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Transcript of the Testimony of James Lucas

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STATEMENT UNDER OATH
OF
JAMES LUCAS

taken pursuant to Notice by Danielle Ohm, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, July 12, 2010, beginning at 8:00 a.m.

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1 A P P E A R A N C E S (cont.)

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. Today is July 12, 2010. We're here this morning to conduct an interview of James Lucas. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. Also present are individuals from the State of West Virginia. I'll ask that they state their appearance for the record. Terry?

MR. FARLEY:

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

MR. O'BRIEN:

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

MS. SPENCE:

Beth Spence with the Governor's independent investigation team.

ATTORNEY WILSON:

Mr. Lucas, all members of Mine Safety and Health Administration, Accident Investigation Team and all members of the State of West Virginia Accident

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

16 Government investigators and specialists

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

1 Mr. Lucas, you may have a personal
2 attorney present during this --- the taking of this
3 statement. Do you have a representative or an
4 attorney?

5 MR. LUCAS:

6 No.

7 ATTORNEY WILSON:

8 All right. Your statement is completely
9 voluntary. You may refuse to answer any question and
10 you may terminate your interview at any time. Also,
11 if you need to take a break at any time, please just
12 let me know and we'll go off the record. This is not
13 an adversarial proceeding; this is a fact gathering
14 exercise. Each of the parties will be asking follow-
15 up questions, but formal Cross Examination will not be
16 permitted.

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

1 orders us to reveal your name or if some other law
2 requires that we reveal your name, we may need to do
3 so.

4 Also, there may be a need to use
5 information that you provide to us in other
6 investigations or hearings into the explosion. Do you
7 have any questions?

8 MR. LUCAS:

9 No.

10 ATTORNEY WILSON:

11 Do you understand your rights to provide
12 a confidential statement?

13 MR. LUCAS:

14 I do understand. I don't have any
15 questions.

16 ATTORNEY WILSON:

17 After the investigation is complete, MSHA
18 will issue a public report detailing the nature and the
19 causes of fatalities in the hope that greater
20 awareness about the causes of accidents can reduce
21 their occurrence in the future. Information obtained
22 through witness interviews like you're giving to us
23 this morning are crucial to us in finding out what
24 happened, and that information is frequently included
25 in the reports that we issue. We will be interviewing

1 other individuals, so we request that you not talk
2 about what we discuss in your interview with anyone
3 else.

4 A court reporter will be recording the
5 interview, so please speak loudly and clearly so that
6 she can get down everything that's stated. If you do
7 not understand a question, please ask that the
8 question be rephrased. And before we came in the room
9 this morning, you told me that you sometimes wear a
10 hearing aid, and you're not wearing that this morning;
11 is that correct?

12 MR. LUCAS:

13 Right.

14 ATTORNEY WILSON:

15 All right. So we'll try to keep that in
16 mind and speak up when we're asking questions. I want
17 to thank you in advance for your appearance here this
18 morning. Your cooperation is critical in making the
19 nation's mines safer.

20 After we have finished asking questions,
21 we will provide you an opportunity to make a statement
22 or add any additional information to the record that
23 you believe would be helpful. If at any time after
24 the interview you recall any additional information
25 that you believe may be useful, please contact Norman

1 Page, who is MSHA's lead accident investigator. And I
2 have a letter here to you, requesting your appearance
3 here today, and this letter has the contact
4 information where you can contact Mr. Page. Terry,
5 did you have anything you wanted to add?

6 MR. FARLEY:

7 Yes. Mr. Lucas, on behalf of the Office
8 of Miners' Health, Safety and Training, I would like
9 to advise you that the West Virginia Coal Mine Health
10 and Safety Regulations, specifically Chapter 22(a),
11 Article 1, Section 22, also provide protection against
12 discrimination for miners when you participate in
13 these type of interviews. I want to provide you with
14 some contact information, should you experience any
15 such discrimination, and would advise you that should
16 anything occur, you need to file a claim within 30
17 days.

18 ATTORNEY WILSON:

19 Okay.

20 MR. LUCAS:

21 Is that 30 --- within 30 days of I feel
22 discriminated?

23 MR. FARLEY:

24 Yes, 30 days of its occurrence.

25 MR. LUCAS:

1 Okay.

2 ATTORNEY WILSON:

3 Beth, nothing? All right. Mr. Lucas, at
4 this time we'll have the court reporter swear you in
5 if you'd face me.

6 -----

7 JAMES LUCAS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
8 AS FOLLOWS:

9 -----

10 ATTORNEY WILSON:

11 Okay. Please state your full name for
12 the record.

13 A. My name is James Everett Lucas.

14 ATTORNEY WILSON:

15 And could you give us your address and
16 telephone number?

17 A. Address is [REDACTED]

18 [REDACTED] . My phone is area code [REDACTED]

19 [REDACTED]
[REDACTED]

20 ATTORNEY WILSON:

21 Okay. Mr. Lucas, as this time I'm going
22 to turn it over to Erik Sherer to begin the
23 questioning.

24 EXAMINATION

25 BY MR. SHERER:

1 Q. Good morning, Mr. Lucas.

2 A. Good morning.

3 Q. Again, we want to thank you for coming down.

4 We're investigating the accident that resulted in the
5 deaths of 29 of your coworkers, and we have two things
6 we're trying to do here. The first one is we're
7 trying to figure out what caused this accident, and
8 more importantly, how we can prevent that type of
9 accident in the future.

10 And then the other thing we're trying to do is the
11 families and loved ones of these and friends of these
12 miners deserve some closure, so we're trying to put
13 together the sequence of events that lead to their
14 loss. So anything you could do to help us is greatly
15 appreciated. Are you appearing here today
16 voluntarily?

17 A. Yes.

18 Q. Okay. How many years of mining experience do you
19 have?

20 A. I have about 35 years.

21 Q. Can you give us just a rough idea of what you've
22 done and where you've worked in that time period?

23 A. I started in 1974 at the Beckley Coal Mining
24 Company in Glen Daniel as a red hat.

25 Q. Sure.

1 A. I worked there until they closed about 1988. I
2 had about 14 years' time there.

3 Q. Sure.

4 A. Since that time I've kind of went around the
5 world.

6 Q. Uh-huh (yes).

7 A. I've worked in Welch, Herndon, Pineville, Welch
8 Road, Jim French over between Pineville and Mullens.

9 Q. Sure.

10 A. Then one mine up on Bolt Mountain, and about eight
11 --- eight, ten years with Massey.

12 Q. Okay.

13 A. I have, at one time or another, operated virtually
14 anything and everything in the coal mine.

15 Q. Seem like an extremely experienced coalman.

16 A. I feel rather accomplished as a coalminer and I do
17 take pride in my work. It's something I try to pass
18 on to younger miners ---

19 Q. Sure.

20 A. --- who just seem to want to try to get by.

21 Q. Sure. That's good. We need more people like you.
22 Where are you currently employed?

23 A. Well, through all the paperwork I'm a member of
24 Performance Coal, currently contracted out to Marfork
25 Coal.

1 Q. Okay. So you're working at Marfork?

2 A. Uh-huh (yes).

3 Q. What are you doing for Marfork?

4 A. Operating miner.

5 Q. Okay. Is that what you did at Upper Big Branch?

6 A. Yes.

7 Q. Okay. Have you been interviewed by anybody else
8 concerning this accident?

9 A. I was interviewed yesterday by two men from MSHA.
10 I'm sad to say. I think Mike and Mark were their
11 first names.

12 Q. Okay.

13 A. They came by yesterday and asked me about the
14 incidents of --- I think it was February the 13th.

15 Q. Sure. Okay. Has anyone else interviewed you?

16 A. No.

17 Q. Any attorneys contact you?

18 A. No.

19 Q. Okay. Thank you. So you were a miner operator at
20 Upper Big Branch. Now, did you work on a particular
21 section?

22 A. I worked on the barrier section.

23 Q. Okay. Where were you at prior to that? Is that
24 the only section you worked on?

25 A. That is the only place I worked at in UBB.

1 Q. Okay. Did you come from another operation?

2 A. Yes, I was transferred form Parker Peerless Mine
3 at Sundial.

4 Q. About when did that transfer occur?

5 A. It was just around the end of January, first part
6 of February.

7 Q. Okay. So you'd been at UBB two or three months
8 prior ---

9 A. Right.

10 Q. --- to the explosion? Did you come by yourself or
11 did you come with a crew of workers?

12 A. They transferred a big part of our crew.

13 Q. Okay.

14 A. It wasn't a complete transfer of everyone, but a
15 big part of us.

16 Q. So what shift did you work?

17 A. We worked a rotating shift, two weeks on dayshift,
18 two weeks on evening shift.

19 Q. Okay. Swing shift? Is that what they call it
20 anymore?

21 A. Swing shift, yeah.

22 Q. Oh, okay. That's what they called it when I ever
23 did it.

24 A. Yeah.

25 Q. I used to hate that.

1 A. Oh, I hate it.

2 Q. Was the section established when you started up
3 down here?

4 A. No. No, we had to do a lot of cleanup, rebolting,
5 setting timbers ---

6 Q. Uh-huh (yes).

7 A. --- establishing airways and belt.

8 Q. Sure. What was that area like? Is that high coal
9 or thin coal?

10 A. It's high coal. You had to have something to
11 stand on to reach the top.

12 Q. That's pretty high.

13 A. Pretty high.

14 Q. What's the roof, rib and floor like?

15 A. I'm sorry?

16 Q. What's the roof, ribs and floor like?

17 A. Floor, floor is soft. Top was soft in areas.

18 It's kind of like we were in a transition area, going
19 from slate to sandstone.

20 Q. Okay.

21 A. The slate --- I'm sorry, the slate, you know, the
22 slate and sandstone don't want to combine.

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

24 A. And we had --- you know, we had places there where
25 the slate had fell out from around the bolts and we

1 had to rebolt the ---.

2 Q. Were the ribs taking much weight?

3 A. Ribs were taking a lot of weight as we were
4 mining. There wasn't a lot of evidence of weight on
5 the ribs when we first got there, but after we started
6 mining.

