spads, they would try to get --- within the next day  
7 or so they'd have them up.

8 Q. Okay. Do you recall who the engineers were  
9 involved with this layout and development?

10 A. No, I sure don't.

11 Q. Okay. How about the rock dust on the 22 Headgate  
12 when you were there, was it adequate?

13 A. We would rock dust. I didn't think it was  
14 adequate enough. But the way the section was  
15 developing, in between belt moves I would dust and  
16 dayshift would dust between shifts, you know, in  
17 between belt moves. So ---

18 Q. Sure.

19 A. --- between one of us we was keeping it dusted.  
20 But it probably needed more dust behind us, you know,  
21 more than that.

22 Q. Did you walk down the section belt regularly?

23 A. I would walk down there usually from where I was  
24 at to the section head right here.

25 Q. Okay. How did that look?

1 A. It needed dusted and cleaned when I was there.

2 Q. Much float dust along there?

3 A. I wouldn't say there was a lot of float dust. It  
4 was wet.

5 Q. Okay. It was wet.

6 A. And they did have a rock duster down here.

7 Q. A trickle duster?

8 A. Trickle duster. But they --- that I would stop  
9 and fill up, and they would dust this head with it.

10 Q. And you're pointing about two breaks in from the  
11 mouth of the section?

12 A. Well, this here is the --- here's the mouth right  
13 here, around them fly pads. The belt head was on the  
14 other side.

15 Q. Okay. Was there much mesh or straps or anything  
16 like that on the roof up and down through there?

17 A. Mesh wire?

18 Q. Yeah. Uh-huh (yes).

19 A. They put it up, is that what you're asking?

20 Q. Yeah.

21 A. Yeah.

22 Q. Did you ever notice what the dust was like up on  
23 that?

24 A. No, because it was pretty new developed as we come  
25 up through here. So as the time went on, I didn't see

1 a lot of accumulation of dust. I mean, it could have  
2 been.

3 Q. Did you ever just reach up and knock some of it  
4 off, see what it looked like?

5 A. No. I never made this a travelway every day. I'd  
6 come down through here looking to see if I seen  
7 anything, but ---.

8 Q. Was there somebody else that fire bossed your  
9 belts?

10 A. Yeah.

11 Q. Okay. Do you recall who that was?

12 A. They had got new fire bosses, and I can't think of  
13 the fire boss' name. Glenn Ullman was the fire boss,  
14 but they took turns on fire bossing that belt.

15 Q. Okay. What about methane outbursts. You were on  
16 this a pretty long time. Do you recall any problems  
17 with massive outbursts of methane or influxes of  
18 methane?

19 A. I have seen it. When I was working on the  
20 longwall we had a --- they called it a pop-off or  
21 outburst of methane ---

22 Q. Okay.

23 A. --- encountered on one of them older panels over  
24 here.

25 Q. Okay. Do you recall about when that was?



1 A. No. What would be the year, I wouldn't know.

2 Q. Do you think it was five or six years ago?

3 A. Longer than that.

4 Q. Longer than that?

5 A. Yeah.

6 Q. Okay. Now, when you say a pop-off, you're saying  
7 the methane coming out was a pop-off?

8 A. Well, we was on a shearer, and the tailgate  
9 operator on the shearer was cut out. And it ignited  
10 the methane on the tail, and it was just a big ball of  
11 fire.

12 Q. Okay. So it was an ignition on the shearer?

13 A. In the tailgate entry.

14 Q. Do you recall how long that lasted?

15 A. Two seconds and it was out.

16 Q. Did anybody have to spray water on it or anything  
17 like that?

18 A. (Indicates no).

19 Q. It just went out on its own?

20 A. Yeah.

21 Q. Okay. Do you recall ever being sent home or told  
22 not to show up for work due to ventilation problems?

23 A. Me being a section boss, ---

24 Q. You had to work any way?

25 A. --- I had to work.

1 Q. Well, did your crews get sent home?

2 A. Yeah, they did. When we done this fan, when they  
3 put it in, the crews got sent home because of the  
4 ventilation changing. Massey's foremans had a map.  
5 MSHA had a map. The maps didn't match and they wasn't  
6 putting the ventilation according to the MSHA map they  
7 had, so MSHA come in when they told them it was done  
8 and they said, you ain't got the same map I got. So  
9 he put another (d) order on it and left, and they had  
10 to go around changing everything again. So that was a  
11 week or longer on that.

12 Q. Oh, jeez.

13 A. I don't know what happened there. I just --- I  
14 know I was up in there working on the ventilation and  
15 back in here, regulators and stuff they needed before  
16 they started this longwall panel over.

17 Q. Okay. Any other incidents like that you can  
18 recall?

19 A. There might have been. I just can't think of  
20 them.

21 Q. Okay. Sure.

22 A. I know we was down over this water on the section,  
23 but the men didn't go home. We was working when the  
24 longwall was ---.

25 Q. Can you give me a little more information on that?

1 You're pointing, roughly, Break 70 through 85 on the  
2 headgate?

3 A. Yeah. The water was right here and the longwall  
4 was --- it was probably right here on 60 --- between  
5 65 and 70 Break, and we was having to go back through  
6 here and put up Kennedy panels or stoppings because  
7 these stoppings was getting knocked out as we'd come  
8 by them on the longwall.

