



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Edward Matthews

Date: May 17, 2010

Case:

Printed On: May 21, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
EDWARD MATTHEWS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, May 17, 2010, beginning at 10:02 a.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ROBERT S. WILSON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

JAMES BECK
West Virginia Independent Investigation

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

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

2

3 TIMOTHY R. WATKINS

4 ADM/Assistant Lead Accident Investigator

5 U.S. Department of Labor

6 Mine Safety and Health Administration

7 Coal Mine Safety and Health, District 6

8 1301 Airport Road

9 Beaver, WV 25813

10

11 JOHN O'BRIEN

12 Safety Inspector

13 West Virginia Office of Miners' Health,

14 Safety and Training

15 Welch Regional Office

16 891 Stewart Street

17 Welch, WV 24801-2311

18

19

20

21

22

23

24

25

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	6 - 9
5	WITNESS: EDWARD MATTHEWS	
6	EXAMINATION	
7	By Mr. Watkins	10 - 30
8	EXAMINATION	
9	By Mr. Farley	30 - 31
10	EXAMINATION	
11	By Mr. Beck	31 - 32
12	RE-EXAMINATION	
13	By Mr. Watkins	32 - 35
14	RE-EXAMINATION	
15	By Mr. Beck	35
16	CLOSING STATEMENT	
17	By Attorney Wilson	35 - 36
18	CERTIFICATE	37
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

NONE OFFERED

P R O C E E D I N G S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ATTORNEY WILSON:

Good morning. We're here with Edward Matthews. My name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. With me is Tim Watkins, an accident investigator with the Mine Safety and Health Administration. Also present are individuals with the state of West Virginia. I ask at this time that they state their appearance for the record.

MR. BECK:

I'm Jim Beck. I work for Davitt McAteer on the independent team.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY WILSON:

Today is May 17, 2010. Mr. Watkins will start the questioning today, followed by the stated individuals. There are several other members of the investigation teams present in the room. All members

1 of Mine Safety and Health Administration accident
2 investigation team and all members of the state of
3 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.

9 MSHA and the State of West Virginia shall
10 keep this information confidential so that other
11 ongoing enforcement activities are not prejudiced or
12 jeopardized by a premature release of information.
13 This confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Everyone's 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 Mines South on
23 April 5th, 2010. The investigation is being conducted
24 by MSHA pursuant to Section 103(a) of the Federal Mine
25 Safety and Health Act, and by West Virginia Office of

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.
3 After the investigation is complete, MSHA
4 will issue a public report detailing the nature and
5 causes of the fatalities in hope that greater
6 awareness about the causes of accidents can reduce
7 their occurrence in the future. Information obtained
8 through witness interviews is frequently included in
9 those reports. You should know that if you request
10 confidentiality, confidentiality will only be granted
11 on a case-by-case basis. Your statement may also be
12 used in other enforcement proceedings. You may have a
13 personal representative present during the taking of
14 this statement, and you may consult with that
15 representative at any time. Do you have a
16 representative with you?

17 MR. EDWARDS:

18 No, I do not.

19 ATTORNEY WILSON:

20 You may refuse to answer any question and
21 you may request a break at any time. Since this is
22 not an adversarial proceeding, formal Cross
23 Examination is not permitted. A court reporter will
24 record your interview. Please speak loudly and
25 clearly. If you do not understand a question, please

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

5 Again, I would like to thank you in
6 advance for your appearance today. We appreciate your
7 assistance in this investigation. Your cooperation is
8 critical in making the nation's mines safer. After we
9 have finished asking questions, we will provide you
10 with an opportunity to make a statement or to provide
11 us with any other information that you believe to be
12 helpful to the investigation. If at any time after
13 the interview you recall any additional information
14 that you would like to provide to the investigation
15 team, you can contact Norman Page at the telephone
16 number in the letter that we provided to you. At this
17 time, I'll ask the court reporter to swear you in.