7 Q. Sure. Is the mining height primarily coal or are
8 you taking any floor or roof with it?

9 A. Well, we had a middle man, middle band,
10 whatever ---

11 Q. Okay.

12 A. --- most people --- it's called different things.

13 Q. Sure.

14 A. It was about, about a foot and a half thick.

15 Q. Okay. So still cutting a pretty good bit of rock
16 in the middle of this thing?

17 A. Yeah.

18 Q. Many sparks come off that rock?

19 A. I never saw any off of the middle man.

20 Q. Okay.

21 A. Sometimes when we --- the section laid kind of on
22 a slant.

23 Q. Uh-huh (yes).

24 A. Looking at this map, it would be slanted right to
25 left ---

1 Q. Okay.

2 A. --- looking up the section.

3 Q. So it was dipping down to the north.

4 A. This the north end over here?

5 Q. No, this would be the north end.

6 A. It dipped this way.

7 Q. Oh, okay. So it was dipping down to the south?

8 A. Down to the south. And this area, from our power
9 entry over, you know, it went uphill. And sandstone
10 top and we would get some sparks off of that.

11 Q. Okay.

12 ATTORNEY WILSON:

13 Why don't we go ahead and make this map

14 Exhibit One, and just in orange just ask you to circle
15 the barrier section so that people who are reading the
16 transcript in the future will ---.

17 A. Circle the barrier section?

18 MR. SHERER:

19 Yeah.

20 ATTORNEY WILSON:

21 Yeah, that whole section.

22 MR. SHERER:

23 Draw a big circle.

24 WITNESS COMPLIES

25 MR. SHERER:

1 Okay.

2 ATTORNEY WILSON:

3 And then maybe off in the margin here,

4 write barrier section with an arrow to the circle,

5 just so that it's clear to other people, and we'll

6 mark this as Lucas Exhibit One.

7 (Lucas Exhibit One Marked for

8 identification.)

9 WITNESS COMPLIES

10 MR. SHERER:

11 Okay. Thank you.

12 BY MR. SHERER:

13 Q. Thank you. So it was dipping back to the south.

14 You were in a transition to sandstone and you were

15 getting some sparks off the roof occasionally ---

16 A. Yeah.

17 Q. --- hitting the sandstone?

18 A. Right.

19 Q. What about water? How much water on the section?

20 A. We had some drainage. I'm not real sure where it

21 come from.

22 Q. Uh-huh (yes).

23 A. It was a pump. This red here is --- this is the

24 belt line?

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

1 A. Okay. Well, you'd see water right here one break
2 inby where we set our head.

3 Q. Uh-huh (yes).

4 A. And they had a line going from there to another
5 pump which I believe was in this area, and ---.

6 ATTORNEY WILSON:

7 Okay. Now, when you say this area, can
8 you explain what you're ---

9 A. Okay.

10 ATTORNEY WILSON:

11 --- pointing to there?

12 BY MR. SHERER:

13 Q. Can you just make a mark and call it pump?

14 A. That would be our --- that's our track entry.

15 ATTORNEY WILSON:

16 Okay. And you marked with a red circle
17 and then you wrote pump.

18 A. Pump.

19 ATTORNEY WILSON:

20 And that would be in --- going from the
21 left, the third entry of the barrier section?

22 A. Number Three. Number Three entry, yes.

23 BY MR. SHERER:

24 Q. Okay. So you had to pump a bit of water. Do you
25 recall if that water come from the roof or the floor?

1 A. Really, like I --- I'm not sure. It was pumped to
2 a pump here on the belt line and then over to here and
3 somewhere else. I don't know where it went ---

4 Q. Okay.

5 A. --- because they was ---.

6 Q. Just general water that shows up in the mine?

7 A. Yeah, there you go.

8 Q. How about methane? You have much methane on that
9 section?

10 A. I never, never, never got any reading of methane.

11 Q. Okay. So no methane at all?

12 A. No.

13 Q. Okay. Did you carry a handheld detector?

14 A. Yes.

15 Q. You ever pick up any with the handheld meter?

16 A. No.

17 Q. Okay. So no methane on the monitor on the
18 continuous miner and none on the handheld?

19 A. No.

20 Q. Okay. What about ventilation? Did you have good
21 ventilation?

22 A. Once we got our overcasts and everything built, we
23 had really good ventilation.

24 Q. Okay. So they had to build some overcasts at the
25 mouth of the section?

1 A. Yes.

2 Q. How do you build overcasts at this mine?

3 A. We built side walls and we would put, I don't
4 know, six-inch I-beams.

5 Q. Uh-huh (yes).

6 A. Let me remember what we used for the floor. I
7 think we used concrete slabs.

8 Q. Precast slabs?

9 A. I'm sorry?

10 Q. Precast slabs?

11 A. Yes.

12 Q. Okay. What did you make the side walls out of?
13 Do you recall?

14 A. Cinder block.

15 Q. Okay. So you blocked up the walls with overcasts,
16 put I-beams across it, then put cement slabs across
17 that?

18 A. Uh-huh (yes).

19 Q. Okay. That's a pretty substantial overcast.

20 A. Yeah.

21 Q. Takes a lot of work to put those in, I imagine.

22 A. Takes a lot of hard work.

23 Q. Sure.

24 A. We were fortunate that the day we built one
25 overcast, we had everyone there. And we threw it up

1 pretty quick.

2 Q. Uh-huh (yes).

3 A. Okay. It can be hard on --- if you just got,
4 like, four men.

5 Q. Oh, yeah. That's a lot of material and a lot of
6 lifting. How many overcasts did you build there? Do
7 you recall?

8 A. I know of at least three, maybe four.

9 Q. Okay. That's a lot of overcasts. You say this is
10 high coal. You got to get up on something to reach
11 the top, so what are we talking about, eight, nine
12 feet?

13 A. And sometimes a little higher.

14 Q. Okay. How high was the overcast itself?

15 A. The overcast to the floor was probably five or
16 five and a half feet.

17 Q. Okay.

18 A. You had to duck a little to go under.

19 Q. Sure.

20 A. Then on the top it was high, high enough to ---
21 well, basically the same thing. You had to duck a
22 little to walk over it across the top.

23 Q. Okay. Did you have to take any top or bottom to
24 put that overcast in?

25 A. Yeah, we had to cut some top.

1 Q. Okay. Roughly how much top did you have to cut?

2 A. A couple of feet.

3 Q. Okay. So you were putting an overcast in an area
4 that's cut out. It's roughly 12 feet or so, so the
5 overcast --- you got five foot of height and the
6 overcast probably got six foot to the top of the
7 overcast, I guess ---

8 A. Close, yeah.

9 Q. --- with I-beams and stuff. So the overcast took
10 up about half that opening?

11 A. Uh-huh (yes).

12 Q. Okay.

13 ATTORNEY WILSON:

14 That's a yes?

15 A. I'm sorry?

16 ATTORNEY WILSON:

17 Yeah. I just --- on the transcript when
18 the court reporter writes it out, answers like uh-huh
19 don't show up, so I need you to --- yes or no ---

20 A. Okay.

21 ATTORNEY WILSON:

22 --- when you answer.

23 A. Okay.

24 ATTORNEY WILSON:

25 Thank you. And that was a yes; correct?

1 A. Yes.

2 ATTORNEY WILSON:

3 All right.

4 BY MR. SHERER:

5 Q. Okay. So did you have --- besides just cutting
6 out for the top of the overcast, did you taper the
7 sides of the cutout?

8 A. Just the ends in the direction of the airflow.

9 Q. Okay. How'd you make that cut? Did you shoot it
10 down or did you use a miner?

11 A. No, we cut it with the miner.

12 Q. Okay. Did you have any problems cutting that
13 height with a miner?

14 A. Not really. I was really surprised in the
15 sandstone top. It cut relatively easy.

16 Q. Well, that's good. What about your bolter? Did
17 it have any problem?

18 A. As far as drilling?

19 Q. Just as far as reaching?

20 A. They had to put extensions on the DRS system at
21 one place, if you want me to show you on the map.

22 Q. Sure.

23 A. When we first got there, you know, like I said, we
24 had to do a lot of rebolting in this area. And down
25 here where the butt-off was, it went downhill from the

1 track entry all the way down to here.

2 Q. Uh-huh (yes).

3 A. And it had fell out around the bolts, and it was
4 probably 12 foot or higher.

5 Q. Okay.

6 A. And they had problems reaching air.

7 Q. Can I get you to take a different colored marker
8 and just circle that area?

9 ATTORNEY WILSON:

10 Do that in green. And I guess to
11 describe it, would that be --- that would be the belt
12 entry at the mouth of the barrier section that you're
13 referring to; is that right?

14 A. Yeah, uh-huh (yes).

15 ATTORNEY WILSON:

16 Okay. Can you circle that intersection
17 in green?

18 WITNESS COMPLIES

19 ATTORNEY WILSON:

20 And label that high top.

21 WITNESS COMPLIES

22 BY MR. SHERER:

23 Q. Okay. Thank you. Okay. So you start driving
24 this section off. Did you have to do any cleanup
25 work?

1 A. Yes. It's even marked, still marked on this map,
2 a lot of gob areas. And we had to load that out to
3 establish for our airways and roadways.

4 Q. Sure. Now, I know where the gob is and you know
5 what gob is. Can you explain it to those ---

6 A. Okay.

7 Q. --- of us that don't?

8 A. Gob is --- a lot of people call overburden. It's
9 rock or other material that you can't sell.

10 Q. Sure, sure. So it's just kind of a waste rock
11 that you ---

12 A. Right.

13 Q. --- tend to pack in the --- anywhere you can in
14 the coal mine?

15 A. Just get it out of the way.

16 Q. Yeah. So you guys had to clean that out before
17 you turned this section off. Did that take you a long
18 time?

19 A. It did take a little while. I couldn't truthfully
20 give you a time on that.

21 Q. Okay.

22 A. But it was a good little while.

23 Q. Was it several shifts?

24 A. I'm sorry?

25 Q. Was it a shift or several shifts?

1 A. Oh, it was several shifts.

2 Q. Okay.

3 A. We could only, you know --- with the sloughing
4 around the roof bolts, ---

5 Q. Uh-huh (yes).

6 A. --- you know, we could only clean up, like, 20
7 foot, because it was ---.

8 Q. It was falling?

9 A. Well, it was considered unsupported.

10 Q. Oh, okay.

11 A. And so we would clean up 20 foot, back up and let
12 him bolt it, or we would go someplace else and load
13 out another 20 foot of gob.

