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Statement Under Oath of **Andrew Lucas**

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STATEMENT UNDER OATH

OF

ANDREW LUCAS

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, May 26, 2010, beginning at 10:01 a.m.

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is May 26th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is David Steffey, an accident investigator with the Mine Safety and Health Administration, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. BECK:

My name is Jim Beck. I work for the State independent team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today. David Steffey will be conducting the initial 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 a
12 premature release of information. This
13 confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Your participation in this interview
17 constitutes your agreement to keep this information
18 confidential.

19 Government investigators and specialists
20 have been assigned to investigate the conditions,
21 events and circumstances surrounding the fatalities
22 that occurred at the Upper Big Branch Mine-South on
23 April 5th, 2010. The investigation is being conducted
24 by MSHA under Section 103(a) of the Federal Mine
25 Safety and Health Act and the West Virginia Office of

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.
3 You may have your personal attorney
4 present during the taking of this statement or another
5 personal representative, if MSHA has permitted it.
6 You may consult with your attorney or representative
7 at any time. 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, formal Cross Examination will not be
12 permitted. However, in this case, you can ask any
13 clarifying questions as appropriate. For the record,
14 do you have a personal representative with you today?

15 MR. LUCAS:

16 No.

17 ATTORNEY BABINGTON:

18 Thank you. Your identity and the content
19 of this conversation will be made public at the
20 conclusion of the interview process and may be
21 included in the public report of the accident, unless
22 you request that your identity remain confidential or
23 your information would otherwise jeopardize a
24 potential criminal investigation. If you request us
25 to keep your identity confidential, we will do so to

1 the extent permitted by law. That means that if a
2 judge orders us to reveal your name or if another law
3 requires us to reveal your name or if we need to
4 reveal your name for other law enforcement purposes,
5 we may do so. Also, there may be a need to use the
6 information you provide to us or other information we
7 may ask you to provide in the future in other
8 investigations into and hearings about the explosion.
9 Do you understand or do you have any questions?

10 MR. LUCAS:

11 Yeah, I understand.

12 ATTORNEY BABINGTON:

13 After the investigation is complete, MSHA
14 will issue a public report detailing the nature and
15 causes of the fatalities in the 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'll be interviewing other
20 individuals, we request that you not discuss your
21 testimony with any person, aside from a personal
22 representative or counsel.

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 to

1 rephrase it. Please answer each question as fully as
2 you can, including any information you may have
3 learned from someone else. I'd like to thank you in
4 advance for your appearance here. We appreciate your
5 assistance in this investigation. Your cooperation is
6 critical in making the nation's mines safer.

7 After we've finished asking questions,

8 you'll have an opportunity to make a statement,
9 provide us with any other information that you believe
10 to be important. If at any time after the interview
11 you recall any additional information that you believe
12 might be useful, please contact Norman Page at the
13 contact information previously provided.

14 Finally, any statements given by miner

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

23 MR. FARLEY:

24 Andrew, on behalf of the West Virginia

25 Office of Miners' Health, Safety and Training, I'd

1 like to advise you that the State Mine Health and
2 Safety Regulations provide protection for miners
3 against discrimination. And should you experience
4 discrimination as a result of giving this interview or
5 for exercising your safety rights at any time, I'm
6 going to provide you with a memo here which will
7 include the address of the West Virginia Board of
8 Appeals, which would hear such complaints, along with
9 my personal phone number and that of Bill Tucker,
10 who's also taking the lead on this investigation. I
11 would also advise you that should you wish to file a
12 discrimination complaint, you need to do so within 30
13 days of the ---

14 MR. LUCAS:

15 Okay.

16 MR. FARLEY:

17 --- time it occurs.

18 -----

19 ANDREW LUCAS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
20 AS FOLLOWS:

21 -----

22 EXAMINATION

23 BY MR. STEFFEY:

24 Q. Will you please state your full name and spell
25 your last name?

1 A. It's Andrew Thomas Lucas, L-U-C-A-S.

2 Q. And would you please state your address and your
3 telephone number?

4 A. It's [REDACTED]

5 Phone number is area code [REDACTED]

6 Q. And are you appearing here today voluntarily?

7 A. Yes.

8 Q. Has anyone made any promises concerning the
9 testimony you're about to give?

10 A. No.

11 Q. Anybody given you anything in exchange for the
12 testimony you're about to give?

13 A. No.

14 Q. Anybody made any threats concerning the testimony
15 you're about to give?

16 A. No.

17 Q. Has anybody else interviewed you concerning the
18 accident and your knowledge of the conditions in the
19 mine?

20 A. I have spoke with company lawyers.

21 Q. Do you know who they were?

22 A. No, not right off I don't.

23 Q. When were you interviewed?

24 A. Approximately four weeks ago maybe.

25 Q. Where did this interview take place?

1 A. I was at Aracoma, the Aracoma safety building.

2 Q. Do you remember what kind of questions they asked?

3 A. It was mainly about methane monitors and
4 ventilation and stuff like that.

5 Q. Okay. Were you cautioned about what you say in
6 this interview?

7 A. No.

8 Q. Did they tell you anything else or give you any
9 other instructions?

10 A. No.

11 Q. Okay. How many years of mining experience do you
12 have, Andrew?

13 A. October will make me six years.

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

16 A. I started out, it was October of 2004, moving belt
17 at Performance, and I got laid off the end of
18 November. And 16 days later, after I got laid off, I
19 got called back to Shumate Powellton. And I was at
20 Shumate for approximately a year-and-a-half. And they
21 transferred me down to Marfork Eagle. When we mined
22 that coal mines out, everybody went back to
23 Performance. And I've been there ever since.

24 Q. Okay. So a hundred percent of your mining career
25 has been with Massey?

1 A. Yeah.

2 Q. Okay. Do you have any mining certifications?

3 A. A certified electrician.

4 Q. Anything else?

5 A. I've got my dust card and stuff.

6 Q. Okay. Are you presently employed?

7 A. Yes.

8 Q. Where at?

9 A. I'm still working at Performance.

10 Q. Okay. When did you start at Performance, did you
11 say? The second time.

12 A. The second time?

13 Q. Uh-huh (yes).

14 A. I don't know exactly the date.

15 Q. Approximately.

16 A. Approximately three years ago.

17 Q. Okay. And what were you doing?

18 A. At the time, I was bolting top.

19 Q. Okay. So how long have you been an electrician?

20 A. A year-and-a-half.

21 Q. Year-and-a-half?

22 A. That's being an apprentice and all. I was
23 actually certified on July 17th of last year.

24 Q. Did you go through Massey's electrician ---

25 A. Yeah.

1 Q. --- training program?

2 A. Yeah.

3 Q. Okay. What are you doing at the mine right now?

4 A. I basically run a fuel truck and maintain the fans
5 that are on top of the boreholes, the diesel fans, and
6 just maintain them, make sure they're running.

7 Q. Do you ever see anybody at the mine office? Are
8 you ever at the mine office?

9 A. Yeah. I go to the mine office when I go up onto
10 the hill, yes.

11 Q. Okay. And do you see anybody there besides you?
12 Anybody from management come in?

13 A. Yeah. Wayne Persinger is there all the time and a
14 lot of the guys that worked there are still there ---
15 well, not a lot but some of them.

16 Q. Ever see Jason Whitehead there?

17 A. Yeah, from time to time I see him.

18 Q. From time to time. What about Chris Blanchard?

19 A. I haven't seen Blanchard in a while.

20 Q. What about Chris Adkins?

21 A. I haven't seen Adkins in a while either.

22 Q. Have you seen Don there, Don Blankenship, around
23 anywhere?

24 A. No. But I'm on the evening shift, so I figure ---
25 6:00 in the evening until 6:00 in the morning.

1 Q. Are you hearing anything? Anybody talking, saying
2 anything?

3 A. Not really. Everything's, I guess, being kept
4 hush-hush. You know what I mean?

5 Q. Ever see anybody remove anything from the mine
6 property?

7 A. No.

8 Q. Okay. Now, where do you work at in the mine?

9 A. I worked on Headgate 22.

10 Q. And that's the 029-MMU?

11 A. Yeah.

12 Q. Okay. How many miners typically worked on that
13 section?

14 A. On my shift or ---?

15 Q. Yeah, on your shift.

16 A. I'd say eight.

17 Q. Eight?

18 A. Yeah.

19 Q. And what portal did you end up traveling to the
20 section?

21 A. The Ellis Portal.

22 Q. And who did the pre-op check on your mantrip?

23 A. Whoever was driving.

24 Q. Whoever was driving it?

25 A. Yeah.

1 Q. Who typically drove it?

2 A. It was either me or Rodney. I can't think of his
3 last name. Rodney Osborne was his name.

4 Q. Okay. And what does Rodney Osborne do?

5 A. He --- they put up the wire mesh and belt hangers
6 and stuff on the hoot owl. He bolted tops.

7 Q. So he bolted tops?

8 A. Yes.

9 Q. And basically, I guess, he was bolting, what, on
10 the Mother Drive entry?

11 A. Yeah. He was just bolting the Number One entry.

12 Q. The Mother Belt entry?

13 A. Yeah.

14 Q. Okay. Approximately how long was your travel time
15 with the section?

16 A. I'd say anywhere from a half-hour to 45 minutes.

17 Q. Okay. Did you travel through any equipment doors
18 while going to the section?

19 A. Oh, yeah.

20 Q. Can you identify these doors on the map? We have
21 an Ellis Portal map available. We'll start where you
22 went in the mine.

23 A. Okay. I don't know the exact breaks that they was
24 at, but ---.

25 WITNESS COMPLIES

1 BY MR. STEFFEY:

2 Q. Now, were there any doors in this area right here,
3 approximately 10 to 12 breaks inby the Ellis Portal?

4 A. Yes, there was.

5 Q. Can you draw these on the map for me, using this
6 blue pen?

7 WITNESS COMPLIES

8 A. These doors, they had just had put them in.

9 BY MR. STEFFEY:

10 Q. Okay.

11 A. And I don't know what the deal was.

12 Q. Were they located here?

13 A. No. It was on the track.

14 Q. They're on the track?

15 A. Yeah. See, that was ---. That's here; right?

16 Q. Yeah. Yeah. That would be the secondary
17 escapeway indicated by the yellow line.

18 A. I'd say ---.

19 Q. Just your approximate location, to the best of
20 your memory.

21 A. It was about --- there was one there.

22 Q. Now, that red line is the beltline.

23 A. Oh, okay. And I'm going to need the track, which
24 is ---.

25 Q. Which is here.

1 A. Okay. Right here they are.

2 Q. Okay.

3 A. And then the next doors was 78 Break. There was a
4 set here.

5 ATTORNEY BABINGTON:

6 Hold on one second, Dave. Before you
7 move to the next map, do you mind labeling with ---?

8 A. I'm left-handed.

9 ATTORNEY BABINGTON:

10 You could even just put letters there
11 like if they're ---

12 A. Oh, okay. There was also ---.

13 ATTORNEY BABINGTON:

14 --- D for doors or something like that.