18 -----
19 EDWARD MATTHEWS, HAVING FIRST BEEN DULY SWORN,
20 TESTIFIED AS FOLLOWS:

21 -----
22 ATTORNEY WILSON:

23 I'll pass it to Tim Watkins for the
24 questioning.

25 EXAMINATION

1 BY MR. WATKINS:

2 Q. Do you go by Otis, Edward, or ---?

3 A. Well, most people call me Otis.

4 Q. Okay. Otis is okay, then?

5 A. Yes.

6 Q. That's good because that's what ---.

7 A. All right.

8 Q. Okay, Otis. Could you please state your full name
9 and spell your last name, please?

10 A. Edward Otis Matthews, M-A-T-T-H-E-W-S.

11 Q. And what is your address and phone number?

12 A. [REDACTED]

13 And the phone number is [REDACTED]

14 Q. Otis, are you appearing here today voluntarily?

15 A. I don't really know how to answer that. I was
16 asked to. I wasn't forced to.

17 Q. I mean, nobody has forced you to be here today?

18 A. No.

19 Q. Okay. How long have you worked for MSHA?

20 A. Thirty-seven (37) years.

21 Q. And what is your current duty station?

22 A. Mount Carbon, West Virginia.

23 Q. How long have you been at that location?

24 A. Off and on, I'd say since '98.

25 Q. And what is your current position?

1 A. Coal mine inspector.

2 Q. And you've had that position for how long?

3 A. Since November 2009.

4 Q. And your current supervisor?

5 A. Fred Wills.

6 Q. Otis, you are also a member of MSHA's
7 non-emergency unit; is that correct?

8 A. That's correct.

9 Q. How long have you been ---?

10 A. Since '98.

11 Q. Since '98. Okay. So you've been with MSHA for 37
12 years?

13 A. Yes.

14 Q. Okay. Why don't you just give us a little bit of
15 a rundown as far as your experience and where you've
16 worked at.

17 A. Prior to MSHA or during MSHA?

18 Q. Well, both.

19 A. Well, I've been most of my time in the military,
20 U.S. Army, National Guard, Reserve. I come to work
21 for MSHA and I was in a health lab for about 12 years.
22 Then I got in the affirmative action program, was
23 allowed to go to the Academy and go through the CMI
24 training program after I graduated from West Virginia
25 Tech in '74 --- '84, I stand corrected. And I became

1 a coal mine inspector in '87. And it's pretty
2 self-explanatory from there.

3 Q. The Upper Big Branch Mine, is that in your work
4 group?

5 A. No.

6 Q. Okay. Have you ever conducted inspections at
7 Upper Big Branch Mine?

8 A. Along with the ventilation group, yes.

9 Q. Okay. And do you remember when that was?

10 A. It was last year, but I don't remember the exact
11 date.

12 Q. Okay. Do you remember who asked you to come and
13 help?

14 A. Well, I was approached --- at the time, I was a
15 former health supervisor in Mount Hope and I was asked
16 to send one of my people down there, but I had no one
17 available so I went myself.

18 Q. Do you remember which area of the mine you went
19 to?

20 A. No, I do not.

21 Q. Okay. Do you recall if it was longwall or one of
22 the mining sections?

23 A. It was not a longwall.

24 Q. It wasn't a longwall?

25 A. No.

1 Q. Okay. You said it was probably late? Did you
2 say, I'm sorry, sometime last year?

3 A. It was last year.

4 Q. Was it late?

5 A. It was in the middle, I would believe.

6 Q. Did anyone go with you?

7 A. It was several of us. It was ventilation blitz, I
8 believe.

9 Q. Okay. Do you know the reason why, why they was
10 blitzing the mine?

11 A. No.

12 Q. Do you remember any of the findings that you had,
13 that you found?

14 A. I recall myself issuing several violations, but I
15 can't recall whether they were related to ventilation
16 or not.

17 Q. Okay. Is that the only time you've been ---?

18 A. Other than doing the explosion.

19 Q. Okay. Was that just a one-day blitz ---

20 A. For me?

21 Q. --- for you?

22 A. Yes. Yes.

23 Q. When you went in the mine, the conditions in the
24 mine that you encountered that day as far as rock
25 dust, methane, did anything stand out to you?

1 A. I don't recall.

2 Q. Being the first time ---. Let's talk a little bit
3 about the accident on the 5th. How were you notified?

4 A. My brother-in-law called me and told me he'd seen
5 it on the news. I was outside cutting grass and I
6 thought he was joking, so I put the news on and it
7 happened.

8 Q. Okay.

9 A. And I notified --- I called Virgil Brown and he
10 told me I needed to get down to the mines because he
11 was on his way there.

12 Q. What time did you call, did you call Virgil, do
13 you remember?

14 A. It was probably around 6:00, 6:30.

15 Q. I want you to just take us through your activities
16 starting from the time that you notified Virgil, just
17 kind of walk us through what ---?