9 Q. Were they crushing out?

10 A. Yeah.

11 Q. Okay. And they wanted to put a continuous  
12 longwall all the way back through here, and they was  
13 pumping this water and they was pumping this water and  
14 trying to establish a return for the next panel that  
15 they shut down between --- it was between November and  
16 December, so the longwall was more up here, and we was  
17 going back here, working.

18 Q. What was the conditions like back here? You say  
19 that the stoppings were crushing out. Was the roof  
20 coming in or the floor hooving up?

21 A. The floor was hooving. The cribs had weight on  
22 them. And if I seen one of the breaks wanting to fall  
23 or whatever, I'd stop carrying panels and we'd carry  
24 cribs up in that area and built an extra crib on each  
25 side and tried to just make it as safe as I could

1 with --- in the breaks, you know. Each break they had  
2 cribs and timbers all the way down through here.  
3 Those areas, you couldn't even hardly walk. You had  
4 to turn sideways with the panel, you know, trying to  
5 carry that stuff back through there.

6 Q. It sounds like rough work.

7 A. So they had it cribbed off and timbered all the  
8 way back in there.

9 Q. How about the water? You say the water was a  
10 problem. How deep was the water?

11 A. The water was probably --- averaged two foot until  
12 you got back here around 75, and then it got three  
13 foot. And then back in here somewhere it was over  
14 your waist, up to your chest.

15 Q. Have you ever seen any of that water roof out?

16 A. Yeah. Back in here the pumps went down and it was  
17 roofed out in these areas.

18 Q. You're pointing around --- a little bit outby 90  
19 Break?

20 A. Ninety (90) Break, yeah. It was between 100 and  
21 90. I think that water actually was as little bit  
22 longer than it's showing.

23 Q. Okay. Was it roofed out all the way across or  
24 just one or two entries?

25 A. It was --- I was thinking it was four entries of

1 water, but ---.

2 Q. It may have been further down here.

3 A. Yeah. I think it was like three entries of water  
4 I've seen where it had roofed out, and you could walk  
5 through this one. It was up to your knees at the  
6 most.

7 Q. Okay. So three of the four entries would be  
8 roofed out?

9 A. Yeah.

10 Q. That's a lot of water.

11 A. A lot of water.

12 Q. Did they have pumps back here, did you say?

13 A. They had air pumps that they run through Bandytown  
14 up there. They had a generator and an air compressor  
15 up there that they run them.

16 Q. The air compressor was on the surface?

17 A. Yeah.

18 Q. And it took the pipe down the fan shaft?

19 A. They had another fan --- they had another shaft, a  
20 hole.

21 Q. Oh, okay. They had a hole just for the air pumps?

22 A. Yeah. And then they put in a blue waterline, and  
23 they run that air all the way back down here, and they  
24 hooked their air pumps up and then they pumped the  
25 water back up here towards 120 Break. We dug a

1 channel for water where they was going to sink a big  
2 pump. And they pumped water from back here up to here  
3 and it run a channel over to --- I don't know if they  
4 ever got their big pump set up there or not.

5 Q. You say they put the air up through there in a  
6 blue waterline?

7 A. Uh-huh (yes).

8 Q. Do you recall what size waterline that was?

9 A. Four inch.

10 Q. Four inch. Was that PVC pipe?

11 A. Yeah.

12 Q. What sort of couplings did that pipe have?

13 A. To couple the pipe together?

14 Q. Uh-huh (yes).

15 A. If I ain't mistaken, I believe it was the straw  
16 and regular couplings for waterline.

17 Q. Metallic-type couplings?

18 A. Yeah, I believe it was, the same thing you'd use  
19 when you put the waterline together.

20 Q. Okay.

21 A. And they had nipples off it, and you'd run off  
22 your fire valve, you know, and then run it off to your  
23 pumps.

24 Q. Were there a lot of pumps back through here?

25 A. They was --- in Number Four entry up in here there

1 was probably four or five pumps. And then in Number  
2 Three there was another four and five and --- and as  
3 they pumped down, they would pull them pumps out and  
4 pull them on down, reset them up, try to pump the  
5 water back. And something would happen, and all of  
6 that would re-flood back, and they would have to start  
7 back over again. They never could get a hold of it.

8 Q. Do you recall what would happen that would set  
9 them back?

10 A. I think sometimes their air pressure would go up  
11 and nobody would be back here and knowed it, and it  
12 would flood out. I know that was done time that their  
13 air pressure went off and it flooded back out, and  
14 they had to go back in there and restart them all back  
15 up.

16 Q. What type of air compressor was that; do you know?

17 A. I really don't know. It was on the surface. I  
18 don't know what they had up there around that  
19 Bandytown fan.

20 Q. So you say you recall a pop-off on the longwall  
21 several years ago. Did you hear of any soon before  
22 the explosion?

23 A. Word, yeah.

24 Q. You did hear about some pop-offs on the current  
25 longwall?

1 A. I heard that they had one. That was bath house  
2 rumor. So if it did or not, I'm just --- hearing the  
3 men talk, I heard they had a little pop-off on this  
4 panel right here.

