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Statement Under Oath of Eric Jackson

Date: May 28, 2010

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STATEMENT UNDER OATH

OF

ERIC JACKSON

taken pursuant to Notice by Brett Steele, 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 Friday, May 28, 2010, beginning at 2:27 p.m.

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P R O C E E D I N G S

ATTORNEY FERGUSON:

Let's go on the record. My name is Dana Ferguson. Today is May 28th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor, MSHA Division in D.C. With me is Tim Watkins, an accident investigator with MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I'll ask at this time that they enter their appearance for the record.

MR. TUCKER:

Bill Tucker, with the West Virginia Office of Miners' Health, Safety and Training.

MR. KINDER:

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

MS. MONFORTON:

Celeste Monforton, with the Governor's special team, led by Davitt McAteer.

ATTORNEY FERGUSON:

There are also members of the MSHA investigation team present in the room today, one. But Mr. Watkins will be conducting the questioning.

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

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

19 MR. JACKSON:

20 Yes.

21 ATTORNEY FERGUSON:

22 Government investigators and specialists
23 have been assigned to investigate the conditions,
24 events and circumstances surrounding the fatalities
25 that occurred at the Upper Big Branch Mine-South on

1 April 5th, 2010. The investigation is being conducted
2 by MSHA under Section 103(a) of the Mine Act and the
3 West Virginia Office of Miners' Health, Safety and
4 Training. We appreciate your assistance in this
5 investigation. You may have a personal attorney or
6 representative present during the taking of this
7 statement. Your statement is completely voluntary.
8 You may refuse to answer any question and you may
9 terminate your interview at any time or request a
10 break at any time. Since this is not an adversarial
11 proceeding like at court, formal Cross Examination
12 will not be permitted. However, you may ask
13 clarifying questions as appropriate.

14 Your identity and the content of this
15 conversation will be made public at the conclusion of
16 the interview process and may be included in the
17 public report of the accident unless you request that
18 your identity remain confidential or your information
19 would otherwise jeopardize a potential criminal
20 investigation. If you request us to keep your
21 identity confidential, we will do so to the extent
22 permitted by law. That means that if a Judge ordered
23 --- orders us to reveal your name or if another law
24 requires us to reveal your name or if we need to
25 reveal your name for other law enforcement purposes,

1 we may have to do so. Also, there may be a need to
2 use the information you provide to us or other
3 information we may ask you to provide in the future in
4 other investigations into and hearings about the
5 explosion. Do you understand?

6 MR. JACKSON:

7 Yes.

8 ATTORNEY FERGUSON:

9 Do you have any questions?

10 MR. JACKSON:

11 No.

12 ATTORNEY FERGUSON:

13 After the investigation is complete, MSHA
14 will issue a public report detailing the nature and
15 causes of the fatalities in hope that greater
16 awareness about the causes of accidents can reduce
17 their occurrence in the future. Information obtained
18 through witness interviews is frequently included in
19 these reports. Since we will be interviewing other
20 individuals, we request that you not discuss your
21 testimony with any person aside from your personal
22 representative or attorney.

23 A court reporter will record your
24 interview. Please speak loudly and clearly. If you
25 do not understand a question asked, please ask that it

1 be rephrased. Please answer each question as fully as
2 you can, including any information you have learned
3 from someone else.

4 We would like to thank you in advance for
5 your appearance here. We appreciate your assistance
6 in this investigation. Your cooperation is critical
7 to making the nation's mines safer.

8 After we have finished asking questions,
9 you will have an opportunity to make a statement and
10 provide us with any information you believe to be
11 important. If at any time after the interview you
12 recall any additional information you believe might be
13 useful, please contact Norman Page at the telephone
14 number or e-mail address provided to you in your
15 letter.

16 Any statements given by miner witnesses
17 to MSHA are considered to be an exercise of statutory
18 rights and protected activity under Section 105(c) of
19 the Mine Act. If you believe any discharge,
20 discrimination or other adverse action is taken
21 against you as a result of your cooperation with this
22 investigation, you are encouraged immediately to
23 contact MSHA and file a complaint under Section 105.
24 Please swear the witness.

25 -----

1 ERIC JACKSON, HAVING FIRST BEEN DULY SWORN, TESTIFIED
2 AS FOLLOWS:

3 -----

4 ATTORNEY FERGUSON:

5 Thank you. Okay. Tim.

6 MR. TUCKER:

7 As previously named, my name's Bill

8 Tucker. I'm an inspector-at-large for Region 2, Welch
9 for the Office of Miners' Health, Safety and Training.

10 Terry Farley and I are the lead investigators for the
11 State in the UBB investigation.

12 On behalf of the State, I, too, would
13 like to thank you for appearing here today and talking
14 to us. As Ms. Ferguson read in her statement and
15 explained your rights under Federal law, in the event
16 you're discriminated against for speaking to us here
17 today, I would also like to mention that West Virginia
18 Law protects you from discrimination for speaking to
19 us. West Virginia Code 22A-1-22 protects miners who
20 discuss safety violations and mine practices that may
21 have contributed to this explosion.

22 I'm handing you a memo that contains the
23 address of the Board of Appeals. This is the
24 administrating body that hears and determines cases of
25 discrimination. If you believe that your employers

1 discriminated against you in any way for speaking with
2 us here today, you can file a discrimination action by
3 simply writing in a letter how you believe you were
4 discriminated against and then mail that letter to the
5 Board of Appeals. That must happen within 30 days
6 after you feel like you've been discriminated against.

7 The memo that I'm giving you also

8 contains a phone number where you can reach me if you
9 think of something later that might be relevant to
10 this investigation. Again, I would like to thank you
11 for coming here today.

12 EXAMINATION

13 BY MR. WATKINS:

14 Q. You ready, Eric?

15 A. Yes.

16 Q. Okay. I got some background questions I need to
17 ask you. Okay. And the first one is, could you
18 please state your full name and spell your last name,
19 please?

20 A. Eric Justin Jackson, J-A-C-K-S-O-N.

21 Q. Okay. And what is your address and home telephone
22 number, please?

23 A. [REDACTED]

24 Home phone number's [REDACTED]

25 Q. Is there a physical address?

1 A. Yes.

2 Q. Okay. And what is that?

3 A. [REDACTED].

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

5 A. Yes.

6 Q. Have you given testimony or interview to anyone
7 other than a government agency, the company, today?

8 A. Yes.

9 Q. Okay. And when was that?

10 A. Right around two, three weeks ago. It was the
11 company attorneys.

12 Q. Okay.

13 A. We met at Elk Run main office.

14 Q. Okay. Did they give you any direction or any
15 directions as far as our interview process, how to
16 answer questions or anything like that?

17 A. No.

18 Q. No. Okay. Now, could you just give me a brief
19 description of your employment history as far as coal
20 mining goes and which mines you worked at, when you
21 started and all that?

22 A. I started at Performance at UBB. That was the
23 first mines I started at. I started there in December
24 of '08. Worked there for almost a month and got laid
25 off in January, about mid-January, and then they

1 called me back in February, somewhere around mid-
2 February. And I worked there as a contractor all the
3 way up until October of '09.

4 Q. Uh-huh (yes).

5 A. And during that time I worked on recovering belt
6 structure. Then after that, they put me on track
7 crew. I was working laying track, fixing the track,
8 switches and all that good stuff there.

9 Q. Okay. You mentioned you worked for a contractor.
10 Who was that?

11 A. David --- David Stanley, contractor.

12 Q. Okay, okay. Are you working anywhere now since
13 the accident?

14 A. Yes. I've been transferred to Sand Creek Mines.

15 Q. Okay. About when did you start there? How long
16 after the accident did you start?

17 A. I'd say it was around the 20th of April or, yeah,
18 around the 20th of April, maybe.

19 Q. What job are you performing at that mine?

20 A. I'm scoop operator on, let's see, it's on Two
21 section.

22 Q. Okay. We're going back. Now we'll go back and
23 just concentrate on UBB.

24 A. Uh-huh (yes).

25 Q. Okay. You said you started in December of '08.

1 What area of the mine was you working at, at that
2 time?

3 A. When I first started there in December, I was
4 working on ---. I was actually working up in the
5 Plumley Run portion of the mines. We were up in
6 there. Myself and a small group were recovering belt
7 and getting ready to set a new belt head for that
8 section that they were going to start up there.

9 Q. Which area of the mine is Plumley Run? I'm not
10 familiar with Plumley. Yeah, you can go up there.

11 A. Up on the big map here? You're coming up from the
12 Upper Big Branch side of the mines, and it is --- I
13 know it's some place here. If I'm not mistaken, this
14 here.

15 Q. Okay.

16 A. And that's in front of --- let's see, it's in
17 front of --- it's right here in front of the sealed
18 areas and ---

19 Q. Okay. Just south ---?

20 A. --- the North Mains.

21 Q. Just south of Seal Set Number Six?

22 A. Uh-huh (yes), and somewhere around North Mains.

23 Q. Okay.

24 A. This in here.

25 Q. Okay. Okay. So you were pulling --- pulling

1 structure out, out of that area, belt structure?

2 A. Yes.

3 Q. What were the ground conditions like down in that
4 area? Was there any hooving going on or anything like
5 that?

6 A. In that area of the mines?

7 Q. Yeah.

8 A. No. They were half ---. They were taking out
9 some top and stuff to set up a belt head, so I
10 remember 'em putting up wire mesh. I don't know if
11 that's because it was going to be a belt entry or if
12 it was ---

13 Q. Okay.

14 A. --- for any other reason. I had just started,
15 so ---.

16 Q. How long were you in that area?

17 A. Maybe two, three weeks or so. That was right
18 before I'd gotten laid off, so I hadn't ---.

19 Q. Okay.

20 A. I hadn't worked in that area very long.

21 Q. Okay. So when you got back, when you came back to
22 the mine, after being laid off, ---

23 A. Uh-huh (yes).

24 Q. --- what area did you go to at that time?

25 A. When I come back in January, I was working

1 removing the belt structure between the Ellis Switch,
2 and is it --- yeah, between Ellis Switch and Lower Big
3 Branch portions of the mines. It was a beltway that
4 ran between there.

5 Q. Okay. And about how long did you do that, were
6 you in that area?

7 A. Let's see, from January to around June or July. I
8 can't remember if it ---. I believe it was around
9 June when they transfer me to the track crew, so from
10 January to about June I work removing that structure
11 and pulling belt out of there and taking down all that
12 good stuff.

13 Q. Okay. Did you notice anything as far as ground
14 conditions in that area, as far as ---?

15 A. There were places where you could --- you could
16 start to see the ground hooving a little bit, and the
17 top was starting to get a little flaky and stuff. It
18 was old, you know, it's old work, so it'd been mined a
19 long time ago, but nothing that I considered to be,
20 you know, too dangerous ---

21 Q. Uh-huh (yes).

22 A. --- or anything like that.

23 Q. Any --- any methane or anything like that
24 associated with those ---?

25 A. No. We never ran into any methane or anything

1 during that time, removing the structure there.

2 Q. Okay.

3 A. We were just one entry --- one entry over from the
4 track entry. We --- we always had plenty of air
5 running through there, so we never really encountered
6 any methane.

7 Q. Did you ever have occasion to make it up to the
8 longwall area the first couple times when you first
9 started?

10 A. Yes. When --- when they were bringing the
11 longwall in, right before they started to bring it in,
12 the first month or two before then, I was --- like I
13 said, I was on their track crew and we were trying to
14 make sure that the track from, I'm going to say it was
15 like 88 Break or so, wherever --- wherever they
16 started the switch in behind there, where they started
17 pulling in all the --- the longwall jacks and all
18 their equipment, ---

19 Q. Uh-huh (yes).

20 A. --- we started from there and we worked our way
21 out, trying to make sure the track was in decent
22 enough shape to where they can actually haul those
23 jacks on it without coming down through there and
24 tearing the belt out. And they had plenty of ---
25 plenty of distance between the ribs and the belts and,

1 you know, that it was in good enough shape where
2 they'd come through there without wrecking.

3 Q. Okay. When you were up in --- up in that area
4 towards where the setup faces were going to be, ---

5 A. Uh-huh (yes).

6 Q. --- was there anything abnormal, as far as the
7 roof and ribs and the floor conditions at that time?

8 A. At that time, I'd never noticed anything out of
9 the ordinary up there. I mean, ---

10 Q. Okay.

11 A. --- there was nothing hooving. There was nothing
12 falling out all over the place or anything such as
13 that. It was --- it was actually fairly decent like
14 conditions.

15 Q. No --- no pressure on it at that time where
16 they ---

17 A. No.

18 Q. --- with that stuff? Okay. And the Bandytown
19 fan, was it in operation at that time?

20 A. No. I do not --- I don't think it was --- I don't
21 think it was in operation then. It was --- I can't
22 remember if they were --- no, it hadn't been put in
23 yet.

24 Q. Okay. But you had good airflow and stuff up ---

25 A. Yes.

1 Q. --- in that entry when you was up there?

2 A. Yes. If I'm not mistaken, I think they were still
3 driving that panel out when I started out there
4 working on the track.

5 Q. Okay.

6 A. I don't think they had quite made it out to the
7 point that they had stopped mining out on that panel
8 before they put that fan in, so to the best of my
9 knowledge, I don't think they had completely finished
10 that out there when I'd started working on getting the
11 track in decent enough ---

12 Q. Uh-huh (yes).

13 A. --- shape to haul shielde on.

14 Q. Do you remember about how much time you spent in
15 that area before, before the wall started?

16 A. I would have to say a good month or two working on
17 the track, ---

18 Q. Okay.

19 A. --- from everything from where they were setting
20 up all the way outby to ---. I think we'd made it to
21 the mouth of the wall here (indicating) near the north
22 side of the headgate there. I think they put a switch
23 --- there's a switch in there and we'd made it that
24 far. Actually, we had even --- we had even worked all
25 the way outby to where the Mother Drive for the

1 longwall panel they were driving was. So yeah, we had
2 already --- we had already made it past where the
3 Mother Drive was.