15 A. This is coming from the other way, from the UBB
16 side. Did you all want me to put the doors here, too?

17 BY MR. STEFFEY:

18 Q. Did you ever travel that route?

19 A. Well, before I moved to here, yeah, we did, which
20 is ---.

21 Q. We'll come back to that.

22 A. Okay.

23 ATTORNEY BABINGTON:

24 So if you could just --- if you could
25 circle where you marked the doors by the Ellis Portal.

1 Draw a line or something with D, for doors, or
2 something like that.

3 A. Just anywhere here?

4 ATTORNEY BABINGTON:

5 Yeah, anywhere there in that blank space.

6 Okay. For the record --- I mean, that looks like
7 what, eight or nine breaks inby the Ellis Portal?

8 A. Yeah.

9 ATTORNEY BABINGTON:

10 Okay. And then if you could also label
11 the doors at the 78 Break.

12 WITNESS COMPLIES

13 ATTORNEY BABINGTON:

14 And that looks to be about the ---.

15 A. Around the 80 Break.

16 ATTORNEY BABINGTON:

17 Okay. Around the 80 Break and around the
18 84 Break?

19 A. Yeah.

20 BY MR. STEFFEY:

21 Q. Were there any other doors that you went through?

22 A. Yeah.

23 Q. Just leave that map out. I'm going to get to it.

24 ATTORNEY BABINGTON:

25 If you could mark them with that and then

1 label --- mark them with a blue highlighter and then
2 label them with the red pen, too.

3 WITNESS COMPLIES

4 BY MR. STEFFEY:

5 Q. Now, if they're not shown correctly on this map,
6 feel free to mark them where they were.

7 A. I don't recall that one.

8 Q. You don't recall those doors? Okay.

9 A. Well, when we turned up onto the section, there
10 was two doors there. That was ---.

11 Q. Okay. All right. That's fine. And just label
12 the ones that you've indicated.

13 WITNESS COMPLIES

14 ATTORNEY BABINGTON:

15 And just for the record, you've marked
16 two doors at what appears to be the mouth of the
17 Headgate 22 section.

18 A. Uh-huh (yes). Actually, I marked the wrong ones.
19 It was probably these doors, because this is going up
20 in towards the Glory Hole; right? The Glory Hole is
21 here but up the North Mains.

22 ATTORNEY BABINGTON:

23 Okay. Well, do you want to re-label
24 those or cross out the ones that you don't think are
25 what you're talking about?

1 BY MR. STEFFEY:

2 Q. There was only one set, ---

3 A. Yeah, there was ---.

4 Q. --- and that was in this area here?

5 A. Yeah.

6 Q. Okay. These doors at the Ellis Portal and Break
7 78 and at the mouth of the Headgate 22 section, were
8 they automatic or did you have to open them by hand?

9 A. They was --- the ones at 78 Break, they were
10 automatic until they started moving the longwall back
11 in.

12 Q. Okay.

13 A. And something happened, I'm not real sure, and
14 they just --- they took the jacks off. And they said
15 they was going to fix them once the wall got moved. I
16 don't know if the shields was sliding into the doors
17 or what the deal was, but they never got fixed.

18 Q. Okay. So the doors were damaged?

19 A. Yeah.

20 Q. Did this change the air course in that area?

21 A. In my opinion, yeah, it definitely changed the
22 airflow.

23 Q. In what way?

24 A. Well, I mean, even up on the Headgate 22, we had a
25 high voltage sign in front of the power center, and it

1 would swing back and forth when everything was right,
2 I guess. One time you'd walk by it, it was swinging.
3 The next time you walked by it, it was standing still.

4 Q. What about these other doors, what kind of
5 condition were they in?

6 A. They was fairly new doors, yes.

7 Q. So the doors at the mouth of the Headgate 22 were
8 fairly new?

9 A. Yes.

10 Q. What about the ones at the Ellis Portal?

11 A. They had just put them in recently, too.

12 Q. Okay. Did you have to open either set by hand or
13 was either set automatic?

14 A. They was all manual.

15 Q. All manual?

16 A. Yeah.

17 Q. Okay. Coming back to these doors right here at
18 I'm guessing the 78 Break, ---

19 A. Yeah.

20 Q. --- could a --- did you ever see a supply motor
21 with a flatcar go through there?

22 A. Yeah, I have.

23 Q. How many cars do they typically have in front of a
24 motor? Do they push it or pull it?

25 A. I've seen them push and pull.

1 Q. Okay. How many cars do they typically have?

2 A. One, unless they're what they call pulling train,
3 when they have a motor on each end, two cars in the
4 middle.

5 Q. Could they fit the entire train into this airlock
6 here without having to open both sets of doors? Were
7 you ever there? Did you ever see it?

8 A. I've never actually seen it.

9 Q. Never seen that?

10 A. If they could, it would have been really tight.

11 Q. Okay. These doors here at Break 78, did you ever
12 find either of these doors open?

13 A. Yeah, where they was damaged. This door here.

14 Q. The inby set?

15 A. The inby set. The inby set was --- it was
16 wrinkled up on the bottom and we was like, there ain't
17 no way that that's right, I mean, because your intake
18 is running right there.

19 Q. Yeah.

20 A. They always stayed damaged.

21 Q. Could you feel --- when you opened the doors,
22 could you feel the air, the air direction change or
23 the pressure change?

24 A. No. No. I don't ---.

25 Q. Did you ever see the dust in the air or anything

1 change direction?

2 A. The only pressure that you had on the doors was
3 these doors here.

4 Q. Okay.

5 A. And they had a little pressure, not a whole lot.

6 Q. What direction did those doors open, inby or
7 outby?

8 A. They opened inby.

9 Q. Opened inby.

10 A. And these ones opened outby.

11 Q. And the inby set opened outby?

12 A. Yeah.

13 Q. Okay.

14 ATTORNEY BABINGTON:

15 Just to clarify, you mentioned a set of
16 doors. You said that there was only one set of doors
17 that had the pressure acting on them?

18 A. Yeah.

19 ATTORNEY BABINGTON:

20 Is that the outby set of doors at the 78
21 Break?

22 A. Yeah, it was the outby set.

23 BY MR. STEFFEY:

24 Q. Okay. When you were approaching that set of
25 doors, could you tell if the inby set was open if you

1 were approaching from the outby side? Where there's
2 two sets of doors here ---

3 A. Uh-huh (yes).

4 Q. --- if you're in the track, if this most outby
5 door was closed, could you tell if the inby door of
6 the set was open?

7 A. As far as wind or just ---?

8 Q. Yeah, just any ---.

9 A. Like the little windows ---

10 Q. Had the little windows?

11 A. --- and you could see through them, but ---.

12 Q. Okay.

13 A. Now, the ones at Ellis and the ones up there, they
14 didn't. It was just a solid door, like a supply door.

15 Q. If they're bringing their intake across right
16 here, why did they use a set of doors here to take the
17 track through?

18 A. It's --- they wanted it done yesterday. In my
19 opinion, there should been overcasts or something put
20 there.

21 Q. So there was --- was there quite a bit ---?

22 A. It was hurry, rush, rush.

23 Q. Was there quite a bit of leakage around those
24 doors?

25 A. Yeah. Yeah.

1 Q. Did that directly affect the intake air course?

2 A. Yeah. I believe it had to, I think.

3 Q. Okay.

4 ATTORNEY BABINGTON:

5 So just to clarify again, you're

6 referring to the doors right around --- I guess these

7 are the, again, the outby set at around --- this looks

8 like Break 82.

9 A. Break 80.

10 ATTORNEY BABINGTON:

11 And that's where the intake crosses over

12 the ---?

13 A. Uh-huh (yes).

14 ATTORNEY BABINGTON:

15 Okay.

16 BY MR. STEFFEY:

17 Q. Do you ever know if --- when you went through

18 them, could you ever feel an airflow reverse or

19 anything like that?

20 A. No.

21 Q. Did you ever know of those doors being replaced

22 for any reason due to damage or anything?

23 A. They had from --- I have them going to be

24 replaced --- actually, these doors here, it was a

25 brand new set of doors laying on the rib. They was

1 getting ready to fix it.

2 Q. Did they typically replace those doors while
3 people were working inby?

4 A. That I don't know. I've heard of it, yeah, that
5 they have, but I don't know.

6 Q. Let's see. So you've heard of them replacing
7 those doors with people working inby?

8 A. Uh-huh (yes).

9 Q. Did you hear of anything, on the days that that
10 occurred, happening to the air on the longwall around
11 the sections?

12 A. No.

13 Q. No?

14 A. No.

15 Q. Well, was there a procedure in place for replacing
16 those doors?

17 A. Not that I know of. I mean, I never did it
18 myself, so ---.

19 Q. Never did it yourself?

20 A. Yeah.

21 Q. Okay. Up here on the headgate, how would you
22 describe the roof, rib and floor on the current
23 section?

24 A. Well, up towards the face the bottom was starting
25 to bust a lot. The top wasn't really good and the

1 ribs wasn't real good. It was getting bad, I thought.

2 Q. Starting to get bad?

3 A. Yeah. Water.

4 Q. What was the water coming from?

5 A. My best --- the bottom.

6 Q. The bottom?

7 A. Yeah.

8 Q. Did you ever have an incident where the floor just
9 suddenly hooved up or opened up or anything like that?

10 A. Actually, I was standing at a miner one night,
11 calibrating a methane monitor. I was in about, I
12 don't know, eight inches to a foot of water and I
13 heard this big bump and I took off, come back to the
14 miner, and the water is gone and the miner is sitting
15 sideways. I mean, not drastically, but you know, you
16 could tell that it had been shook up and the water was
17 gone.

18 Q. Did you ever pick up any methane coming from that?

19 A. Not at that particular time, because I wore a
20 Solaris. I kept a Solaris. And the most methane that
21 I recall picking up is like maybe a .3, .35, somewhere
22 around in through there.

23 Q. When did you experience this hooving?

24 A. It was within the last three breaks, I'd say.

25 Q. Within the last three breaks ---

1 A. Yeah.

2 Q. --- from the face?

3 A. From the face.

4 Q. Who did you report this to?

5 A. I told the section boss, which was Kyle Anderson.

6 Q. And did he tell anyone?

7 A. Yeah. I actually heard him call out to Dino,
8 which is the dayshift boss, or whoever was the
9 dayshift boss that day.

10 Q. Okay. And what was --- what happened after that?
11 Nothing?

12 A. Nothing.

13 Q. Anybody ever come up there and look at it, anybody
14 from management or engineering?

15 A. I'm not real sure. They're usually not up there
16 on the hoot owls.

17 Q. You didn't even hear of anybody coming to check
18 that out?

19 A. No.

20 Q. Let's talk about the Solaris for just a second.
21 You mentioned you carried a Solaris.

22 A. Uh-huh (yes).

23 Q. Did you take that home with you and charge it?

24 A. I took it home and charged it, yeah.

25 Q. Who calibrated that?

1 A. Most of the time I had it, Shawn, which was --- he
2 was, I guess you'd say, acting mine foreman ---

3 Q. Yeah.

4 A. --- or somebody else to calibrate it. But they
5 had the calibrating machines there.

6 Q. Did they keep a record of it and just ---?

7 A. It had a --- it'd give a printout of when it was
8 calibrated.

9 Q. Okay. Did the Headgate 22 section ever cut
10 through a gas well, known or unknown?

11 A. Not that I know of.

12 Q. Did you ever cut through anything that looked a
13 little odd, a little suspicious?

14 A. No.

15 Q. No? Do you know of anywhere in the mine they ever
16 encountered a problem with a gas well, known or
17 unknown?

18 A. No.

19 Q. Were there ever any methane outbursts on this
20 section that you know of?

21 A. Not that I know of.

22 Q. And you mentioned water. Was the water excessive
23 on the section?

24 A. At times, yeah, but they --- they had been getting
25 the water pretty much under control with pumps and

1 stuff.