18 A. You mean after I notified Virgil?

19 Q. After you notified Virgil, yes.

20 A. Well, Virgil informed me to be at the mines and
21 meet him down there. And I gathered up my stuff
22 because my gear, my MEU gear, was already taken to the
23 mines from the Academy. And I drove to the office and
24 got my government vehicle, then proceeded to the mine.

25 Q. Okay. About what time did you arrive at the mine?

1 A. 7:30, maybe something to 8:00.

2 Q. And who did you report to when you got to the
3 mine?

4 A. I don't recall.

5 Q. Okay. Do you recall who was in charge for MSHA
6 when you arrived onsite?

7 A. I believe Link Selfe was there.

8 Q. Okay. How about for the company, do you remember?

9 A. No.

10 Q. How about the state, do you remember?

11 A. No.

12 Q. Okay. Did you talk to Link when you first arrived
13 at the mine?

14 A. I do know Link was there, but I talked to someone
15 else but I don't recall who it was.

16 Q. Okay. So when you first got there, what did you
17 do?

18 A. Well, I tried to find out what was going on.

19 Q. Okay.

20 A. And I was informed that Jerry Cook and Mike Hicks
21 and Fred Wills were already underground at the time,
22 and that myself and Fred Martin would probably have to
23 go in and relieve those guys as they were coming out.

24 Q. Okay.

25 A. Which we were --- had made plans to do that.

1 Q. Which portal did you go to?

2 A. I believe it's this one (indicating).

3 Q. There's a larger map back there, too. There's a
4 pointer there if you need to use it.

5 A. Okay.

6 Q. By this one, you're referring to the Ellis Portal.

7 A. Uh-huh (yes).

8 ATTORNEY WILSON:

9 Is that yes?

10 A. Yes.

11 BY MR. WATKINS:

12 Q. Okay. Did you stay at the Ellis Portal?

13 A. Yes.

14 Q. Or did you go to the other one? You stayed at the
15 Ellis?

16 A. Yes.

17 Q. So Link was at Ellis Portal?

18 A. Yes.

19 Q. Okay. So you got to Ellis Portal and then you
20 were trying to find out what was going on?

21 A. Right.

22 Q. Then what happened?

23 A. I talked to someone, and I don't recall who it
24 was, and they informed us once again who was already
25 underground for MSHA.

1 Q. Okay.

2 A. So we made preparation, Fred Martin and I, to get
3 out stuff on and go underground and replace those
4 guys. But we were pulled back because of the
5 contaminants that were found.

6 Q. So you didn't make it underground?

7 A. Yes, we made it underground.

8 Q. You did?

9 A. Yes, we did.

10 Q. How far did you get?

11 A. I would say we probably got from 78 Break, from
12 what I can remember, we probably made it 20 breaks,
13 25.

14 Q. Okay. Inby 78 Break?

15 A. Inby, give or take. It may not have been that
16 many because those blocks are pretty big, but it
17 seemed like it was a long ways.

18 Q. Okay. You have a map in front of you. Feel free
19 to look at it or reference it any time that you need
20 to.

21 A. Okay.

22 Q. You mentioned some folks from MSHA that was
23 underground. Do you know anybody from the company
24 that was underground?

25 A. No, I do not, because they were already there when

1 I got there. They were already underground.

2 Q. Did you go through any type of a check-in or
3 check-out system?

4 A. Yes.

5 Q. How was that?

6 A. We left our keys and stuff in our truck, team
7 truck, then the company personnel outside on the
8 surface took our names and, you know, our job --- I
9 mean, who we work for, took them down ---

10 Q. Okay.

11 A. --- before we were allowed to go underground.

12 Q. But you didn't actually see the list, you just
13 gave them your name?

14 A. Right.

15 Q. You couldn't see how many people were underground?

16 A. No.

17 Q. Was there any briefing before you went
18 underground?

19 A. Yes.

20 Q. Who conducted that briefing?

21 A. I don't recall.

22 Q. Was it MSHA folks or ---

23 A. No.

24 Q. --- state, company or who?

25 A. I don't recall.

1 Q. Okay. Do you remember what the briefing entailed?
2 What did they tell you?

3 A. Well, they told us that, from what I can recall,
4 they had made it a certain distance underground and
5 they were still exploring, looking for bodies, and
6 they were getting tired because they had been
7 underground for quite a while and that we were to go
8 in and replace them and proceed with the exploration
9 onto the longwall, if we could.