4 Q. Okay. Was this the same crew that you was working
5 with on April 5th, the date of the accident?

6 A. The only two people that were still part of the
7 crew on the day of the accident was myself and my
8 boss, Ralph Plumley.

9 Q. Okay.

10 A. Jonah started with me. Cecil Pope, he started
11 with us whenever we started getting everything ready
12 for the longwall to come in. And he had got
13 transferred and started running a motor or something.
14 I'm not for sure. It was a couple months before the
15 accident even happened.

16 Q. Okay. That's the only ones that was on that crew?

17 A. No. It was myself and Ralph Plumley. I want to
18 say his name was Owen, but we called him Tommy Davis.

19 Q. Okay.

20 A. He was --- he was the third member of our crew at
21 the time of --- at the day of the accident.

22 Q. Okay. Does that pretty much bring us up from the
23 time you started until where you was at around the
24 accident or any other areas you worked on between that
25 time, the time you started and April 5th?

1 A. When I come back, we started on the track. We
2 worked on the track from --- everywhere from the UBB
3 Portal all the way up to the wall. We'd even went
4 over to the other side of the mines there where Three
5 section was ---

6 Q. Uh-huh (yes).

7 A. --- located at. We've even been over there
8 working on some track over there, trying to straighten
9 stuff up over there. I'd even been back up Plumley
10 Run working on track, all the way out Ellis Portal
11 working on it. So pretty much everywhere that was
12 major, a major haul way or something like that for men
13 and supplies that needed to go through there, we had
14 worked on it since, ---

15 Q. Okay.

16 A. --- since then.

17 Q. Did you work on any other structures other than
18 track; overcasts, stoppings, anything like that?

19 A. Yes. Occasionally we'd get pulled off the track
20 if we were, you know --- wasn't nothing, you know,
21 completely tore up, they'd pull us off the track and
22 we'd help do other things.

23 Q. Do you remember any areas where you might've been
24 working on the overcasts?

25 A. Yes. There were --- the Headgate 22 side of the

1 mines, we had just ---. I want to say it's these
2 (indicating) three overcasts here.

3 Q. Okay. Why don't you just grab a highlighter, and
4 which ever color you like here and just kind of maybe
5 circle the ones that --- the ones you worked on, which
6 ever one you want. Did you get the blue highlighter?

7 WITNESS COMPLIES

8 A. So this was on the tailgate side of Number 22.
9 And if I'm not mistaken, it's ---. I'm pretty sure
10 it's these (indicating) three overcasts here.

11 BY MR. WATKINS:

12 Q. Okay.

13 A. And you ---.

14 Q. And you're circling all those in blue?

15 A. Uh-huh (yes). Yes. We helped work on those.
16 There were quite a few different little crews that
17 worked outby that were there helping us work on 'em as
18 well. And that was --- there was also the new Mother
19 Drive they were putting in for Headgate --- for 22
20 here (indicating), this new longwall panel. We had
21 helped put in some structure and stuff there, the
22 actual --- the actual belt structure for the Mother
23 Drive.

24 Q. Do you remember where that was at exactly?

25 A. It was just inby the Glory Hole. I want to say it

1 was in the Number One entry here (indicating) off of
2 the Headgate 22 side, but it come all the way out into
3 this --- to the older panel there where the Glory Hole
4 was, ---

5 Q. So you're saying ---?

6 A. --- so by the Glory Hole.

7 Q. Oh. Well, you indicated on the map it's somewhere
8 maybe 129 Break, 130, somewhere in that area.

9 A. Where at on here is the track? Where's the legend
10 that shows the track?

11 Q. It's not showing it.

12 A. No? It don't show the track ---

13 Q. It's not showing it.

14 A. --- entries?

15 Q. No. No.

16 A. Yeah, that's what's confusing me.

17 Q. There's (indicating) the track. I think the red
18 is the beltline.

19 A. Okay. So red is the beltline. Then the track
20 entry was this entry here. You come up past the Glory
21 Hole and all that.

22 Q. This one here, you're referring to Number One, Two
23 --- Number Three entry?

24 A. Right here. Yeah, so ---.

25 Q. Okay.

1 A. Yeah, the Number One entry here was Headgate 22
2 section's belt entry and then we'd worked on that
3 structure as far as help putting that structure and
4 stuff there, and also built --- helped build these
5 overcasts here.

6 Q. Okay.

7 A. So all three of those overcasts there.

8 Q. Again, you circled them in blue at the mouth of
9 the 22 Headgate?

10 A. Yes.

11 Q. Okay. Now, when you say you helped build, they're
12 not in existence? You was actually putting them in or
13 was you making repairs or ---?

14 A. They were not in existence. We were actually
15 building for the first time there.

16 Q. Okay.

17 A. And there were other outby crews helping us work
18 and do that as well.

19 Q. Okay. Do you remember when you were working on
20 those two, how long ago, in relationship to the
21 accident, how long before?

22 A. I can't give you an exact date. It had been ---
23 it had been at least a month or two, somewhere around
24 that area. I couldn't give you an exact date.

25 Q. Okay.

1 A. Let's see. I know I worked on these (indicating)
2 two for sure. And I know I worked on these three for
3 sure.

4 Q. Okay. Do you ever remember working on any --- any
5 regulators ---?

6 A. No.

7 Q. Okay. What about --- how about the doors,
8 equipment doors?

9 A. Yes. We actually --- I actually helped put in
10 this --- this (indicating) set of double doors here.
11 Let's see.

12 Q. Now, if you remember them in a different place.
13 Okay? That's important before you tell us, too, if
14 you remember somewhere else, because you know ---.

15 A. If they're not right on the map ---

16 Q. Yeah, I don't ---.

17 A. --- is what you're saying?

18 Q. I'm not 100 percent sure if it's, you know, ---

19 A. Okay.

20 Q. --- so if you remember them being in a different
21 place, don't feel hesitant about telling us.

22 A. Okay.

23 ATTORNEY FERGUSON:

24 He might want to use a different color
25 for doors.

1 MR. WATKINS:

2 Yeah. Let's give him another. We got

3 plenty of 'em. Whatever color you'd like. All right.

4 A. I guess orange, I guess?

5 MR. WATKINS:

6 I think gold.

7 ATTORNEY FERGUSON:

8 I think it's ---.

9 MR. WATKINS:

10 I think it's ---

11 A. All right.

12 MR. WATKINS:

13 We'll call it gold.

14 ATTORNEY FERGUSON:

15 --- more yellow.

16 A. Okay. We'll call it gold.

17 MR. WATKINS:

18 I don't remember seeing that color in

19 there before.

20 WITNESS COMPLIES

21 A. Does this (indicating) here represent double doors

22 as well?

23 BY MR. WATKINS:

24 Q. That's what I thought, yes.

25 A. Because I only remember this, this set of double

1 doors here.

2 Q. Okay. And by the ones here, are you talking ---?

3 A. Right here in ---.

4 ATTORNEY FERGUSON:

5 Second and Third?

6 A. So the Number Two entry here ---

7 BY MR. WATKINS:

8 Q. Okay. Just scratch ---.

9 A. --- was where the track was, and I remember
10 working on these doors here.

11 Q. Okay.

12 A. We laid track through there.

13 Q. You don't remember the two that's at the --- the
14 double doors that's out next to each other just, just
15 inby them, the two you circled in yellow?

16 A. No, I don't remember those two, but I do remember
17 the overcasts on the track entry there, that set of
18 double doors. I don't remember that set of double
19 doors being there.

20 Q. Okay.

21 A. They may have been at one time ---

22 Q. Okay.

23 A. --- but I don't remember 'em being there.

24 Q. Okay. If you don't care, just take --- take the
25 pen. Just put an X through those two so we'll know

1 which ones you're referring to later on.

2 WITNESS COMPLIES

3 BY MR. WATKINS:

4 Q. Okay. You put Xs. Okay.

5 A. Okay. Thanks.

6 Q. Now, when you said you worked on those doors, were
7 you actually installing them for the first time or
8 were you making repairs to 'em?

9 A. Yes, to both questions.

10 Q. Okay.

11 A. At the time, like I said, we were trying to help
12 this outby crew here (indicating). We were the track
13 crew, but we got pulled to do other things.

14 Q. Okay.

15 A. And we were trying to help this outby crew here
16 that was working on the Headgate 22's Mother Drive,
17 which was at that time --- Headgate 22, the actual
18 section that was driving the headgate panel's actual
19 beltline. They were actually using it to bring their
20 belt --- their coal off their section.

21 Q. Uh-huh (yes).

22 A. We were helping them do that, so we put in these
23 doors when it come time to do all --- put in those
24 doors. And we put the track back in because they had
25 to --- they had to take the track out in order to cut

1 --- to cut above the belt here (indicating) for flow-
2 through. So the other miners were cutting flow-
3 through over that belt. And so we were doing the
4 structure, put in doors. We were building those
5 overcasts to separate, I guess, the belt from these,
6 the intakes here (indicating) ---

7 Q. Okay.

8 A. --- that was coming across over to where the
9 tailgate is. And I'm a little lost because ---

10 Q. Okay.

11 A. --- during that time frame we were, you know, we
12 were trying to get track together because these
13 (indicating) guys here were following behind on the
14 track and we were trying to help get that situated.
15 And we were just --- we were just being pulled in like
16 a bunch of different direction instead of ---

17 Q. Uh-huh (yes).

18 A. --- being straightforward on track like we were
19 normally ---

20 Q. Uh-huh (yes).

21 A. --- like we were used to, so ---.

22 Q. You mentioned being behind on track on Headgate

23 22. What was the reason for being --- being behind?

24 A. We had to put from --- to the best of my
25 knowledge, which I took it as it was explained to me,

1 we were going to start putting in that track for
2 headgate side and turn it back down this panel here to
3 come over to the tailgate side.

4 Q. Okay. When you say, this panel here, are you
5 talking about the, I guess the crossover from Headgate
6 22 and ---

7 A. Right.

8 Q. --- Tailgate 22. Okay.

9 A. Right. The crossover between headgate and
10 tailgate on 22. But like I said, we had to take ---
11 we took a --- I'd say, a break to two breaks' worth of
12 track out here (indicating) in order for them to be
13 able to come in here and cut out for the flow-through
14 for the longwall belt there, ---

15 Q. Okay.

16 A. --- that Mother Drive. So when that happened, we
17 took that out, we had no way to get rails and other
18 supplies like that ---

19 Q. Okay.

20 A. --- to the end of the track out here to continue
21 up in behind the wall --- or up in behind Headgate 22
22 Section to keep them caught up on track. So that was
23 the way it was explained to me.

24 Q. Okay. Going back, again, to the double doors that
25 you said you first helped install ---

1 A. Uh-huh (yes).

2 Q. --- then repair. Do you recall why --- what
3 happened to the doors, how they was damaged, what
4 caused them to be damaged?

5 A. Oh, no, they weren't damaged. It was ---

6 Q. Okay.

7 A. --- when we actually got in there and --- the
8 track continues on up to this (indicating) --- this
9 panel out here.

10 Q. Okay.

11 A. I don't know what that is ---

12 Q. Well ---

13 A. --- labeled as.

14 Q. --- they're referring to it as ---.

15 A. It's inby ---.

16 Q. We refer to it as Eight North, so ---.

17 A. Okay. The track continues on out to Eight North
18 up here and once we put these two breaks of track in,
19 we put a switch in, in order to lay the track on
20 through out to the Headgate 22. The doors were
21 installed too low to the bottom, ---

22 Q. Okay.

23 A. --- so our rails didn't clear, so we were --- we
24 had to do some adjusting ---

25 Q. Okay.

1 A. --- and things like that to them, so ---.

2 Q. Okay.

3 A. It wasn't that they were damaged or ---

4 Q. Okay.

5 A. --- ran into or anything. Like, it was just ---

6 it was more or less adjustments that we had to do.

7 Q. Okay. Do you recall working on any doors that had
8 been damaged or were damaged?

9 A. No, not to --- no, not that I can remember.

10 Q. When you're going through the double doors and
11 stuff on the track, was there enough room to get your
12 supply cars and motors and all that stuff in or did
13 you have to unhook or ---?

14 A. Yes. Yes, there was a ---.

15 Q. Yes, which one? You had to unhook or there was
16 enough room?

17 A. Yes, there was ---.

18 Q. I kind of asked two questions at the same time
19 there and I apologize.

20 A. Yes. There was enough room to clear the doors
21 with your supplies properly loaded on, on your flats.
22 There was enough room in between your sets of double
23 doors to make it in and close the outby set, then open
24 the inby set. It was some --- sometimes it may be a
25 little tight, but if you got it in there right, you

1 had a good motorman, you could get 'em in there and
2 you knew about where you was at and where you had to
3 stop. And if you had you a brakeman, they could, you
4 know, coax you in there a little --- little --- little
5 better to where you can get --- get in there to where
6 it's not as difficult as it would be if you were by
7 yourself. You know, you're trying to guesstimate ---
8 Q. Uh-huh (yes).

9 A. --- how far --- you know, how much room you got
10 between your flat and the doors or something, but that
11 --- that was never an issue, as far as I know.

12 Q. Did you ever see them leave --- leave the doors
13 open and just go through both sets of doors rather
14 than going through a door and getting out and closing
15 that, and open the other one, just leave 'em both open
16 and driving through 'em?

17 A. No. No.

18 Q. You have never witnessed that?

19 A. No, I never witnessed that. We always rode on a
20 single mantrip, so there was no need for that. We
21 just --- and plus, Ralph drove and there was always
22 two of us. We'd get out, open the doors and then he'd
23 pull on down to the second set. And then that guy
24 would get out and open those while I shut the first
25 set or vice-versa, so we never ran into that issue.

1 Q. He's pretty adamant about his track and his ---
2 and your doors?

3 A. Yes. He liked to have his track to where you
4 could haul stuff in and not tear up anything else,
5 because if you did, they was all on him about it.