2 Q. And you mentioned it came from the floor?

3 A. Yeah.

4 Q. Did anybody from management ever talk to you guys
5 about where this was coming from or ---

6 A. No.

7 Q. --- caution you guys?

8 A. No.

9 Q. What about the gate road? Were you on the gate
10 roads that were mined here on the longwall panel that
11 was ---

12 A. Yes.

13 Q. --- currently mined?

14 A. Yes.

15 Q. What about up in there, did they have problems
16 with water there?

17 A. Yeah. The water was bad up in there.

18 Q. Where'd it come from?

19 A. Them conditions were horrible. The best of my
20 knowledge, it come from the bottom also.

21 Q. Bottom?

22 A. Yeah.

23 Q. Now, when you said the conditions were horrible,
24 what do you mean?

25 A. With the bottom busting up and --- you know what I

1 mean, it was just nasty, sloppy.

2 Q. Did you have any problems with methane on that
3 headgate?

4 A. I mean, on the owl shift we didn't, but I have
5 heard that they had hit --- while they was loading,
6 they hit some methane up there.

7 Q. Did you happen to hear how high?

8 A. I don't really recall how high ---

9 Q. You don't recall?

10 A. --- as far as the number, but I do know they hit
11 quite a bit.

12 Q. Was it enough to force the men to withdraw from
13 the area?

14 A. I'm not sure.

15 Q. What about roof conditions on the current Headgate
16 22?

17 A. Well, at times, you know, it was pretty hairy.

18 Q. Pretty hairy?

19 A. Yeah. I mean, I have actually stayed over and
20 helped cable bolt intersections and stuff like that
21 and --- yeah, it got nasty for a while.

22 Q. What about right here on the current --- on the
23 headgate --- I guess is this --- what do you call the
24 headgate where the longwall was currently mining? Was
25 it the Number One Headgate?

1 A. I'm not real sure.

2 Q. Not real sure?

3 A. It was just --- it was always in one section.

4 ATTORNEY BABINGTON:

5 On the map, just to clarify, that area is

6 labeled Headgate One North.

7 A. Yeah.

8 BY MR. STEFFEY:

9 Q. So that's what we'll refer to it as, Headgate One
10 North. Do you know approximately where you had
11 problems with water and ---?

12 A. It was up towards the end, towards the --- where
13 they drilled for the Bandytown fan. That's where it
14 got the worst.

15 Q. That's where it got the worst?

16 A. Yes.

17 Q. Did you ever --- was there ever any area there
18 where it could have roofed out?

19 A. The water?

20 Q. Yes.

21 A. Not while we was up there. But back when we was
22 back, starting this section here, ---

23 Q. Yeah.

24 A. --- it actually --- we was shut down because of
25 the water down through the return.

1 Q. What about the methane that you heard about the
2 section hitting, about that headgate section hitting
3 on One North, approximately where was that at?

4 A. It was up --- way up north there.

5 Q. Way up north there?

6 A. Yeah.

7 ATTORNEY BABINGTON:

8 Sorry. Just to clarify real quick,

9 you're talking about water problems on this Headgate
10 One North section heading toward the Bandytown fan?

11 A. Yes.

12 ATTORNEY BABINGTON:

13 Okay. And do you have --- I know you're

14 saying it's kind of toward the Bandytown fan. Do you
15 have an approximation of what breaks you encountered
16 these adverse conditions?

17 A. As far as the water?

18 ATTORNEY BABINGTON:

19 Sure, the water.

20 A. The break numbers that I recall is 56 Break,
21 70 --- 75, I mean, through there. This is as far as I
22 actually went when the water was bad.

23 ATTORNEY BABINGTON:

24 Okay. So you're saying from --- all the
25 way from 56 ---?

1 A. No. That was a spot in 56. But yeah, there was
2 water the whole way, I'd say, you know, maybe ankle
3 deep or so.

4 ATTORNEY BABINGTON:

5 Okay. But there's an especially bad spot
6 on 56?

7 A. Yeah, I guess in the slags and stuff.

8 ATTORNEY BABINGTON:

9 Okay. And then there was a bad spot ---?

10 A. Yeah. It was here.

11 ATTORNEY BABINGTON:

12 That's about 71 to 75 Break?

13 A. Yeah.

14 BY MR. STEFFEY:

15 Q. Did anybody from mine management ever talk to you
16 about the overlaying works in the Powellton seam?

17 A. No.

18 Q. Were you aware of the works overhead in the
19 Powellton seam?

20 A. No.

21 Q. That area was longwalled in the Powellton seam
22 overtop of you guys there. No one ever mentioned
23 that?

24 A. I didn't know. The only thing that I did hear,
25 and I think it was the mine, Black King, or something

1 was above us, because I went to an electrical class
2 with a guy. He said, as soon as you all start the
3 longwall, we got to pull out. I never really
4 understood that either.

5 Q. Okay. Did anybody ever talk to you about the
6 lower Eagle coal seam below you?

7 A. No.

8 Q. So no one ever discussed with you guys any of the
9 problems that you were having on the section that
10 could be related to overlying works or underlying coal
11 seam?

12 A. No.

13 Q. Okay. Did anybody else on the Headgate 22 section
14 have a multi-gas detector?

15 A. The guy that bolted top, Rodney, he had one. And
16 the section boss, he had one.

17 Q. What about the miner operator?

18 A. I was on an idle shift, on the hoot owl.

19 Q. Oh, on an idle shift?

20 A. Yeah.

21 Q. Do you know if the miner operator had one on the
22 production shifts?

23 A. Yeah. I'm almost positive they did.

24 Q. Okay. Do you know what kind of multi-gas
25 detectors these were?

1 A. No. The section bosses, they carried the Solaris,
2 like I did and --- but now the bolt men and the miner
3 men, they carried --- I don't know the exact name for
4 them, but the other type, the ones you put on the
5 probes.

6 Q. And you mentioned you worked on the hoot owl
7 shift. Was this a maintenance shift?

8 A. Yes. Yes.

9 Q. Did you ever run a cut of coal on a maintenance
10 shift?

11 A. No.

12 Q. Even after a belt move?

13 A. No. We was lucky to get the belt move in before
14 production was there.

15 Q. Did you ever hear of the continuous miner picking
16 up methane on their sensor?

17 A. I heard that they did.

18 Q. Did you ever hear how high ---

19 A. No.

20 Q. --- or anything like that?

21 A. We tended to keep the methane monitors calibrated
22 at least once a week, if not more than that.

23 Q. Did you ever hear of this section up here having
24 to pull out because of methane, anybody having to pull
25 back?

1 A. No. But I did hear that they --- I mean, this is
2 just rumor. I don't know if it's rumor or if it's
3 true, but on Good Friday they sent the wall home on
4 the evening shift.

5 Q. What did they send the wall home for on the
6 evening shift?

7 A. Supposedly, what I heard, that it gassed off or
8 something. I'm not sure. I wasn't there myself. But
9 I know Friday night I worked, you know what I mean,
10 and nothing was mentioned.

11 Q. You worked Friday night prior to the explosion?

12 A. Yeah.

13 Q. Did you work any over the weekend, prior to the
14 explosion?

15 A. No. I was off Saturday night for Easter and my
16 son had --- he had caught pneumonia, so I stayed home
17 with the wife Sunday night, so ---.

18 Q. What about that Monday? I guess you --- were you
19 at home when you heard about the explosion?

20 A. Yes.

21 Q. Let's go back and talk about those methane sensors
22 on the miner for a minute or two here. Now, you
23 mentioned you calibrated these methane sensors, so you
24 kept them in pretty good shape?

25 A. Yeah. Yeah.

1 Q. Did you ever hear of anybody bridging one out in
2 this mine?

3 A. No, actually I haven't --- have not.

4 Q. What about on the longwall shearer?

5 A. I heard that rumor.

6 Q. You heard that rumor?

7 A. But I know them guys --- I mean, at least I think
8 I do, you know what I mean, and I honestly don't think
9 that they would have done something --- especially the
10 one that was there at the time, Grover. I don't
11 believe he would have done anything like that.

12 Q. Is it possible to bridge out the methane sensors
13 on the longwall shearer from the mule train?

14 A. I'm not sure.

15 Q. Not sure about that. Okay. Did anybody ever
16 discuss the approved methane and dust control plan
17 with your crew?

18 A. No.

19 Q. What about the approved ventilation plan, anybody
20 ever go over that?

21 A. No. I guess when we was idle they --- but no,
22 they didn't.

23 Q. Did they ever post on the bulletin --- did you
24 ever see on the bulletin boards that the plans were
25 posted or ---

1 A. Yes.

2 Q. --- proposed changes to the plan being posted?

3 A. Yeah. I mean, they always had stuff like that
4 posted.

5 Q. Anybody ever discuss those proposed changes, what
6 was getting ready to happen?

7 A. No.

8 Q. Where did your intake come up out of on Headgate
9 22?

10 A. In Number Two.

11 Q. Number Two?

12 A. Yeah.

13 Q. And which one was your belt air course?

14 A. Number One was the belt.

15 Q. One was the belt?

16 A. And Three was the return.

17 Q. And Three was the return?

18 A. Yeah.

19 Q. How wide was your belt going up?

20 A. It was a five-foot belt.

21 Q. Five-foot belt?

22 A. Uh-huh (yes).

23 Q. Now, was that the Mother Belt for the longwall
24 or ---?

25 A. Yes.

1 Q. So you guys put --- so that was put in as you guys
2 went up through there and then loaded on?

3 A. Yeah.

4 Q. Okay.

5 A. It was torture on them guys, on all of us.
6 Because usually what they did, they --- when they had
7 to run your belt up this entry, and then they had a
8 crew that would come behind and put the structure in
9 and all that.

10 Q. Did the crews on the section hot seat; do you
11 know?

12 A. No, they didn't.

13 Q. They didn't hot seat?

14 A. The longwall did, but the miner section didn't.

15 Q. Okay. You mentioned vent changes were sometimes
16 made in this mine. When were those vent changes made?

17 A. Actually, I was --- most of the time they was made
18 on the hoot owl shift.

19 Q. Made on the hoot owl shift?

20 A. Yeah. I mean --- it's like a buddy of mine asked
21 me the other day. They said, why didn't we know about
22 all these changes and stuff? I said, well, I guess
23 they're being made on production shifts. You know
24 what I mean? I'm not real sure.

25 Q. So you made your changes on the hoot owl shift,

1 but now --- what shift did your buddy work on?

2 A. He was with me.

3 Q. He was with you?

4 A. Yeah. We was both electricians.

5 Q. How many hours a day did the longwall run?

6 A. 24/7.

7 Q. 24/7?

8 A. Yeah.

9 Q. Did they make changes to the ventilation system
10 with the longwall running?

11 A. I'm not real sure.

12 Q. Not real sure?

13 A. Yeah. Well, they --- the wall they shut down for
14 maintenance, like the miner section. But if they got
15 the chance, they would actually load.

16 Q. Okay.

17 A. You know what I mean? Any chance they could,
18 they'd load.

19 Q. Okay. When you came up to the section here, who
20 pre-shifted that prior to you going in the mine?

21 A. The evening shift.

22 Q. The evening shifts?

23 A. Yeah.

24 Q. And how'd they make --- did they ever make you
25 guys aware of the hazards? Anybody ever talk to you

1 about any hazards that were called out?