10 Q. Okay. So you went in at the Ellis Portal?

11 A. Yes.

12 Q. And did you walk in? Did you ride the track?

13 A. Track, rode the track, the mantrip.

14 Q. Was it just the three of you with MSHA, or was it
15 other folks with you as well?

16 A. There were several other folks us, the state, too.

17 Q. Do you remember any of those folks?

18 A. No.

19 Q. Were you with a mine rescue team?

20 A. Yes. There was a mine rescue team with us.

21 Q. Do you remember which team it was?

22 A. I think it was Massey. It was a Massey team.

23 Q. Do you know the captain's name, by any chance?

24 A. No.

25 Q. Okay. So you traveled by track up to --- how far

1 did you get?

2 A. Seventy-eight (78).

3 Q. Seventy-eight (78). Okay. And at 78, you
4 proceeded on ---

5 A. Foot.

6 Q. --- foot. You say you was going in to replace
7 Jerry Cook; is that correct?

8 A. Yes. And Mike Hicks.

9 Q. And Mike Hicks.

10 A. And Fred Wills.

11 Q. Where did you meet those folks at?

12 A. I'm not sure about the break, but they were on
13 their way back because we were all pulled out of the
14 mine, and I'd say --- like I say, it was probably 15
15 to 20 breaks from 78 inby, they were on their way
16 back.

17 Q. Okay. In the time you was underground, was any of
18 the victims found?

19 A. They found them.

20 Q. They found them?

21 A. We did not.

22 Q. Okay. Do you know where they found them at?

23 A. No, I'd only be speculating.

24 Q. Okay. Was the mantrip with the first victims they
25 found, was it already outside when you arrived?

1 A. To my knowledge, yes.

2 Q. You didn't see anything?

3 A. (Indicates no.)

4 Q. Let's talk a little about what you observed on
5 your way in as far as damage. Do you remember ---?

6 A. Stoppings out. When we got to 78 inby, we found
7 waterlines, supply doors on the track. Just different
8 things, signs of destruction. All these things were
9 laying on the track. Just mostly cables laying
10 different places, like I said, waterlines and supply
11 doors.

12 Q. You mentioned stoppings being damaged. Do you
13 remember where you first encountered damage to the
14 stoppings on your way inby?

15 A. No, sir.

16 Q. Do you recall if it was prior to the 78 Break or
17 if you had damage prior to 78?

18 A. I can't say.

19 Q. You said you got off the track at 78, off the
20 ride. Was there damage inby 78 that prevented you
21 from going further on the track?

22 A. Yes.

23 Q. What stopped you at 78, I guess?

24 A. Well, the track was tore up from 78 inby straight
25 ahead, but the track was intact for about five breaks

1 or so going toward the longwall, but there was so much
2 debris on the track, like I said, supply doors and
3 water lines and cables and such, that you couldn't ---
4 you wouldn't have been able to get up the track. But
5 you could walk it, but you had to stop on and over
6 stuff, and we did.

7 Q. Do you know about what time it was when they
8 pulled you out?

9 A. No, I do not.

10 Q. And what was the reason for pulling you guys out?

11 A. From what I can remember, the contaminants were
12 not good.

13 Q. By not good, do you mean explosive?

14 A. Right.

15 Q. And do you recall what those readings were as
16 explosive?

17 A. No, no, I do not.

18 Q. So was Jerry Cook and Mike Hicks, were they on
19 their way out, because they had been pulled out?

20 A. Yes.

21 Q. Do you remember how far they had made it inby?

22 A. I do believe they had made it to the longwall.

23 Q. Do you know any reason that Jerry might have
24 relayed to you what they seen on the longwall?

25 A. No, sir.

1 Q. Did he talk to you about any damage or anything on
2 the longwall that he'd seen?

3 A. No, sir.

4 Q. So I guess about 20 breaks inby 78, you and Jerry,
5 you guys come back to 78, did everyone exit the mine?

6 A. Yes, sir, to my --- what I can recall, yes.

7 Q. Do you remember what mine rescue team was with
8 Jerry?

9 A. No, but I seen several faces that I recognized.

10 There were several state employees and there were some
11 mine rescue teams there, and some of the guys I
12 recognized and some of them I did not know. But I
13 think they were Massey, from some of the faces that
14 I'd seen, they were Massey mine rescue teams.