6 Q. Okay.

7 A. So he tried to make sure everything would fit and
8 everything was the way it should be.

9 Q. Okay. The time that you spent up on Headgate 22
10 and Tailgate 22, did you ever detect any methane or
11 anything?

12 A. No. No, we did not. No.

13 Q. Okay.

14 A. Never ran into any issues with any methane.

15 Q. Did you ever observe any hoofing in that --- in
16 those areas?

17 A. No. I can't --- I can't say for sure that I
18 observed any --- any incidences where the bottom was
19 hoofing on the headgate or the tailgate side, that I
20 can remember.

21 Q. Okay. Do you remember anything about airflow?

22 Did it seem to you enough air in the sections when you
23 was there?

24 A. Like I said, we were most of the time outby and we
25 were right there on the track, and you can see that's

1 the intake, so ---

2 Q. Okay.

3 A. --- we always had ---

4 Q. Okay.

5 A. --- more than enough air, sometimes too much. It
6 got real cold.

7 Q. Does each member of your crew, does it --- do they
8 carry methane detectors?

9 A. No. The boss, Ralph Plumley, always carried his,
10 his methane detector.

11 Q. And would he always --- was he always in close
12 proximity to you guys?

13 A. Yes. Yes, we usually --- within at least rail
14 truck's or a mantrip's distance apart from each other,
15 so we were never too far apart.

16 MR. WATKINS:

17 Okay. Okay. I'm about to get into, you

18 know, the April 5th accident, and before I do that, I

19 want to let, let these guys --- if there's any ---

20 ATTORNEY FERGUSON:

21 Okay.

22 MR. WATKINS:

23 --- follow-up questions now rather than

24 going on when you come back; okay?

25 MR. TUCKER:

1 Just a couple.

2 MR. WATKINS:

3 Okay.

4 EXAMINATION

5 BY MR. TUCKER:

6 Q. Is it common for the track to be behind? When I
7 say be behind, be more than 500 feet from the nearest
8 working face?

9 A. No. No, that was uncommon for that to happen.
10 And like I said, we had all this outby construction
11 going on that hindered us from having all of our rails
12 and supplies and such like that up here in order to
13 catch up with all that. But once --- once that
14 cleared up, once that was taken care of, we were
15 actually working on catching up to the section the day
16 of the accident.

17 Q. Do you know about what crosscut the end of the
18 track is?

19 A. No. It was a good little walk though. I do
20 remember that. I mean, we weren't --- we weren't
21 five, ten breaks back, but we were --- we were getting
22 close. I mean, you could walk a break or two and
23 start to see the --- you know, the lights and power
24 center. We weren't so far behind it was --- you know,
25 but ---.

1 Q. Okay. You mentioned when you were working on the
2 doors at the mouth of 22 Headgate, ---

3 A. Yes?

4 Q. --- that they were --- had the continuous miner
5 cutting an area for the Mother Drive? Would you call
6 it a flow-through?

7 A. Yes.

8 Q. When they were cutting it, I ---.

9 A. No. No, not at the time that they were cutting
10 it, we were working on it. They had cut and --- they
11 had already been in there, cut it and ---. No,
12 actually we put those in before they started cutting
13 it. I guess --- I'm pretty sure that was to get the
14 air right up there for them to do that, because they
15 had to --- they had to split a block or something.
16 I don't know. I don't remember what they were talking
17 about. Like I said, I'd been working outby when
18 they ---. I didn't --- I didn't know too much about
19 none of it. But they come through and they had to get
20 some height above this belt here, the --- I guess
21 Seven North belt. They had to get some height above
22 it right here, just outby the headgate so that they
23 could put that belt in there and put a flow-through on
24 it so that that coal from the headgate would drop onto
25 Seven North belt and continue outside.

1 Q. Okay. So they would never run the continuous
2 miner while you were down there working?

3 A. No, I'd never seen it ---

4 Q. Okay.

5 A. --- running while I was down there working. No.

6 Q. Okay.

7 EXAMINATION

8 BY MS. MONFORTON:

9 Q. I just have a couple questions. And I'll give you
10 my card, ---

11 A. Okay.

12 Q. --- too. So when you first started working as a
13 miner, you were employed by David Stanley Contracting?

14 A. Yes.

15 Q. And how did that ---?

16 A. It's David Stanley Consultants, I think, ---

17 Q. Consultants?

18 A. --- is their actually name.

19 Q. Can you talk a little bit about --- you're hired
20 by them and they do the training, and then how do you
21 get hooked up working at UBB? How does that work?

22 A. Actually, my uncle had worked at the UBB Mines for
23 years, and he had retired from there. He'd gotten out
24 on disability from there, I want to say like five, six
25 years prior to me starting there. And when I come

1 home from the service, I went down there with my uncle
2 and he spoke to the superintendent that he knew. And
3 at the time they weren't doing any hiring directly
4 into the company, so I had to go through a contractor.
5 And it was kind of --- I guess it's kind of like a,
6 like a trial period instead of ---.

7 Q. Audition, you mean?

8 A. Yeah, instead of them --- instead of having 'em
9 hire you straight into the company and you got
10 insurance and they're paying you all this money and
11 stuff, they kind of try you out for a while. And then
12 if they like you, or if they're hiring into the
13 company, then you get hired into Massey as a full-time
14 employee.

15 Q. Okay. Thanks. When you were building those
16 overcasts in that 22 Headgate area, were you employed
17 by David Stanley or by Massey?

18 A. No. At the time I was employed by Massey. I'd
19 been hired into the company in October of 2009.

20 Q. Okay.

21 OFF RECORD DISCUSSIN

22 A. Yeah. I remember. I remember that distinctly
23 because my paycheck went way up after I got in.

24 BY MS. MONFORTON:

25 Q. I'm just trying to understand how people learn all

1 these technical jobs. So how did you learn how to
2 build overcasts? Did you learn it before you went
3 into the mines or is it on the job?

4 A. No. They just kind of tell you, you build a wall
5 out of block and stagger your block. And then when
6 you get done, put this paste on it and seal it and ---
7 I don't know. I guess --- I guess maybe a little
8 common sense and a little prior work experience
9 or ---.

10 Q. Uh-huh (yes).

11 A. I wouldn't say prior work experience ---

12 Q. Uh-huh (yes).

13 A. --- because prior to that I'd never built a wall.
14 I just, I don't know. I guess I'm a little fairly
15 mechanically inclined, ---

16 Q. Uh-huh (yes).

17 A. --- so I just kind of ---

18 Q. Uh-huh (yes).

19 A. --- catch on, you know.

20 Q. Uh-huh (yes).

21 A. You watch somebody build one and then you go,
22 okay.

23 Q. So who were you working with that was kind of
24 showing you? Who was your --- you know, the mentor or
25 the person that was showing you how to do this?

1 A. Well, I really couldn't --- I really couldn't say
2 one individual person. Like I said, we had worked ---
3 I worked on that track crew and at times we were
4 pulled to help do other things. And at other --- at
5 times we would help build stoppings and stuff, which
6 reminds me, during the time we were putting the track
7 --- you know, make sure the track was in decent enough
8 --- the track was in decent enough shape for them to
9 haul the shields in for that longwall, we had actually
10 put in a couple --- we had helped those guys put in a
11 couple of stoppings, not this (indicating) far down,
12 but it was further on up between --- between the track
13 entry and the ---.

14 I think we were sealing off a power center or
15 something, getting a power center out of the intake or
16 some --- I don't know. Like I said, I hadn't been
17 around it long, so I don't know the reasoning or
18 anything behind it, but we had put a stopping or two
19 in prior to that, so ---.

20 Q. And when you're talking about putting the
21 stoppings in, you're referring to the Tailgate 22's
22 --- no?

23 A. No. I'm referring to the headgate of the current
24 panel that they were driving.

25 MS. MONFORTON:

1 Okay.

2 A. Okay.

3 BY MS. MONFORTON:

4 Q. Then the last question, when you were building
5 those overcasts, what shift were you working on?

6 A. Oh, we were ---

7 Q. Was that dayshift?

8 A. --- working dayshift at the time, yes.

9 MS. MONFORTON:

10 Thank you.

11 RE-EXAMINATION

12 BY MR. WATKINS:

13 Q. Those stoppings you just referred to, are they
14 block stoppings, Kennedy stoppings? What kind of
15 stoppings were they?

16 A. Those stoppings were block stoppings, yes, sir.

17 Q. Block stoppings. Okay. Is that what was used all
18 the way up --- up the headgate, these block stoppings?

19 A. Yeah. As far as I know. Yes.

20 Q. Okay. And one thing I didn't ask you about
21 earlier on was the water. Did you ever help pump
22 water?

23 A. Yes. I actually had to go help pump water before.

24 Q. And do you remember where you went to, to pump
25 water?

1 A. Down along the top line --- I guess it would be on
2 the tailgate side of the current panel that they were
3 driving.

4 Q. Okay.

5 A. If I'm not mistaken, it's this water that you have
6 mapped off here.

7 Q. Okay. And you're referring to the one at
8 Crosscut ---

9 A. Like, 85.

10 Q. --- 85? Okay.

11 A. And, actually, some of it was further back.

12 Q. Okay.

13 A. I can't remember exactly what places it was, but I
14 remember the week of Thanksgiving break. At the time
15 I didn't have any vacation days, so I was working that
16 week and for whatever reason, they had a small group
17 of us that would go back here (indicating). And we
18 actually started taking --- lay flat discharge line,
19 what we call air pumps that run off of, off compressed
20 air and air line and stuff like that back to this area
21 back in here.

22 Q. Okay. Again, back in here, you're referring
23 to ---?

24 A. Referring to around the 85 Crosscut on the ---.

25 We actually went --- when we went in, we come down the

1 tailgate side on the mantrip as far as the track was.
2 And I can't remember how far the track was back, but
3 it wasn't --- it wasn't back very far. And then we
4 had to carry all this equipment and all these supplies
5 further back down the prop line, and then ---.

6 Q. You're pointing to the diagonal that's up on the
7 --- on the front longwall? That's where you traveled?

8 A. If I'm not mistaken, yes.

9 Q. Okay.

10 A. That was the way we traveled.

11 Q. Was this before the wall started again or ---?

12 A. No, this was after the wall had started.

13 Q. Okay.

14 A. This was during the month of November.

15 Q. Okay. November.

16 A. And it was Thanksgiving week, month of November
17 2009.

18 Q. Okay. But prior to the wall starting up, that
19 water that you referred to, it wasn't there when you
20 was in there the last time? I think you said you'd
21 been in that area before the wall started and ---?

22 A. Right. Right. And that water wasn't --- hadn't
23 been there, as far as I know.

24 Q. Okay. How deep was that water?

25 A. In places it was roofed out.

1 Q. Is that right?

2 A. Yes.

3 Q. Okay. Was it roofed across all three entries or
4 did it roof out and then drain, drain out or ---?

5 A. From what I can remember, ---

6 Q. Uh-huh (yes).

7 A. --- it was ---. I guess that would ---. Well,
8 how would you explain that? You have three entries
9 here (indicating) and then there's four here. Does
10 this count as Zero or ---? Any way, it would be
11 the ---

12 Q. The solid, the solid ---.

13 A. --- Three and Four entry more, or Two and Three
14 entry, depending on where --- how many blocks across
15 this area.

16 Q. Okay.

17 A. At 85 --- at 85 Crosscut it was Number Two and ---

18 Q. Number Two.

19 A. --- the Number Three entry was where it was
20 roofed.

21 Q. Okay. The Number One entry, it had water in it
22 but wasn't roofed; would that be right?

23 A. Yes. Yes.

24 Q. Okay.

25 A. It had water in it but it hadn't roofed out.

1 Q. Okay.

2 A. To the best of my knowledge.

3 Q. Okay. Was there any talk about where that water
4 had come from? Did they know? Was it from the roof,
5 the floor?

6 A. No, not that I know of. I never really understood
7 where it had come from and ---.

8 Q. Okay. Did you ever go back ---?

9 A. Was never told --- was never told where it come
10 from either.

11 Q. Okay. Did you ever go back -- I guess it would be
12 outby the setup entries, referring to somewhere around
13 70, 75 where you saw water. Did you ever go back to
14 that --- that area?

15 A. Not to my knowledge, I don't believe I did.

16 Q. Okay.

17 A. Of course, most of this back area isn't really ---
18 isn't really marked anymore, so when you're back
19 there, you don't ---

20 Q. I understand.

21 A. --- you don't really see the actual signs that
22 they have hanging everywhere ---

23 Q. Yeah.

24 A. --- that mark what break it is, so ---. To my
25 knowledge, I did not go back outby into the area where

1 the longwall had been mining, so ---.

2 Q. Yeah. That was my question, ---

3 A. Right.

4 Q. --- in that area. Okay. When you traveled back
5 to around 85 Break, could you tell any difference in
6 the roof and rib and floor conditions?

7 A. Yes. Yes.

8 Q. Okay.

9 A. Ribs were rolling pretty bad.

10 Q. Okay.

11 A. I took it as it was just, you know, settling. The
12 longwall had started and had been moving, so it's kind
13 of understandable for, you know ---. This large
14 amount of coal here that was actually holding this up,
15 it's settling, so it's actually, you know ---. I
16 understood it was riding. It was working its way
17 throughout the mines a little bit, so ---. But it was
18 --- wasn't really anything that I felt like I was in
19 danger of. I mean, ---

20 Q. Okay.

21 A. --- it had already fell off and you could see it
22 there. I never --- I was never behind --- in this
23 area back here in the prop line behind the wall and
24 actually seen a rib roll.

25 Q. Okay.

1 A. It was already pretty much settled and it was kind
2 of, I guess, where it was going to be for the time
3 being. The bottom was hooving. There was places
4 where --- you know, I'm six, three, and I could walk
5 through there and just, you know, turn my head to the
6 side and be fine. Then there were places where the
7 bottom had hooved and I would actually have to, you
8 know, bend over at the waist to walk through.