2 A. I mean, our section boss, he would just tell us
3 what was going on.

4 Q. What was going on?

5 A. Yeah, to watch out for, you know, whatever had
6 been called out.

7 Q. Okay. Did you ever go up there and find anything
8 that wasn't put in the pre-shift book, wasn't called
9 out?

10 A. Not that I'm aware of, no.

11 Q. Who filled out the pre-shift book when the boss
12 called out?

13 A. Kyle Anderson, the fire boss.

14 Q. Okay. Did he put down all the hazards that were
15 called out?

16 A. I'd say he did. It was pretty ---.

17 Q. How were these hazards taken care of? How were
18 they corrected? Did your shift --- did your crew
19 correct them or were they corrected when you got to
20 the section?

21 A. Most of the time they had been corrected. If not,
22 then the move guys would take care of them. I mean,
23 if it was something electrical or mechanical, yeah, we
24 took care of it, but --- yeah.

25 Q. When you went in the mine, had the production

1 shift already gotten outside?

2 A. We usually switch out with them either at the
3 mouth of the section here or at 78 Break.

4 Q. Did you all discuss anything going on on the
5 section when you switched out?

6 A. Just if there was a hazard or something, yeah,
7 they would definitely let us know.

8 Q. Okay.

9 A. Got some pretty good guys up there.

10 Q. When did the section boss typically do his
11 on-shift exam?

12 A. As far as pre-shifting?

13 Q. Well, his on-shift. Did you ever hear about the
14 production shifts, when they had to do their
15 on-shifts?

16 A. No.

17 Q. When they did their examinations, did anybody ever
18 talk about that?

19 A. Every two hours or something, yeah.

20 Q. So you didn't run coal on the maintenance shift.
21 When you arrived on the section, typically what was
22 the first thing you did?

23 A. Get our tools and parts and stuff that I figured
24 that I would need that night.

25 Q. Do you have two continuous miners on the section?

1 A. Yes.

2 Q. What kind of shape are they in, typically?

3 A. We have two 1212s. They was in fairly good shape.

4 The right miner was in real good shape. And the left

5 miner, it was a little rough in spots, but we

6 basically rebuilt the left miner, so ---. Well, when

7 they had all that water problem, we did unreal work to

8 that miner and --- but yeah, they was both in pretty

9 good shape.

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

11 A. Two.

12 Q. Two?

13 A. Uh-huh (yes).

14 Q. Any other equipment up there?

15 A. Had two shuttle cars, two scoops and a maintenance

16 ride. And there was also a --- the emergency --- the

17 ride, emergency room, four-wheeler, the Mack 8 or

18 whatever it is.

19 Q. Pretty crowded for three entries?

20 A. Oh, yeah. Yeah, it was crowded.

21 Q. Do you know how they mined this three-entry system

22 here?

23 A. As far as I know, they would --- actually, I don't

24 know. I do know they turned the break out of Number

25 Two, towards the intake --- or towards the return and

1 --- because that was a big deal, because they was
2 wanting them to turn a left-handed break out of Two.
3 And a lot of the miner operators, they just wouldn't
4 do it.

5 Q. Do you know if they used blowing or exhausting
6 face ventilation when they were cutting?

7 A. I'm not for sure.

8 Q. Did they hang their curtains to ventilate the
9 faces in idleyway and idle places?

10 A. Yes.

11 Q. After a belt move, how close to the face typically
12 was the feeder?

13 A. They liked it shoved up in the face.

14 Q. One break outby or two breaks outby?

15 A. One.

16 Q. One?

17 A. Yeah.

18 Q. Okay. Was that a permissible feeder?

19 A. Yeah.

20 Q. Okay. Did the miner on the section use a
21 scrubber?

22 A. We was on 20-foot cut plans, so they didn't.

23 Q. Okay. So they didn't use a scrubber?

24 A. Not that I know of.

25 Q. Okay.

1 A. I mean, we was getting ready to try to go back to
2 the deep cut, so ---.

3 Q. All right. Were you ever underground when there
4 was an air reversal?

5 A. Yeah, I was.

6 Q. Let's talk about that.

7 A. They was making an air changeover and they said
8 they was going to do everything they could, you know
9 what I mean, before they made the major --- the real
10 change. And they called up to the section and they
11 said they want everybody out, but then they kept me,
12 another one of my electricians and the section boss on
13 the section. And I was throwing a fit and --- I was
14 like, why do we got to be up here. And they said, to
15 make sure power goes in. So we was on the section the
16 whole time the air change was being made, three of us.
17 Everybody else left, but there was people at different
18 places in the mines, basically electricians, to make
19 sure power went in, something that dayshift could have
20 done when they went in.

21 Q. And what did --- why do you think they wanted
22 people at different places in the mine to make sure
23 power went in?

24 A. I don't --- I don't have a clue.

25 Q. Was this something to save time for the dayshift?

1 A. Basically, yeah. Yeah, so they was getting the
2 coal faster. They wouldn't have to stop and get out.

3 Q. So there was a lot of pressure at this mine?

4 A. A lot. Really was.

5 Q. Do you remember about when that air reversal
6 occurred?

7 A. I don't remember exactly, but it's been here
8 recently. But it --- the air change was for the good.
9 I mean, we had good air on one section, the most air
10 that we had had on that section since we've been up
11 there.

12 Q. Do you ever remember any unplanned air reversals,
13 unplanned?

14 A. No.

15 Q. Do you ever remember being down due to the air
16 reversal?

17 A. No. The only time I recall being down is we had a
18 Federal man up there. He was coming to check
19 equipment actually, and he shut the section down
20 because it didn't have no air.

21 Q. How often does that occur, not having no air?

22 A. A lot.

23 Q. A lot?

24 A. Yeah.

25 Q. So they had ventilation problems ---

1 A. Yeah.

2 Q. --- up in there?

3 A. Yeah.

4 Q. Anybody ever say why, what was going on that was
5 causing all this?

6 A. No, nobody ever ---.

7 Q. Now, you mentioned a Federal inspector came up
8 there and he shut the section down.

9 A. Uh-huh (yes).

10 Q. Did anybody ever call ahead and tell you guys
11 there's a Federal man coming?

12 A. When I was on production, actually, yeah. Yeah.
13 It would be like an inspector headed you all's way or
14 something like that. But as far as on the hoot owl,
15 we was aware that they was there, but we didn't know
16 where they was going to be. Because on the hoot owl,
17 they're everywhere, so ---.

18 Q. Well, now, on production --- let's go back to
19 that, when you were on production. You mentioned they
20 would call ahead. Did you have to stop cutting coal
21 and tidy up, hang curtains, whatever, rock dust, scoop
22 and clean?

23 A. At times, yeah.

24 Q. At times?

25 A. Yeah.

1 Q. Well, why do you think they called ahead to let
2 you guys know?

3 A. I'm really not sure. I guess --- I don't know if
4 it was ---.

5 Q. Do you think it was to avoid possible
6 citations ---

7 A. Could be, yeah.

8 Q. --- they may have found?

9 A. Yeah.

10 Q. Who would call in and tell you guys that the
11 inspector was coming?

12 A. Different people, the dispatcher or just anybody
13 really would call.

14 Q. Did the dispatcher call as soon as he saw him come
15 up the hill or did somebody call him from the security
16 gate?

17 A. I believe they called from security.

18 Q. So they'd call from security ---

19 A. Yeah.

20 Q. --- and let them know when an inspector is heading
21 that way?

22 A. Yeah.

23 Q. Did anybody in mine management ever tell you guys,
24 you or anyone else, to be careful what you say to an
25 inspector, implying --- you know, and implied that

1 inspector is not here to help?

2 A. No. I mean, I've heard that. I don't know if it
3 was in a joking way. Just, you know, watch what you
4 say.

5 Q. What was the attitude toward inspectors at UBB?

6 A. It was --- inspectors was hated, I guess you'd
7 say.

8 Q. Who hated them?

9 A. I don't know, just upper management and
10 everything. I mean, I didn't mind them. I mean, I
11 was glad to see them. I really was.

12 Q. Why do you think they hated inspectors?

13 A. I don't know. We seen them all the time. You
14 know what I mean? They was there every day.

15 Q. Do you know about any complaints about unsafe
16 conditions being lodged against this mine?

17 A. Not that I'm aware of.

18 Q. So you don't know about anything being made to
19 MSHA?

20 A. No.

21 Q. Well, did anybody ever complain to management at
22 the mine about an unsafe condition?

23 A. Not that I know of.

24 Q. Okay. Were you ever on the section when a
25 citation was issued?

1 A. Actually, the (d) order that the federal man wrote
2 on the air, yeah, that was --- he was with me that
3 night, so ---.

4 Q. And what was the reaction of mine management?

5 A. I'm not real sure. That was a ---.

6 Q. Were you ever outside in the office when the
7 inspector was handing the citation paperwork and
8 advising the conference rights to the superintendent
9 or anyone else?

10 A. No.

11 ATTORNEY BABINGTON:

12 When was that (d) order issued,
13 approximately?

14 A. I would say four months ago maybe, somewhere.
15 Maybe a little bit longer. I'm not real sure.

16 BY MR. STEFFEY:

17 Q. Did you ever discuss any mine plans with the
18 inspectors?

19 A. Any what?

20 Q. Any mine plans. Was there ever any discussion of
21 that? Did you ever talk to him?

22 A. I talked to him all the time, but it was just
23 about various stuff. You know what I mean?

24 Q. Various stuff?

25 A. Yeah.

1 Q. About when did the ventilation problems start in
2 this mine?

3 A. I don't remember if we had a lot of ventilation
4 problems on this One North headgate. I don't --- but
5 when we started this here, we definitely did.

6 Q. Anybody ever express their concerns about the
7 ventilation to management?

8 A. Oh, every day.

9 Q. What was their response?

10 A. You really didn't get a response, you know.

11 Q. Did you ever see anybody from engineering in this
12 mine come in and take air readings, look at anything?
13 I'm not talking about setting spads. I mean actually
14 come in and ---.

15 A. No.

16 ATTORNEY BABINGTON:

17 One second, David. When you said --- you
18 said when we started this section here, that was when
19 air problems occurred?

20 A. See, we --- we pulled --- when we finished up
21 driving that there, we pulled all the way back here
22 and we drove over and across.

23 ATTORNEY BABINGTON:

24 Okay. So you're talking about when you
25 drove basically up to this crossover?

1 A. We had good air on this crossover.

2 ATTORNEY BABINGTON:

3 Okay. The crossover between Headgate 22
4 and Tailgate 22?

5 A. Yes. Yeah. But up in here is where we had the
6 air problems.

7 ATTORNEY BABINGTON:

8 Okay. So just to be sure. When
9 Headgate ---?

10 A. Starting at 22.

11 ATTORNEY BABINGTON:

12 Okay. When you started at Headgate 22,
13 that's when your ventilation problems started?

14 A. Yes.

15 ATTORNEY BABINGTON:

16 Okay.

17 BY MR. STEFFEY:

18 Q. So management had no response when you talked to
19 them about it?

20 A. Yeah. Well, yeah. We had a --- the
21 superintendent we had, he was amazing. I really liked
22 him. Everett, he was --- but Everett couldn't do
23 nothing.