14 Q. Sure. So you cleaned up, rebolted it. Did you
15 take the gob someplace else or did you load it out on
16 the belt?

17 A. No, we had a feeder set at that particular time,
18 and we had a buggy and put it on the belt.

19 Q. Okay. Did you notice any methane around that gob?

20 A. No.

21 Q. Okay. How'd you ventilate the cuts to load the
22 gob out?

23 A. Basically we were just in the airway.

24 Q. Just loading that? Didn't hang any curtain or
25 anything?

1 A. No.

2 Q. Okay. So you get the gob loaded out. You get the
3 roof bolted up and you --- do you start cutting for
4 your overcasts at that point in time?

5 A. I'm pretty sure that's the way it was. I think
6 that was the process. All the gob and rebolting was
7 finished before we started on the overcasts.

8 Q. Okay. Did you do any special bolting where you do
9 the overcasts, do you know?

10 A. Other than just making sure that the edges of the
11 overcasts or the ---

12 Q. Where you're going to cut?

13 A. --- belt channel was properly bolted.

14 Q. Okay. So you're going to start cutting the
15 overcast for the overcast and the belt channel. Did
16 you notice any methane when you were cutting those?

17 A. No.

18 Q. No methane at all?

19 A. No.

20 Q. Okay. Did you do --- were you just cutting in the
21 open airway or did you hang any curtain to cut those?

22 A. Basically it was just the open airway. The first
23 place we cut was the belt channel which was going to
24 go across the main track.

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

1 A. And right behind us ---.

2 Q. If you want to highlight the belt channel in blue.

3 A. Okay.

4 WITNESS COMPLIES

5 A. Channel have one N or two, or does it matter?

6 MR. SHERER:

7 That's good enough.

8 ATTORNEY WILSON:

9 You got it right. It's two.

10 A. But right behind where we were cutting the belt
11 channel was our feeder, and right behind that was a
12 set of doors. And there was a lot of air coming under
13 the doors from the main intake and just directly over,
14 over top of us.

15 BY MR. SHERER:

16 Q. Okay. How high was the belt channel that you were
17 cutting?

18 A. Okay. It was going to be pretty close to same as
19 the overcasts.

20 Q. Okay, okay. About 12 foot or so?

21 A. Right.

22 Q. Yeah.

23 A. And it was only going to be, like, one ripper head
24 wide instead of for every rib.

25 Q. Yeah. Just right down the middle or off to one

1 side?

2 A. It was a little off to one side because of the way
3 they had to project the belt entry.

4 Q. Sure, okay. And you say there was absolutely no
5 methane ---

6 A. No.

7 Q. --- when you go there? How did you measure the
8 methane every 20 minutes, with your handheld unit?

9 A. Yes.

10 Q. Did you have to crawl up on something to get it up
11 there?

12 A. We have a magna probe.

13 Q. Okay.

14 A. We put our handheld detector in it, put it on the
15 ripper head.

16 Q. Okay. So what do they call that, a gizmo?

17 ATTORNEY WILSON:

18 Okay.

19 A. You got me.

20 BY MR. SHERER:

21 Q. Yeah. So you'd use the ripper head to advance the
22 handheld methane monitor up into the area you were
23 cutting. Did it show any methane at all?

24 A. No.

25 Q. 0.0?

1 A. 0.0.

2 Q. 0.0.

3 A. You want me to explain it?

4 ATTORNEY WILSON:

5 Well, let me ask a question. You

6 mentioned --- earlier you mentioned that you had

7 discussed with the other people who had interviewed

8 you an event that occurred on February 13.

9 A. Uh-huh (yes).

10 ATORNEY WILSON:

11 All right. Could you explain to us what

12 occurred on February 13th?

13 A. On February 13th was what is called the Massey

14 Employee Appreciation. We're supposed to be off work.

15 In order to cut the belt channel without interfering

16 with production or having the track closed we got the

17 opportunity to work on February 13th, and we --- to

18 cut the belt channel. Sometime during the cutting

19 process, possibly I had cut maybe 10 or 15 feet and

20 the methane monitor went to F-9 and completely shut

21 the miner down.

22 I don't know how many malfunction readings are on

23 a methane monitor. I know there's a F-4 which you can

24 override through the remote control box and back it

25 out of the cut or whatever. But F-9, I do know, just

1 shuts the whole machine down, and that's what
2 happened. And I called for the electrician to come
3 because I --- at that particular time I didn't know
4 what was wrong, you know.

5 And but he came and couldn't get the machine to
6 run, and then he was told by someone, whom I do not
7 know, to bridge it out. And he tried unsuccessfully,
8 I know, at least two times to --- and he told whoever
9 he talked to he did not know how to do it. He didn't
10 know how to bridge it out. But they instructed him
11 and he tried and couldn't get it done and eventually
12 it was bridged out. I don't know who was involved.

13 Q. Who was the electrician? Do you recall?

14 A. Our section electrician was George Holzapfel.

15 Q. George Holzapfel. Do you recall if he had to take
16 the monitor out to do this or take the cover off?

17 A. The readout on the monitor and the back of the
18 miner comes apart.

19 Q. Uh-huh (yes).

20 A. And he did do that and tried to cross over wires.

21 Q. Okay. So he physically overrode some of the
22 circuitry?

23 A. Right.

24 Q. So was he successful with bridging out a monitor?

25 A. Not at that particular time.

1 Q. Okay.

2 A. Sometime later on. I don't know if he got help,
3 if he went --- was instructed over the phone or --- I
4 don't know the process, but I was told, you know, the
5 miner's ready.

6 Q. Okay. Do you recall who all was on the section
7 then?

8 A. A couple of people I don't --- I'm not real sure
9 of as far as their name. We had our bolt crew, Rick
10 Brown and --- well, Mike Richards was working with the
11 bolt crew that day, but he was the right side miner
12 operator.

13 Q. Okay.

14 A. Had one buggy man I know, Kevin Lambert. We had a
15 red hat on the shuttle car whose name I can't
16 remember. I don't really --- can't recall if he was
17 there that day.

18 Q. Okay, sure.

19 A. Then we had our scoop man, Travis. He was there.

20 Q. Do you recall Travis's last name?

21 A. No, sad to say. But then ---

22 Q. Who was the ---?

23 A. --- our boss, ---

24 Q. Okay.

25 A. --- Brandon Davis.

1 Q. Brandon Davis. Was he in on this problem in the
2 mine?

3 A. I don't think he was.

4 Q. Okay. He didn't come around and ---?

5 A. I think somebody --- I think they were setting
6 timbers.

7 Q. Okay.

8 A. And somebody went and told him we were down. And
9 now, again, I'm not real clear. Rick Foster, I think
10 he was there. I'm not real sure.

11 Q. Okay. Who was Rick Foster?

12 A. Rick Foster was the mine foreman.

13 Q. Okay. How long was this miner down? Do you
14 recall?

15 A. No, I don't really recall the ---

16 Q. Okay.

17 A. --- time it was down.

18 Q. Did you get the F-9 malfunction before you had
19 lunch or after you had lunch?

20 A. I think it was before.

21 Q. Okay.

22 A. Before lunch.

23 Q. Did you eat lunch?

24 A. Yeah, I did eat lunch.

25 Q. Did you eat lunch before it came back up?

1 A. It was still down.

2 Q. Okay.

3 A. Yeah.

4 Q. Okay. How long does it take to eat lunch?

5 A. Well, if I'm in a big hurry, I can eat my lunch in
6 15 or 20 minutes, but if ---

7 Q. Do you recall if you were in a hurry that day?

8 A. --- I'm not in a big hurry ---

9 Q. Yeah.

10 A. --- I can take my time ---

11 Q. Yeah.

12 A. --- enjoy it a little bit more.

13 Q. Did you have an enjoyable lunch that day? Do you
14 recall?

15 A. Yeah.

16 Q. Okay. So the miner was down. Would you think an
17 hour would be the minimum amount of time?

18 A. I believe it was down probably longer than that.

19 Q. Okay. So you had a couple of hours, between one
20 and two hours?

21 A. Well, I would say that's --- a couple hours.

22 Q. Okay. That's good enough. So the miner's down
23 for a couple hours. And the section boss didn't come
24 up, come around during that couple hours?

25 A. Well, he may have, but you know, sad, sad to say,

1 I didn't get to stay there and just set on the rib and
2 watch the electrician.

3 Q. Okay.

4 A. I had other things to do.

5 Q. Okay, sure. Okay. Was anybody else on the
6 section?

7 A. Well, I told the two men that came to my house
8 yesterday from MSHA that I didn't recall Gary May
9 being there at that time. The only thing I can recall
10 since talking to them is I remember Gary May being
11 there early in the shift.

12 Q. Okay.

13 A. And I had asked him about the height of the belt
14 channel.

15 Q. Okay.

16 A. But at that --- at the time the miner was down, I
17 don't think he was there.

18 Q. Okay. You don't think he was there or you can't
19 recall?

20 A. I can't recall.

21 Q. Okay. Okay.

22 A. Again, you know --- again, I wasn't there ---

23 Q. Sure.

24 A. --- at the miner the whole time.

25 Q. Okay. Was this a complicated operation to bridge

1 this out, do you know? I mean, were you even there?

2 A. I wasn't. I was there the first couple of
3 times ---

4 Q. Okay.

5 A. --- that George tried to cross over the wires.
6 And he was not successful and he knew he was going to
7 need help.

8 Q. Okay.

9 A. And then, you know, I was someplace else after
10 that.

11 Q. Okay.

12 A. As far as ---.

13 Q. But he did get it eventually to the point where it
14 would --- would it trim or would it cut?

15 A. You talking about after this? Oh, yeah. It
16 operated.

17 Q. It did everything it was supposed to do?

18 A. Right.

19 Q. It just didn't have a functional methane monitor?

20 A. I suppose.

21 Q. Okay. Did you go ahead and cut the overcast in
22 the belt channel?

23 A. Yeah. We cut up --- we had to, you know, start
24 back in this break, probably almost middle ways of
25 the break, and cut across the track. We got to the

1 track that day.