9 Q. When it was first mined, how tall was it? How
10 high was it?

11 A. I don't know. I never --- when it was ---. When
12 the tailgate section of the current longwall panel was
13 mined, ---

14 Q. Uh-huh (yes).

15 A. --- I had never been over there.

16 Q. Now, on the headgate side, you ---?

17 A. On the headgate side, I had, and it was very tall.
18 It would range from --- to the height where I'd have
19 to walk through, and bend --- you know, ---

20 Q. Uh-huh (yes).

21 A. --- tilt my head to the side to clear, to you'd
22 have to go get six-foot ladder to hang cables on the
23 roof, you know?

24 Q. Uh-huh (yes).

25 A. It just varied, but for the most part it was ---

1 it was tall enough for myself to walk through.

2 Q. I know you say that you didn't carry a methane
3 spotter, detector with you. When you were back there
4 with the water, did Ralph or anybody with you, did
5 they take any methane when you were back there pumping
6 water?

7 A. Ralph wasn't with me then. He actually was one of
8 the lucky ones that had vacation, but ---

9 Q. Okay.

10 A. --- the boss that was back there with us --- we
11 called him Jaybird. Jason something, I think is his
12 name. Don't quote me. I don't know.

13 Q. Okay.

14 A. But we called him Jaybird. He had a methane
15 detector. He actually had the multi-gas. And we
16 never ran into anything like that, never had any
17 issues ---

18 Q. Okay.

19 A. --- with methane or anything, so ---. The only
20 issue we had back there was water.

21 MR. WATKINS:

22 Okay. Anything to follow-up on before we
23 move on? Bill?

24 MR. TUCKER:

25 No.

1 MR. WATKINS:

2 Celeste?

3 MS. MONFORTON:

4 No.

5 A. And, actually, I had went back maybe a week or two
6 prior to the accident.

7 MR. WATKINS:

8 Okay.

9 A. I actually had to ---. I went back with him to
10 --- they needed an extra guy just in case they needed
11 to carry some stuff or something like that, because
12 they had a crew that actually went back in there on a
13 regular basis and kept up with the water pump, the air
14 pumps, and to make sure that the water was continuing
15 to go down and stuff like that. And I would say two,
16 three, somewhere around there, weeks prior to the
17 accident, I went back with those guys. One of their
18 guys had called off.

19 I went back just to be an extra body in case they
20 needed help, and it wasn't --- it wasn't no --- no
21 deeper than probably thigh-high on me. I mean, they
22 had cleaned it out. The places where it was roofed,
23 it was --- the water had --- they had pumped it out.
24 I guess, if I'm not mistaken, they had a sump or
25 something back there that was pumping it out. They

1 were pumping it to the sump and the sump was pumping
2 the water ---

3 Q. Okay.

4 A. --- out of the mines, from what I understood.

5 Q. Do you remember who you went with, which crew it
6 was --- any of the people's names, the boss's name or
7 anything?

8 A. Joey Burdoff was the boss when we went back, those
9 couple weeks prior to the explosion. Joe Burdoff was
10 the boss. The other two guys, I can't remember their
11 names. They were contractors. I can't recall their
12 names exactly.

13 Q. And what did they have you doing? What was you
14 doing with them, just pumping water or what?

15 A. Right. We went back and was checking the pumps,
16 making sure the pumps worked properly. And, you know,
17 if something --- if a hose had busted or line had
18 busted, we would fix it or whatnot, which that day ---
19 that day we went back, there was a set of doors
20 somewhere in that far entry. It may have even been
21 --- I guess that's (indicating) regulator doors? Is
22 that what this stands for on the map here?

23 Q. Yeah.

24 A. Just inby 80 Crosscut there?

25 Q. Uh-huh (yes).

1 A. It may have been those doors we went in.

2 Q. Be just outby 80 Crosscut, wouldn't it?

3 A. Just outby 80 Crosscut. So that's 79, 78 ---

4 Q. Okay.

5 A. --- Crosscut there. Those doors there, we
6 actually went in and removed them.

7 Q. Just get another color here real quick.

8 A. Okay.

9 Q. We'll give you the green one. Go ahead and circle
10 those doors up here in green.

11 MR. WATKINS:

12 Any questions?

13 MR. KINDER:

14 I did have one.

15 MR. WATKINS:

16 Go ahead.

17 EXAMINATION

18 BY MR. KINDER:

19 Q. You mentioned you were working on the stoppings on
20 the headgate side ---

21 A. Yes.

22 Q. --- One North longwall?

23 A. Yes.

24 Q. Was the longwall in production when you was
25 working on that stopping?

1 A. No, I don't believe --- best I can remember, no,
2 it hadn't started running yet. I think there were ---
3 I think they were setting everything up. I think they
4 had a mule train and all the --- all that mess in
5 there. And they were --- they were doing like their
6 --- I guess they were kind of like trying to work all
7 the bugs out of all that stuff, too, before they
8 started running, when we were building those. But no,
9 we hadn't --- it wasn't running at the time.

10 Q. Okay.

11 RE-EXAMINATION

12 BY MR. WATKINS:

13 Q. Go back to the water in the diagonal that you had
14 a couple weeks prior. Were there any areas that you
15 saw that were roofed out at that time, where the water
16 roofed anyplace?

17 A. At the point --- here (indicating) in the diagonal
18 here between the tailgate and headgate or ---?

19 Q. Wherever it was you worked at the two weeks prior
20 to the ---.

21 A. Yeah. The two or three weeks prior to accident, I
22 didn't see any water roofed anywhere.

23 Q. Okay.

24 A. When I went back in there, I actually didn't
25 really recognize the place because the water had been

1 pumped out and, you know, it just looked totally
2 different. I really didn't ---. You know, I'd been
3 there before, but where the water was gone and I went
4 back, I was kind of lost. It was like, I don't
5 remember this.

6 Q. Okay. When the water was pumped out, could you
7 tell anymore about the poor conditions? Was there any
8 more hooving than what you had previously ---?

9 A. No. No. Back in, back in this (indicating) area
10 here? Most of our hooving and the bad rib roll that I
11 encountered was right around the area of the end of
12 the tailgate panel of that current longwall panel that
13 they were running. It was right in there.

14 When we got off the mantrip and had to walk back
15 towards the prop line --- once you got to the prop
16 line, it wasn't such --- the conditions weren't bad at
17 all. You could see where the props started to settle
18 just a little bit. None of 'em had busted out or
19 anything like that, but you could see that they were
20 taking weight and the ribs looked fairly decent. The
21 top was holding and the bottom hadn't hooved. I wish
22 it showed on here where the prop line was. I'm almost
23 positive it was in the ---. It was in the diagonal
24 here, is where the prop line was.

25 Q. Okay.

1 A. And the prop line was great. I was --- I was
2 actually glad to get to the prop line whenever --- you
3 know, because after bending over and crawling and
4 stuff, getting to that was, you know, nice and easy to
5 walk.

6 Q. Nice to stand up, huh?

7 A. Right. So --- but from the prop line back, really
8 didn't encounter any --- any bad conditions as far as
9 the top or the ribs or the bottom. It was --- what I
10 encountered was mostly right in through here ---

11 Q. Okay.

12 A. --- that being from about 85, I guess. That's a
13 guesstimation ---

14 Q. Okay.

15 A. --- about 85 Crosscut to the prop line, which is,
16 I guess, started at about 80 Break on --- then 105 on
17 the tailgate side ---

18 Q. Okay.

19 A. --- of the current panel that we're driving.

20 Q. Okay. Now, you mentioned running a lay flat, and
21 then you talked about the conditions inby. How far
22 inby did you actually go --- travel to?

23 A. Wherever the sump was. I traveled as far back as
24 the sump that they had cut out for ---.

25 Q. It's pretty close up to the fan?

1 A. Yeah. It was very close to the fan. I could
2 actually hear the fan and ---

3 Q. Okay.

4 A. --- you could tell when you got closer to it
5 because the air would pick up a lot. You could feel
6 the air pick up a little bit more because you were
7 closer to the outside, I guess. I don't know.

8 Q. Do you remember who was traveling back --- back
9 there with you? Was anybody going back there with
10 you?

11 A. Yes. It was --- it was that same group that I
12 went with ---

13 Q. Okay.

14 A. --- on the week of Thanksgiving, ---

15 Q. Okay.

16 A. --- which was also ---.

17 Q. No --- no methane, anything?

18 A. No. We never had an issue with methane. I never
19 --- we never did. If they did, I never knew about it.
20 But of course, you know, when the monitor detects
21 methane, it goes off, so I'd have heard it, but I
22 never --- never experienced or never heard it, never
23 know about it.

24 MR. WATKINS:

25 Do you have any questions?

1 RE-EXAMINATION

2 BY MR. KINDER:

3 Q. I was just wondering when you were back there ---.

4 You mentioned you've been back in behind longwall at

5 one point and you had a couple entries water-roofed,

6 and then you went back up the week before the

7 explosion and you didn't hardly recognize the place.

8 The water was practically gone. I realize that you

9 didn't take a air reading, but could you tell a

10 significant difference in the air or not, just

11 something that you noticed?

12 A. Not really. I really couldn't --- I really

13 couldn't make a call on that, because it'd been such a

14 long period of time between the two. It was

15 Thanksgiving week and, you know, it was several months

16 later, you know, that I went back up there. So if

17 there was, it wasn't fresh in my mind as to what it

18 was like before, so I really ---

19 Q. All right.

20 A. --- didn't pay any attention to it.

21 Q. Okay.

22 MS. MONFORTON:

23 Nothing further.

24 ATTORNEY FERGUSON:

25 Okay.

1 RE-EXAMINATION

2 BY MR. WATKINS:

3 Q. Eric, I'm going to change gears a little bit now.
4 I'd like to talk to you a bit about the --- April 5th,
5 the day of the accident. What shift did you work that
6 day?

7 A. I worked dayshift.

8 OFF RECORD DISCUSSION

9 BY MR. WATKINS:

10 Q. You worked dayshift?

11 A. Yes.

12 Q. What time do you start and end on dayshift?

13 A. The track crew, we start at 5:30 a.m. We start
14 outside, getting the bath house straightened up and
15 stuff like that, getting mantrips and everything ready
16 for the production crews and everybody to go
17 underground. And we were on the Ellis Portal side, so
18 we're at Ellis bath house side.

19 Q. Okay.

20 A. That's where we showed up and that's where we
21 portalled at. Then when we got that done, then we
22 would --- we'd go in and do our thing and we were
23 outside most of the time. Our quitting time was at
24 2:30 and we were outside at 2:30 most of the time.

25 Q. Let me ask you this now. Why don't you just start

1 from the time you arrived on the property; okay? And
2 just take me through your day on April --- on April
3 the 5th. You know, talk about who you traveled with
4 and the times and that thing. Just kind of walk me
5 through --- through your day.

6 A. Okay. Showed up, got dressed and everything
7 there. We started work at 5:30. It's myself, Ralph
8 Plumley and --- I'm going to call him Tommy Davis,
9 because that's what I called him was Tommy. I think
10 his real name was Owen. I don't know. He was Corey
11 Davis and Timmy Davis's --- Corey Davis's father and
12 Timmy Davis's brother. He worked with us.

13 Q. Okay.

14 A. So we started out in the bath house sweeping,
15 cleaning, putting supplies into the bath house, towels
16 and trash bags, stuff like that for the men to, you
17 know, take care of whatever they needed to. Took all
18 the trash out. To the best of my knowledge, that's
19 about all we done outside that day.

20 Then we left and headed underground. We took our
21 usual two Jeep. We always took two Jeep underground.
22 We went in two breaks inby from the Ellis Portal.
23 That's where we kept our toolbox. We loaded up all of
24 our tools we'd need --- be needing to work on the
25 track for that day.

1 Then we left from there, made our way up to
2 Headgate 22. That's where we were working that day on
3 the track. I think we were up there --- I want to say
4 we were up there just kind of blocking the track and
5 getting it level, trying to get it ready to have some
6 ballasts put on it. I can't really remember if we
7 laid any rails that day or not.

8 But toward the end of the, end of the shift, we
9 were close by the supply doors for their section, for
10 the Headgate 22 side. And I do not see the supply
11 doors marked on the map. What are these dark blotches
12 here (indicating) on the map, these dark spots?

13 Q. I think they're man doors.

14 A. Okay.

15 Q. I'm not sure, but I think they are.

16 A. Somewhere through here, there was a set of supply
17 doors.

18 Q. Now, through here, you're referring to ---?

19 A. Referring to Headgate 22 side, somewhere around
20 about midways up the panel.

21 Q. Okay.

22 A. So we'd already laid track past those supply
23 doors. So towards the end of the shift, that's where
24 we were at. We actually we were going to make our way
25 back down and come to this (indicating) --- come to

1 this panel here that joined the headgate and the
2 tailgate here at the ---

3 Q. Okay.

4 A. --- very beginning of that panel. And it was
5 getting close to the end of the shift. We ran into
6 the supply crews and their motors. And we had already
7 --- we had this switch put in here for --- we always
8 called it Two section. The tailgate --- the tailgate
9 was Two section and the headgate was One section.

10 Q. Okay.

11 A. So I'm going to refer to them as that, because ---

12 Q. Okay.

13 A. --- saying the headgate and tailgate confuses me.

14 Q. Okay. Well, let's just write --- so I don't get
15 confused ---

16 A. Okay.

17 Q. --- why don't you just label that one Two section
18 and One section?

19 WITNESS COMPLIES

20 MR. WATKINS:

21 Okay.

22 A. Okay. So we were making our way back outby off of
23 One section. We'd just left the end of the track. I
24 think we had gotten supplies situated and organized to
25 start work on the track Tuesday morning when we'd come

1 underground. I think we come back, ran into the motor
2 crews here (indicating). They were coming off of Two
3 section and they were headed back to supply hole, and
4 they were going to be loading a highline sled.

5 BY MR. WATKINS:

6 Q. Okay. And the supply hole is one One section?

7 A. The supply hole on One section.

8 Q. Okay.

9 A. Okay. And the forklift at the supply hole, it
10 wasn't going to load that --- it wasn't going to load
11 the sled. Joe Massey and Bruce Vickers were the ---
12 they were the supply men there. I suggested, you want
13 me to walk up to the section and get the scoop, so we
14 can use the scoop to load up --- to load up the
15 highline sled? Bruce really didn't want to walk all
16 that far, so that's why I suggested it, so I said,
17 I'll walk up there and go get it. You know, it won't
18 be no problem. So he said, okay.