5 Q. Okay. And about when did that supposedly happen?

6 A. Really, I don't know. I'm wanting to say, if  
7 anything, it was in December, January, maybe, sometime  
8 is when I started hearing rumor about it. The  
9 longwall guy would probably know more about that than  
10 I would.

11 Q. Sure. Do you know a gentleman named Greg Quarles?

12 A. Yes.

13 Q. Did you ever hear about him complaining about the  
14 air and the methane on the longwall?

15 A. A friend of mine had told me that Gary was  
16 complaining about --- which I was already gone by  
17 then, but ---

18 Q. Sure.

19 A. --- that he was complaining about there was low  
20 air on the tail and no water on the drum and --- I did  
21 hear that.

22 Q. Who was that friend that told you about that?

23 A. You want me to mention his name?

24 Q. Sure.

25 A. Mike Ferrell.



1 Q. Mike Ferrell. About when did he --- when do you  
2 recall that he might have said that, Mike Ferrell?

3 A. Easter.

4 Q. Easter Sunday?

5 A. Yeah.

6 Q. Just the day before the explosion?

7 A. That's what I understood, yeah.

8 Q. Oh, jeez.

9 MR. FARLEY:

10 I'm sorry. Can you repeat what you just  
11 said again about the day before, April 4th?

12 A. Now, this is just rumor, ---

13 MR. FARLEY:

14 Okay.

15 A. --- but I've heard that Gary Quarles went over his  
16 house and was telling him that they was low air on the  
17 tail, and that was the day before.

18 MR. FARLEY:

19 Okay.

20 A. That was April 4th, yeah.

21 MR. FARLEY:

22 Okay. All right. I'm sorry.

23 MR. SHERER:

24 Sure. No problem, Terry.

25 MS. SPENCE:

1 May I ask, please, was Gary Quarles the  
2 Gary Quarles who died in the disaster ---

3 A. Yeah.

4 MS. SPENCE:

5 --- or his father with that name?

6 A. Well, his father's name was Gary, too, yeah.

7 MS. SPENCE:

8 But you're talking about the younger Gary  
9 Quarles?

10 A. Yeah. They called him Spanky, yeah. But now when  
11 I was working Headgate 22, the longwall, them guys  
12 would complain too much air, 100,000, 150,000 the last  
13 open break going across that face. Now, where it went  
14 wrong, I don't know. They started that other section  
15 back there towards the Ellis punchout, so they had  
16 one, two, three and the longwall on that one split  
17 air, trying to ventilate everything.

18 BY MR. SHERER:

19 Q. Do you think the air changes were well thought out  
20 or do you think people were just trying different  
21 things to see if something would work?

22 A. I don't think they was well thought out. I've  
23 worked in the mines a long time. No reason why they  
24 shouldn't have had enough air. We should have had  
25 plenty of air. Nobody. With the fan just being put

1 in back here, ---

2 Q. Sure.

3 A. --- no reason why there shouldn't have been enough  
4 air. It should have just ventilated everything right.

5 Q. I understand there was something like 500,000  
6 cubic feet per minute coming out of that Bandytown  
7 fan.

8 A. Of air?

9 Q. Yeah.

10 A. Uh-huh (yes).

11 Q. That's a lot of air.

12 A. Yeah

13 Q. Who was in charge of the ventilation at this mine?

14 A. Everett Hager, I guess. He was the  
15 superintendent.

16 Q. Do you know if he was ever in the mine, working on  
17 the air or the ventilation?

18 A. To say he was, I couldn't tell you. But I'm  
19 pretty sure he was because he was underground ---

20 Q. Sure.

21 A. --- a lot of times when I was going underground at  
22 three o'clock.

23 Q. Okay. Did anybody help him with that; do you  
24 know?

25 A. Yeah, I'm sure he did have help. You know, Wayne

1       Persinger was there. I don't know exactly who his  
2       outby man was that he would help get --- help Everett.

3       Q. Sure. Did you see him in the mine, working on the  
4       ventilation, when you were going in?

5       A. No, not really.

6       Q. Okay.

7       A. I know when we had problems on this panel right  
8       here, Gary May and Homer was superintendent and mine  
9       foreman, and they did come back up through here,  
10      re-plastering and gun writing all these stoppings.

11      Q. Sure.

12      A. They used B-Bond, and over a while B-Bond would  
13      flake and fall off.

14      Q. Sure.

15      A. Or not B-Bond, bucket plaster.

16      Q. Yeah.

17      A. And they went to B-Bond all these stoppings up  
18      through here to help seal it. And it helped. Every  
19      little bit helps when you get it.

20      Q. Sure.

21      ATTORNEY WILSON:

22      And you're referring to the stoppings on  
23      the headgate side of the longwall?

24      A. Yeah.

25      BY MR. SHERER:

1 Q. Okay. When you were up on the section, did you  
2 ever get any advance notice that MSHA or state  
3 inspectors came on the property?

4 A. Yeah, they would call and say, you know, we have  
5 company or something like that.

6 Q. Call in on the mine phone?

7 A. Yeah. Or I'd call outside and they'd tell me, you  
8 know, you got State men or Federal men or something  
9 like that. But to tell me they was coming to my  
10 section, they didn't know.