24 Q. And why was that?

25 A. He --- because of management above him.

1 Q. And who was the management above him?

2 A. It was Blanchard.

3 Q. Chris Blanchard?

4 A. Yes.

5 Q. What about Jason Whitehead?

6 A. Jason Whitehead was there, too.

7 Q. Did you ever see them underground?

8 A. From time to time I have seen them, yeah.

9 Q. What did they do when they came up there?

10 A. They was --- I mean, I just seen them in passing
11 because they'd come in on the dayshift, you know what
12 I mean, but I really don't know what they did.

13 Q. Did you ever hear of them making any ventilation
14 changes with people underground?

15 A. I heard that rumor, but I'm not positive myself.

16 Q. Were you ever around when they were talking to the
17 men in the crew?

18 A. When they were talking ---?

19 Q. Yeah, to your crew or any other crew or out in the
20 mine office or anything?

21 A. Well, they make you feel like little kids, like
22 you were just ignorant. You know what I mean? I
23 mean, if you would just ask a simple question, it
24 would be --- you'd get pounded. But I had a guy get
25 hurt, and Chris come --- Chris Adkins, he was actually

1 there, and he said, well, they need to get him back
2 out here tonight. I told Chris, I said, buddy, if
3 he's hurt, he's hurt.

4 Q. Now, that was Chris who?

5 A. Blanchard. I'm sorry. I said, if he's hurt, he's
6 hurt. You know what I mean? He needs time off. We
7 need to --- we can't have him on the LTAs.

8 Q. What was his reason for doing that?

9 A. I don't know.

10 Q. Did he ever give a reason?

11 A. I don't know. It was just the way he was. The
12 first time that I met him was at a re-training, and he
13 looked dead at us and he said, I had no friends in
14 high school, and I don't need none now. So from right
15 then and there, I didn't have nothing for him.

16 Q. What was his mining experience? What was his
17 background; do you know?

18 A. I don't know.

19 Q. Did he seem like he had a lot of experience?

20 A. No. He had a college degree. That's ---.

21 Q. We've been going about an hour here now. Do you
22 need a break or anything?

23 A. I'm good if you all are good.

24 Q. All right. What about Jason Whitehead?

25 A. I don't know. Personally, I liked Jason myself.

1 He --- he's a worker himself. You know what I mean?
2 He'll get right in there with you. When I was on
3 production, actually --- he actually bolted the top
4 with me.

5 Q. So you think Blanchard was more of the problem?

6 A. Yeah, I do believe.

7 Q. Now, you mentioned there was a lot of pressure at
8 this mine here. Do you think that came from
9 Blanchard?

10 A. Yeah. Yeah. Actually, I do.

11 Q. Was there anybody putting pressure on Blanchard?

12 A. Not nowhere near as much as what Blanchard was
13 putting on us.

14 Q. So you think maybe he was putting pressure on you
15 guys to make himself look a little better?

16 A. I'd say. I mean, for two years, since they said
17 that the wall was coming back, I haven't had a
18 vacation. I've worked six, seven days a week. I was
19 absolutely exhausted, but still they wanted more, more
20 and more.

21 Q. Let's talk about vacation time. You said you
22 didn't get a vacation for two years. Why was that?

23 A. We had to get it ready. We had to run coal.

24 Q. Did they ever just come out and tell you that
25 vacation is cancelled, we got to get more production?

1 A. They'd just come out and say, you all are working.
2 You know what I mean?

3 Q. What was --- did they say anything else, you know?

4 A. I heard that there was a meeting at one time and
5 the vacation --- Everett Hager, he was upset about our
6 vacation from last year, because a lot of us didn't
7 get it. And it was Everett and Blanchard and
8 Atkinson, there was a few people in there. And
9 Everett was telling them about all the vacation and
10 people working six and seven days a week, and
11 Blanchard spoke up and said, well, they got paid for
12 their vacation. And I heard that Atkins looked at
13 Blanchard and said, well, if you work all your
14 vacations this year, he said, I'm going to pay you for
15 them. So I don't think it was as much as Adkins and
16 them as what it was Blanchard.

17 Q. Blanchard?

18 A. Yeah.

19 Q. Were you having any production problems in this
20 mine?

21 A. As far as?

22 Q. As far as running footage?

23 A. They didn't run a whole --- on that section there,
24 the footage wasn't really high. I'm not sure why. I
25 really don't know why. It's hard to run the coal on

1 three entries.

2 Q. It is. How was the morale?

3 A. As far as the section guys?

4 Q. As far as the section guys and the whole mine in
5 general, how was the morale at the mine?

6 A. The section crews and stuff like that got along
7 really well. I don't know. It was just ---.

8 Q. What was the level of satisfaction, though, with
9 UBB in general? Were they --- did they seem pretty
10 satisfied with how they were treated or did everybody
11 feel like they were mistreated?

12 A. No. Everybody felt like they was mistreated.

13 Q. Do you think that Blanchard put productivity and
14 profitability over safety?

15 A. I'd have to say yeah. I mean, I know he wouldn't
16 have wanted nothing like this to happen. You know
17 what I mean?

18 Q. Well, nobody would.

19 A. Yeah, but I'd say he pushed the limits. Yeah.

20 Q. Was you ever underground when the carbon monoxide
21 monitoring system ever went off, either alert or
22 alarm?

23 A. No. No.

24 Q. What about the primary escapeway, did you ever
25 travel it?

1 A. Yeah.

2 Q. How was it maintained?

3 A. It was decent shape.

4 Q. Decent shape?

5 A. Yeah.

6 Q. How often did you travel the primary?

7 A. Did it every quarter, I believe.

8 Q. Every quarter?

9 A. Yeah.

10 Q. Okay. Do you feel like because of all the
11 pressure at this mines that people were kind of
12 encouraged to take shortcuts, that as long as you
13 don't get caught or nothing happens, it's okay?

14 A. Well, I'll be honest with you, not with the crews
15 on the Headgate 22.

16 Q. Not the crews themselves wanting to do it, but do
17 you feel like maybe they --- management ---

18 A. Was pushed?

19 Q. --- might have encouraged that kind of behavior?

20 A. Well, a lot of them, they wouldn't have got to do
21 it. You know what I mean? They would have absolutely
22 refused.

23 ATTORNEY BABINGTON:

24 This might be a good time to take a quick
25 break. Off the record.

1 SHORT BREAK TAKEN

2 ATTORNEY BABINGTON:

3 Back on the record. Terry?

4 MR. FARLEY:

5 All right.

6 EXAMINATION

7 BY MR. FARLEY:

8 Q. I'm going to be probably be working my way
9 backwards here on some of this, so bear with me. If I
10 understood you correctly, part of your work on the 22
11 Headgate section was to maintain the methane monitor
12 on the continuous miner; is that right?

13 A. Yes.

14 Q. Okay. How often did you change the sensors in the
15 monitors?

16 A. The sensors? As far as the sensors or ---?

17 Q. Sensor, methane sensor.

18 A. Just when they was bad, I guess. I don't know.

19 Q. Okay. All right. Did you ever --- what about the
20 sniffer?

21 A. The sniffer?

22 Q. Yeah.

23 A. We --- I kept a box full of them.

24 Q. Okay.

25 A. We'd get water in them or something like that.

1 We'd change them pretty often.

2 Q. Okay. Do you ever find the methane sensors caked
3 with mud or covered with anything?

4 A. No.

5 Q. Or wrapped with like a plastic bag or ---?

6 A. No. No.

7 Q. Okay. All right. Are you aware of any equipment
8 on the 22 Headgate section that was in need of repair
9 or that was on a list to be repaired just prior to the
10 accident?

11 A. Nothing that I can recall. Not nothing drastic
12 that needed changed. Maybe a tire or something.

13 Q. Okay. All right. When you would routinely arrive
14 on the 22 Headgate section on your midnight shift, was
15 the power on the equipment when you arrived and where
16 was the equipment located when you would usually
17 arrive?

18 A. The equipment was in the face and the power was
19 knocked on the equipment. The only thing that was
20 running was the chargers and if we had pumps or
21 something. That was the only ---.

22 Q. Okay. All right. Let's go back to the Ellis
23 Portal area for a second here. The doors there, do
24 you know approximately when they were installed, the
25 ones you identified earlier?

1 A. If I had to --- if I had to guess, I'd say about a
2 month-and-a-half prior to the accident. I don't know
3 exact dates.

4 Q. Okay. I'm going to go back to this time here when
5 you were underground while this major air change was
6 taking place. You were on the 22 Headgate; right?

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

8 Q. And you were apparently forced to remain on the
9 section as the air change was being made; is that
10 correct?

11 A. Yes.

12 Q. Okay. Now, did I understand you correctly, that
13 was sometime in March of 2010?

14 A. Yeah. It was around about that time. Like I
15 said, I don't know exactly what it was. I don't ---.

16 Q. If you can estimate, within a month of the
17 accident; is that correct?

18 A. Yeah, within a month, yeah.

19 Q. All right. Now, as this air change or ventilation
20 change was being made, what management people were
21 around at the mine at that time that you knew of?

22 A. I believe all of them was there. Wayne Persinger
23 was there. Blanchard showed up that morning. Our
24 safety men, Jim Walker and Berman Cornett, was there.
25 As far as upper management, that was probably them.

1 Q. Okay. Now, what management person was with you on
2 the section at the time?

3 A. It was the section boss, Kyle Anderson.

4 Q. Okay. Now, was he receiving his directions on the
5 phone from someone?

6 A. Yes.

7 Q. Do you know who was giving him those directions?

8 A. No, I don't.

9 Q. Okay. Do you believe that the people that you
10 just mentioned who were at the mine at the time were
11 aware that people were left at various locations
12 throughout the mine at the time the change was being
13 made?

14 A. I'm sure that they was. They was aware.

15 Q. Okay.

16 A. Because they pulled everybody else out.

17 Q. Okay. Now, the people who were left, would that
18 have been limited primarily to bosses and
19 electricians?

20 A. Yes. They made the boss and myself and another
21 one of my electricians stay.

22 Q. Now, I guess --- was the power de-energized while
23 the change was being made?

24 A. Yes.

25 Q. Okay. Now, how long after the change was made ---

1 well, at what point after the change was made did you
2 reenergize the power?

3 A. I'd say approximately 20 to 30 minutes.

4 Q. Okay. All right. Now, did a call come,
5 instructing you to reenergize the power?

6 A. Well, that's the thing that I didn't understand.
7 My power come straight in.

8 Q. So ---.

9 A. Yeah, there was no reason for me to be there.

10 Q. You didn't flip any switches or pull any levers;
11 right?

12 A. No.

13 Q. Okay. All right. Now, after this ventilation
14 change, such as it was, I think you indicated that the
15 ventilation on the 22 Headgate section improved?

16 A. Yes.

17 Q. Now, did it improve dramatically or just a little
18 bit?

19 A. Well, we went from air readings in the
20 ten-thousandths to --- the last that I heard was
21 around 23,000, which was a pretty drastic change.

22 Q. Did it seem that the ventilation was sufficient
23 after the change? Put it that way.

24 A. Yeah. But still, it would --- it would still come
25 and go ---

1 Q. Okay.

2 A. --- as far --- you know what I mean?

3 Q. Come and go?

4 A. Yeah.

5 Q. Any understanding of why it would come and go?

6 A. No.

7 Q. Could it have had something to do with doors?

8 A. That's the only thing that I could think that
9 could do it, would be the doors.

10 Q. Okay. Now, after this particular air change,
11 which you believe occurred within a month of the
12 explosion, are you aware of any other major
13 ventilation changes that may have taken place between
14 then and the time of the explosion?