19 So I left from about midways of the panel,
20 wherever the supply doors are, I don't know exactly
21 what break number. Went up to One section. I
22 traveled the Number Three entry, which was where the
23 supplies and everything were. I traveled it.

24 When I got to the section, a miner man was in the
25 Number Three entry. I knew him. I was stopping to

1 talk to him for a few minutes there, asked him how he
2 was doing. So-so, you know, rough day. It's all
3 right, though, we're doing good. Okay. I'd actually
4 ran into the scoop man a couple breaks outby. He was
5 --- Ronald Maynor, and he was loading wire mesh that
6 they pin to the top.

7 Q. Uh-huh (yes).

8 A. If I'm not mistaken, that's what he had. Then he
9 had some waterline on his scoop. He was loading all
10 that up and I helped him fool with that for a minute.
11 Then I went on up and I ran into the miner man. He
12 was in Three, from what I understand. Well, yeah,
13 that's Three. And I talked to him for a minute. I'd
14 asked both the scoop man and the miner man if they
15 knew where the section's other scoop was because they
16 had two scoops up there.

17 The miner man suggested I go talk to Dino, the
18 boss. And he said he's either in Two or One or ---.
19 He didn't say Two or One. He pointed over there. And
20 I was like --- the direction of Two or One, so ---.

21 Q. So that's the only numbers you had, wasn't it?

22 A. Huh? Yeah. That's the only numbers I had, so I
23 went that way, and I actually ran into Dino. That's
24 what we call the boss up there. I can't think of his
25 real name. But I talked to Dino, asked him where that

1 scoop was, asked him could I use it, what was going
2 on, we were going to load the highline sled. He said
3 yeah, it's outby there. I think I found it one or two
4 breaks outby. I'm not for sure where, but ---. I
5 can't remember exactly, but it was one or two breaks
6 outby I found the scoop. He said, yeah --- yeah, you
7 can go ahead and take it. I don't know how much
8 charge it's got on it, but you --- you know, you
9 should be able to do what you need to do with it.
10 So I come back, and I stop in the crosscut between
11 Two --- Number Two and Three entry. The section ---
12 One section scoop man was coming up through there on
13 his scoop, and we kind of got together and bumped
14 heads and figured out how we was going to get around
15 each other, because I was going down that way and he
16 was coming up that way. So he opted to back down and
17 I pulled into a crosscut behind the stopping line
18 there between Two and Three. And then he went on by
19 me, and I went --- continued on down toward the spot.
20 I think I got two, three breaks outby --- or two
21 or three breaks inby from the supply hole. I was
22 almost close enough where I could see Bruce, Joe,
23 Ralph Plumley, all them lights down there. They were
24 waiting on me to come back with the scoop. And the
25 scoop just quit. It wouldn't run. At this time, it's

1 a few minutes after --- after 2:00. We're supposed to
2 be outside at 2:30. I'm getting aggravated. I cut it
3 on, it won't tram. I cut it off, cut it back on, it
4 will only tram backwards. I cut it off and cut it
5 back on, it won't tram.

6 So finally, I get it down there. It managed to
7 make its way down there. I thought maybe I wasn't
8 holding my mouth right or something, I don't know. So
9 I get down there and they say that, I guess, the sled
10 is outby of the supply doors. And I made it to the
11 supply doors. Well, I couldn't get it to move no
12 further and I was getting frustrated. Bruce and Joe
13 went over and was looking at it. They thought maybe
14 they could take a look at it and see if they knew what
15 might be wrong with it or anything that they can, I
16 don't know, I guess limp it along to make it do what
17 we needed to do to get back on section and let the
18 electrician know that it wasn't working right. But it
19 wouldn't work.

20 I couldn't get it to move no further, they
21 couldn't get it to do nothing else. I got off of it.
22 I was aggravated. I told Ralph, which is my boss, I
23 said I'm loading the tools up, I'm going outside.
24 We're already going to be past 2:30 getting out,
25 because at that point, after we all messed with the

1 scoop, it was getting close to 2:30 anyway. I said,
2 I'm loading tools up. He jumps in the scoop and said
3 the damn thing ain't working, leave it alone. We'll
4 let 'em know it's messed or something, whatever we got
5 to do, but it ain't working, let's go.

6 He messes with it, I load tools up. Tommy helps
7 me load tools up. Eventually here comes Bruce and Joe
8 and Ralph, they give up, too. And we all load up and
9 go outside. We made it back --- we didn't go straight
10 outside. We made it back to --- it's Number Five belt
11 head heading toward the Ellis Portal. There was ---
12 I'm sorry, it's Number Four belt head, I guess. In
13 this area here ---.

14 MR. TUCKER:

15 I think we got another map in here that
16 might be a little bit larger scale.

17 A. Does it show the Ellis Portal side?

18 MR. TUCKER:

19 Yeah. This is a little bigger scale than
20 one he's looking at there.

21 A. This is the actual Ellis Portal side here ---

22 MR. TUCKER:

23 Yes.

24 A. --- as I'm looking at it?

25 MR. TUCKER:

1 Uh-huh (yes).

2 A. Okay. I don't see any markings that actually
3 describe where this is on the map, but it's in this
4 area here. It is approximately I'd say about 15, 20
5 breaks inby from the Ellis Portal.

6 BY MR. WATKINS:

7 Q. In the intersection there?

8 A. Yes, there's an intersection right here. The
9 track goes --- there's like two switches you go
10 through, and it kind of makes an S there. You can go
11 back this direction here toward the beltline in that
12 switch, and there's two sets of chargers there. We
13 usually put our two Jeep there on charge, and the
14 superintendent usually keeps his Jeep there on charge.
15 So we put our Jeep on charge. The next mantrip
16 that comes through, if I'm not mistaken was Joey
17 Burdoff and his crew, the ones that work on the water,
18 maintaining the water pumps.

19 Q. Okay.

20 A. We ride out with them. We get two breaks --- two
21 breaks away from the outside at the Ellis Portal, drop
22 our tools off, because we had to load our tools up on
23 that other mantrip from here. We dropped our tools
24 off. We put 'em in a tool box. Ralph starts loading
25 'em up. Tommy and myself start heading outside,

1 shoulder to shoulder with the evening shift as they're
2 coming in. So I'm going to assume that's right around
3 three o'clock, ---

4 Q. Okay.

5 A. --- because that's --- I think --- I'm pretty sure
6 it's when they started. Maybe a few minutes 'til they
7 were heading in.

8 So we head out. Ralph's still in there locking up
9 his box. Tommy and I come out. I make it maybe 75
10 feet away from the portal, away from the drift mouth.
11 I was going to take my boots off, and I started
12 noticed everybody looking over my shoulder. And I
13 turn and look, and that's when I see everything coming
14 out of the drift mouth. Dust, small debris, bit
15 buckets, bags of rock dusting --- you know, not full
16 bags, but empty bags of rock dust coming out of the
17 drift mouth completely across the shelf there of the
18 parking lot, and it was blowing way, way over through
19 there. And I didn't know what it was. I never seen
20 anything like it.

21 Immediately everybody thought, you know, something
22 fell, crushed out overcast or stopping, air got back,
23 something like that. Something's not right. And I go
24 back over towards the --- toward the drift mouth, and
25 before I even made it completely back over there,

1 Ralph comes out. And he --- as soon as he clears ---
2 they got a canopy that comes, oh, I want to say, 20,
3 maybe 30 feet out from the drift mouth, keep it
4 like ---. As soon as he clears the face, he turns and
5 runs out from underneath the canopy to get into the
6 fresh air. He was going, what was that? And I run
7 over there, and I'm at the end of the canopy trying to
8 look back inside. You can't see. There's nothing but
9 dust and debris coming out. You can't see anything.
10 And then all of a sudden you start seeing the
11 evening shift guys start coming out. Some of 'em
12 don't even have hats on. Some of 'em don't have their
13 lights on. You know, it just --- it blew all that off
14 their heads and stuff like that. And they looked like
15 --- you know, don't look back, you know. And I just
16 passed by 'em, you know, as I come out.
17 I guess we kind of regrouped right there, and
18 tried to figure out what was going on. And everybody
19 made sure that --- they was trying to figure out, all
20 right, who was still in there and who we had outside.
21 And then it just quit. It may have been --- it could
22 have been 30 seconds long. It could have been, you
23 know, two minutes long. I really wasn't keeping time,
24 but, you know, at the point --- at the time, it was
25 happening, it seemed like a really long time for a

1 bunch of wind like that to be coming out of that. And
2 when it quit, immediately everybody thought they cut
3 the fans off because something wasn't right, you know,
4 the air was doing something funny.

5 Once all that settled down, then other men started
6 coming out. Some of 'em had their rescuers on. There
7 was a section right here close by the switch where
8 these chargers are that we left our Jeep on charge at
9 every day.

10 Q. Uh-huh (yes).

11 A. They were starting to do something over in this
12 area over here, which is --- which is pretty much the
13 back side of LLB portion of the mines that makes its
14 way over to the Ellis side. Those guys portalled on
15 the UBB side, so they had already gotten on their
16 mantrip, was making their way between Ellis Switch and
17 --- we always called it Five belt head, I don't know
18 if it is or not.

19 Q. Okay. You can just go ahead and label 'em there
20 what you want, and that way you can call 'em what you
21 want.

22 A. Okay.

23 WITNESS COMPLIES

24 BY MR. WATKINS:

25 Q. Just for the record, what did you write there?

1 A. This here where the switch is, we keep our Jeeps
2 on charge, Number Five belt head, that's what I always
3 called it.

4 Q. Okay.

5 A. And then this down here --- this area right here
6 (indicating) is known as the Ellis Switch.

7 Q. Just draw your line up there.

8 WITNESS COMPLIES

9 A. How in the world do you even spell it. It's
10 E-L-L-I-S.

11 BY MR. WATKINS:

12 Q. You can call it whatever you what, because now you
13 got the pen.

14 A. Yeah. I'm drawing it out here. And that group of
15 guys, they were on their way from the Number Five belt
16 head back toward Ellis Switch to make their way out to
17 the UBB side. They said that they --- if I'm not
18 mistaken, they said that they almost made it to this
19 straight stretch, this straight shot right here
20 (indicating). There's a belt that runs down through
21 there right next to the track. And they said that the
22 gust of wind was so strong it stopped the mantrip as
23 it was traveling inby and pushed it back outby. And
24 those guys are the ones that started coming out
25 probably five minutes after the gust of wind stopped

1 coming out of the portal. And a few of those had
2 their rescuers and stuff like that on as they come
3 out.

4 And I stuck around for, I don't know, maybe an
5 hour or so after it happened. And then it finally
6 just hit me. I was like something --- something bad
7 went wrong right here. And I --- at the time my wife
8 was at home nine months pregnant. So I thought
9 immediately, okay, I need to call her. I go in the
10 bath house, the power's off. There's no phone. So I
11 hurried up and get changed out of my work clothes, and
12 another guy and I decided we were going to go head
13 toward Whitesville, there's a little gas station,
14 convenience store there. And we were going to call
15 home and let everybody know --- he was working evening
16 shift. He had just went in, and he was one of the
17 ones that come back out with those crews there, and I
18 just got off work. So we both decided we were going
19 to go make phone calls and let everybody know we were
20 all right before they heard anything.

21 Q. Do you remember who that was? If you don't, it's
22 okay.

23 A. I think his last name was Powers. I don't know,
24 but --- Ron Powers, if I'm not mistaken.

25 Q. Okay.

1 A. And we got down there and called. I didn't even
2 tell my wife anything, you know, because she was
3 pregnant. I just told her, hey, I worked late, I'll
4 be coming home here in a little bit, I worked a little
5 late. And then I left --- and we left and went back.
6 When we got back to the bottom of the hill there at
7 the mine, they wouldn't let us in. So that was the
8 last time I was back on the hill there.

9 One of the fire rescue guys asked me to run back
10 down to Whitesville and let his dad know a little
11 something, something about get his dog out of his
12 house or something, because he had a Great Dane or
13 something. I told him, yeah, buddy, I'll go down and
14 let your daddy get your horse out of the house. And I
15 come back and seen him again, let him know --- I
16 talked to him for a minute, and he said, yeah, he
17 said, something not good has happened up there, buddy.
18 He said I can't really tell you. I wish I could. And
19 you just come from out of there. He said, I wish I
20 could, but I really can't say too much, but something
21 bad has happened.

22 And he said how many people do you think still's
23 in there. I told him, I said at least two full
24 regular working sections and longwall guys are in
25 there, so --- that I know of, so ---. I kind of --- I

1 wanted to go back up and talk to the top of the hill
2 to see what I could do, but at the same time I was
3 like, well, I'm not even an EMT. I mean, pass out
4 waters to everybody, so I don't know. I don't know.
5 I didn't have any idea what good I would be doing up
6 there and I didn't know how I'd handle it anyway,
7 so ---. So I just went ahead and hightailed it home.

8 Before I got home, somebody had already heard
9 about it and called and asked my wife, was I at work,
10 how was I doing, and all this good stuff. So when I
11 get home, I get jumped on because I didn't tell her
12 what happened. What happened up there? What's going
13 on? I was like, honey, I don't know, something bad
14 happened, I don't know. It's all right. I'm home,
15 though. I don't know what happened. And that was
16 pretty much everything that happened on my workday
17 there that I can --- to the best of my knowledge, the
18 best I can remember.

19 Q. That's a pretty good recollection. Just a couple
20 questions. The first thing that comes to mind, the
21 crew that you said was working just south of the
22 Number Five head, ---

23 A. Uh-huh (yes).

24 Q. --- which is --- you said a portal on the UBB
25 side?

1 A. Yes.

2 Q. That's only, what, 30 breaks from Ellis?

3 A. Yes.

4 Q. Why ---?

5 A. You got me. You got me. I don't understand it
6 either. Well, for one, the longwall headgate and tail
7 --- well, no, tailgate section didn't use that bath
8 house.