11 Q. Sure. But they would just tell you they were on  
12 the property?

13 A. Yeah.

14 ATTORNEY WILSON:

15 Who would tell you that?

16 A. Be different people. You might have a fire boss  
17 or dispatcher or somebody like that. I guess  
18 whoever ---.

19 BY MR. SHERER:

20 Q. Whoever is on the phone.

21 A. Yeah. Maybe a motor man might have knowed it and  
22 told you. Now, sometimes they wouldn't tell me  
23 and ---.

24 Q. Did you ever get surprised?

25 A. Yeah, I have been surprised. But I've never

1 really been in trouble as far as, you know, low  
2 ventilation on the section or an inspector catching me  
3 doing something that was any health --- harmful to the  
4 men or nothing like that.

5 Q. Sure. All and all, do you think that the mine  
6 ventilation was adequate at all times when you were  
7 here?

8 A. There was times when it was and there was times  
9 when it wasn't. And the times it wasn't, I didn't  
10 push the men to run coal. I would shut down and I  
11 would back up and I'd find out where the problem was.  
12 Like I said, when I drove headgate --- or Two section  
13 up, which was the tailgate on the longwall, we had  
14 good air. When I got up here, we had poor quality of  
15 air. And when I got over here on the Headgate 22, it  
16 started out pretty good. And then when they started  
17 messing with the air back here with the stoppings and  
18 working on that Mother Drive, they was doing things to  
19 mess my intake air up, and I would take the men off  
20 the section. We'd go back here and we'd fix it,  
21 wherever we found the problem at.

22 Q. Sure. Did you ever get any repercussions for  
23 stopping production and working on ventilation?

24 A. Yeah. I would get told that they was going to  
25 fire me if I didn't start running some coal.

1 Q. Who told you that?

2 A. Everett would tell me that.

3 Q. And did you explain to him you were just trying to  
4 get air up there?

5 A. Yeah, and then he would explain to me that I  
6 wasn't doing that job, that I needed to do something  
7 else. And he would --- he would get me down the road.  
8 He'd talk trash to me, cuss me and --- you know, he  
9 tried to tell me one time how to ventilate a blow  
10 section, blow ventilation.

11 Q. Sure, blowing ventilation.

12 A. And the way he was explaining it to me, it was  
13 exhausting ventilation. And he told me I was wrong,  
14 and I didn't argue with him.

15 Q. Sure.

16 A. He was the superintendent and I said, well, if you  
17 want to put curtain on the left side in the intake  
18 entry, that's not called blow ventilation, but if you  
19 want it there, that's where I'll run it. You can't  
20 run a buggy through your fly pads or curtain or be  
21 interrupted. It will keep your air short.

22 Q. Sure. Did you make that ventilation change?

23 A. On?

24 Q. Where he wanted you to go to ---.

25 A. Blow?

1 Q. Yeah.

2 A. I tried it one day and I told that miner operator,  
3 I said, I ain't running like this. I said, he can do  
4 what he wants. You go in there with a buggy and he  
5 makes that turn, he tears all your curtain out.

6 Q. Sure.

7 A. Then you got to put your curtain back. I just  
8 told the other boss, I said, look, our ventilation  
9 plan says you can blow this ventilation. I said, I'm  
10 running curtain on the right side in my intake Number  
11 Three entry, and there ain't nothing wrong with that.  
12 The miner man was standing behind the curtain,  
13 standing there, he liked it because he could stay in  
14 fresh air.

15 Q. Sure.

16 A. You know, I mean, I'm sure you done talked to some  
17 of them guys, and I put them in places where they  
18 could keep their air and stuff like that, you know.  
19 and I had to go by my ventilation plan, whatever it  
20 said.

21 Q. Sure. Okay. Did you ever know of anybody mining  
22 without ventilation curtains in this mine?

23 A. I've seen them with curtain down, you know what I  
24 mean, not being properly kept up to the back of the  
25 scrubber or whatever. But anybody on my section, as



1 far as that goes, they kept their curtains up.

2 Q. Okay.

3 A. I got them in the practice of doing it, and they  
4 stayed with it. And if I'd get somebody new in there  
5 on a bolter or whatever, I would make them stop and go  
6 back there and get it and put it up or do whatever.

7 Q. Where did you keep the curtain on the bolter?

8 A. Did I keep it on the bolter?

9 Q. No. Where did you keep it?

10 A. Most of the time we kept it on the bolter or  
11 scoop.

12 Q. No. I mean, ---.

13 A. Oh, where did I keep it at ---

14 Q. Yeah.

15 A. --- when it was hung?

16 Q. Yeah.

17 A. They usually kept it up to the controls.

18 Q. Okay. So right up to the bolter itself?

19 A. Yeah.

20 Q. Okay. Did you have the minimum quantity you had  
21 to maintain in bolted faces?

22 A. Maintain 3,000 cubic feet of air. And most of the  
23 time it was minimum, you know, on this panel right  
24 here.

25 Q. Sure. Did you ever know of anybody bridging out

1 or covering up a sniffer or methane monitor?

2 A. No. I didn't believe in that because I've worked  
3 in methane before, ---

4 Q. Sure.

5 A. --- and I knowed what it would do, so I told them  
6 guys. And you know, I told them the right thing.

7 It's not what you can't see that will hurt you. It's  
8 not what you can't smell that will hurt you. It's the  
9 air sometimes and, you know, you respect it.

