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**Transcript of the Testimony of Howard Dwight McClure**

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**Case:**

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Phone: 814-536-8908

Fax: 814-536-4968

Email: [schedule@sargents.com](mailto:schedule@sargents.com)

Internet: [www.sargents.com](http://www.sargents.com)

STATEMENT UNDER OATH  
OF  
HOWARD DWIGHT MCCLURE

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, May 24, 2010, beginning at 10:46 a.m.

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

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

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

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

2

3   RICHARD T. STOLTZ

4   Mine Safety and Health Administration

5   Pittsburgh Safety and Health Technology Center

6   Ventilation Division

7   Cochrans Mill Road

8   P.O. Box 18233

9   Pittsburgh, PA 15236

10

11   BILL TUCKER

12   West Virginia Office of Miners' Health,

13   Safety and Training

14   Welch Regional Office

15   891 Stewart Street

16   Welch, WV 24801-2311

17

18   JAMES BECK

19   West Virginia Independent Investigation

20                   ██████████

21                   ██████████

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is May 24th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Rick Stoltz, an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. BECK:

I'm Jim Beck. I work for the independent team.

MR. FARLEY:

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

ATTORNEY BABINGTON:

There are also several members of the investigation team also present in the room today. Terry will be conducting the questioning today. All members of the Mine Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big

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

15 Government investigators and specialists

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

24 After the investigation is complete, MSHA

25 will issue a public report detailing the nature and



1 causes of the fatalities in the hope that greater  
2 awareness about the causes of accidents can reduce  
3 their occurrence in the future. Information obtained  
4 through witness interviews is frequently included in  
5 these reports. You should know that if you request  
6 confidentiality, confidentiality will only be granted  
7 on a case-by-case basis. Your statement may also be  
8 used in other proceedings. You may have a personal  
9 representative present during the taking of the  
10 statement and may consult with the representative at  
11 any time. Do you have a representative here today?

12 MR. MCCLURE:

13 No.

14 ATTORNEY BABINGTON:

15 Your statement is completely voluntary.

16 You may refuse to answer any question. You may  
17 terminate your interview at any time or request a  
18 break at any time. Since this is not an adversarial  
19 proceeding, formal Cross Examination will not be  
20 permitted, however, your personal representative may  
21 ask clarifying questions as appropriate. So in your  
22 case you may ask personal --- sorry, clarifying  
23 questions.

24 A court reporter will record your

25 interview. Please speak loudly and clearly. If you

1 do not understand a question asked, please ask me to  
2 rephrase it. Please answer each question as fully as  
3 you can, including any information you've learned from  
4 someone else. I'd like to thank you in advance for  
5 your appearance here. We appreciate your assistance  
6 in this investigation. Your cooperation is critical  
7 in making the nation's mines safer.

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

15 -----  
16 HOWARD DWIGHT MCCLURE, HAVING FIRST BEEN DULY SWORN,  
17 TESTIFIED AS FOLLOWS:

18 -----  
19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Would you begin by giving us your name, home  
22 address and phone number, please?

23 A. My name is Howard Dwight McClure. My home address  
24 is [REDACTED]

25 [REDACTED]

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██████████  
██████████

Q. Thank you. You are employed by the Office of Miners' Health, Safety and Training; is that correct?

A. Yes.

Q. What's your position with the agency?

A. I'm a roof control inspector.

Q. Okay. Which regional office do you work out of?

A. Region 2, Welch.

Q. How long have you been with the Office of Miners' Health, Safety and Training?

A. Approximately 29 years, six months.

Q. How long did you work in the coal mining industry before you came to the agency?

A. Six years.

Q. So you have 35 or 36 years' experience; is that right?

A. Yes.

Q. Now, am I correct that you do not --- you have not been assigned to inspect the Upper Big Branch Mine; is that correct?

A. No, I haven't.

Q. Are you a member of the Office of Miners' Health, Safety and Training, excuse me, mine rescue team?

A. Yes.

Q. How long have you been a member of the rescue

1 team?

2 A. Approximately two and a half going on three years.

3 Q. Which regional team do you work with?

4 A. Welch. Welch team.

5 Q. All right. Let's go to the day of this explosion  
6 at the Upper Big Branch Mine. On April 5th, how and  
7 when did you learn that there was a problem at the  
8 Upper Big Branch Mine?