9 Q. Uh-huh (yes).

10 A. But there was quite a few people already using
11 that bath house over there, so the space was fairly
12 limited over there.

13 Q. Okay.

14 A. And those guys were --- I don't know where they
15 were working prior to it, but it was closer to the UBB
16 Portal, ---

17 Q. At that time.

18 A. --- before they moved over and started messing
19 with that. That's why they were still portalling
20 over. And they hadn't been there very long. I don't
21 remember how long exactly, but they hadn't been there
22 very, very long at all. And they come out and told us
23 --- well, we actually had a couple guys --- let 'em
24 ride in the back of their truck from Ellis Portal just
25 over to UBB so that they could get their keys and

1 their vehicles and stuff going on, too.

2 Q. Okay. Let's back up on the sections a little bit,
3 I guess, before I back out.

4 A. Okay.

5 Q. What time did you say it was when you started
6 outside?

7 A. It was at least 2:30 or so. It was --- I remember
8 being aggravated, because we should have already been
9 outside. I remember that much.

10 Q. And you was up on the, I think you call it One
11 section?

12 A. Yes. I referred to it as One section, because
13 that group of guys were, at the time, the crew that
14 was on One section, as I knew it, when they were
15 driving this current panel.

16 Q. When you was up getting the scoop off the One
17 section, you mentioned you talked to a couple guys.
18 Were they running coal, when there was coal ---?

19 A. Yes. Like I said, Griff --- that's what I called
20 him. The miner man up there on One. I think his name
21 is William Griffith. I'm not for sure what his real
22 name was, but I always called him Griff. He was real
23 good friends with my uncle, so he and I talked a lot
24 and stuff. But he was actually backing the miner out
25 of Three. And he was trying to hang his cable across

1 the entry there so that he could back on out and head
2 on across the other side of the section, that way the
3 bolt machine come in there and bolt it, I guess.

4 When I come up through there, that's what he was
5 doing. He was backing his miner out of there. And he
6 asked me how far along the scoop man was behind me.
7 And like I said, I stopped and talked to Ronald
8 Maynor, the scoop man, and he was loading those things
9 up on his scoop. And I told Griff, I said, I just ---
10 you know, he's back there a couple breaks messing with
11 that wire mesh and stuff. I just helped him, you
12 know, helped him out there, he should be coming up
13 through here at any time. And he was worried about
14 whether he should go ahead and drop his cable or wait
15 on him. Well, he needs to hurry up and all that good
16 stuff. And so I told him, he's just outby there just
17 a little bit, I don't know. I said, but I'm getting
18 ready to go get the scoop, you know, why don't you
19 just leave it up there, that way I can come back up
20 through. All right. All right.

21 I went across and I found Dino. And Dino was in
22 his normal ---. He was the boss, so he had to make
23 sure everything was, you know, the way it was, and he
24 was just bee-bopping around there like he was on a
25 mission, like he always was, I guess. And I stopped

1 him, and I said, Dino, can I use your other scoop?
2 And he said, yeah, it's around here somewhere. He
3 said, I don't know how much --- how much charge it's
4 got on it, but it's still here somewhere, you can use
5 it. And I told him, all right, I'm going to take it
6 outby to spot a whole load up the highline for John
7 Bruce. He said okay. He said, yeah, it's around here
8 somewhere, I don't know --- I don't know how much
9 charge it's got on it, or --- he said, you can try it
10 out there.

11 Like I said, I went it may have been a break or
12 two outby when I found out that --- I can't really
13 remember exactly where it was. But I grabbed ahold of
14 it and I brought it back up, because they had
15 stoppings and stuff go through where I had to go back
16 up to where I ran into Griff, back out Three. And I
17 come through there and that's when I ran right into
18 Ronald. He was coming up Three and I was coming
19 across to go down Three there. And he went and backed
20 up. And it was a couple breaks, two, three, maybe
21 four, he had to back up to find a good break that
22 didn't supplies or something like that stuck in it to
23 where I could pull in and he could come by me. And
24 once that happened, I went on --- I come on outby and
25 back over to the supply hole.

1 Q. When you was on the section talking to those guys,
2 they didn't have any indication anything was wrong, it
3 was just a normal day?

4 A. No. They didn't seem like they had any, you know,
5 real concerns, just your normal stuff on a section. I
6 really can't think of anything that anybody may have
7 said. Didn't say anything about anything bad,
8 whatever may have been going on in the section that
9 day or didn't say if anything was break down or giving
10 'em any trouble, nothing that I know of.

11 Q. When you and Ralph and the rest of the crew
12 started coming out, did you run into anybody else?
13 Did you talk to anyone else on the way out?

14 A. On the way out? Not that I can remember. I don't
15 know. I'm pretty sure we followed --- yeah, I'm
16 pretty sure we followed Joe and --- Joe Massey and
17 Bruce Vickers out. They had their motors in front of
18 us, so I'm pretty sure we --- we were following those
19 guys out of there.

20 Q. Okay. So you had --- Joe and those guys was in
21 the motor and you guys had two ---

22 A. Two Jeeps.

23 Q. --- two Jeeps?

24 A. Yeah. No. Number two Jeep.

25 Q. Oh, number two Jeep. Just one. Okay.

1 A. Just one Jeep. It's number two Jeep.

2 Q. Okay.

3 A. That's the one we always took, was number two.

4 Q. Okay.

5 A. I don't know why Ralph had an attachment to it but
6 he did. That was --- that was our Jeep.

7 Q. So when you guys came out, all the doors --- you'd
8 be the last the Jeep ---? All the doors and stuff
9 were closed and stuff when you came out?

10 A. Yes. We come up to all the doors and, you know,
11 same routine like I told you, you know, Ralph would be
12 driving, and I'd get out and open the first set and,
13 you know, Tommy would get out the same time and when I
14 open the first set, he'd go up on the second set.
15 And I'd close 'em as Ralph come through then he'd
16 open ---. You know, we had a little system. We got
17 through the doors pretty quick. Especially on the way
18 out. There was no time to play around then.

19 Q. All right. Did you ever have any conversations
20 with anybody in the mine as far as anything they
21 thought was unsafe, any hazards or concerns that they
22 had at the mine?

23 A. Not really. It's like --- those other MSHA guys
24 that actually come and spoke to me, they were asking
25 me, you know, did I know anything about how much

1 methane that mines put off in a shift, in a day or
2 something like that. I told 'em, I had no clue.

3 Q. Uh-huh (yes).

4 A. You know, most of the time when I worked there it
5 was on the track, the track was usually really, you
6 know, fairly close to an intake, you know, we always
7 have good air, really. It really wasn't really any
8 issues with anything like that. And even when I was
9 around the other guys in the bath house talking, I
10 never heard --- never heard it.

11 Q. Uh-huh (yes).

12 A. I never knew that the mines had methane even in
13 it. I always thought it was, you know, a fairly
14 methane-free mine. And he looked at me like --- like
15 I was silly for not knowing it, like I should have
16 known that. And I really didn't know that.

17 Q. Did you ever hear the guys on the --- I don't know
18 if you call it One section or Two section, for that
19 matter, complain about being low on air, the section
20 not having enough air?

21 A. There was one time I remember, I don't know if it
22 was Dino that come back off of one section, which is
23 the Headgate 22. I can't remember who it was. But we
24 were down there working on the track and somebody come
25 down through there and was checking stoppings, and,

1 you know, taking a look at stuff and said something
2 about his air wasn't right or something, it wasn't ---
3 he wasn't getting what he's supposed to or something.
4 But I ---

5 Q. Uh-huh (yes).

6 A. --- like I said, I just recently got put on the
7 section when we got transferred, so I didn't really
8 pay too much attention to it. I didn't know --- I
9 didn't take too much concern to it. I just thought
10 maybe he wasn't --- you know, maybe everything wasn't
11 up to par, so he was just coming down through there to
12 make sure, you know, he was --- something was messed
13 up or something, but ---.

14 Q. Uh-huh (yes).

15 A. Like I said, there was about one time I remember
16 that happening while we were up there on the headgate
17 side.

18 Q. Okay. I asked you about the Headgate One section,
19 Two section. What about the longwall? Did the
20 longwall crews, did they ever complain about being low
21 on air?

22 A. Not that I know of. Not that I know of.

23 Q. Okay.

24 RE-EXAMINATION

25 BY MR. TUCKER:

1 Q. When you were up on the Number One section or we
2 call it Headgate 22 section on April the 5th, were you
3 around the section mantrip?

4 A. Yes. Yes. Yes. Their mantrip was all within ---
5 into the track as far as you could go. If I'm not
6 mistaken, we had --- we had a flat of rails in their
7 mantrip or it was a flat of rails and a motor in their
8 mantrip. I'm not --- I can't remember what all was up
9 there, but I'm pretty sure there were rails in at
10 least their mantrip. I don't know if it was a motor
11 attached to the rails or not, but that was all up
12 there on the end of the tracks there.

13 Q. I guess if there were rails up there, anything
14 other than a mantrip, it would have been inby the
15 mantrip?

16 A. Yes. Their mantrip was the first thing outby on
17 --- when we left from up there.

18 Q. Did you notice anything or smell anything odd
19 around when you was around the mantrip?

20 A. No. No.

21 Q. Okay.

22 A. No. I don't remember. If there had been anything
23 wrong with it --- I don't remember if we got to lay
24 any rails or anything that day or not, but I do know
25 we were blocking --- we were trying to block the

1 track. But the reason I say is I don't remember if it
2 was a motor attached to those rails or not was because
3 if there wasn't, we would --- we would always hook the
4 choker up to the mantrip and chain the --- the rail
5 trucks to the mantrip as well, to pull 'em back and
6 drop off rails and things like that, as we were on the
7 end of the track, instead of having to have a motor up
8 there with us. So if that were so, we'd a noticed
9 something wrong with that mantrip. Like I said, I
10 don't remember anything being wrong with the mantrip.
11 I don't remember smelling any of the --- you know, the
12 smell you get off the batteries when they start ---

13 Q. Right.

14 A. --- cooking or you got some --- you got too much
15 battery acid built up on 'em, something like that.
16 And I don't remember --- I don't remember smelling
17 anything like that. I don't remember anything out of
18 the ordinary about the mantrip.

19 Q. Okay. When you went up on the section and got the
20 scoop off charge ---?

21 A. No, it wasn't on charge.

22 Q. It wasn't on charge?

23 A. No.

24 Q. Okay. So there were no scoops on charge when you
25 were up on the section?

1 A. No.

2 Q. Section scoop guy, he had the ---?

3 A. He had --- the section guy had the other scoop,
4 yes.

5 Q. Okay. You mentioned that Griff said it had been a
6 bad day or a rough day. Did he elaborate as far as
7 what kind of day he was having, what was going wrong?

8 A. No, not really.

9 Q. Okay.

10 A. He didn't say too much, because when I come up
11 there and talked to him, something else I had spoken
12 to him about was --- because when I first got up
13 there, he asked me what I was doing up there. And I
14 told him, I said, they told me to come up here for you
15 to give me the box, it's time for me to learn how to
16 run that thing. He was like all right. I said, no,
17 that ain't why they sent me up here. I come up here
18 to get the scoop. And he went into, how you doing and
19 this, that and the other. He was talking about
20 whether or not to drop his cables or not, but as far
21 as getting into anything in particular going wrong,
22 no. He just --- it was a rough day, I guess. I don't
23 know. I don't know what he meant by it, if there was
24 anything in particular or not, I don't know.

25 But he and I talked for just a brief second there

1 about I was supposed to have been sent up there with
2 him to learn how to run that miner. They were --- the
3 superintendent had been talking about it. And I was
4 supposed to go up there any learn how to run it with
5 Griff, but the track was behind, so that was kind of
6 keeping me from getting up there to it. I remember
7 --- I remember the superintendent telling me, he said,
8 when you can ride to the face and get off of the
9 mantrip then you can go to the section. I said okay.
10 So --- but Griff and I talked about that for a second.
11 He said, yeah, he had heard it, that I was
12 supposed to come up there with him. He said, it's
13 been a week or two you was supposed to come up here.
14 So I don't know what's ---. And I was like, I don't
15 know, I need to get a scoop, though, you know where
16 it's at? And he said --- where Dino's at, so I can
17 let him know I'm going to take it. He said Dino's
18 over through --- pointing, pointing towards One and
19 Two entries. So that's about all Griff and I talked
20 about there for a second there.

21 Q. Okay. You said the miner was backing out. Do you
22 know the digital readout for the methane monitor on
23 the back of the miner, did you happen to notice it?

24 A. I remember the glow off of it. I don't remember
25 what it was saying or anything like that.

1 Q. You can't recall seeing anything ---?

2 A. Yeah. Up until --- up until --- the other MSHA
3 guys that I had an interview with, they asked me the
4 same thing. Up until they asked me that question, I
5 didn't even know what all that was all about back
6 there. I didn't know what that was for. Like I said,
7 I hadn't been on the section, so I didn't know what
8 those numbers were for, but I don't remember --- I
9 don't remember looking at it and seeing any numbers.
10 But I remember the glow --- the red glow off of it,
11 because it was always there. I remember it was there
12 but I don't remember any specific numbers. I don't
13 remember seeing anything specific.

14 Q. Okay. And when you checked with Dino about
15 getting the scoop, he didn't mention anything about
16 any problems they'd been having with it, with the
17 scoop that you were going to get?

18 A. No. Not that I know. Not that I can remember.
19 He just --- his main concern was whether or not it was
20 charged. He didn't know if it was completely charged
21 up.

22 Q. Okay. Once you made it with the scoop back down
23 toward the mouth of the section there, and it quit
24 tramming, you kept fooling with it, you finally got
25 down a little bit further, then it completely quit.

1 You couldn't get it to do anything and ---?

2 A. No. It would cut on.

3 Q. It just wouldn't tram?

4 A. It wouldn't tram. It was like --- it was like
5 almost like the forward, reverse switch wasn't kicking
6 in or something, or maybe the tram pedal --- I guess,
7 that sensor that lets it reset between ---. It was
8 like something was sticking almost and it wouldn't ---
9 it just didn't want to move.