15 Q. Do you remember their names?

16 A. Rob Asbury, I do know one. And some of the other
17 ones I know but I can't recall their names, no.

18 Q. When you ran into Jerry inby, was everyone with
19 him, were they all carrying apparatuses or was
20 somebody, you know, barefaced?

21 A. Could you repeat that question?

22 Q. Yeah. When you ran into Jerry inby ---

23 A. Yes.

24 Q. --- inby 78, you stated you ran into him 20 breaks
25 or so inby 78.

1 A. Right.

2 Q. When you ran into those folks as you was preparing
3 to exit the mine, was everybody that you'd seen, were
4 they mine rescue people? Did they have apparatuses
5 with them?

6 A. I'm not going to answer that.

7 Q. Okay. All of the folks --- was Jerry and Mike the
8 only two from MSHA that was underground?

9 A. They were the only two mine MEU ---

10 Q. MEU

11 A. --- trained personnel.

12 Q. Okay. So after you guys --- after you ran into
13 him and then you exited the mine, did you go back into
14 the mines any time after that, after the 5th?

15 A. Yes.

16 Q. And where did you go to on that trip?

17 A. The longwall.

18 Q. You made it up to the longwall?

19 A. Yes.

20 Q. And who was with you?

21 A. The state guy and --- it was myself and one state
22 man, and that was it. I can't remember his name.

23 Q. Okay. And just walk me through that trip
24 underground, if you will, where you went to, what you
25 seen.

1 A. Well, prior to us going, several people had went
2 underground prior to us and they had took and put the
3 men in body bags. And we were asked to go in and
4 cover them with sheets up on the longwall. And we
5 went down the face of the longwall to Break 107 and
6 uncovered the guys and put sheets on them. And then
7 brought those two back to the headgate.

8 Q. You said Break 107. Do you mean Shield 107?

9 A. Shield 107.

10 Q. Do you remember how many victims you actually put
11 sheets over?

12 A. I believe it was four or five, but at least four.

13 Q. Did you have --- what was the methane readings and
14 stuff when you was on the longwall?

15 A. I don't recall.

16 Q. Did you guys have to wear any apparatus?

17 A. No.

18 Q. So after that day, after you done that, okay, did
19 you come back outside then or where did you go to
20 after that?

21 A. We gathered the two bodies that we brought from
22 Shield 107 back to the headgate, and there was four of
23 them there. So we carried two to the outside. I
24 mean, we carried them down to the ride, put them on
25 the ride and brought them outside.

1 Q. Okay. Once you got outside, what did you do then?

2 A. Well, the bodies were taken from us, of course,
3 and we went and had a debriefing upstairs. And then
4 we changed clothes and may have stood around for a
5 while, maybe grabbed a bite to eat or something to
6 drink and discussed with some of the MSHA personnel
7 what we seen or what happened. And then we either
8 left or waited for the next team to go in.

9 Q. You mentioned a debriefing. Who conducted that
10 debriefing?

11 A. I remember --- I believe it was Frank. I can't
12 remember Frank's last name now. He works for Magnum.

13 Q. Foster, maybe?

14 A. Foster. And I think Link was there. I can't
15 recall exactly though, but I do know Frank was there.

16 Q. And you also mentioned maybe a meeting you had
17 with MSHA personnel. Do you remember who else was ---
18 who was in that one?

19 A. No. No, I do not.

20 Q. Was it MEO folks?

21 A. Yes.

22 Q. Okay. I think I asked you, the first time you
23 went in there was a check-in, check-out system. Was
24 that same system in place the second time when you
25 went ---?

1 A. As far as I know.

2 Q. Did you check in with someone?

3 A. Same way.

4 Q. Same way?

5 A. Yes.

6 Q. Was this the next day? Would this be on the 6th?

7 A. No. It was a couple days. Saturday --- it was
8 either Friday night or early Saturday morning. I
9 think it was Friday, if I recall right. It was a
10 Friday evening.

11 Q. So there was no activities underground between ---
12 for a couple days?

13 A. That I don't know. I believe there was but it was
14 just the way the rotation went, you know. You know
15 how it is with our teams. The way the rotation went,
16 that was the time that I went in.

17 Q. Okay. Why don't you talk a little bit about the
18 rotation? You was on how many shifts and how many
19 hours a day and all that stuff?