9 A. Well, we had finished --- we were actually at  
10 Chief Logan State Park Conference Center. We were  
11 staying there and we were doing mine rescue exercises  
12 at the college there in Logan, and we had just came  
13 back. I got back there about 4:20, 4:25, something  
14 like that, to the conference center, went into my  
15 room, laid down and rested for a while until ---  
16 dinner is usually served at five o'clock, so I was  
17 going to rest 'til 5:00. I might have even dozed a  
18 little bit.

19 And in that room, my phone does not pick up a  
20 signal. So at five o'clock, I left the room and I was  
21 going to walk outside to the cafeteria. As soon as I  
22 got outside, my phone started going off where I got a  
23 signal and it was Greg Norman, my supervisor, had  
24 called and told me what had happened. And then also I  
25 got a call from Homeland Security notifying me.

1 And of course everyone in the parking lot had done  
2 left. There was nobody there except for one, one  
3 State vehicle. And I forget who that person was. I  
4 talked to him and we were talking about it, so I  
5 called Greg Norman on my cell phone. And he was still  
6 --- he was still in that area. And I met him --- I  
7 left the conference center and met him out on Corridor  
8 G, I left with him and we traveled to the Upper Branch  
9 Mine. And after ---.

10 Q. Go ahead.

11 A. Continue? After we got to the mine, we went to  
12 --- we went to one of the portals and then we moved to  
13 another portal.

14 Q. Do you know which portal, you --- the first one?

15 A. Don't know the name of it. It was the one next to  
16 the highway. We crossed the bridge up on the hill  
17 there.

18 Q. Uh-huh (yes). Would that have been the one where  
19 all the emergency vehicles ---

20 A. Right.

21 Q. --- and traffic jam were located?

22 A. Exactly.

23 Q. Were you referring to the Ellis Portal?

24 A. Yes.

25 Q. Can you estimate what time you arrived there?

1 A. I think it took about an hour to get there, so I'm  
2 going to say we probably got there at six o'clock.

3 Q. Okay. Were other members of the Miners' Health,  
4 Safety and Training rescue team there when you  
5 arrived?

6 A. Yes.

7 Q. What happened then once you arrived at Ellis?

8 A. Okay. I started putting my coveralls and stuff  
9 and gear on. And then they said we was going to move  
10 to the other portal, so I had to take everything back  
11 off, repack and we drove to the other portal. And  
12 once we got there, we had our trailer and everything.  
13 We started getting our machines ready and just  
14 preparing to go in. And then it seemed like after an  
15 hour or two, we went in, the Welch team did. And  
16 there was another team that went in with us. It was  
17 the ICG team.

18 Q. Okay. Now, the Welsh team, do you remember who  
19 the other team members were?

20 A. On the Welch team?

21 Q. Yes, sir.

22 A. Bill Tucker, Preston Toney, Paul Smith, myself and  
23 there's another one. And anyway, we actually rode the  
24 mantrip in. We rode the mantrip in. We had our  
25 apparatus but we were open-face. And we rode up to

1 Break 78. We had to stop at 78 because there was  
2 debris on the track.

3 And we got out and we walked up to Break 98 where  
4 the fresh air base was. And after we got up there, of  
5 course there were some other teams up there. Now, as  
6 we walked --- we walked the track entry up to 98. And  
7 at one point me, Preston Toney and Bill Tucker got  
8 over to the belt entry because we were looking for our  
9 fire boss that was missing and we thought we might  
10 find him at the belt entry. And I traveled up the  
11 belt entry with him a ways and then I crossed back  
12 over to the track entry with the other mine rescue  
13 members and Bill Tucker and Preston Toney stayed in  
14 the belt entry. And we walked about two or three  
15 breaks and then they hollered they run into a fire in  
16 the belt entry, a small fire.