2 Q. Okay. Roughly two breaks long?

3 A. Well, no ---.

4 Q. About a break and a half?

5 A. We cut about a half a break that day.

6 Q. Oh, okay. Half a break.

7 A. Uh-huh (yes).

8 Q. So what's the pillar size there?

9 A. I'm sorry?

10 Q. Do you know what the pillar size is there?

11 A. It should, ---

12 Q. Is it about ---?

13 A. --- should be on the map somewhere.

14 Q. This is 200 foot inch. That's probably an
15 80-foot ---.

16 A. I'm thinking these were 100 by 100-foot singles.

17 Q. Okay. So the pillar's 80 foot long?

18 A. Eighty (80) --- 80 by 80.

19 Q. Okay. So you cut about 40 feet, roughly, about
20 half a break?

21 A. Yeah.

22 Q. Okay. Did you cut anything else that day?

23 A. No.

24 Q. Okay. Did George Holzapfel come back and fix the
25 monitor during that time period?

1 A. At the end of our shift it was still operating.

2 Q. Still bridged out?

3 A. Right.

4 Q. Was there an oncoming shift that finished up that
5 work?

6 A. Yes.

7 Q. Who was the crew in the oncoming shift? Do you
8 know?

9 A. The crew?

10 Q. Yeah.

11 A. Jack Martin was the boss.

12 Q. Okay.

13 A. I know Jeremy Riffe was miner operator.

14 Q. The same miner operator?

15 A. Same miner.

16 Q. Now, I assume that you have two miners on the
17 section?

18 A. At this particular time we just had the one.

19 Q. Oh, okay. Thank you.

20 ATTORNEY WILSON:

21 I'm sorry. What was Jeremy's last name?

22 A. Riffe, R-I-F-F-E. And the only person I knew on
23 that crew was the electrician, Alan Ball.

24 BY MR. SHERER:

25 Q. Alan Ball. Do you recall if anybody told those

1 people that it was bridged out, that monitor was
2 bridge out?

3 A. I'm not aware if they did.

4 Q. Okay. Do you recall what the monitor did, if
5 anything, while it was bridged out? Did it display
6 anything?

7 A. I talked --- I was unsure about what a bridged out
8 monitor would read if it would read ---

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

10 A. --- anything. And I asked the two gentlemen about
11 that yesterday, and they assured me that a bridged out
12 monitor would read 0.0.

13 Q. Okay. But you don't recall exactly what it read?

14 A. No.

15 Q. Okay. So if you haven't gotten into any methane
16 on that section, you'd expect it to read out 0.0?

17 A. Yeah, hopefully, if it's working the way it's
18 supposed to, ---

19 Q. Sure.

20 A. --- which, you know, at that particular time it
21 wasn't.

22 Q. Well, let me ask you this. When you came back on
23 that section --- so you worked on Saturday. Were you
24 off on Sunday?

25 A. Yes.

1 Q. Okay.

2 A. And off on Monday.

3 Q. So you came back on Tuesday?

4 A. Uh-huh (yes).

5 Q. Was the monitor operational at that point?

6 A. I can't honestly say.

7 Q. Okay. So you didn't know whether it was still
8 bridged out or not?

9 A. No.

10 Q. Did that bother you?

11 A. Well, not knowing, yeah.

12 Q. Okay. Did you ask the electrician?

13 A. We talked about it and he told me ---. I may be
14 wrong about this name, but George told me Snowman was
15 supposed to bring one up.

16 Q. Who's snowman?

17 A. I think he was a outby chief electrician.

18 Q. So he was going to bring a new monitor up. When
19 did you have this conversation, on Saturday or when
20 did that conversation take place?

21 A. That was on Saturday.

22 Q. Okay. So ---

23 A. On that Saturday.

24 Q. --- Snowman was going to bring one up. Did you
25 know when he was going to do that?

1 A. No.

2 Q. Okay. So you still didn't know whether the
3 monitor was bridged out or whether it was functional
4 on Tuesday?

5 A. No.

6 Q. Did you ask the section boss about it?

7 A. No. No, I didn't.

8 Q. Did you tell the section boss that the monitor was
9 bridged out?

10 A. Well, he knew. He knew.

11 Q. Okay. How'd he know? Do you know?

12 A. I don't know who told him, but you know, in the
13 process of the day he was made aware that it had to be
14 bridged out.

15 Q. Did he mention specifically that it was bridged
16 out to you?

17 A. The boss?

18 Q. Yeah.

19 A. No.

20 Q. Did he talk to anybody that you --- in your
21 hearing about it being bridged out?

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

23 Q. How do you know that he knew, then?

24 A. I just --- just from talk, just from conversation.

25 Q. With him?

1 A. Yes.

2 Q. So either you told it was bridged out or he told
3 you it was bridged out?

4 A. Well, he made me aware that he knew that it was
5 bridged out.

6 Q. Okay. Did he say something like, we got to get
7 this fixed, or, be careful, or how ---?

8 A. Well, you know, he did tell me, you know, to be
9 careful. And I'm almost --- I'm going to make this
10 statement. I know ignorance of law is no excuse.

11 Q. Okay.

12 A. Okay? Personally I thought that they had a time
13 frame of 12 to 24 hours to have that repaired or
14 replaced.

15 Q. Okay.

16 A. I know at one time that was a law.

17 Q. Okay.

18 A. But laws change, and I'm not aware of the new law,
19 what the law states as far as that goes today.

20 Q. Okay. Did you guys discuss that 12 to 24 hours?

21 A. I discussed it with Kevin Lambert.

22 Q. Okay. The shuttle car operator?

23 A. Uh-huh (yes).

24 Q. Did you discuss it with an electrician?

25 A. No.

1 Q. Okay. Did you discuss that with anybody else?

2 A. No. Kevin was the only one I talked to ---

3 Q. Okay.

4 A. --- about that.

5 Q. Do you recall where you got that information, that
6 12 to 24 hours is okay?

7 A. It's just from days gone by. When I worked at
8 Beckley Coal we had methane monitors that would go out
9 and the boss, bosses then would say, you know, well,
10 we have 24 hour, 12 to 24 hours ---

11 Q. Okay.

12 A. --- to get it fixed.

13 Q. Okay.

14 A. More or less just hearsay.

15 Q. Okay. Do you still think that that belief in that
16 12 to 24-hour period to correct a faulty methane
17 monitor --- do you think people still believe that?

18 A. I don't know.

19 Q. Okay. Just for your information, there's no
20 window. If the methane monitor's down, the machine's
21 down. There's absolutely no --- nothing in the law
22 and as far as I know, never has been anything in the
23 law that gives you that window to fix it. That's a
24 critical piece of safety equipment.

25 A. Uh-huh (yes).

1 Q. And for the Federal regulations, it's something
2 that has to work. If it doesn't work, you have to
3 shut the machine down, shut the power off the machine.
4 So you guys went ahead and cleaned that up. By
5 Tuesday was all that overcast work done?

6 A. I know the belt channel was done. And then we had
7 had an overcast on the intake that we needed to cut.
8 And as far as when that was done, what day it was
9 done, I'm lost on that.

10 Q. Okay. But it was done by the time you came back?

11 A. Yeah.

12 Q. Okay. Was other overcasts cut out? Do you
13 recall?

14 A. I'm going to say those were the only two that we
15 had to cut. The one that came down the hill here,
16 which is --- I guess this is shown on the map right
17 here --- we didn't do any cutting on it. It ---

18 Q. It had enough height?

19 A. --- had enough slope and ---

20 Q. Sure, okay.

21 A. --- everything on that.

22 Q. Okay. So it was all pretty much cleaned up by
23 Tuesday? Then you guys --- did you start back cutting
24 coal?

25 A. No. No, we were still ---. At that point we had

1 the overcasts built.

2 Q. Okay.

3 A. We still weren't in coal.

4 Q. Okay. So you built overcasts and such. Do you
5 recall roughly when you got back in the coal? Was it
6 the end of the week?

7 A. I'm not real sure on that one.

8 Q. Okay.

9 A. The day we did actually start loading coal.

10 Q. Okay. Did anybody tell you that the methane
11 monitor had been repaired?

12 A. I can't recall anybody telling me that.

13 Q. So you didn't know what the status of it was for
14 some, some period of time. Did that bother you?

15 A. Well, anytime that I have a piece of equipment
16 that's not working right, if I on my --- can't get a
17 signal on my remote ---

18 Q. Sure.

19 A. --- or the miner keeps shutting off by losing
20 signal, little things that's wrong with my equipment
21 does bother me, just little things.

22 Q. Sure.

23 A. Because I want it to operate right.

24 Q. Well, why do those little things bother you?

25 A. Why do they bother me?

1 Q. Uh-huh (yes).

2 A. Well, I don't know how many people are aware, you
3 know, that that is a piece of equipment and anything
4 that can go wrong with it can be dangerous.

5 Q. Okay. So safety concerns.

6 A. Yeah.

7 Q. If you can't control the miner, you may get hit by
8 it or something?

9 A. Right.

10 Q. So if the methane monitor doesn't tell you that
11 you're in methane, could have an ignition. Did you
12 take extra readings with your handheld unit during
13 that time period?

14 A. Well, when we started loading coal I did.

15 Q. Okay. So you still didn't know whether it had
16 been fixed or not when you started loading coal?

17 A. No.

18 MR. SHERER:

19 Okay. Thank you. You want to ask some
20 questions, Terry?

21 EXAMINATION

22 BY MR. FARLEY:

23 Q. The individual that you referred to as Snowman,
24 and I take it you don't know his name?

25 A. No, I don't.

1 Q. Okay. But I think you identified him as a outby
2 chief electrician?

3 A. I think so.

4 Q. Okay. Would he have been the top chief
5 electrician at the mine or would he have been somebody
6 under ---?

7 A. He was under someone else.

8 Q. Okay. Was he someone that you saw on a daily
9 basis?

10 A. A lot of days, yes, but not every day.

11 Q. Okay. Now, when George was having phone
12 conversations with someone off the section who was
13 giving him instructions as to how to bridge the
14 monitor, you don't have --- do you have any idea who
15 he was speaking to?