20 A. That's something hard to describe. I mean we, you
21 know, once you got underground, you were there. And
22 as far as the amount of time that you stay, no one
23 actually knows. I know for a fact probably a full 20
24 to 24 hours. Then there was some, I know myself, I
25 think we were 12, 14 at the most, but you know, that

1 varied. That just depended on what the company or
2 whoever was in charge required you to --- you know,
3 required us to do while we were there and how, you
4 know, the mine rescue teams were, what kind of shape
5 they were in.

6 Q. What was the fresh air base that second day when
7 you went in?

8 A. Seventy-eight (78) is the only one place that I
9 know where the fresh air base stayed when I was there,
10 pretty much.

11 Q. What about communication? What type of
12 communication were you guys using inby the fresh air
13 base?

14 A. Radios, handheld.

15 Q. Handheld.

16 A. And there were phones. There were hard line
17 phones also.

18 Q. Okay. From 78 to the surface, do you know what
19 type of communication they were using?

20 A. Hard line phones.

21 Q. Hard line. And did it go to the command center or
22 ---?

23 A. I don't know.

24 Q. You don't know who they were talking with on the
25 phone?

1 A. No.

2 Q. How did the handhelds work inby 78? Did you drop
3 people off every so often?

4 A. Well, we didn't because we had a hard line up to
5 the longwall pretty much. In up to, I'd say, within
6 ten breaks of the longwall, we had a hard line. Then
7 from that point in, he used handheld radios.

8 Q. Your second trip in, was everybody inby 78, were
9 they apparatus mine rescue personnel?

10 A. Yes, to my knowledge.

11 Q. Okay. So just your group. And was there another
12 group underground inby 78 when you had to put the
13 sheets over the bodies, was there another group inby?

14 A. There were some other individuals in the mines,
15 but I don't know who it was.

16 Q. Were you the only ones inby 78?

17 A. I don't know that.

18 Q. Were there any other mine emergency people, MSHA
19 people, inby 78?

20 A. I don't know that either.

21 Q. Were you in the mine any other ---

22 A. No.

23 Q. --- time after that? It was only two trips?

24 A. Yes.

25 Q. I'm going to take a little break and I'm going to

1 let Terry and then ask you a few while I try to get
2 some of my notes together.

3 A. Sure.

4 EXAMINATION

5 BY MR. FARLEY:

6 Q. If I followed your statement correctly, other than
7 April 5th of this year, your most recent trip to the
8 Upper Big Branch Mine would have been sometime last
9 year?

10 A. Right. That is correct.

11 Q. And that was for one day?

12 A. For one day.

13 Q. Okay. Now, you stated that one day last year that
14 you were part of a ventilation blitz. Do you recall
15 what prompted that ventilation blitz?

16 A. No.

17 Q. It wasn't possibly a complaint or some request
18 from an inspector?

19 A. It could have been.

20 Q. When you do a --- when you're involved in a
21 ventilation blitz, what usually prompts it? Is it
22 some complaint, some problem or is that something you
23 do periodically?

24 A. In my opinion, it's either one of the two. It's a
25 complaint by the inspector or someone at the mine.

1 Q. Okay. So if I recall correctly, you indicated you
2 didn't recall --- you didn't remember where precisely
3 you went to in the underground mine that day?

4 A. The only thing I know, it wasn't the longwall.

5 Q. Okay. Very good.

6 MR. FARLEY:

7 Mr. Beck?

8 EXAMINATION

9 BY MR. BECK:

10 Q. Good morning, Otis.

11 A. Good morning, sir.

12 Q. I'd first like to commend you and thank you for
13 your work on your recovery efforts.

14 A. Thank you.

15 Q. Did you ever inspect any other Massey mines?

16 A. Absolutely.

17 Q. What was their attitude about the safety,
18 ventilation, things like that, I mean, your general
19 opinion?

20 A. I can't answer that.

21 Q. Did you ever hear any talk about Upper Big Branch
22 and any problems or issues there?

23 A. Yes.

24 Q. Was ventilation ---

25 A. Yes.

1 Q. --- a problem there?

2 A. Yes.

3 Q. But it wasn't in your area of responsibility?

4 A. No, sir.

5 Q. Other than that one time you were sent there and
6 you had some responsibility there?

7 A. Right.

8 Q. During your two trips underground, I'm not quite
9 clear, were you ever under apparatus or ---?

10 A. No, sir.

11 MR. BECK:

12 That's all I have.

13 RE-EXAMINATION

14 BY MR. WATKINS:

15 Q. Just one more thing. Mr. Beck, you told him that
16 there was a ventilation problem. Do you remember what
17 it was in regards ---?