17 Q. Was that as you were walking from 78 to 98?

18 A. Yes.

19 Q. Okay. Can you remember where the little fire was?

20 A. No, I couldn't --- I couldn't tell you exactly.

21 We had ---.

22 Q. Was it somewhere between 78 and 98?

23 A. Yes, between 78 and 98.

24 Q. Okay.

25 ATTORNEY BABINGTON:

1 And just to clarify that, you're talking  
2 about that's on the Sixth North belt ---

3 A. Yes.

4 ATTORNEY BABINGTON:

5 --- area. Okay.

6 A. It was on the Six North belt. It was just some  
7 crib blocks on fire and ---.

8 MR. BECK:

9 Can he mark that on the map?

10 BY MR. FARLEY:

11 Q. If you would, please, just take the marker and  
12 circle the spot where you left the mantrip on the map,  
13 which you said was about 78? And also, you can circle  
14 the location where the fresh air base was. And as  
15 best you can, indicate approximately where the fire  
16 was.

17 A. Okay. It's --- here's 78. I'll mark that on the  
18 map.

19 MR. FARLEY:

20 And if you would draw a line out from it  
21 in a wide space on the map and put your initials and  
22 indicate the mantrip arrived here on April 5, 2010.

23 WITNESS COMPLIES

24 MR. FARLEY:

25 Mark the fresh air base 4/5/2010.



1 A. Okay.

2 BY MR. FARLEY:

3 Q. Okay. Now, and you said the fire, you think, was  
4 somewhere between 78 and the fresh air base?

5 A. Yes. Somewhere about mid port.

6 Q. Okay. And maybe indicate approximately where it  
7 was, the approximate location of the fire.

8 WITNESS COMPLIES

9 BY MR. FARLEY:

10 Q. And you indicated the fire was in the belt entry?

11 A. Yes.

12 Q. And just how big was this fire?

13 A. It was just a couple crib blocks burning.

14 Q. Were there flames or were there just embers?

15 A. I didn't see the fire personally. Bill Tucker  
16 hollered over to us that he needed something to put it  
17 out with.

18 Q. Uh-huh (yes).

19 A. And all we had was bottles of water that we were  
20 carrying, so we gave our bottles of water to him and  
21 put it out with that. So it couldn't have been too  
22 big.

23 Q. Okay. All right. I think we're up --- we're up  
24 to the fresh air base at 98 there on April 5th. What  
25 happened then?

1 A. Okay. We arrived at the fresh air base. We  
2 determined that we need to --- we need to move  
3 communication. We didn't have our telephone or  
4 telephone line up to that port.

5 Q. Okay.

6 A. So Bill Tucker and Randy Bell ---

7 Q. Uh-huh (yes).

8 A. --- went back to 78 to get it and bring it up,  
9 along with some water. And we basically stayed right  
10 here in this general area until they got back up  
11 there.

12 Q. Uh-huh (yes).

13 A. When they got back up, very shortly after that,  
14 they --- some team or some team member had called out  
15 and told them that they had run into a lot of methane,  
16 that the CO pegged at 9,999 and had three percent  
17 oxygen and they told us to come back out.

18 Q. Okay. So you didn't advance inby ---

19 A. No.

20 Q. --- the fresh air base?

21 A. No.

22 Q. All right. Can you estimate what time you got  
23 back outside? Would it have been into Tuesday  
24 morning, then, April 6th? If you know.

25 A. I really --- I really can't remember.

1 Q. No problem. Okay. Now, as part of the --- I  
2 think by this time on Tuesday morning, we were aware  
3 that we had 25 people deceased and four people  
4 unaccounted for. Did you enter the mine again later  
5 in the week?

6 A. Yes, I did.

7 Q. Do you recall when that was?

8 A. It was about three o'clock Sunday morning, the  
9 following Sunday.

10 Q. Okay. Now, when you re-entered the mine, did you  
11 enter through the same portal? Did you enter the mine  
12 the same way you did the previous time?

13 A. Yes.

14 Q. Okay.

15 A. Yes.

16 Q. All right. Where did you go to this time?

17 A. We traveled ---.

18 Q. Did you travel to 78 again in the mantrip?

19 A. Oh, yeah. We traveled up to 78. And this time,  
20 when I went in this time, I did not take --- I took  
21 the apparatus but did not wear it.