10 Q. Right.

11 A. But it would cut on. It would cut on fine. It
12 just ---.

13 Q. The pump motor came on, it just wouldn't tram?

14 A. Right. It just wouldn't --- well, pump motor,
15 what do you mean by that?

16 Q. Well, it would start up.

17 A. Oh, yeah. Yeah, it would start up, and start
18 (makes a noise) making all that racket it does. But
19 yeah, it wouldn't --- it wouldn't move. It would move
20 in reverse before it would back up, but we didn't need
21 it to go ---. So eventually I think they couldn't get
22 it to move at all once we were down there at the
23 supply doors.

24 Q. And I guess at that point you still didn't --- you
25 didn't smell anything on the scoop like there could

1 have been some heat ---

2 A. No.

3 Q. --- on it or anything like that?

4 A. Uh-uh (no). It --- I don't even remember how much
5 charge it had on it. We was just trying to hurry up
6 and get that thing loaded up and get out of there,
7 that's all I remember. I can't --- I can't remember
8 how much charge it had on it or anything. But I don't
9 remember smelling anything as far as the batteries,
10 like how you --- when you get your batteries heating
11 up or anything, I don't remember smelling anything
12 like that.

13 Q. Okay.

14 A. A little bit of hydraulic oil, but that's common
15 around all that equipment.

16 Q. Do you do any cutting and welding?

17 A. At times I do use torches on the rails to cut
18 rails and we use them to heat up the rails to bend 'em
19 for curves and stuff, yes.

20 Q. Do you recall if you did any that day, on April
21 5th?

22 A. No. No, we didn't that day. We didn't even have
23 our torches with us that day.

24 Q. You mentioned the supply hole was in Number Three
25 entry, down Number Three entry?

1 A. Right. Like how you got your stopping line is
2 between One and Two. And then on the other side it's
3 between Two and Three.

4 Q. So it would have been on the return side of the
5 stopping?

6 A. Right. It would have been in Three, I guess, if
7 that's the return.

8 Q. Okay. Do you recall about how far outby the
9 supply hole is?

10 A. No, not really.

11 Q. Halfway down?

12 A. It was --- it was about halfway of the panel
13 because it was still a good little trek out to the ---
14 is this map up to date all the way up until the 5th or
15 --- of April or ---?

16 MR. WATKINS:

17 It may be a little bit behind.

18 A. Okay. Well ---.

19 MR. WATKINS:

20 It don't have the last markup, so it may
21 be a little bit behind.

22 A. It was approximately halfway up that panel. I
23 don't know.

24 BY MR. TUCKER:

25 Q. Did you happen to notice your eyes burning any

1 time throughout the day or hear anybody comment about
2 their eyes burning?

3 A. Uh-uh (no).

4 OFF RECORD DISCUSSION

5 A. I'm sorry. No.

6 BY MR. TUCKER:

7 Q. Did you notice anybody else that came up on 22
8 Headgate the day --- on April 5th, when you all were
9 up there working on the track? Did anybody else come
10 up there?

11 A. The gentleman who had only been working there for
12 a couple days, fire boss, Michael Elswick, I think we
13 seen him when we were messing around blocking on the
14 track. At this switch, there was a --- where they had
15 cut for the switch to go in or just the way they cut
16 that block of coal, there was a ledge of rock right on
17 the inside of the turn. It was a back switch. You
18 come inby the turn there and then you went back outby
19 through the switch to go on down towards Two section.
20 It was a little, there was a chunk of rock right there
21 on the corner, down toward the track that would ---
22 flats and stuff would come through there and they
23 would rub ---

24 Q. Uh-huh (yes).

25 A. --- and stuff like that. So we were --- we were

1 chipping it off with picks and slate bars and stuff
2 like that. And I can't remember exactly what time
3 that was --- but I do remember Mike and Ralph talking.
4 Did you work here? Did you work there? Yeah. Yeah,
5 that's where I know you from, you know. And they kind
6 of talked for just a minute. And the last I seen
7 Mike, he headed on inby, and I didn't see him no more
8 that day. I don't know. I don't know if he come back
9 outby if I had been up on the section or ---. After
10 he left from here and headed inby, like normally the
11 fire bosses that come up here, you'll see 'em.
12 They'll get in the track entry and they're fire
13 bossing the power boxes and the whole nine yards, and
14 the belt, and, I mean, they're just --- down through
15 there, everywhere. And then toward mid-shift you'll
16 see 'em come back and then, you know, the whole thing
17 again type deal. But that's the only time I remember
18 seeing him that day. I think I may have seen him a
19 little later. He was at the power center that was
20 just a break or so inby from that switch.

21 Q. The switch referring to at the mouth of
22 Tailgate ---?

23 A. The switch at the mouth of 22 Tailgate, yes.

24 Q. Okay.

25 A. And that was only because we were right there at

1 the switch and you could kind of see 'em down there
2 after we were working our way on inby messing with the
3 track and stuff, so ---.

4 Q. When you were in the scoop, did you happen to
5 notice any bolts out of the panels or any loose bolts
6 or any bolts that were missing from the panels?

7 A. No. I don't remember any loose bolts or missing
8 bolts.

9 Q. Okay.

10 RE-EXAMINATION

11 BY MS. MONFORTON:

12 Q. Have you driven other scoops?

13 A. Yes.

14 Q. How did this scoop compare to other ones, besides
15 it wouldn't work? I mean its general condition, was
16 it older, newer, anything unique about it?

17 A. No. Not that --- not that I can recall. No.
18 They all got their own little quirks to 'em. You get
19 in 'em, you got to kind of figure out what makes 'em
20 work there just for a second, you know.

21 Q. Uh-huh (yes).

22 A. Some of 'em you got to turn the switch just far
23 enough for it to cut on, you know, for it to go in
24 forward, reverse or something like that, or you may
25 have to hold in the brake to get it to release. You

1 may just touch the brake and it'll release ---

2 Q. Uh-huh (yes).

3 A. --- and stuff like that. It's just --- just one
4 of those things you got to kind of feel each one of
5 'em out.

6 Q. Uh-huh (yes).

7 A. But I didn't --- I don't remember anything in
8 particular different about this one than any of the
9 other ones that stuck out.

10 Q. You said that your uncle was a good friend with
11 Mr. Griffith and so you had kind of your own special
12 relationship with him, so when you met him up on the
13 section, did he seem like himself, just ---?

14 A. Yeah. Yeah. He seemed about like he always does.
15 He's just --- he's just an old miner man. He's just
16 always constantly trying to get a cut up there. He's
17 always --- you know, I didn't --- I didn't personally
18 sense anything that may have been wrong or didn't ---
19 he didn't seem too concerned about a whole lot, just,
20 you know ---.

21 Q. I'm trying to get a little sense of when you came
22 out of the mine, you said you were going to wash off
23 your boots, ---

24 A. Uh-huh (yes). Yes.

25 Q. --- take off your boots, and then you saw

1 everybody looking over your shoulder. And then some
2 time passed before you left for the convenience
3 store ---

4 A. Yes.

5 Q. --- to make a call? Do you have any idea about
6 how much time you were there before you decided ---?

7 A. Yeah, that was approximately an hour, hour and a
8 half.

9 Q. Oh, okay.

10 A. Like I said, we had gotten outside late, so it was
11 right at three o'clock ---

12 Q. Three o'clock. Okay.

13 A. --- when it happened. I remember --- I remember
14 when we were leaving to go down the hill, I was
15 following Ron in his car, or truck. I can't remember
16 what he was driving. But I was following him and I
17 remember looking it was about 4:30 or so ---

18 Q. Okay.

19 A. --- almost 4:30 or so.

20 Q. Okay.

21 A. And that --- when I noticed it was getting later
22 and later and later, that's when I kind of figured I
23 better go call somebody and let somebody know that I'm
24 all right ---

25 Q. Uh-huh (yes).

1 A. --- before they --- you know, something gets out.
2 And then the first thing Ron does is he calls ---. He
3 goes down there and says we need to call home, I think
4 the mines blew up. I said, you don't know that, Ron.
5 Don't say that, dude. The first thing he said. I
6 wanted to smack him.

7 Q. So in that hour, hour-and-a-half period when you
8 were there in probably a lot of activity there, did
9 you see people go back in to the mine during that time
10 period?

11 A. Yes. During that time frame that --- from the
12 time I come outside at about 3:00 and the time that I
13 left --- well, actually even ---. It was quite a
14 while before I left ---

15 Q. Uh-huh (yes).

16 A. --- because I stuck around trying to, you know,
17 get any information I could. I was in the bath house
18 listening on the mine call and, you know, talking to
19 all the guys up there, you know, the guys that were on
20 their way back to the UBB Portal, talking to them,
21 what was it, what happened, what's going on, you know?
22 Chris Blanchard had showed up. He got --- he got
23 all his equipment on. And I'm pretty sure it's Jason
24 Whitehead, he --- he had showed up and he got his
25 equipment on. And himself, Chris Blanchard, the

1 superintendent, which is Everett Hager, Jack Roles,
2 and I want to say Scott Halstead, he was the fire
3 boss. And I can't think of Pat's name but he --- he
4 was the evening shift boss for Two section. I think
5 --- yeah, for Two section, I'm pretty sure. I can't
6 think of his last name but his first name is Patrick.
7 And that group there, if I'm not mistaken, all those
8 guys went back in.

9 I remember 'em all getting --- getting their stuff
10 together, they're hollering --- you know, all of them
11 wanted to take their own --- you know. take a methane
12 detector with them. So every one of them was asking
13 all the other fire bosses and bosses, hey, can we use
14 your detector? Can we use your detector? Anybody got
15 a light? Somebody got a light I can use, because
16 Whitehead didn't have a light there with him, I don't
17 think. So somebody gave him a light. And they all
18 kind of got together and headed back in to see what
19 they could find out, see what was going on.

20 Q. Uh-huh (yes). Did you hear any of them or anyone
21 else talk about, we need to call the State, or we need
22 to call MSHA?

23 A. Oh, yeah. While I was listening on the mine
24 phone, I heard a dispatcher talking about, you know,
25 he had already called mine rescue and all that --- you

1 know, was starting to get the ball rolling on
2 everything. Because everybody was on the mine phone
3 trying to figure out between Ellis and the UBB side
4 who had checked out, who had went in and, you know,
5 all that good stuff. Everybody was trying to
6 communicate the best they could.

7 And I remember hearing I think Berman, the safety
8 guy, I think it was Gary May, and I can't think of
9 Rick's name but he was like the boss for --- he was
10 like one of the bosses for a barrier section that was
11 --- that barrier section that was starting up in
12 between those two longwall panels.

13 Q. Oh, uh-huh (yes).

14 A. Right there before you get to the UBB or the LBB,
15 yes. Right before LBB. I think he was a boss down
16 there. I remember being on the phone and hearing Gary
17 May say that he had Berman and Rick with him and they
18 were at the Ellis Switch. And that was --- that
19 wasn't very long after the group of guys that I just
20 told you left and went in ---

21 Q. Uh-huh (yes).

22 A. --- to the Ellis Portal. And I don't think they
23 had made it to the Ellis Switch yet. That's about the
24 last thing I remember. After that, you didn't --- I
25 really hear too much on the mine phone unless it was

1 --- well, it was you know, the other bosses and the
2 dispatcher over at UBB, they were getting their heads
3 together, checking --- you know, making sure he knew
4 who was outside and who was inside.

5 Q. Uh-huh (yes).

6 A. And they were all trying to, you know, get all
7 their information together and make sure they knew who
8 was in and who was out. Other than that, I didn't
9 hear anything else on there before I left.

10 Q. Uh-huh (yes). Just for clarification, you said
11 that Chris Blanchard and Jason Whitehead showed up.
12 Did that mean they were not on the property and they
13 came to the property or they showed up somewhere in
14 the bath house or ---?

15 A. They could have been on the property. I'm not for
16 sure. Like they could have been on the UBB side.

17 Q. Okay.

18 A. But I was at the Ellis Portal, so they weren't
19 there at the time that I come outside. And a matter
20 of fact, Chris Blanchard pulled his truck right up in
21 front of the bath house there. I remember seeing him
22 get out of it. So he actually arrived at the Ellis
23 Portal. Jason Whitehead, I don't know whether he was
24 already at the Ellis Portal side or not. And I don't
25 know if --- they could have been on the UBB side of

1 the property. I don't know, so ---.

2 MS. MONFORTON:

3 I don't have anything else.

4 RE-EXAMINATION

5 BY MR. WATKINS:

6 Q. Since you're talking about the people that showed
7 up at Ellis Portal, was there anyone that seemed to
8 take charge?

9 A. Not really. I think they were all more or less
10 concerned on just trying to get back in --- you know,
11 making sure they had all they needed and ---.

12 Superintendent Everett was, you know, trying to get
13 somebody to make sure that he got everybody who was
14 already outside and make sure that they checked ---
15 you know, they were checked out, because, you know,
16 evening shift just went in, you know, it probably
17 slipped their mind to check back out. Make sure that
18 they checked out the list of who's already out here
19 and a list of who's still checked in on the board and
20 stuff, so ---.

21 Q. Were you outside at the time they brought the
22 mantrip outside that had some of the victims on it?

23 A. No.

24 Q. You had already left then?

25 A. I had already left. Uh-huh (yes). Yes.

1 Q. Did you see Wayne Persinger? Did he show up the
2 time before you left?

3 A. Wayne Persinger was one of the ones that went in,
4 yes. I remember him getting his stuff together and
5 stuff, too, yes. Wayne Persinger was one of them who
6 went back in, if I'm not mistaken. Yes.

7 Q. Okay. I'm going to jump around a little bit on
8 you; okay? A couple things. We know you were there
9 on the 5th. Okay. What shift did you work prior to
10 that? What was your last shift underground prior to
11 the 5th?

12 A. Well, it had to have been --- let's see, that was
13 --- Easter Sunday was before that, so we had Good
14 Friday, the week before that happened. So if I'm not
15 mistaken, it was Thursday dayshift.