16 A. No.

17 Q. Okay.

18 ATTORNEY WILSON:

19 Terry, can I clarify one thing?

20 MR. FARLEY:

21 Sure.

22 ATTORNEY WILSON:

23 I don't know if you actually said the
24 conversations the electrician had was over the phone.
25 I assume the same thing, but let's clarify that. You

1 said the electrician spoke with somebody else.

2 A. Right, on the mine phone, yes.

3 ATTORNEY WILSON:

4 Okay. It was on the mine phone?

5 A. Uh-huh (yes).

6 ATTORNEY WILSON:

7 And were you present during that

8 conversation?

9 A. No.

10 ATTORNEY WILSON:

11 Okay. Go ahead.

12 BY MR. FARLEY:

13 Q. Okay. Now, after this transpired, this
14 conversation that George had on the phone in order to
15 bridge that methane monitor, I think you said you had
16 lunch.

17 A. Uh-huh (yes).

18 Q. Okay. Now, when you returned from lunch was there
19 any doubt in your mind that the methane monitor was
20 not functional?

21 A. Well, when I came back from lunch, to the best of
22 my memory, the miner was still down.

23 Q. Okay.

24 A. It was a little later --- a little later that I
25 was told it was ready to go.

1 Q. Okay. Do you remember who told you it was ready
2 to go?

3 A. Oh, my. No.

4 Q. Okay. Then again, when it was ready to go and you
5 began operation, was there any doubt in your mind that
6 the methane monitor was not functional?

7 A. I didn't know. I didn't know if it was or not.
8 Again, that goes along with the conversation I had
9 with the two investigators at my house yesterday.

10 Q. Okay.

11 A. You know, I didn't know if a methane monitor is
12 bridged out if it would continue to read F-9 or if it
13 would read 0.0. And those two men told me that, you
14 know, if the system is bridged out, it's going to read
15 0.0.

16 Q. Okay, all right. But the following week ---?

17 OFF RECORD DISCUSSION

18 BY MR. FARLEY:

19 Q. Okay. The following week someone told you that
20 Snowman was bringing a new methane monitor?

21 A. I believe that was part of the conversation of
22 that particular Saturday. Snowman was supposed to be
23 bringing it in that day.

24 Q. Okay. Now, is that the day when you first had the
25 problem?

1 A. Yes. Now, I don't recall --- I don't know if
2 Snowman ever showed up.

3 Q. Okay.

4 A. I couldn't say that he did or that he didn't.

5 Q. Okay.

6 ATTORNEY WILSON:

7 Did you have any follow-up questions
8 right now?

9 MS. SPENCE:

10 I have a couple of questions.

11 EXAMINATION

12 BY MS. SPENCE:

13 Q. Mr. Lucas, when you got back on the miner after
14 your lunch, ---

15 A. Uh-huh (yes).

16 Q. --- did you ask anyone if the monitor had been
17 fixed?

18 A. No. No, I was told the miner was ready. I went
19 over, started it up and started cutting the belt
20 channel.

21 Q. Would it have concerned you to know that it wasn't
22 fixed, that you were operating this miner without the
23 monitor?

24 A. Well, under normal coal mining circumstances, I
25 would. We were the only men in the mine that day. We

1 weren't actually mining coal. We were working outby,
2 and we had good air coming right overtop of us. And
3 again, I thought there was a time frame to have it
4 fixed, which I now know I was wrong.

5 Q. Thank you.

6 MR. SHERER:

7 Okay. Any more questions, Beth?

8 MS. SPENCE:

9 I think that's it.

10 MR. SHERER:

11 Okay.

12 RE-EXAMINATION

13 BY MR. SHERER:

14 Q. I got a couple more, Mr. Lucas. You say that the
15 George Holzapfel bridged this thing out. Is it common
16 for an electrician to make that sort of decision?

17 A. George didn't make that decision.

18 Q. So he was told ---?

19 A. He was instructed by someone else to bridge it
20 out.

21 Q. You don't know who that someone was?

22 A. No.

23 Q. Okay. You say that you started running the miner
24 and you knew that something had been done to the
25 methane monitor. Did you make that decision or were

1 you told to?

2 A. I'm sorry, now?

3 Q. Did you make the decision to start the miner up
4 with a defective methane monitor?

5 A. Well, I did. When I was told the mine was ready,
6 not knowing it could be fixed or not, it was
7 operating, I went ahead and started cutting that belt
8 line.

9 Q. Was that your decision or were you told to do it?

10 A. Well, I'm not going to say I was given the direct
11 order or anything, but I was told the miner was ready.

12 Q. Okay. The miner was ready. Is it common to
13 bridge out methane monitors at this mine?

14 A. Not that I'm aware of.

15 Q. Are you aware of any other incidents where methane
16 monitors have been bridged out at this mine?

17 A. No.

18 Q. Okay. Did you ever hear of somebody putting a
19 plastic bag over the sniffer?

20 A. I've heard --- I heard talk. I heard rumors about
21 things like that. I've never known of anyone doing
22 that personally or anyone told me, told me that they
23 did it.

24 Q. Okay. Those rumors, was it at Upper Big Branch or
25 was it at other mines?

1 A. Well, ever since the explosion there have been
2 rumors that the monitors were bridged out or had
3 plastic bags over them. And again, you know, I have
4 to say that's talk. It's rumor. I can't verify it.

5 Q. Okay.

6 EXAMINATION

7 BY ATTORNEY WILSON:

8 Q. Mr. Lucas, do you know who George Holzapfel, the
9 electrician, do you know him, who his supervisor was?

10 A. I can't say. I was only, only at this mine a
11 couple, couple months. So it's a big mine. I did not
12 know everyone.

13 MR. SHERER:

14 Did the section boss give him
15 instructions?

16 A. No.

17 MR. SHERER:

18 So he reported to somebody besides the
19 section boss?

20 A. Right.

21 MR. SHERER:

22 Okay.

23 BY ATTORNEY WILSON:

24 Q. And you said at first while the electrician was
25 working on the methane monitor, you were present; is

1 that correct?

2 A. Yes.

3 Q. And at first he was unable to bridge it out; is
4 that right?

5 A. Right.

6 Q. And then he left the area to make a phone call; is
7 that correct?

8 A. Yes.

9 Q. All right. And then he came back?

10 A. Uh-huh (yes).

11 Q. And when he came back, what --- do you recall
12 exactly what he said to you?

13 A. The best recollection I have is he made a
14 statement that they wanted him to try this, switching
15 out a couple other wires, that's basically all that he
16 said.

17 Q. And you said at some point you went to do
18 something else; is that right?

19 A. No, I went to eat my lunch and then I got involved
20 with the --- the best I can remember was down in this
21 real high area, was setting timbers. I mean, it was
22 probably as high as this ceiling or higher and
23 extremely large timbers and had a lot of --- had to
24 have help, you know, holding them, somebody up on the
25 scoop, tightening wenches and ---. That's where I was

1 at. And those timbers seemed to kept getting knocked
2 out.

3 Q. All right. And when you say, this ceiling, in the
4 room we're in that's probably about 20 feet, maybe, 15
5 to 20 feet high?

6 A. Is it that high?

7 Q. Well ---.

8 MR. SHERER:

9 I'd say 15.

10 ATTORNEY WILSON:

11 Well ---.

12 MS. SPENCE:

13 Depends on where you're standing.

14 MR. FARLEY:

15 I would say no more than 12.

16 BY ATTORNEY WILSON:

17 Q. Okay. So more than ten feet?

18 A. Oh, yeah.

19 Q. Okay.

20 A. Yeah, it was more than ten.

21 Q. Were you instructed by someone to go and help put
22 up those timbers?

23 A. No.

24 Q. Okay. So you just did that on your own?

25 A. Right. I'm no good at troubleshooting or anything

1 electrical.

2 Q. And the miner you were operating, was that the
3 only continuous mining machine operating on that
4 section that day?

5 A. Yes.

6 Q. And if that were down, is that something that the
7 section foreman would know about?

8 A. Oh, yeah.

9 Q. Okay. And did Mr. Davis, the section foreman,
10 discuss with you at anytime during that day the miner
11 being down?

12 A. The only thing I can recall, Brandon, he said, how
13 long you think it's going to take? And I just threw
14 up my arms, you know? You're asking the wrong guy,
15 because that's out of my rate of pay.

16 Q. Do you know if he talked to the electrician at
17 all?

18 A. Did Brandon talk to the electrician?

19 Q. Yes, did Brandon Davis ---?

20 A. Not that I am aware of, no.

21 Q. Okay. And my last question, you said that at some
22 point you were told the miner was ready.

23 A. Uh-huh (yes).

24 Q. Who told you that?

25 A. I can't remember. A lot of times this happens.

1 Miner's ready. You know, somebody ---.

2 Q. Somebody just yells it out?

3 A. And I can't recall. I really can't. I don't know
4 who told me, who yelled or whatever. I was just --- I
5 just knew they told me the miner was ready.

6 ATTORNEY WILSON:

7 Okay. Thank you.

8 MR. SHERER:

9 Take a short break?

10 ATTORNEY WILSON:

11 Yeah, let's --- we're going to go off the
12 record and take a short break.

13 A. Okay.

14 ATTORNEY WILSON:

15 Off the record.

16 SHORT BREAK TAKEN

17 ATTORNEY WILSON:

18 Okay. We're back on the record. Erik?

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. Okay. You said you came down with a crew from
22 Parker Peerless.

23 A. Uh-huh (yes).

24 Q. Had you been with those same folks for a while?

25 A. I was pretty much with that crew for about two

1 years.