10 Q. Sure. Now, you said that you were subject to  
11 retaliation and threats for basically reporting safety  
12 issues. Do you know if any other section bosses or  
13 even miners suffered that same sort of intimidation?

14 A. Not --- you know, not unless I was standing there,  
15 listening to it, but ---.

16 Q. Did you ever hear anybody complaining about that?

17 A. Well, as far as the miner people, I had one guy  
18 that was wanting to go to a doctor, and Everett kind  
19 of bucked him on taking a day off to go because he had  
20 missed a couple days. He said he had another doctor  
21 appointment that Friday. Everett told him either he  
22 had to go to the doctor and don't come back to work  
23 until he got better or he had to be here, one of the  
24 two. So the boy chose to be there not go to his  
25 doctor, which I didn't think was right, but ---. I

1 think some of that was a scare tactic on Everett  
2 because they did have a big absenteeism problem, you  
3 know, with men, ---

4 Q. Sure.

5 A. --- so ---.

6 Q. Now, you say Everett was basically old school?

7 A. Right.

8 Q. That's the way I'd describe it.

9 A. Old school, yeah.

10 Q. Do you think that was just Everett or was he  
11 getting pressure?

12 A. I think Everett got pressure, too, because Everett  
13 made the comment to me one time that being  
14 superintendent was easy because he never had to make  
15 the decisions that Chris Blanchard made.

16 Q. Now, who was Chris Blanchard?

17 A. He was the president of Marfork, which was  
18 Everett's boss.

19 Q. Was he at this mine often?

20 A. He would come, but he would sit and write the  
21 reports and stuff over his office, but you'd see him  
22 there occasionally, and he would make his threats, I  
23 guess, you know, Chris Blanchard would.

24 Q. Would you call him a micromanager?

25 A. Yeah.

1 MR. SHERER:

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

3 Do you want to take a break?

4 A. Yeah. I'd like to take a break and go to the  
5 bathroom.

6 ATTORNEY WILSON:

7 Off the record.

8 SHORT BREAK TAKEN

9 ATTORNEY WILSON:

10 Back on the record. And I'm going to go

11 ahead and mark the map that we've been referring to as  
12 Exhibit Hutchens One.

13 (Hutchens Exhibit One marked for  
14 identification.)

15 ATTORNEY WILSON:

16 Terry?

17 EXAMINATION

18 BY MR. FARLEY:

19 Q. Mr. Hutchens, I want to back up on a couple things  
20 here and clarify them. I want to make sure I  
21 understood correctly. First of all, you said that the  
22 ventilation for the 22 Headgate section was pretty  
23 good when you first started driving that section?

24 A. Right.

25 Q. And if I understood you correctly, it began to

1 sort of go downhill or not be as good for a couple  
2 reasons, if I understood you right. One was this  
3 development work down here on this new Mother Drive  
4 outby the 22 Headgate section and the rerouting of the  
5 return off the 22 Headgate section. Did I understand  
6 you right?

7 A. Well, the --- yeah. Our return was coming ---

8 Q. Right.

9 A. --- down his way, across to the longwall. And  
10 when they put it over here in Number Two, they would  
11 sweep it to One, then sweep it back across to Three,  
12 and come back around, that hurt. And when they  
13 started developing this Mother Drive from this  
14 six-foot belt over here at the Glory Hole over to this  
15 point, where the head and mouth of the section was, I  
16 would come up on the section and find a half of a  
17 return stopping knocked, left. I'm the only one on  
18 the evening shift. I'd come in and I went back up  
19 there and put a curtain across it. And then I'd come  
20 in other time and they was putting an overcast right  
21 here and --- to, I guess, put their air, intake air,  
22 to this section before they started it. But they was  
23 working on this. Well, they knocked that stopping and  
24 left it open, had the two walls built, and my intake  
25 air was coming up and just coming right across and

1 escaping out this way. So I had to hang a curtain  
2 across here, across that stopping back there. We hung  
3 curtains down through these entries where I seen  
4 leakage or whatever. And that's the day I took them  
5 men and walked 25 breaks off the section, took three  
6 rolls of curtain, went back in there and ---. You  
7 know, I didn't want it to be on the record that I  
8 changed the ventilation. I just corrected what was  
9 took out and I fixed it, you know, with temporary ---.

10 Q. So if I follow you correctly, these people were  
11 doing things that was just disrupting your  
12 ventilation?

13 A. Right.

14 Q. I mean, basically they weren't cleaning up after  
15 themselves, ---

16 A. Right.

17 Q. --- is that about a good way to ---

18 A. Yeah. And that was dayshift ---

19 Q. --- summarize?

20 A. --- people, because evening shift didn't have no  
21 crew up there working on the Mother Drive. It was  
22 working on dayshift.

23 Q. Okay. Now, at the time you were having this  
24 trouble there, who was the dayshift foreman on the 22  
25 Headgate?

1 A. Dino.

2 Q. Was it Dean Jones?

3 A. Dino and Brandon Bowling. They rotated I'd say  
4 straight evening shift.

5 Q. Okay. Now, did you and Mr. Jones ever have  
6 conversations about what was happening with that  
7 Mother Drive work area?