15 A. Not that I'm aware of.

16 Q. Okay. When this major air change was made there
17 within a month prior to the explosion, did the foreman
18 on 22 Headgate examine the faces before the power was
19 restored?

20 A. Yes.

21 Q. Do you know if other areas of the mine were
22 examined before the power was restored?

23 A. I'm not real sure.

24 Q. Okay. Correct me if I'm wrong on this, but
25 earlier I understood you to say that the longwall crew

1 had been sent home during the evening shift of Friday,
2 April 2nd; is that correct?

3 A. That's what I heard. I'm not a hundred percent
4 sure on that, but ---.

5 Q. When you say you've heard that, what's your source
6 on that? Can you tell us?

7 A. Just people talking around the mines.

8 Q. Okay.

9 A. I didn't get a definite from nobody because ---.

10 Q. Okay. Now, were you working yourself that
11 evening?

12 A. I worked that night, yes.

13 Q. On Friday night?

14 A. Yes.

15 Q. Saturday morning?

16 A. Yes.

17 Q. Okay.

18 A. That's why I was saying if that was so, we should
19 have been notified. That's why ---.

20 Q. Okay. Prior to the explosion on April 5th, are
21 you aware of any fan outages at UBB?

22 A. No.

23 Q. Okay. Have you become aware of any information
24 which would indicate that the longwall was down during
25 --- down or not operating during the dayshift of April

1 5th?

2 A. I do know that the wall was supposedly down from
3 11:30 that morning until 2:45 that evening.

4 Q. Okay. What is the source of your information?

5 A. I heard that from the purchasing agent, which they
6 call out to him. He's a purchasing agent/dispatcher.

7 Q. Do you recall his name?

8 A. Greg Clay.

9 Q. When did you talk to Mr. Clay?

10 A. This was as couple days after the explosion had
11 happened and we was all upstairs.

12 Q. Did Mr. Clay indicate why the longwall was down
13 that day?

14 A. No, he didn't.

15 Q. Okay. Do you carry a --- did you carry a detector
16 when you were working on the 22 Headgate section with
17 the gas detector?

18 A. Yes.

19 Q. Okay. Did you at any time detect any methane?

20 A. I did detect methane but not a lot. I mean, like
21 a .25 or .3, somewhere in that area. It was
22 never ---.

23 Q. Did you do any welding or cutting at any time?

24 A. Yes.

25 Q. Did you use your methane detector?

1 A. Yes. Yes.

2 Q. Were you involved in maintaining the section
3 permissibility on equipment?

4 A. Yes.

5 Q. Aware of any ongoing problems with permissibility?

6 A. Excuse me?

7 Q. I'm sorry. Were you aware of any ongoing problems
8 with permissibility on the 22 Headgate?

9 A. No.

10 EXAMINATION

11 BY MR. BECK:

12 Q. Andrew, you said it was about four weeks ago you
13 were interviewed by Massey lawyers at Aracoma?

14 A. Uh-huh (yes).

15 Q. Do you know why it was at Aracoma?

16 A. I had went to Aracoma for --- they sent me to
17 Aracoma for two weeks. I was pulling out a mines, the
18 Hernshaw Mines. We pulled the equipment off the
19 section there.

20 Q. Did anybody from management sit in on that
21 interview?

22 A. No.

23 Q. During your time at Upper Big Branch, did
24 management ever conduct searches for smoking articles?

25 A. The bosses did. I mean, --- yeah.

1 Q. How often did they do that?

2 A. It was --- it was on time, yeah. I don't know
3 exactly if it was weekly. I believe it was weekly.

4 Q. And what was the starting time of your shift?

5 A. 11:30.

6 Q. And what was the quitting time?

7 A. It was supposed to have been 8:30.

8 Q. 8:30.

9 A. Yeah.

10 Q. 8:30 a.m.?

11 A. Yes.

12 Q. And were there rock dusters scheduled on that
13 shift that you worked?

14 A. Yes. Do you know where they --- approximately
15 where they were rock dusting at just prior to the
16 accident?

17 A. No, I don't.

18 Q. In your travels around Upper Big Branch, did you
19 ever hear anyone joke about the air on Headgate 22,
20 something to the effect that if you went to Headgate
21 22, you had to bring your own air?

22 A. No. There have been comments about --- you have
23 your mean air velocity. They said, the air is so
24 mean, it won't even go to Headgate 22.

25 Q. Were you ever injured while employed at Upper Big

1 Branch?

2 A. A long time ago. Actually, when I got laid off I
3 was hurt. I hurt my back. I was still a red hat.
4 That was back in '04.

5 Q. Did you miss work because of it?

6 A. I missed three days, yeah, and come back and I was
7 laid off.

8 Q. You was laid off after you came back?

9 A. Yeah.

10 Q. Do you know if there was an accident report filled
11 out?

12 A. Oh, yeah. Yeah.

13 Q. Did Upper Big Branch have problems keeping people?
14 Was there a high turnover?

15 A. Not really. I mean, most --- the majority of the
16 people had been there for years.

17 Q. Now, you became a certified electrician you said
18 in July 2009?

19 A. Yes.

20 Q. To get into the electrician program at Massey or
21 Upper Big Branch, did you have to sign a contract or
22 some type of agreement?

23 A. Yes.

24 Q. And basically, what was that about?

25 A. Just --- it was basically a money thing. If I was

1 to leave them in so much, they could penalize you or
2 take --- you know, have you pay back so much money or
3 something.

4 Q. Was there any restriction on where you could work
5 once you left Upper Big Branch?

6 A. No.

7 Q. And on your crew, were you the only electrician?

8 A. No. I had --- it was --- I had me and two other
9 certified electricians and a trainee.

10 Q. Okay. Did you ever have any visitors, other than
11 you said inspectors, but any visitors on your shift,
12 on the midnight shift, that weren't normally there,
13 you know, whether it be Massey officials or safety
14 department or anybody like that?

15 A. No.

16 Q. And then I believe you said that you and some
17 others expressed concerns about ventilation to
18 management officials basically every day?

19 A. Yeah.

20 Q. And who was that again that you told?

21 A. Well, I would tell my boss, which was Rick
22 Nicolau. And I mean, I would tell Everett, Everett
23 Hager, which was the superintendent. I mean, it was
24 just an ongoing thing. We would complain about it. I
25 mean, we all did it.

1 Q. What about Wayne Persinger or ---?

2 A. Yeah, we talked to Wayne about it, but ---.

3 Q. Blanchard?

4 A. No.

5 Q. Anybody above Blanchard?

6 A. I'm sure that it got to them, but me, personally,
7 I didn't.

8 Q. And was there a Massey 800, I don't know, problem
9 line I'll call it?

10 A. Yeah. Yeah.

11 Q. What did people think about that?

12 A. They thought it was a joke.

13 Q. Wasn't worth the time to call?

14 A. Yeah.

15 MR. BECK:

16 That's all.

17 RE-EXAMINATION

18 BY MR. STEFFEY:

19 Q. I got a few follow-up questions for you here,
20 Andrew. The doors at the mouth of the Headgate 22
21 section that you indicated here on the map, do these
22 doors have regulators in them?

23 A. No.

24 Q. Do you know how the intake air was coursed through
25 the Headgate 22 section?

1 A. Do I know how it was?

2 Q. Yeah.

3 A. Not exactly. I mean, not by looking at this.

4 See, when we drove this, it just shot straight over
5 and up. We didn't have all this up here.

6 ATTORNEY BABINGTON:

7 Sorry. You said here a lot there. Could
8 you describe that again, trying to ---?

9 A. When we was driving from the Headgate One North to
10 Headgate 22.

11 ATTORNEY BABINGTON:

12 So driving that crossover section?

13 A. Yeah. I think it was like 13 breaks or something
14 there, 13 or so breaks.

15 BY MR. STEFFEY:

16 Q. You mentioned you were laid off as a red hat there
17 after you had hurt your back.

18 A. Yes.

19 Q. Were you laid off because of your back?

20 A. Well, they was laying off people, but I think that
21 had a lot to do with it.

22 Q. Anybody ever say anything? When you called in,
23 did anybody ever say anything?

24 A. No.

25 Q. Caution you or anything?

1 A. No. Actually, like I said, I was hurt and I took
2 three days off, which I could have took a lot of time
3 off. I had some discs messed up in my back. But they
4 didn't call me or nothing. I came to work, got
5 dressed and ready, and they told me they needed me
6 upstairs. And that's when they did it, so ---.

7 Q. Okay. When you stated that the air increased from
8 10,000 to 20,000, were you referring to the last open
9 crosscut area?

10 A. Yeah, last open --- yeah, the last open break?
11 The last open crosscut. And I believe we was supposed
12 to maintain 15,000 in the last open crosscut.

13 Q. So you had problems getting the air ---

14 A. Yeah.

15 Q. --- up there?

16 A. Yeah.

17 Q. What about when the miner was cutting, did you
18 ever hear about them having problems of getting air to
19 the face?

20 A. At times I had heard, yeah, that they had
21 problems. But I'll tell you, the miner operators we
22 had up there, they would hit these, stop right now and
23 just say I'm not running.

24 Q. Did you ever hear of anybody turning the scrubber
25 on?

1 A. Not with a 20-foot cut. Not that I'm aware of.

2 Q. Okay. Were you ever designated as the company
3 representative for MSHA inspections? Did you ever
4 travel with the inspector?

5 A. The night that we got the (d) order on the
6 ventilation, yes, I was.

7 Q. Why were you designated as the company
8 representative?

9 A. Because he was going up to check the
10 permissibility on the equipment.

11 Q. Okay. Are electricians considered management at
12 Massey Energy?

13 A. No.

14 Q. What about the dispatcher, is he considered
15 management?

16 A. I don't guess.

17 Q. You mentioned your direct supervisor. Who was
18 that again?

19 A. Rick Nicolau.

20 Q. Rick Nicolau. Okay. And what did he do?

21 A. He was just --- he was the dayshift chief. He was
22 over one section and ---.

23 ATTORNEY BABINGTON:

24 Let's go off the record for one second.

25 BRIEF INTERRUPTION

1 A. Rick just --- to me, he told me what to do, left
2 me notes and stuff. He went to the section often.

3 BY MR. STEFFEY:

4 Q. Was he a mine foreman or ---?

5 A. He was just the electrical chief. You know, he
6 was the main electrician, yeah.

7 Q. Okay.

8 A. He had a lot on his plate, that's for sure.

9 Q. I bet he did. And who was his supervisor?

10 A. As far as electrical-wise?

11 Q. Yeah.

12 A. Paul Thompson.

13 Q. Okay. Can you take me through the management
14 structure at the --- above your supervisor at the
15 mine? Do you know who answered to who?

16 A. Well, they had --- Terry Moore was the mine
17 foreman, and Everett Hager was the superintendent.

18 Q. Okay.

19 A. And then I believe it was Wayne Persinger is the
20 vice-president and you had Blanchard as the president.

21 Q. What was Jason Whitehead?

22 A. I thought that Jason was Massey Coal Services.

23 Q. Okay. And who --- now, you mentioned the guy
24 above your boss. What was his name again?

25 A. Paul Thompson.

1 Q. Paul Thompson?

2 A. Uh-huh (yes).

3 Q. What did he do?

4 A. He organized a whole lot. He was --- the
5 Bandytown fans and everything like that he did. He
6 did a whole lot, yeah.