16 Q. Okay.

17 A. On Thursday.

18 Q. Okay. So ---?

19 A. I don't remember the exact date that was, but it
20 was the Thursday prior to April 5th, so it was
21 dayshift.

22 Q. So you was off Friday, Saturday and Sunday?

23 A. I'm pretty sure we had Friday, Saturday, Sunday,
24 yes.

25 Q. Okay. Do you ever recall any time that the mines

1 was evacuated or people not allowed to work or maybe
2 the shift ended early because of any hazardous
3 conditions in the mine for any reason?

4 A. Nothing I'd now of, short of like the fans going
5 off or something like that. I had been underground
6 when the power knocked and the fans go off, but just
7 because like bad conditions or something no, not that
8 I know of.

9 Q. Do you remember when that was that the fan went
10 off?

11 A. Oh, man. Well, that was several --- several
12 months ago because we were over on the UBB side. We
13 were still --- we were still at the UBB Portal when
14 that happened.

15 Q. Okay. I know you didn't have any vacation
16 scheduled, but some of the other guys you work with,
17 do you know of any vacation that was cancelled?

18 A. Not that I know of, canceled. I remember some of
19 the fire bosses had an issue trying to get days off
20 because there were so few of 'em or something. I
21 don't know. I remember 'em talking about having a
22 hard time getting their time scheduled off, though,
23 whether it be vacation or just a P day or whatnot,
24 so ---.

25 Q. The scoops that you ran, they got methane monitors

1 on them, methane detectors?

2 A. I don't know. Not that I know of.

3 Q. Methane detectors --- methane ---?

4 A. Not that I know of.

5 Q. Okay. Are you familiar with the company's 1-800
6 number?

7 A. The safety tip hotline thing?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. Did you ever call it?

11 A. No. Like I said, I worked on --- you know, I
12 never really experienced anything I felt like I was in
13 danger enough to where I felt like I needed to call
14 it, to let somebody know, this is going on, this is
15 what they're putting me in. I never --- I never
16 experienced anything that bad. I mean, I hated the
17 water but I didn't --- you know, I didn't think it was
18 something that was endangering my life.

19 Q. Did you ever hear of anybody else that tried to
20 use that number or had called that number?

21 A. Not that I know of, no.

22 Q. What about MSHA's 1-800 number? Are you familiar
23 that they have a 1-800 number you can call to
24 report ---

25 A. No.

1 Q. --- something?

2 A. I didn't know about that number. I know that they
3 --- we always had it posted. And I have it at the
4 house wrote down, too, the 1-800, the safety tip
5 hotline thing.

6 Q. Are you talking about the one from Massey or
7 talking about the one from MSHA?

8 A. It's a --- I think it's the one from Massey. I'm
9 not for sure, but I don't think it's the MSHA one.

10 Q. Okay. I want to make sure I get ---. You wasn't
11 aware that MSHA had a 1-800 number that you could
12 call?

13 A. Yes, I was aware.

14 Q. Okay. Oh, you was aware?

15 A. I was aware.

16 Q. Okay. The last question. When you was --- when
17 you were coming out of the mine on the 5th, two
18 o'clock, 2:30, whatever time it was when you was
19 coming out, did you happen to notice if the longwall
20 belt had coal on it, if it was running or not?

21 A. No, not ---. No, because the only time we really
22 come across --- the only time we really get next to
23 the belt to even know if there's even any coal on it,
24 as you're riding in the mantrip because they keep the
25 belt ---. The belt entry and the track entry, you

1 know, they keep them separate. The only place that I
2 know of for the longwall belt to even be, you know, in
3 the same entry as the track is between the Ellis
4 Switch and the Number Five belt head that I had showed
5 you on the map earlier.

6 Q. I think I done it to you again. I think I asked
7 you two questions at the same time again.

8 A. So no, I did not see any coal on the belt for the
9 longwall.

10 RE-EXAMINATION

11 BY MR. TUCKER:

12 Q. Okay. Do you remember going by the Mother Drive
13 at the mouth of the longwall panel, ---

14 A. Vaguely.

15 Q. --- on the way out?

16 A. Vaguely.

17 Q. You didn't notice anything there, as far as coal?

18 A. Are you talking about as far as spilling off of
19 it or are you talking about ---?

20 Q. As far as knowing if there's coal on about here
21 and hitting the back board or anything like that, when
22 you went by the Mother Drive? Dust in there?

23 A. Not exactly, because that area there's --- it's
24 fairly loud because the track entry comes down through
25 there. Excuse me. The track entry comes down through

1 there and that belt crosses it. And it's not even a
2 full break over and there's another belt running next
3 to it and then you got the main Mother Drive motor is
4 right here running. So it's not like you can really
5 hear the --- you know, how the normal belt you can
6 kind of hear it as it's going down through there,
7 whether or not its got weight and got coal or
8 something on it or not? You know, we come through on
9 a mantrip, you come through there pretty --- pretty,
10 you know, fast and all that other racket you can't
11 really hear, if any is splashing over on to that other
12 belt or ---. And it's fairly --- they keep it fairly
13 moist there with sprays on it and all that good stuff
14 and scrapers, so you don't really see a lot of dust in
15 there.

16 Q. Okay.

17 A. I mean, I'm sure it's there but it's not thick
18 enough where you notice it.

19 Q. Okay. Do you recall when you were hired in by UBB
20 or David Stanly Consultants for that matter, has
21 anybody ever provided you with a copy of the State and
22 Federal mining laws?

23 A. Yes. David Stanley actually provided me with one.

24 RE-EXAMINATION

25 BY MS. MONFORTON:

1 Q. You said you were in the service?

2 A. Yes.

3 Q. Where did you --- when did you serve and where did
4 you serve?

5 A. Between January of 2004 and January of 2009. I
6 served in the U.S. Navy.

7 Q. Uh-huh (yes).

8 A. And I went from --- I really didn't get to go
9 really anywhere. I didn't go across seas or none of
10 that. I lucked out. I was in maintenance for five
11 days on a boat. I worked on aircraft. I chose --- I
12 chose a good job, I guess. I worked on aircraft. I
13 worked on helicopters and UAVs. I had a good time.

14 Q. Thank you very --- thank you for your service.
15 When you were interviewed by some of the Massey
16 attorneys, did they have you sign a statement, you
17 know, a statement of what you said?

18 A. I can't --- I can't remember if they did or not.
19 I can't remember if they did or not. I do remember
20 the other MSHA investigators that come and spoke to
21 me. They actually come to my house and sat on my
22 porch and talked. They had a gentleman actually
23 writing down --- taking notes. And at the end of the
24 interview or meeting or whatever, he actually went
25 back over 'em, read 'em to me and I looked at 'em.

1 And I kind a --- he asked me to sign that to verify
2 that that was, in fact, what I had said, because we
3 didn't have, you know, a tape recorder or nothing. He
4 was shorthand writing and stuff.

5 Q. And this was an MSHA person?

6 A. Yes. They were Federal MSHA.

7 Q. Okay. All your time during your work there at
8 UBB, did you ever --- were you ever on a shift when
9 there was an inspector, either State or Federal?

10 A. It's hard to remember a shift where there wasn't,
11 but, yeah. Yeah, they was --- there were MSHA guys,
12 inves --- inspectors there on a regular basis. I
13 never really knew any of 'em too much to go --- you
14 know, that's State or that's Joe, he's a Federal guy
15 or --- you know, I didn't know him that well, like I
16 said.

17 Q. This may have been asked before but I'm just going
18 to ask it one more time. Do you ever recall a shift
19 that you worked where an inspector wrote up a citation
20 that required you to leave the mine?

21 A. Not that I know of.

22 Q. Okay. Have you ever been checked for smoking
23 material?

24 A. Yes.

25 Q. And who would normally --- the last time, who did

1 that?

2 A. I believe it was, if I'm not mistaken, Ralph, my
3 supervisor did. It varied. They didn't --- they
4 didn't do it like every Tuesday ---

5 Q. Uh-huh (yes).

6 A. --- after you know, such --- they just at random
7 somebody would come up and check you like that day
8 somebody would, you know, assign somebody, hey, go do
9 some smoke check with everybody. And then, you know,
10 it might be this guy one day and then the next time it
11 happens it might be somebody else.

12 Q. Do you ever --- did you ever know anyone that got
13 caught with smoking material?

14 A. No, not that I know of.

15 Q. When the UBB Mine put in place their electronic
16 tagging system, ---

17 A. Uh-huh (yes).

18 Q. --- what kind of training did you get on that
19 system?

20 A. Here's your tracking tag, wear it on your belt.

21 Q. Okay. And what did they tell you about how it
22 worked or if you needed to do anything?

23 A. When they gave me mine, all that I was told was
24 here's your tracker, you got to keep it on your belt,
25 you can't go underground unless you have it. And when

1 you walk by the box, past the blue line, it picks it
2 up and tells us where you're at.

3 Q. Okay. And what was your understanding of the
4 purpose of that tracking device?

5 A. To know in close proximity about where your last
6 location was, in case something was to happen.

7 Q. Okay. Did they give you any instructions with
8 that tag, that if there was an emergency you were
9 supposed to do anything to it?

10 A. It was quite a while afterwards I found out there
11 was actually a button to push on it. When they give
12 it to me, they didn't even tell me that.

13 Q. Uh-huh (yes). And who did --- do you remember who
14 gave you that training?

15 A. It wasn't necessarily training. It was somebody
16 running around hollering, somebody's button is going
17 off on their belt, on their tracker. So check your
18 tracker. Did you push your button? I was like, a
19 button? I mean, I know that it's funny, and it sounds
20 bad, but that's the way it went.

21 Q. Were you aware of citations that were issued by
22 Federal or State inspectors? Did you know about
23 citations being issued?

24 A. Oh, yes. In specific, no, but, you know, every
25 once in a while I knew that we'd get a violation or

1 something like that. Where --- I wasn't up on the
2 sections or anything unless it pertained to me, I
3 really didn't, you know, take too much --- you know, I
4 guess, it didn't really affect me as much, ---

5 Q. Uh-huh (yes).

6 A. --- you know what I'm saying? Like those guys
7 that are on a section, they get a --- I guess they get
8 a violation for something. If it was something that
9 pertained to that person's job, then, you know, I
10 guess it would affect them a little bit and they'd be
11 keeping an eye on whatever it was more, you know,
12 trying to keep up on it better.

13 Q. I think I heard you say you didn't really
14 understand that this mine had --- not saying that it
15 was considered a gassy mine?

16 A. Yes. I was not aware of that.

17 Q. So perhaps one of the reasons why you saw a lot of
18 MSHA inspectors was it was on this --- required to
19 have spot inspections.

20 MS. MONFORTON:

21 I think the spots are every five days?

22 OFF RECORD DISCUSSION

23 BY MS. MONFORTON:

24 Q. So if you knew the mine had been on spot
25 inspections, that would have ---

1 A. Yeah.

2 Q. --- understood that ---?

3 A. You'd have put two and two together but I
4 didn't ---

5 Q. Right. But you didn't ---

6 A. I did not know that.

7 Q. So that was not something that was covered in your
8 training or ---

9 A. No.

10 Q. --- your new miner training?

11 A. No. I mean, you know, they went over things about
12 methane and how to, you know, ventilate and stuff like
13 that, that they needed, you know, such and such amount
14 of air, and, you know, this that and the other, but it
15 was --- it was never told to me specific, this mine's
16 --- is hot, it puts out a lot of gas. Like you hear
17 --- like you hear 'em talk about other mines. ICG,
18 for example. Everybody says ICG is a hot mine, they
19 got so much gas. But I never heard that about UBB,
20 you know what I'm saying?

21 Q. Can you tell me a little bit about the Raymond
22 points and how they work?

23 A. As far as I know, you get X amount of points for
24 not missing, and X amount of points for not --- I
25 guess, not getting a lost-time accident within your

1 group or something like that or personally.

2 Q. Uh-huh (yes).

3 A. You know, you get X amount for not getting a lost-
4 time accident within your crew or whatever. And then
5 you get so many if the whole mine goes without a lost-
6 time accident or something like that.

7 Q. Is it your understanding that it's based on your
8 crew?

9 A. It's based on all, your personal, your individual
10 work group and the mines. You get so many for
11 yourself, so many for your crew and so many for the
12 mines as a whole, or something like that. I'm not
13 exactly for sure, but ---.

14 Q. Okay.

15 A. And it's based on accidents, whether --- your
16 attendance, whether or not you have a lost-time
17 accident and your attendance to work.

18 Q. Did they give you something that explains what you
19 get points for or how --- you know, an information
20 sheet or anything that it explains ---?

21 A. I'm sure I got one somewhere in a little Massey
22 handbook or something, ---

23 Q. Okay.

24 A. --- but I never really looked at it, ---

25 Q. Okay. Thank you.

1 A. --- to check out the reward points that much.

2 ATTORNEY FERGUSON:

3 On behalf of MSHA and the Office of

4 Miners' Health, Safety and Training, we want to thank

5 you for appearing and answering questions today. Your

6 cooperation is very important to the investigation as

7 we work to determine the cause of the accident. We

8 request that you not discuss your testimony with any

9 person aside from your personal representative. After

10 questioning other witnesses, we may call you if we

11 have follow-up questions. If at any time we have

12 additional information regarding the accident you

13 would like to provide us, please contact us with the

14 contact information that was provided to you earlier.

15 If you wish, you may now go back over any

16 answer you have given during the interview. You may

17 also make any statement you would like to make at this

18 time.

19 A. I have no statement at this time.

20 ATTORNEY FERGUSON:

21 Thank you very much.

22 OFF RECORD DISCUSSION

23 ATTORNEY FERGUSON:

24 For the record, there are two maps used,

25 and Mr. Jackson's statement will be marked as Jackson

1 One and Jackson Two.
2 (Jackson Exhibits One and Two marked for
3 identification.)
4

5 * * * * *

6 STATEMENT UNDER OATH CONCLUDED AT 4:43 P.M.

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CERTIFICATE

I, Brett Steele, 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.



Brett Steele