8 A. I would tell Dino and them, I'd say, you know, I  
9 had to go back there. If you ain't got no air, you  
10 need to go back there and check and see if they've got  
11 something disrupting your intake. And you know, Dino  
12 was pretty straight up. He would say, okay, and ---  
13 but I was never warned head up, hey, look, you ain't  
14 got no air going up on your section. I'd go up on the  
15 section and if I had bare minimum, I would just turn  
16 around and go back and look and see if any of this  
17 stuff was messed up or whatever. Usually, you know,  
18 there was a problem, doors open or what have you.

19 Q. Well, I guess if somebody leaves a door open or  
20 knocks out a stopping, that can change your  
21 ventilation in an instant; ---

22 A. Oh, yes.

23 Q. --- is that right?

24 A. Yeah.

25 Q. Okay.

1 ATTORNEY WILSON:

2 Terry, just so that the record is

3 clear, ---

4 MR. FARLEY:

5 Sure.

6 ATTORNEY WILSON:

7 --- can we have Mr. Hutchens ---?

8 MR. FARLEY:

9 Yes.

10 ATTORNEY WILSON:

11 Just highlight in blue the areas that

12 you're referring to where they were doing the work on

13 the Mother Drive.

14 WITNESS COMPLIES

15 BY MR. FARLEY:

16 Q. What I was trying to understand about the Mother

17 Drive work was I was trying to determine was there

18 something --- was there an inherent problem with the

19 Mother Drive construction or were people leaving doors

20 and stoppings and so forth open.

21 A. Yeah. The problem was they was cutting the top

22 out. And for them to have air to go down a return,

23 they'd have to knock part of a return stopping over

24 here. So the air would split. They was wanting it to

25 split, give him some, give me some.



1 Q. They just didn't give you enough?

2 A. Right. Yeah. And instead of them, when they left  
3 for the day, just putting a curtain across that, they  
4 just left it.

5 Q. They didn't clean up after themselves?

6 A. Right.

7 Q. All right. Now, I think you also said earlier  
8 that on the 22 Headgate section that your coal seam  
9 was really no more than about 45 inches thick; is that  
10 correct?

11 A. Right.

12 Q. And of course, you had to maintain at least six  
13 feet in order to accommodate the longwall?

14 A. Six to seven foot, yeah.

15 Q. Okay. It's my understanding that there's a Massey  
16 rule where they want 20,000 cubic feet per minute of  
17 air in their last open crosscuts on their miner  
18 sections; is that correct?

19 A. We, as bosses, had to sign a paper saying that we  
20 would run with 20,000. And if we didn't have 20,000,  
21 you was to shut down and go work on your ventilation.

22 Q. Now, when you were operating on the 22 Headgate  
23 section, how often did you have to operate when your  
24 last open crosscut air reading was less than 20,000  
25 CFM?

1 A. Pretty much all the way, you know, unless it was  
2 back up there at the start of it. I had good air back  
3 in here, and as I was advancing up, it was 17, 15.  
4 and I kept my stoppings built up to the last --- I had  
5 one open break, and if I can keep one open break, I  
6 can keep 13,000, 15,000 that last open break. And I  
7 didn't care about the 20,000. I just --- you know,  
8 that was Chris Blanchard's ---.

9 Q. Now, this calls for some conclusion on your part  
10 and maybe some opinion, too, but in order to have the  
11 quantity of air in cubic feet per minute at your  
12 faces, what would you typically have to have for a  
13 last open crosscut reading on 22 Headgate section?

14 A. Around 13,000, 14,000, 15,000. And that would  
15 give me --- that minimum, if I had to keep my  
16 stoppings build like this room to get through, I would  
17 --- I'd go ahead and lay over here and get a bolter to  
18 get one more cut just to build this stoppings. So  
19 that way I had everything tight all the way up to that  
20 last open break. And if I had two open breaks, I'd  
21 shut down the shuttle car operator, scoop man, and  
22 they'd build a stopping.

23 Q. Okay. Now, given the fact that you had to cut a  
24 lot of, let's say, rock or slate, non-coal material,  
25 did that intensify your problems you had? Obviously,

1 it would intensify your problems with dust?

2 A. Right. Yeah. I would tell the miner operators to  
3 cut back 20 foot even though we was on a deep cut.

4 And most of the time when it got that bad is when the  
5 top was falling out. And I would just tell the miner  
6 operator, look, the top is bad, five, ten foot, cut  
7 it, get out of there and, you know, don't sit in there  
8 and try to mine 40 foot of 10-foot high strata that  
9 was falling out.

10 Q. Okay. I'm changing areas here on you, if you  
11 don't mind. Back here in this --- let me see, One  
12 North Headgate entry when you were driving toward  
13 Bandytown, when this cut-through was made from the  
14 tailgate side to the headgate side of the future  
15 longwall and this diagonal was cut through into One  
16 North, were the people working inby when those  
17 cut-throughs were made?

18 A. No. We mined over to it within 40 feet or 60  
19 maybe and waited until they come off the section and  
20 cleared up, and then we punched into it and then  
21 bolted and cleaned it.