7 Q. And who did he answer to?

8 A. You know, I'm not real sure.

9 Q. Go back to this floor heaving up here. You
10 mentioned it was approximately three breaks outby the
11 face?

12 A. I would say somewhere in that area, yeah.

13 Q. You got an approximate date of when that occurred?

14 A. No, I don't. I really don't.

15 Q. About how many breaks a day do they mine?

16 A. One to two maybe.

17 Q. Okay. So that occurred, say, within a week?

18 A. Yeah, I would say so.

19 Q. Okay. Did you ever happen to, when you were
20 traveling to the section on the mantrip, to look at
21 the beltlines? Did you ever notice the belts?

22 A. Our track wasn't with the beltline.

23 Q. Okay.

24 A. It was in the next break over, so ---.

25 Q. The next break over?

1 A. Yeah.

2 Q. Did you ever hear anybody talking about rock
3 dusting along the belts?

4 A. They --- from what I had heard, they had been
5 maintaining the rock dust. I know this section ---
6 the Headgate 22 section, there was a violation wrote
7 on the beltline for --- it needed cleaned and stuff
8 and dusted, and ---.

9 Q. Now, when you say it needed cleaned, it was ---?

10 A. It was basically where they had moved belt and
11 where they had scooped up underneath the belt and
12 there was just piles, and --- but they --- we set
13 trickle dusters and stuff down the beltline, and they
14 did clean the beltline.

15 Q. What about float coal dust, did you ever hear
16 about problems with that on the belts?

17 A. Not a whole lot.

18 Q. Not a whole lot?

19 A. Yeah.

20 Q. Down at the Ellis Switch, ---

21 A. Uh-huh (yes).

22 Q. --- this belt that ran up the longwall and then
23 over to Six North, how wide was that belt?

24 A. It was a six-foot belt.

25 Q. Six foot. Now, I've been told that that belt,

1 that it dumped on down at the Ellis Switch was as
2 five-foot ---.

3 A. It went from --- the longwall had a five-foot
4 belt, and this --- I think Five North and Six North
5 belt was six foot. And when it got --- then it dumped
6 onto the five-foot belt.

7 Q. Did they have any problems with spillage there?
8 Did you ever hear any ---?

9 A. From time to time they did.

10 Q. From time to time?

11 A. Yeah. But they --- what they did, they slowed the
12 six-foot belt down, and that way it wouldn't --- the
13 five-foot belt, could --- which was the craziest thing
14 I'd ever heard of.

15 Q. When did they do the rock dusting along their
16 beltlines?

17 A. It was on the midnights.

18 Q. On the midnight shift, when your crew was working?

19 A. Yeah.

20 Q. How many men did they have doing that?

21 A. Two to three.

22 Q. Two to three?

23 A. Yeah.

24 Q. Do you know how many miles of beltline was in this
25 mine?

1 A. Miles.

2 Q. Miles?

3 A. Yeah.

4 Q. Do you think two to three men could have handled
5 all that?

6 A. No, I don't.

7 Q. Did you ever see those guys or talk to them?

8 A. Every once in a while, yeah, we seen them.

9 Q. Did they ever complain or have any complaints
10 or ---?

11 A. No.

12 Q. No?

13 A. I used to, a long time ago, dust, but we never
14 dusted the belts. We dusted track and stuff. We'd
15 come in and work an extra day. Sometimes we'd dust
16 belts. With that big duster you can dust a pretty
17 good bit in a shift, but still, three people can't
18 maintain the whole coal mines like that.

19 Q. How long did it take to load that big duster?

20 A. It takes a pretty good while. I don't know
21 exactly how --- it takes a while outside.

22 Q. And how many hours was their shift they had to
23 work on belts then?

24 A. I'd say eight hours maybe.

25 Q. You'd say eight hours?

1 A. Because you couldn't dust while people were going
2 to be traveling and stuff.

3 Q. Did they ever do any rock dusting with people
4 inby?

5 A. I'm sure it's been done, yes.

6 Q. Did you ever --- you mentioned a citation here for
7 accumulations. Did you ever hear of any other
8 citations for accumulations being issued?

9 A. On the belts?

10 Q. Uh-huh (yes).

11 A. Yeah, I have. I don't --- yeah, there's been a
12 few times that we've been shut down over belts and had
13 to shovel and dust.

14 Q. Now, I've heard Don Blankenship tell people that
15 Massey members can shut down equipment or belts at any
16 time for an unsafe condition. Have you ever heard of
17 anybody shutting down on their own a piece of
18 equipment or a beltline for an unsafe condition?

19 A. Yeah, I have, especially on the equipment, with
20 the equipment operators. The operator himself will
21 shut it down.

22 Q. What's mine management's reaction when they do
23 that?

24 A. I guess it all depends on what it is. We had one
25 guy, he wouldn't run his miner if he didn't have a

1 sledgehammer and a slate bar. He absolutely wouldn't
2 do it. His name was Bob Griff, one of them that was
3 killed up there.

4 Q. What about withdrawing from an area due to an
5 unsafe condition, has that ever happened? Did they
6 ever make that decision on their own?

7 A. No.

8 Q. Never heard of anybody ---? What do you think
9 would have happened if anybody would have withdrawn
10 from an area due to an unsafe condition on their own?

11 A. It's hard to tell what would happen. I really
12 wouldn't know myself. You know, I guess whatever kind
13 of mood they're in that day, I guess.

14 Q. Kind of a mood thing?

15 A. Yeah.

16 Q. You mentioned that the miners felt that the Massey
17 1-800 number was a joke.

18 A. Yeah.

19 Q. I think that was your words.

20 A. Yeah.

21 Q. Did anybody ever call that number? Did you ever
22 hear ---?

23 A. There had been a few times that I had heard
24 someone had called, and nothing was done. You know
25 what I mean? There was ---.

1 Q. Did anything happen to that person that called?

2 A. No.

3 Q. Anybody ever get transferred for making a
4 complaint to management?

5 A. No. A lot of people wouldn't call that 1-800
6 number because they figured it was a set-up.

7 Q. What do you mean?

8 A. Like, if you was to complain, they would bring it
9 back to you, you know what I mean, transfer you
10 somewhere else or do something. I have heard that.

11 Q. So you think that they had a way to figure out who
12 was making the complaint?

13 A. Yeah. They said it could be anonymous or
14 something like that, but they could figure it out.

15 Q. Do you think Massey encouraged a culture of safety
16 at this mine?

17 A. Safety was a big thing. It really was.

18 Q. Was it encouraged? The crew encouraged it, but
19 was it encouraged from the top down?

20 A. At times, yeah.

21 Q. At times?

22 A. Yes.

23 Q. Now, when you say at times, what do you mean?

24 A. During a safety meeting, if this makes any sense,
25 you know what I mean, and then when you actually got

1 to go and do it, do what you got to do, do it. And
2 then when you're running coal, do what you got to do
3 to run it.

4 Q. Now, who told you guys to do what you got to do?

5 A. That was just the attitude. It wasn't said.

6 Q. It was implied?

7 A. Yeah. Yeah.

8 Q. And who implied that?

9 A. It would have been Blanchard. It wasn't Everett
10 Hager, the superintendent, or nothing. It was upper
11 management.

12 Q. So Blanchard had a lot of control over this mine?

13 A. Oh, yeah. And Wayne Persinger, he was an amazing
14 guy, too. He was --- he hadn't been there too long,
15 and --- he's a real good guy.

16 Q. Did Blanchard have anything to do with the
17 long-term mine planning in this mine? Did you feel
18 like they did long-term mine planning?

19 A. I don't ---.

20 Q. You mentioned before everything seemed like it was
21 rushed.

22 A. Yeah, everything was rushed.

23 Q. Did it seem like they looked ahead?

24 A. No.

25 Q. What do you know about the longwall?

1 A. Not a whole lot.

2 Q. Not a whole lot. Did you ever go up there?

3 A. No. I've actually never been on the wall. I've
4 seen it set up and stuff, but I've never actually seen
5 it running or anything like that.

6 Q. When you came back to work for them, what ---
7 about when was that again?

8 A. I would say maybe four years ago.

9 Q. Maybe four years ago?

10 A. Back to Performance, yeah.

11 Q. Did they give you the Massey initial training?

12 A. Yeah.

13 Q. You know, when did they do that? Did they do it
14 right after you started back or ---?

15 A. Like a retraining? When we come back to here, no,
16 we didn't get it because we had already had our
17 retraining for the other mines. Now, they did go over
18 the mines and everything, but it was not like a
19 retraining on this certain mines.

20 Q. Have you ever had the Massey initial training
21 where they covered their S1 standards? Did they talk
22 about that?

23 A. Yeah. They do that every year or each year, yeah.

24 Q. Okay. What do they primarily cover. Does it seem
25 like they're geared more toward safety or is it more

1 like a little cheerleading ---?

2 A. We have, you know, our --- the first aid and all
3 this other stuff. Yeah, it's towards safety. A lot
4 of it is.

5 Q. Okay. What was your first job assignment there
6 when you came back in?

7 A. When I came back, I was bolting top.

8 Q. Okay. Did you receive any training prior to
9 starting that job?

10 A. No. I had been bolting for a while at the other
11 mines.

12 Q. Did they --- on your first day on the job, what
13 did --- what did you do? What did they do when they
14 took you in the mine? They just take you to the
15 section and put you to work or ---?

16 A. They --- well, actually we walked the intake
17 in ---

18 Q. Okay.

19 A. --- instead of walking it out, which I guess is
20 about the same thing.

21 Q. Okay. So you mentioned that they had you bolting
22 top. Did you get any kind of task training or
23 anything? Did they go over any mine-specific
24 training?

25 A. Yeah.

1 Q. Did you receive any training on the AMS system,
2 the atmospheric monitoring system?

3 A. No.

4 Q. Did they go over --- did they go over any plans
5 with you when you were bolting top? Did they go over
6 the roof control ---?

7 A. They go over the roof control plan. They
8 actually --- they give you a copy of the roof control
9 plan.

10 Q. Okay. So you've been there for the last two
11 years. Am I understanding you correctly on that?

12 A. I've been there probably longer. I've probably
13 been there for the last three, I'd say.

14 Q. Okay. And did you get the annual refresher
15 training for 2008 and 2009?

16 A. Yes.

17 Q. Who gave you this training?

18 A. It was different people. They had different
19 classes and stuff, I guess.

20 Q. Do you remember where you got it? Do you remember
21 they had this training at?

22 A. Pettus Elementary School is where it was at.

23 Q. What all did they cover?

24 A. First aid, safety. We did the methane tests. We
25 did the shelters, the smoke training. They went over

1 the mine plans and stuff like that and roof control
2 and all kinds of stuff like that.

3 Q. Are you qualified by MSHA to conduct methane and
4 oxygen deficiency checks underground?

5 A. Yeah.

6 Q. How were you qualified?

7 A. Well, I've got a card. I'm not for sure, I guess.
8 There was an inspector, I believe, if I'm not
9 mistaken, when we was doing our gas tests they was
10 there with him and ---.

11 Q. Okay. What other kinds of training did the
12 company provide?

13 A. Just like that shelter training and stuff like
14 that. That's basically about it.

15 Q. Did you feel like the training they gave you was
16 adequate?

17 A. Yeah.

18 Q. Who was designated as the responsible person for
19 your shift?

20 A. Are you talking about at the whole mines or ---?

21 Q. Yeah.

22 A. Kenny Farmer or Shawn Walker.

23 Q. How did they inform you of this?

24 A. It was posted on the board, the owl shift.

25 Q. And if this person changed, was that posted on the

1 board also?