2 Q. Okay. And was Mr. Davis a section foreman on that
3 same crew?

4 A. He was a section foreman at Parker, but he wasn't
5 my section foreman ---

6 Q. Okay.

7 A. --- at Parker.

8 Q. Okay. How about Gary May? Was he associated with
9 that crew?

10 A. No.

11 Q. Had you ever worked with Gary May before?

12 A. I had first met Gary when he was a continuous
13 miner operator at the White Queen Mine.

14 Q. Okay. Did you work with Gary?

15 A. I followed Gary on the miner. He'd run the miner
16 on dayshift. I was on the evening shift.

17 Q. Okay. Was he a good miner operator?

18 A. Yeah.

19 Q. He took care of things and made life easy for you,
20 I imagine.

21 A. We made life easy for each other.

22 Q. That's great. That's the way it's supposed to be.
23 How long were you two miner operators?

24 A. It was only a short time. Gary then took a job as
25 a boss.

1 Q. Uh-huh (yes).

2 A. And they moved him someplace else. I don't know
3 where he went to from there.

4 Q. Okay.

5 A. And then later on I heard he was super over at
6 UBB.

7 Q. Okay. Do you consider Gary to be a good friend?

8 A. Gary's a good all-around man.

9 Q. Okay. Good.

10 A. I couldn't really say, you know, we were friends.

11 Q. Still, I worked with a lot of people that I used
12 to work with and we're maybe in that same category,
13 not friends but we still feel comfortable with each
14 other.

15 A. Right, right.

16 Q. Do you recall, Mr. Lucas, when you started the
17 miner up, was the methane monitor all bolted back up
18 or was wires hanging out?

19 A. No, it was all back together.

20 Q. Okay. So it looked the same way it normally did?

21 A. Yeah. Yes.

22 Q. Do you remember if the display was lighted up or
23 not? Did it say anything or was it blank?

24 A. To the best of my recollection, it was reading
25 0.0.

1 Q. Okay. George, the electrician, did he mention
2 anything about his conversation on how to bridge the
3 monitor out?

4 A. Not with me.

5 Q. Okay.

6 A. That would have been a wasted conversation, for
7 one thing.

8 Q. Do you recall if he spoke with anybody else that
9 you're aware of?

10 A. Other than who he spoke to on the phone?

11 Q. Uh-huh (yes).

12 A. Not that I know of.

13 Q. So he was just there by himself, working on the
14 machine as far as you know?

15 A. Pretty much, yeah.

16 Q. Okay. Where was the section phone located?

17 A. I'm sorry?

18 Q. Where was the section phone located?

19 A. Section phone was at the feeder.

20 Q. Okay. The feeder was how many breaks over from
21 where the miner was at?

22 A. It was half a break and around the corner, down
23 the belt line.

24 Q. Okay. So about a break total distance?

25 A. Maybe, yeah, that'd be a ---.

1 Q. Little over a break?

2 A. Maybe just a little less.

3 Q. Little less than a break. The mine phones are
4 pretty loud, aren't they?

5 A. Yeah.

6 Q. So you can hear them over the equipment and such?

7 A. Yes, if they're on page.

8 Q. Okay. Did you hear part of the conversation when
9 George was talking on the phone?

10 A. No, no.

11 Q. Okay. And you don't have any recollection at all
12 of who he might've been speaking with?

13 A. No.

14 Q. Okay. Did you see him speaking with Mr. Davis
15 during the period of time that the miner was down?

16 A. Not that I can recall. I honestly can't say that
17 I ever saw Brandon around the miner.

18 Q. Okay. Did Brandon come around when you were
19 eating lunch?

20 A. No.

21 Q. Did he come around when you were setting timbers?

22 A. Yeah.

23 Q. Okay. Did he help you set timbers?

24 A. As much as Brandon would help.

25 Q. Okay. I understand that. Who else helped you set

1 those timbers? You mentioned you needed some help
2 setting them.

3 A. Well, there was a bolt crew and pretty sure
4 Kevin ---

5 Q. Okay.

6 A. --- Lambert was there with us.

7 Q. The shuttle car operator?

8 A. Uh-huh (yes). And the scoop man.

9 MR. SHERER:

10 Okay.

11 RE-EXAMINATION

12 BY MR. FARLEY:

13 Q. Mr. Lucas, I need to make sure I'm clear on some
14 things here, and I want to look to look at this in
15 sequence.

16 A. Okay.

17 Q. On February 13 continuous mining machine goes
18 down; that correct?

19 A. Uh-huh (yes).

20 Q. The methane monitor is reading F-9; is that
21 correct?

22 A. Yes.

23 Q. The machine will not function; is that correct?

24 A. Yes.

25 Q. All right. Now, George, the section electrician,

1 is the first person you contact; is that correct?

2 A. Yes.

3 Q. Okay. Did you contact anyone else ---

4 A. No.

5 Q. --- when the machine malfunctioned?

6 A. No.

7 Q. Okay. Now, if I understood you correctly, George
8 made some attempt to get the machine going; is that
9 correct?

10 A. Yes.

11 Q. And he then went to the section phone; is that
12 correct?

13 A. Yes.

14 Q. Okay. Did anyone else appear at the mining
15 machine during this period of time when George was
16 attempting to get it going and the time he went to the
17 phone?

18 A. No.

19 Q. No one?

20 A. No, not that I can recall. I don't ---

21 Q. Okay.

22 A. --- remember anyone else being there but me and
23 him and the shuttle car operator.

24 Q. Okay. And that was Lambert; correct?

25 A. Kevin Lambert.

1 Q. Okay. Now, after the machine malfunctioned, how
2 long did you remain at the machine before you went
3 elsewhere?

4 A. It may have been 30 minutes or so.

5 Q. Okay.

6 A. I waited. I waited to see if he could get the
7 machine operating.

8 Q. Okay.

9 A. And then I just basically watched as he tried to
10 bridge out the monitor.

11 Q. Okay. Now, during this 30-minute period before he
12 left to go elsewhere, there was no supervisor that
13 came to the miner; is that correct?

14 A. Right.

15 Q. Okay. Now, if I understood you correctly, you
16 observed George attempting to bridge out the monitor?

17 A. Yes.

18 Q. Now, was he successful?

19 A. No.

20 Q. Okay. Did he then go back to the phone?

21 A. Yes.

22 Q. Okay. But you don't know who he was talking to?

23 A. No.

24 Q. Now, who was it, again, that told you that Snowman
25 was bringing one?

1 A. I think that came from Kevin Lambert, you know.
2 Kevin, Kevin was back, forth from the miner to the
3 feeder.

4 Q. Uh-huh (yes).

5 A. And I think it just --- as he went by one time he
6 said, Snowman's on --- Snowman's bringing one up or
7 Snowman's on his way or ---.

8 Q. Okay. And now, when he said Snowman was bringing
9 one up, did you interpret that to mean that he was
10 bringing a new methane monitor to ---

11 A. Yes.

12 Q. --- switch out?

13 A. That's what I thought, yes.

14 Q. Okay. But if I understood your earlier testimony
15 correctly, you don't know if the actual new methane
16 monitor was installed?

17 A. Right, I don't know. And let me say this. A lot
18 of times assuming is wrong.

19 Q. Uh-huh (yes).

20 A. And assuming that the miner was fixed was wrong on
21 my part. I will say that. Just assuming that it was
22 repaired and ready to go simply because he said the
23 miner was ready, I was wrong in taking that assumption
24 if, in fact, it wasn't fixed.

25 Q. Okay. Who was it, again, that told you it was

1 fixed or ready?

2 A. Again, that was just one of those, miner's ready.

3 Q. Okay, all right.

4 A. A lot of times that's the way I call for the
5 electrician, you know. We're down. Need electrician.

6 Q. Now, with the mining machine being down for 30
7 minutes before you left the machine --- you and George
8 were there --- did you find it odd that no supervisor
9 came to the miner during that period of time?

10 A. Well, I felt it kind of odd that maybe that
11 Brandon didn't come. As far as the other supers that
12 --- supervisors that were there today, you know, I
13 don't know what they were doing, what they had going
14 on. Maybe they weren't in that area.

15 Q. Okay. Was Brandon on the barrier section area, in
16 that area that day?

17 A. Yes.

18 Q. Okay. Was he the person responsible for this
19 operation to cut the belt channel that was going on?

20 A. Well, in the chain of command, yeah, Brandon would
21 be responsible.

22 Q. Okay. You've been a continuous miner operator for
23 a long time; is that correct?

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

25 Q. All right. Is it fair to say this wasn't the

1 first time you'd ever had a problem with the methane
2 monitor on a continuous miner ---?

3 A. No, not the first time. No.

4 Q. Okay. Now, have you ever seen someone bridge out
5 a monitor before?

6 A. No.

7 Q. Okay. Are you aware, during your career of anyone
8 having to change a methane monitor while you were the
9 operator?

10 A. Yes.

11 Q. Okay. How long did it routinely take to do that
12 operation?

13 A. Oh, goodness.

14 Q. Assuming you had it --- you had the parts and the
15 materials in hand, how long would it routinely take to
16 change the methane monitor?

17 A. Now, the monitor, when --- are we just talking
18 about the readout part? That's basically your
19 monitor; right? The other thing is just your sniffer,
20 what we call the sniffer. That doesn't necessarily
21 have to be changed out if the monitor is bad.

22 Q. Well, that's generally correct.

23 A. As far --- I don't have a clue as to how many
24 wires are in that thing. I'm going to say maybe an
25 hour ---

1 Q. Okay.

2 A. --- not really knowing, about an hour.

3 Q. Okay. But if I got you correct here, on February
4 13th, the miner was down at least an hour and probably
5 two?

6 A. Right.

7 Q. Is that correct?

8 RE-EXAMINATION

9 BY MR. SHERER:

10 Q. You say that Kevin said that Snowman was going to
11 bring up another monitor.

12 A. Uh-huh (yes).

13 Q. Did you see anybody else on that section from the
14 time that monitor went down until you started cutting
15 again?

16 A. Uh-uh (no).

17 Q. So you didn't see Snowman bring anything up?

18 A. No.

19 Q. Who gave you the instructions to cut out that belt
20 channel and how to cut it out?

21 A. Well, it's something I had done before. Pretty
22 much knew what to do, but earlier in the shift I had
23 asked Gary May about the height of it, how --- you
24 know, because it was going over the track and they
25 had ---.

1 Q. Did Gary ask you to cut the belt channel or did
2 Mr. Davis ask you to cut the belt channel? Do you
3 know?

4 A. Well, originally the word came, you know, from
5 Brandon. We're going to have to work tomorrow to cut
6 our belt channel.

7 Q. Okay. So you know --- you knew where to cut it
8 and how to cut it and everything? Okay. So nobody
9 gave you any direct instructions?