22 Q. We had to stay late when we done that.

23 A. Okay. Now, I think you told me earlier that you  
24 signed an agreement saying that you would not operate  
25 your section if you didn't have 20,000 cubic feet per

1 minute in your last open crosscut. Now, how does  
2 someone ask you to sign an agreement that you'll  
3 operate in a manner when they know that you can't  
4 achieve that? Can you --- isn't that basically what  
5 happened?

6 A. That would be like me telling you, here's the car,  
7 you do 25, and I know you're going to do 35 down that  
8 long straight stretch. They know, because they didn't  
9 have it all given times, they didn't have that kind of  
10 air, in order for you to get 20,000 in the last open  
11 break, you need at least 60,000 in the intake. You've  
12 got to allow for leakage and stuff like that.

13 Q. Sure. Sure.

14 A. And they never had 60,000 cubic feet of air in  
15 their intake all the time.

16 Q. Just for the record, and I've read some of the  
17 pre-shift books about the last open crosscut air  
18 readings on the 22 Headgate section, what did you  
19 typically have coming up your intake when you were  
20 there?

21 A. Twenty-five (25), 30 and sometimes it was lower  
22 than that, below 25. But if it was around 25 or so,  
23 I'd start going back there on this returns intake side  
24 and I would find holes in the stopping where the power  
25 moves and stuff like that, and I would go back there

1 and I'd have one of my men go back there and start  
2 fixing it. Seemed like I was the only one trying to  
3 fix that stuff, but if I knowed I had a problem with  
4 my stoppings, and that's the only way you can get your  
5 air is --- you got a hole here and a hole there, you  
6 start losing, the next thing you know, you've lost  
7 10,000 on just little old cracks. So I would keep ---  
8 you know, I think --- and it would vary. I'm going to  
9 just say between 25,000 and 35,000.

10 Q. Okay.

11 A. And then it would get down less than that because  
12 if I had two open breaks, I'd lose air on that last  
13 open break.

14 Q. Okay. I want to go through one more thing here.  
15 You indicated that you had some back and forth with  
16 Everett Hager and that he would be on your case pretty  
17 heavy because you weren't running enough coal. Now,  
18 was he on your case because you weren't running enough  
19 coal or was he on your case because you sometimes  
20 would withdraw your men and shut down your section  
21 because your ventilation wasn't right?

22 A. Well, you know what?

23 Q. How did that play?

24 A. I shut down that one time and I put on my  
25 production report shut down --- I think it was like

1 three hours, worked on ventilation. He didn't say  
2 nothing to me, but he come back at me in other ways.  
3 You don't start running coal, Chris Blanchard is going  
4 to fire you. You're letting the men run overtop of  
5 you on your section. You're not having them do  
6 nothing. You got men standing around. I said, well,  
7 Everett, how do I got men standing around when I get  
8 more dead work done than the rest of these crews get?  
9 I get more work done with my men and run just as much  
10 coal, 100 feet, 120, 130, you know, on average. So he  
11 always come at me with some kind of negative thing  
12 that --- and he knowed I was doing the right thing.  
13 He knowed I was up there trying to run it right  
14 because he would come in on dayshift the next day and  
15 follow me to see what the section looked like. And  
16 the section was clean, it was ventilated right, and  
17 didn't have no problems. I've had Federal mine  
18 inspectors come in and ventilation right and they  
19 haven't said nothing.

20 Q. Okay.

21 ATTORNEY WILSON:

22 Can I just have some quick follow-up?

23 EXAMINATION

24 BY ATTORNEY WILSON:

25 Q. With respect to the work that was being done outby

1 the 22 Headgate section, where they were disrupting  
2 your ventilation, you said that you spoke with Dean  
3 Jones about that. Did you speak with anyone else  
4 about that? Did you complain to any upper management  
5 about it or anyone?

6 A. The best I recall, I think Terry Moore --- I  
7 talked to Terry Moore about it. And the I told Terry,  
8 I said, Terry, they can't come back there and take out  
9 my return stopping, take my air away from me, or  
10 they've got to make sure these doors are closed. You  
11 know, I complained to Terry about it, and Terry would  
12 check in on it. He'd say, all right, I'll take care  
13 of that and I'll make sure that your air is right and  
14 they ain't got this problem, this and that, so --- you  
15 know, I don't know if that was just bluffing you and  
16 getting you, you know, out of the way because you was  
17 complaining about it. You had a tendency, working for  
18 them, if you complained, you know, you was a whiner,  
19 something like that.

20 Q. Well, after you spoke with Terry Moore, did you  
21 see any change?

22 A. Yeah, because Terry would --- he was coming up  
23 there after that in the evenings, and it was doing  
24 better with Terry back there because Terry would make  
25 sure things was done, you know, that I could get my

1 air up there. He would have his men make sure the  
2 doors were closed, curtains was across something or  
3 whatever, and --- but at that time, that's when they  
4 was cutting rock, so they was then putting in the  
5 Mother Drive so they'd make sure the air was took care  
6 of. If they had to interrupt it, they'd open one door  
7 and shut it, open the other door and shut it. And he  
8 knowed I'd be back up there if I didn't --- and  
9 actually I went and got Terry one time and told Terry.  
10 I said, Terry, I ain't got enough air on the section.  
11 So me and Terry Moore walked back down through here,  
12 taking air readings.