2 A. Yeah.

3 Q. Okay. So you've been working at this mine for the
4 last four years. This stair-step bleeder system that
5 they seemed to like to use, ---

6 A. This here?

7 Q. --- yeah, and they were using it also in the
8 sealed area there, do you know of any problems
9 associated with that?

10 A. I don't know. I'm not sure.

11 ATTORNEY BABINGTON:

12 Just to clarify, Dave, you're referring
13 to the bleeder system that ran along the back of the
14 tailgate, back to the Bandytown fan?

15 MR. STEFFEY:

16 That's correct.

17 BY MR. STEFFEY:

18 Q. Let's talk about the accident then, then we can
19 talk about April 5th for a few minutes. Where were
20 you at the time of the accident?

21 A. I was home.

22 Q. You were home?

23 A. Yes.

24 Q. Who notified you?

25 A. Well, I got a phone call. My brother-in-law is on

1 mine rescue, and my sister called me and she asked me,
2 she said, what's going on at your mines? I said, I
3 don't have a clue. I haven't heard nothing. She
4 said, well, Scotty just got called out to the mines.
5 There's been an accident. And the first that I heard,
6 my neighbor behind me, he called and said that there
7 was a roof fall. And then about 15 minutes later I
8 heard there was an explosion, so I just went to the
9 mines.

10 Q. Okay. What did they tell you when you got to the
11 mine?

12 A. I couldn't go across. They wouldn't let me
13 nowhere around.

14 Q. Okay. Did you go across the bridge? So you
15 didn't go ---. Did you go in the mine at all
16 after ---?

17 A. Go in the mine?

18 Q. Yeah.

19 A. No. No, I haven't been in the mine since.

20 Q. When were you finally allowed to go on the mine
21 property?

22 A. At least probably three days afterwards.

23 Q. Three days afterwards.

24 A. No. It was two days afterwards. I went up to ---
25 I worked in the shop on the --- doing permissibility

1 on the mantrips, and had them little stingers and
2 stuff up there. We kept them on for a while and
3 everything.

4 Q. Did you do anything else, any other jobs?

5 A. Just basically --- no, just that.

6 Q. Did you hear anybody talking? Did you hear any
7 conversations?

8 A. There was --- yeah, there was a lot of
9 conversation.

10 Q. What was the nature of those conversations? Do
11 you remember anything specifically that caught your
12 attention?

13 A. No, not really. I just --- I basically tried to
14 stay busy because it was rough.

15 Q. Yeah. It was a lot.

16 A. Yeah, it was a whole lot for us ---.

17 Q. It was a lot. Do you have any idea how people
18 were accounted for when entering or exiting the mine?

19 A. From the check-in/check-out ---.

20 Q. Check-in/check-out board. On the day of the
21 accident, did you hear about any problems with the
22 tracking system? Is there anything that you heard?

23 A. After the accident or ---?

24 Q. Just prior to the accident?

25 A. No.

1 Q. No?

2 A. It was --- I mean, as long as you was on the
3 track. Now, they had us to where we couldn't take our
4 radios in the face. We had to leave them at the power
5 center.

6 Q. Okay. Did anybody say anything about the
7 longwall? Did the longwall crew call out and say
8 anything just prior to the explosion? Did you hear
9 anybody talk about that?

10 A. No.

11 Q. No conversations there. Okay. Did the company
12 have any type of incentive program in place in regard
13 to production and safety?

14 A. They had a Raymond Safety Program and they offered
15 a production bonus, but we never come close to meeting
16 it.

17 Q. Did everybody benefit equally in these programs,
18 salary and hourly guys?

19 A. Yeah. Yeah.

20 Q. Did you ever travel up in the Eight North area, up
21 in here?

22 A. It had been a long, long time since I've been up
23 in there. I would say at least eight months ago, if
24 not longer. There is a D Box on 60 Break.

25 Q. Right here?

1 A. Yeah. And we was doing a power check one night,
2 and that's --- I had to go all the way to 160 Break to
3 check that D Box.

4 Q. Where was that D Box at?

5 A. It was right at the end of the track, and it was
6 sitting in the left-hand break right there. It was
7 just a small D Box.

8 Q. Okay. Where was the track at? We indicate that
9 there's a fall here.

10 A. Yeah. Okay. Then it was right in here. The fall
11 was on the track.

12 Q. The fall was on the track?

13 A. Yeah. So right here was that D Box.

14 Q. How far did this fall go back? Did this fall
15 go ---?

16 A. I'm not real sure. That had been one of the first
17 times I had been up in there.

18 Q. Do you remember that fall taking in a bigger area
19 that's what being shown here?

20 A. I believe it was just that intersection.

21 Q. Just that intersection?

22 A. Yeah.

23 ATTORNEY BABINGTON:

24 Just to clarify, that track would be on

25 the Number Four entry ---

1 A. Yes.

2 ATTORNEY BABINGTON:

3 --- on that Eight North section? The
4 fall was right at that --- the intersection of Four
5 entry and the 160 Break?

6 A. Yes.

7 BY MR. STEFFEY:

8 Q. Did you ever visit the Glory Hole area?

9 A. From time to time, yeah.

10 Q. What did you find? Did you ever find any problems
11 there with methane or anything, water?

12 A. At times it was sloppy, just mud and stuff,
13 because you're going to have that. But as far as
14 methane, no, I haven't --- I have heard that people
15 have picked methane up in there. But me, myself, no,
16 I haven't.

17 Q. Now, you mentioned that you all --- you guys
18 expressed --- you and your crew expressed --- and
19 other guys at the mine expressed concerns to
20 management almost every day about ventilation, ---

21 A. Uh-huh (yes).

22 Q. --- and they just kind of shrugged it off?

23 A. Well, they was working towards seeing what they
24 could do to better the ventilation. It's not like
25 they didn't really care. You know what I mean? They

1 just got tired of hearing it. You know what I mean?
2 They was doing what they can do and ---.

3 Q. I understand. Did you know Josh Napper?

4 A. Yeah.

5 Q. Are you aware of the letter that he wrote to his
6 family?

7 A. Yeah.

8 Q. Why do you think he'd write a letter like that?

9 A. I don't know. That's what I said, when we're on
10 the hoot owl shift, there's a lot of stuff that we
11 miss and we're not told.

12 Q. Do you feel like the Upper Big Branch was a safe
13 mine?

14 A. I didn't think nothing like this would ever occur
15 at Performance Coal. I really didn't. It blows my
16 mind. Still today it blows my mind.

17 Q. But you were aware that there were problems?

18 A. Yeah, yeah, but ---.

19 Q. But you didn't expect anything of this magnitude?

20 A. No, nothing like this.

21 Q. Did anybody --- on the day of the accident did you
22 happen to talk to anybody --- did everybody that you
23 talked to seem like they were surprised at what was?

24 A. Yes. Everybody was just blowed away with it,
25 yeah.

1 MR. STEFFEY:

2 That's about all I got.

3 ATTORNEY BABINGTON:

4 Let's take a quick break. If you just
5 have a couple.

6 MR. FARLEY:

7 I'm ready.

8 ATTORNEY BABINGTON:

9 Okay. Go ahead.

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. One follow-up on the previous question I asked
13 about the major ventilation change while you were
14 still required to be underground. At the time you
15 were underground, as this ventilation change was
16 taking place, were the mine fans running throughout?

17 A. Yes. Yeah.

18 Q. Have you recently had any type of a roof fall on
19 the 22 Headgate section that you're aware of?

20 A. Not that I'm aware of.

21 Q. Now, within the last six months or a year since
22 you've been at UBB, are you aware of any major
23 equipment moves made with miners inby in the same
24 strip of air?

25 A. No, I don't believe. I mean, not that I can

1 recall.

2 MR. FARLEY:

3 Okay. All right.

4 RE-EXAMINATION

5 BY MR. BECK:

6 Q. You said there was an 800 number posted for a
7 Massey hotline.

8 A. Yeah. We got those little cards.

9 Q. Was there any other numbers posted, like hotlines
10 for Federal or hotlines for State?

11 A. Yeah, Federal and State's numbers was.

12 Q. That they had them posted?

13 A. Yeah.

14 Q. And then one last question. The management at
15 Upper Big Branch, were they ever concerned about the
16 mine getting unionized, organized?

17 A. I've never heard that.

18 Q. They never ---

19 A. No.

20 Q. --- talked to you about that?

21 A. No.

22 MR. BECK:

23 That's all I have.

24 RE-EXAMINATION

25 BY MR. STEFFEY:

1 Q. One more question for you there, Andrew. Did
2 anybody from management ever talk to you guys about
3 the 1-800 numbers and say, now, rather than calling
4 MSHA, we can handle these problems internally?

5 A. You know, I had heard that. Come to us before you
6 call MSHA or you know what I mean.

7 Q. Who told you that?

8 A. That's just what I had heard. Someone had told me
9 that. Well, I kind of got a mouth ---.

10 Q. Why do you think they'd say something like that?

11 A. I don't know. Just to save a citation. You know
12 what I mean? I don't know.

13 Q. Do you think citations were looked at sometimes as
14 just the cost of doing business?

15 A. Sometimes, depending on what they was doing. I
16 guess they figured it was cheaper to go ahead and do
17 it and pay a violation or pay for the citation than
18 what it would be to go the long way and do it the
19 right way.

20 Q. Easier to get forgiveness rather than permission.

21 MR. STEFFEY:

22 That's all I've got.

23 ATTORNEY BABINGTON:

24 Before we close out here, I just want to

25 place that two maps were marked up and they're going

1 to be part of the record. The first one is the Ellis
2 Portal map, and that will be labeled Lucas One.
3 There's a Bandytown fan map labeled Lucas Two.
4 (Lucas Exhibits One and Two marked for
5 identification.)

6 ATTORNEY BABINGTON:

7 On behalf of MSHA and the Office of
8 Miners' Health, Safety and Training I want to thank
9 you for appearing and answering questions today. Your
10 cooperation is very important in the investigation as
11 we work to determine the cause of the accident. We
12 request that you not discuss your testimony with any
13 person, aside from your personal representative.
14 After questioning other witnesses, we may call you if
15 we have any follow-up questions. If at any time you
16 have additional information regarding the accident
17 that you'd like to provide to us, please contact us at
18 the contact information previously provided. If you
19 wish, you may now go back over any answer you've given
20 during this interview, and you may also make any
21 statement that you'd like to make at this time.

22 A. I'm pretty good.

23 ATTORNEY BABINGTON:

24 Again, I want to thank you for your
25 cooperation in this matter.

1 A. Not a problem.

2 * * * * *

3 STATEMENT UNDER OATH CONCLUDED AT 11:53 A.M.

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1 STATE OF WEST VIRGINIA)
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4 CERTIFICATE

5 I, Alicia R. Brant, a Notary Public in and
6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in
8 the foregoing deposition, was duly sworn by me on said
9 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;

12 That the proceeding is herein recorded fully
13 and accurately;

14 That I am neither attorney nor counsel for,
15 nor related to any of the parties to the action in
16 which these depositions were taken, and further that I
17 am not a relative of any attorney or counsel employed
18 by the parties hereto, or financially interested in
19 this action.



20
21
22 *Alicia R. Brant*
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24
25