10 A. No.

11 Q. Okay. And you asked Gary May how deep to cut it?

12 A. Right.

13 Q. Or how high to cut it?

14 A. How high, yes.

15 Q. Okay. You said that Gary was on the section that
16 morning?

17 A. Yes.

18 Q. Do you recall how long you stayed, roughly?

19 A. To the best I can remember, when we started
20 cutting, yeah, Gary left.

21 Q. Okay. So when did you get on the section that
22 morning? Do you recall?

23 A. It was only, like, a 15-minute ride ---

24 Q. Okay.

25 A. --- from outside, so we were probably --- we were

1 in the --- we were on the section before 7:00.

2 Q. Okay. So you were there before 7:00. How long
3 did it take you until you started cutting?

4 A. Oh, we had a miss. We had pump discharge line
5 that had to be removed ---

6 Q. Okay.

7 A. --- to the other side of the break. I still don't
8 know what that line is. Maybe you know.

9 Q. I don't know.

10 A. It's a big black --- looked like a slurry line ---

11 Q. Okay.

12 A. --- that went all the way through the mine. That
13 had to be jacked up.

14 Q. Uh-huh (yes).

15 A. Numerous cables that had to be --- we had a lot of
16 work to do before we actually got started cutting.

17 Q. Sure.

18 A. But as far as the time frame ---.

19 Q. But it was sometime before lunch when you started
20 cutting?

21 A. Oh, yeah.

22 Q. Okay. So did Gary May ride in with you?

23 A. I'm sorry?

24 Q. Did Gary May ride in with you guys?

25 A. No.

1 Q. Did he just appear on the section at some point in
2 time?

3 A. Yeah. We were in the process of moving the
4 discharge line and getting rid of all those cables.

5 Q. Uh-huh (yes), sure. Yeah, just cleaning up,
6 so ---.

7 A. And he was there.

8 Q. Okay. Was he there for a short time, long time?

9 A. Basically it was just a short time.

10 Q. Okay. Did he speak with Brandon Davis?

11 A. I'm sure he did. At that particular time they
12 were standing side by side.

13 Q. Okay. What did you guys talk about with Gary May
14 that morning? Do you recall?

15 A. We thanked him for letting us work.

16 Q. Okay.

17 A. No, we gave him a hard way about, you know, having
18 to work and just coal miner talk, you know.

19 Q. Sure. Just nothing out of the ordinary?

20 A. Right.

21 Q. Okay. When the miner gave you that fault
22 condition, you said it was a G-9?

23 A. F-9.

24 Q. F-9, okay. What did you do at that point in time?

25 A. Well, I tried --- you know, I tried taking my

1 remote cord loose, re-hooking, recycling the miner.

2 And it wouldn't run.

3 Q. Sure. Still had that F-9 fault. Did you call the
4 electrician?

5 A. Well, I called for him.

6 Q. Okay.

7 A. I hollered out. As a matter of fact, I think
8 George was at his toolbox, which was around the corner
9 and down the track one break.

10 Q. Okay.

11 A. And I yelled out and said, we're down. I need
12 electrician.

13 Q. Did he come up pretty quickly or ---?

14 A. Yeah.

15 Q. Okay. So you called him up there and he worked on
16 it for a while. Did it take him a while before he
17 tried to bridge that thing out?

18 A. Oh, yeah.

19 Q. So he worked for 20, 30 minutes?

20 A. Well, I would say 15, 20 minutes, checking your
21 receiver wire, your antenna wire and all of that,
22 and ---.

23 Q. Do you recall if he checked the sniffer itself?

24 A. No.

25 Q. Okay. But then at some point in time he decided

1 to try to bridge it out?

2 A. After he went to the phone. George was instructed
3 to bridge it out.

4 Q. Okay. So he went to ---?

5 A. That wasn't something he did on his own.

6 Q. Okay. So he couldn't get it to work. He went to
7 the phone and somebody told him to bridge it out?

8 A. Yeah.

9 Q. Okay. Were you there the entire time that he was
10 working on that monitor initially?

11 A. Initially, yes, even through his first two
12 attempts to bridge it out.

13 Q. Okay. So he made two attempts to bridge it out.
14 Did he go back to the phone at any point in time?

15 A. After he tried a couple of times, he went back to
16 the phone and he came back and he said, I told them I
17 don't know how to do this, but they want me to try
18 this.

19 Q. Uh-huh (yes). And whatever this was, did it work?

20 A. I don't know if that --- well, it couldn't have,
21 because it was another hour and a half from that point
22 before the miner was running again.

23 Q. Okay.

24 A. And at that time, when I knew it was going to take
25 longer and I went to eat my lunch and ---.

1 Q. Okay. Do you recall while you were eating lunch
2 or even setting the timbers if there were other phone
3 conversations? Did George ---?

4 A. No, I couldn't say.

5 Q. Okay. So when somebody finally said the miner was
6 ready or the miner was running or --- do you recall
7 exactly what was said when somebody yelled that out?
8 The miner's up?

9 A. Miner's ready.

10 Q. Miner's ready.

11 A. Ready to go.

12 Q. Okay. And somebody had told you that Snowman was
13 going to bring in a monitor, but you hadn't seen
14 anybody come up with a monitor?

15 A. Right.

16 Q. So when you heard miner's ready and you got over
17 there, do you remember if you thought the monitor was
18 fixed or the monitor was down?

19 A. Again, I wrongfully assumed. I suppose I
20 wrongfully assumed that it was ready to go.

21 Q. Oh, okay. So George had at least two phone
22 conversations that you know of ---

23 A. Yes.

24 Q. --- on bridging out the monitor?

25 A. At least two.

1 Q. Okay. Did he leave the miner for any period of
2 time and go anywhere else?

3 A. No, none.

4 Q. Okay. Did you think about asking him whether the
5 monitor was fixed or not?

6 A. No.

7 Q. Did you see him after he had done whatever he did
8 to the monitor? Was he still up at the miner or ---?

9 A. Yeah, he stayed there until I came over and hooked
10 up to the miner and made sure it was going right.

11 Q. Okay. And you didn't ask him anything about the
12 monitor?

13 A. No.

14 Q. You just assumed everything was perfect?

15 A. (Indicates yes).

16 Q. Okay.

17 OFF RECORD DISCUSSION

18 BY MR. SHERER:

19 Q. Was that a yes?

20 ATTORNEY WILSON:

21 You need to answer.

22 A. Yes. Sorry.

23 MR. SHERER:

24 No, no problem.

25 RE-EXAMINATION

1 BY MR. FARLEY:

2 Q. The person you referred to as Snowman, is he
3 someone you would recognize if he walked into the
4 room?

5 A. Probably.

6 Q. Okay. Was he the normal everyday employee there?

7 A. Yes.

8 Q. Okay. He is someone that if you saw him, you
9 could identify him as Snowman, even though you don't
10 know his actual name?

11 A. Yeah. Well, there is a reason why he's called
12 Snowman.

13 Q. And why is that?

14 A. He looks like a snowman.

15 Q. Are you saying he's a big fellow?

16 A. Yeah.

17 Q. How big? Approximately how tall was he?

18 A. Well, he's not real tall, but he's a jolly old
19 fellow, like ---.

20 Q. When you say old, how old?

21 A. He's probably, just a guess, late 30s, early 40s.

22 Q. Okay.

23 A. Do you know something I don't?

24 Q. Well, no, I just thought that you --- you said
25 old, and like, I'm 58 and he's 38 so ---.

1 A. Well, I'm 58, so ---.

2 MR. SHERER:

3 You just gave all of our ego a blow.

4 BY MR. FARLEY:

5 Q. Okay.

6 A. Well, I have to look at this in the mirror every
7 day. You don't think that hurts your ego?

8 Q. All right. So he's 30 --- about 38, 40, somewhere
9 around there, and I take it he's pretty heavy-set?

10 A. Yeah.

11 Q. Okay. And what color hair does he have?

12 A. Seeing a man with his hardhat on all the time ---.

13 Q. Okay. Now, on April 13th, if I've got this
14 correctly ---?

15 ATTORNEY WILSON:

16 February.

17 BY MR. FARLEY:

18 Q. Excuse me. Beg your pardon. February 13th.

19 During the time the continuous mining machine is down,
20 you didn't see anybody around that machine other than
21 George; is that correct?

22 A. Yeah, correct.

23 MR. FARLEY:

24 All right.

25 RE-EXAMINATION

1 BY MS. SPENCE:

2 Q. You've had lot of mining experience. How would
3 you compare this mine in terms of safety with other
4 mines that you've worked in?

5 A. Well, the only thing I can say about that coal
6 mine is the record that I was made aware of that it
7 had didn't have a really good record as far as
8 inspections went. I will say this. Compared to the
9 size of the mine and the number of violations, if you
10 would compare that with, like, a single unit mine, the
11 average is going to be about the same. Like, my wife
12 always asked me, how was your day? It was a day at
13 work. And then she would say, well, how was this
14 mine? And I would say, it's a mine. One hole in the
15 ground is a hole in the ground. They're all about the
16 same.

17 MS. SPENCE:

18 Okay. Thank you.

19 RE-EXAMINATION

20 BY MR. SHERER:

21 Q. Okay. When a Federal or State inspector came on
22 the property, did you guys know about it underground?

23 A. Oh, yeah.

24 Q. How did you know? Did it come over the mine
25 phone?

1 A. Yeah.

2 Q. Okay. Do you think the mine ventilation was
3 adequate at all times at this mine?

4 A. Well, in the area of the barrier section where I
5 worked, it was more than adequate. As far as the
6 longwall area, you know, I couldn't say.

7 Q. Okay.

8 A. I was never there.

9 Q. Okay. Are you aware of any ventilation changes
10 that were made at this mine?

11 A. Yes. When we first started the barrier section,
12 we were on a two mine sweep, split air to operate both
13 mines.

14 Q. Sure.

15 A. Because of a problem with ventilation at the
16 longwall, they took part of our air, sent it that way,
17 which reduced us to a single split of air, sweep air,
18 and only operating one miner at a time.