13 And that's when --- that was another time that I  
14 comed up there and that's when this stopping was out  
15 where that return stopping --- overcast was going to  
16 go right here. Put a curtain across it, a curtain  
17 across the stopping, a curtain across these fly pads  
18 that I had marked and come back here to these doors,  
19 put a curtain across the entry, shot --- just one  
20 entry over for an intake shoots straight up in my  
21 section. So Terry helped me that one day with that.  
22 And he started out like, they're going to fire you,  
23 Smurf, because you ain't running no coal. I was  
24 supposed to be running coal up there. Well, I come  
25 back off the section with my men that day. And after



1 he seen what I was talking about, then he got involved  
2 with me trying to get it all straightened out. He  
3 seen the problem then.

4 EXAMINATION

5 BY MS. SPENCE:

6 Q. Do you have a nickname at the mine?

7 A. Smurf.

8 Q. Smurf?

9 A. Yeah.

10 Q. You said that --- you talked about pressure. Were  
11 there other instances of pressure being put on you  
12 besides what you've just described?

13 A. Mostly pressure I got is they expected them  
14 section to run 200 feet, 250, and it was running 120  
15 feet or so. And they tried to put pressure on me, but  
16 I wouldn't let the pressure bother me to go up on the  
17 section and do the wrong thing, so ---.

18 Q. Tell me, like who would say what to you.

19 A. Everett was more on my case than anybody was about  
20 running coal and put the pressure on me, they were  
21 going to fire me because I wasn't running enough.  
22 Chris Blanchard would have his bossing meetings, which  
23 I never went to none of the meetings when I was over  
24 here because my starting time was earlier than his  
25 bossing meeting times. But he would get me in a

1 roomful of bosses and pinpoint individuals and just  
2 talk trash to them, was going to fire you, whatever,  
3 because you wasn't running enough coal. So Chris  
4 Blanchard and Everett both was the ones that wanted to  
5 pressure you.

6 Q. So he would say in a bosses' meeting, am I  
7 understanding right?

8 A. Chris Blanchard.

9 Q. Chris Blanchard would say to you that he was going  
10 to fire you?

11 A. No, not directly. He wouldn't say that in there,  
12 but he'd come around --- and by the way, I'll give you  
13 an example. He said, you all done me a favor --- you  
14 all thought you all done me a favor by taking this  
15 bossing job. He said, I'm going to tell you right  
16 now, if you --- don't think you owe me a favor. He  
17 said, you all can leave right now because you don't  
18 owe me no favor. I don't need you. So in his  
19 roundabout ways he was trying to give you that  
20 pressure that he didn't need you and that --- until  
21 you felt like, you know, walking out when he talked  
22 like that to you. You know, you didn't want to ---  
23 but Chris Blanchard had his little smirky way that he  
24 would put the pressure on Everett, and then Everett  
25 passed it down. They call it the pecking order, you

1 know how they want to pass it down to each other.

2 Q. Did something happen that caused you to walk away  
3 besides your ---

4 A. (b) (7)(C)

5 Q. ---(b) (7)(C)

6 A. The pressure, that they was threatening to fire me  
7 and me knowing that that section was on bare minimum  
8 air and I was fighting them all the time, and I just  
9 had a feeling that I was going to get caught in one of  
10 my entries on low air. And they done warned you if  
11 you got caught with low air, you were suspended with  
12 intent to discharge, if the inspectors wrote you up  
13 and you're the boss on the section. So I was more  
14 afraid of losing my bossing papers for the simple  
15 reason I was trying to do the right thing up there on  
16 the section for trying to run coal and trying to do  
17 with what I had to work with.

18 MR. SHERER:

19 I don't have any more questions.

20 ATTORNEY WILSON:

21 All right. Then Mr. Hutchens, on behalf  
22 of MSHA and the office of Miners' Health, Safety and  
23 Training, I want to thank you for appearing and  
24 answering questions today. Your cooperation is very  
25 important to the investigation as we work to determine

1 the cause of the accident. Because we will be  
2 interviewing additional people, we request that you  
3 not discuss your testimony here today with anyone. If  
4 after questioning other witnesses we have any  
5 follow-up questions, we may contact you. And again, I  
6 ask if you think of any additional information that  
7 you would like to provide for us, please contact us at  
8 the contact information that was provided.

9 I do want to inform you of your rights  
10 under the Mine Act. Any statements given by miner  
11 witnesses to MSHA are considered to be an exercise of  
12 statutory rights and protected activity under Section  
13 105(c) of the Mine Act. If you believe that any type  
14 of adverse action, such as discrimination or  
15 discharge, is directed at you because of your  
16 cooperation in this matter, we encourage you  
17 immediately to contact MSHA and file a complaint under  
18 Section 105(c) of the Act. You can file such a  
19 complaint by contacting the Mount Hope MSHA office,  
20 and contact information can be found at MSHA's  
21 website, which is [www.msha.gov](http://www.msha.gov).

22 Before we go off the record, I do want to  
23 provide you with an opportunity. If there's anything  
24 else that you would like to add to the record or if  
25 there's any statement that you would like to make, you



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*