18 A. Now what was that again?

19 Q. The ventilation concern that you had heard about.

20 A. I was asked, like I said before, to have one of my
21 people to go down with the ventilation group to help
22 them do a ventilation inspection at this mine. I had
23 no one available, so I went myself.

24 Q. Has anyone approached you, at any time when you
25 was underground those two days, about any concerns

1 that they had about the Big Branch Mine?

2 A. Approached me those two days ---

3 Q. Yeah.

4 A. --- during the accident or ---?

5 Q. Yeah, during the accident.

6 A. No.

7 Q. Okay. How about any other time?

8 A. No.

9 Q. Okay.

10 MR. WATKINS:

11 Take a break?

12 ATTORNEY WILSON:

13 Okay. Let's take a five-minute break.

14 Off the record.

15 SHORT BREAK TAKEN

16 ATTORNEY WILSON:

17 Okay. Let's go back on the record. Tim?

18 BY MR. WATKINS:

19 Q. After we took the break there, Otis, I think there
20 was a little bit of confusion about what you had said
21 in regard to some ventilation issues ---

22 A. Uh-huh (yes).

23 Q. --- that were brought to your attention.

24 A. Uh-huh (yes).

25 Q. Okay. I think Mr. Beck had asked you in regards

1 to you hearing any rumors or anything as far as
2 ventilation problems with the mine.

3 A. Uh-huh (yes).

4 Q. And I believe you answered?

5 A. Yes.

6 Q. Okay. What was that problem?

7 A. Low air at the mine.

8 Q. At the mine. Was it just in general or was it low
9 air on the face or low air on the mining section?

10 A. It was just in general.

11 Q. Okay. And do you remember where you heard this
12 from?

13 A. It was just talk in the office.

14 Q. Okay. In your office in Mount Carbon or ---?

15 A. No, it was in Mount Hope.

16 Q. In Mount Hope. Okay. Was this at the same time
17 when they asked you to come up and help with the
18 ventilation blitz?

19 A. It was before that, before I went on the
20 ventilation blitz.

21 Q. Okay. So that would probably be part of the
22 reason why they asked you to come to the blitz, do you
23 think, to help do the blitz?

24 A. Well, from the way I understood it, they needed
25 someone to go. And like I said, I didn't have anybody

1 but myself and that was it.

2 MR. WATKINS:

3 I don't have anything else.

4 RE-EXAMINATION

5 BY MR. BECK:

6 Q. Just a couple. Otis, when you got the call to go
7 on the ventilation blitz at Upper Big Branch, who
8 called you?

9 A. It wasn't a call. I was asked to send someone.

10 Q. Who asked you that?

11 A. The ADM, Rich Klein.

12 Q. Rich Klein. Okay. And more on the debriefing
13 with Mike Foster. Did anybody take any notes or have
14 maps with ---?

15 A. Yes.

16 Q. Okay.

17 A. Frank did.

18 MR. BECK:

19 That's all.

20 ATTORNEY WILSON:

21 On behalf of MSHA and the Office of
22 Miners' Health, Safety and Training, I want to thank
23 you for 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. We

1 require that you not discuss your testimony with any
2 person. We will be interviewing additional people.
3 After questioning other witnesses, we may call you if
4 we feel that we need to ask any follow-up questions.
5 If at any time you have additional information that
6 you believe would be relevant to the investigation,
7 please contact Norman Page at the telephone number
8 that was provided to you.

9 A. Okay.

10 ATTORNEY WILSON:

11 At this time, I'd like to give you an
12 opportunity to --- if there's any statement that you
13 would like to make or if there's any additional
14 information that you would like to provide to us?

15 A. No.

16 ATTORNEY WILSON:

17 Okay. Then again, I want to thank you
18 for your cooperation in this matter. We're off the
19 record.

20

21 * * * * *

22 EXAMINATION CONCLUDED AT 10:50 A.M.

23 * * * * *

24

25

1 STATE OF WEST VIRGINIA)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:

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

That the proceeding is herein recorded fully
and accurately;

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



Alison Salyards