19 Q. Okay. Do you recall --- were you at the mine when
20 that change was made?

21 A. Yes.

22 Q. Where were you at when that change was made?

23 A. Oh, wait. Just let me rephrase that. When the
24 actual change of air took place, I was not at the
25 mine.

1 Q. Oh, okay.

2 A. We, as a matter of fact, were sent home ---

3 Q. Okay.

4 A. --- so they could make that air change.

5 Q. Okay.

6 A. When we came back to work the next day, it was

7 finished.

8 Q. So you went from the split to a sweep system?

9 A. Uh-huh (yes).

10 Q. Okay. Are you aware of miners being in the mine

11 at any time when there was an air change being made?

12 A. Not that I know. I know we were not.

13 Q. Okay. You ever hear of anybody mining in this

14 mine without ventilation curtains in place?

15 A. No.

16 Q. Okay. Have you ever been injured at this mine?

17 A. No.

18 Q. Okay. Do you know if miners were subjected to

19 retaliation or threats for reporting safety issues?

20 A. I can't say that I do.

21 RE-EXAMINATION

22 BY ATTORNEY WILSON:

23 Q. Did they do smoking material searches at the mine?

24 A. Yes.

25 Q. And you actually participated in that?

1 A. Oh, yeah.

2 Q. Now, how often did they do that?

3 A. Well, I wasn't there really long enough to get the
4 ratio of, you know, how often they did it. We were
5 there two months. We had once search, smoker search.

6 Q. Are you aware of anyone ever being found with
7 smoking materials ---

8 A. No.

9 Q. --- underground?

10 A. No.

11 Q. Ever hear of anybody smoking underground?

12 A. No.

13 ATTORNEY WILSON:

14 All right. Let's go off the record.

15 OFF RECORD DISCUSSION

16 ATTORNEY WILSON:

17 Okay. Back on the record. Did anyone
18 have any follow-up questions?

19 MR. FARLEY:

20 No.

21 MR. SHERER:

22 I don't have a question. I am going to
23 say on the record that we are going to find Snowman,
24 and then we're going to talk to the electricians.
25 We're going to run this down.

1 RE-EXAMINATION

2 BY MR. SHERER:

3 Q. Is there anything else you want to contribute to
4 this?

5 A. As far as February 13th or in general?

6 Q. Both.

7 A. Okay. On the record, I wish there was something
8 more I could say about the incident of February 13th.
9 Personally, I do not know where the order came from.
10 If I did, I would say.

11 As far as in general, I talked to the two
12 gentlemen from MSHA that came to my house yesterday.
13 During the first week of April at the time the
14 families were gathered in the family center, I talked
15 to a mine inspector out of Kentucky and I have also
16 sent an e-mail to the Governor's Office. I did not
17 like that attitude of the mine inspector from
18 Kentucky. He had the attitude that, you know, we've
19 already done it all. We've got it all covered. And
20 that, I just didn't like his attitude ---

21 Q. Okay.

22 A. --- in regard to what the statement I'm about to
23 make.

24 Q. Sure.

25 A. We do have a continuous monitoring system

1 throughout the coal mine as far as CO goes. I believe
2 in the day and time and the knowledge that we have
3 today, we could also have a continuous monitoring
4 system even in --- especially in sealed areas for
5 methane.

6 Q. Okay.

7 A. And I think it's something to be looked into.

8 Q. Okay.

9 A. Just checking a seal once a week or daily,
10 depending on if it's in the intake or return, doesn't
11 necessarily mean that it's covered.

12 Q. Okay. Do you recall what type of seals this mine
13 had? Were they 50 PSI seals or 20 PSI seals or 120s?

14 A. I never heard anyone say. I really don't know.

15 Q. Okay. Did you ever check any of those seals?

16 A. No.

17 Q. Do you know somebody that did? Why are you
18 concerned with the seals is basically what I'm asking?

19 A. Well, it seemed as though Sago had something to do
20 with the seal area.

21 Q. Oh, sure.

22 A. And I was under the impression --- if I could look
23 at this other map?

24 Q. Sure.

25 A. And I may be wrong. I may be assuming again, but

1 there is a gas well close to --- it'd be down here,
2 either here or farther down. Yes. Isn't there seals
3 in this area around this gas well?

4 Q. As far as we know, there's no seals. The well is
5 indicated as being plugged.

6 A. Okay.

7 Q. So it has cement in the well.

8 A. Again, I thought there were seals in this area and
9 that possibly that was, this gas well and the seals,
10 where the methane came from. Apparently I'm wrong.
11 But again, I believe a methane monitoring system would
12 benefit.

13 Q. Well, I'll certainly agree with you. Are you
14 concerned with any other place in the mine? Do you
15 think methane was a problem any other place in this
16 mine?

17 A. Not that I --- as a matter of fact, methane at
18 this mine was just something you never heard anybody
19 talk about.

20 Q. Okay.

21 A. I wasn't really aware of the methane problem at
22 this mine.

23 Q. Did you feel like this was a safe mine up until
24 the accident, I assume?

25 A. Overall I felt like as far as a mine goes, it was

1 as safe as any I've ever worked in. Again, I did have
2 some concern on the barrier section about the
3 weight ---

4 Q. Sure.

5 A. --- on the ribs.

6 Q. Okay. So that was the eight from the adjacent
7 mined out areas?

8 A. Right.

9 Q. Okay. Anything else of concern to you?

10 A. No.

11 MR. SHERER:

12 Well, I appreciate your information.

13 Okay.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. Were you at the mine the day of the explosion?

17 A. We rotated that weekend. I had just gotten to the
18 bath house ---

19 Q. Okay.

20 A. --- when the cloud of dust came out the fan.

21 Q. Okay. And you portaled at UBB?

22 A. UBB, yes.

23 Q. Okay.

24 A. Not the Ellis side.

25 Q. Okay. Were you involved in the rescue and

1 recovery effort?

2 A. No. We were asked by management to stick around
3 close in case we were needed.

4 Q. Sure.

5 A. They eventually took the EMTs and went to the
6 Ellis Portal.

7 Q. How long did you stay at the UBB Portal? Do you
8 recall?

9 A. I didn't get home until after 7:00. As a matter
10 of fact, my wife, not hearing from me and calling the
11 office, which she does if I'm 45 minutes late, and
12 then hearing all the information, she called and was
13 told to come to the family center. She thought I was
14 in the mine ---

15 Q. Oh, jeez.

16 A. --- for at least three hours. And then I finally
17 got home. We had a big reunion.

18 Q. I'm glad you had that reunion.

19 A. I'm sorry?

20 Q. I'm glad you had that reunion.

21 A. Yeah, I am, too. Off the record here in just a
22 little bit I have something I'd like to share with
23 each and every one of you.

24 ATTORNEY WILSON:

25 Okay. We can do that when we finish up.

1 A. Right.

2 RE-EXAMINATION

3 BY ATTORNEY WILSON:

4 Q. Is there anything that you saw or heard after the
5 explosion that may possibly be relevant to our
6 investigation that you can think of?

7 A. No. I wish I did. I wish I could say something.

8 Q. You didn't overhear any conversations or anything
9 going on that day?

10 A. No. Well, I don't know if this is relevant. When
11 it first happened, my mind, you know ---. I pulled up
12 at the bath house. The big cloud of black dust comes
13 out of the fan. The fan actually stops and reverses.
14 And a couple of men standing at the bath house thought
15 it was going to fly apart, so they ran. And my mind
16 just went blank, you know? I kept --- from my vehicle
17 to the bath house, I kept thinking, what would make
18 that fan do that? What would make that fan do that?

19 Well, as we get in the bath house, somebody comes
20 running down the steps and says, we had a big fall.
21 And then it hit me. No. The whole mountain would
22 have to set down to make that fan reverse. We've had
23 an explosion. And I don't know if that was an attempt
24 to get attention away from the fact that there was an
25 explosion or if it was just a common mistake that we

1 had a roof fall. I knew a roof fall like the one
2 probably they had in Utah might do that.

3 But no, that's the only conversation in regard to
4 that. I mean, at that particular time there was a lot
5 of concern. I heard the dispatcher talking about they
6 had talked to the crew on the mantrip at 78 Break, and
7 that was the last they heard from them. And I just,
8 you know, I just knew what had happened.

9 RE-EXAMINATION

10 BY MR. SHERER:

11 Q. Do you recall anything about the CO monitoring
12 system? Was it alarming?

13 A. I can't recall any alarms going off. And I,
14 again, assumed that the explosion just took everything
15 out, the personal locating devices and everything, you
16 know. Nothing worked.

17 MR. SHERER:

18 Okay.

19 ATTORNEY WILSON:

20 Okay. Anything? Terry? All right. Mr.

21 Lucas, on behalf of MSHA and the Office of Miner's
22 Health, Safety and Training I want to thank you for
23 appearing and answering questions today. Your
24 cooperation is very important to the investigation as
25 we work to determine the cause of the accident.

1 Again, we request that you not discuss your testimony
2 with anyone, because we will be interviewing
3 additional witnesses. After questioning other
4 witnesses, we may call you if we feel we have any
5 follow-up questions. And please, if you think of any
6 other information that might be helpful, please
7 contact Norman Page --- or the State at the contact
8 information that was provided.

9 I do want to inform you of your rights
10 under the Mine Act. Any statements given by miner
11 witnesses to MSHA are considered to be an exercise of
12 statutory rights and protected activity under Section
13 105(c) of the Mine Act. If you believe any discharge,
14 discrimination or any other adverse action is taken
15 against you as a result of your cooperation with this
16 investigation, you are encouraged to immediately
17 contact MSHA and file a complaint under Section 105(c)
18 of the Act.

19 Remedies under the Mine Act include
20 temporary reinstatement to your most recent position
21 pending a complete investigation of your complaint,
22 and of course back wages. In order to file such a
23 complaint, you should contact the MSHA District Office
24 in Mount Hope, West Virginia, and you can also go to
25 MSHA's website at www.msha.gov, and additional

1 information is contained there concerning your rights.
2 Before we go off the record, is there anything else
3 that you would like to add?

4 A. I can't think of anything.

5 ATTORNEY BABINGTON:

6 All right. Then again, I want to thank
7 you for your cooperation in this matter. And we'll go
8 off the record.

9 * * * * *

10 EXAMINATION CONCLUDED AT 10:00 A.M.

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CERTIFICATE

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



Danielle Ohm