22 Q. Okay.

23 A. We just wore self-rescuers. And the purpose that  
24 we went in there for was to mark --- to go in and  
25 actually mark the locations where they need to build

1 ventilation controls.

2 Q. Okay. Do you recall approximately where that  
3 location was?

4 A. Seemed like ---.

5 Q. Was it inby or outby the longwall face?

6 A. Inby. I'm thinking, if I'm not mistaken, that it  
7 seemed like we were --- MMU-40-0.

8 Q. I think that was the section on the 22 Tailgate.

9 A. And we were --- what we did, each two, three  
10 member team would go up into ---. We'd go in one  
11 entry, the other team would go in the other entry and  
12 we'd mark these and then, you know, we'd leave there  
13 and come over to the next one. So I was actually ---  
14 what do you call this?

15 Q. That would be the longwall headgate entries, One  
16 North.

17 A. Okay. I was there somewhere between 30 and 35.

18 Q. In the longwall headgate entries?

19 A. Yeah. And also over on MMU-40 in that --- one of  
20 those entries. It seemed like, you know, we went  
21 there and then we traveled back down to --- what do  
22 you call this area here?

23 Q. Now, when you say you traveled back down, you  
24 moved outby in the One North longwall headgate entries  
25 to the workings that are immediately outby on the

1 mouth end, mouth side of the longwall panel?

2 A. Yes.

3 Q. There's a crossover there that connects the  
4 tailgate to the headgate immediately outby the  
5 longwall panel.

6 A. Yeah.

7 Q. Is that where you were?

8 A. Yeah, here (indicating).

9 Q. Okay.

10 A. And also we came down to this area here.

11 Q. Now, you're pointing to --- can you give me a spad  
12 number there, that area where you're pointing to,  
13 which is ---

14 A. Yeah.

15 Q. --- on the outby end of those workings we just  
16 described?

17 A. Yes, 1959 --- wait there, 19859.

18 Q. Okay.

19 ATTORNEY BABINGTON:

20 A quick clarifying question. Now, you  
21 had said that when you re-entered the second time that  
22 you were in the mine and you got to the fresh air  
23 base. How did you get from the fresh air base to the  
24 Tailgate 22?

25 A. We walked. We walked.

1 ATTORNEY BABINGTON:

2 Okay. And which area did you walk  
3 through?

4 A. We came --- we came at the track entry, if I'm not  
5 mistaken.

6 BY MR. FARLEY:

7 Q. Now, would that have been the track entry closest  
8 to the longwall face, up the One North headgate  
9 entries or would that have been another way?

10 A. I just remember we came up the track entry on the  
11 Six North and then we entered the ---. I don't know  
12 what entry we traveled up going up to MMU-40. I don't  
13 remember which entry, because it had to be either the  
14 track entry or the isolated intake.

15 Q. Now, as you were traveling inby, was the longwall  
16 block or panel to your left?

17 A. It would be to my left.

18 Q. Okay. Now, ---.

19 ATTORNEY BABINGTON:

20 Sorry. One second, Terry. Before we  
21 proceed with this, do you mind drawing a line with the  
22 blue marker showing your travel way on April 5th?  
23 So as I remember, you basically traveled from ---  
24 we'll start from 78 Break.

25 A. Okay.

1 ATTORNEY BABINGTON:

2 So if you could indicate how you traveled  
3 from 78 Break up to the free air base ---.

4 MR. FARLEY:

5 Fresh air base.

6 ATTORNEY BABINGTON:

7 Fresh air base. Thank you.

8 A. Well, now, like I said, I didn't travel the entire  
9 track entry. I did cross over into the belt entry and  
10 traveled three or four breaks.

11 ATTORNEY BABINGTON:

12 Okay. Well, you could --- if you could  
13 estimate for us, that would be great.

14 A. Okay.

15 MR. FARLEY:

16 Thanks, Matt, I appreciate you ---

17 ATTORNEY BABINGTON:

18 Of course.

19 MR. FARLEY:

20 --- clarifying.

21 A. Let's see. Yeah. There would have been a door  
22 right there, probably ---.

23 ATTORNEY BABINGTON:

24 So you're saying there was a door about,  
25 it looks like B-82 ---?

1 A. Yes. There's an overcast. There's probably a  
2 door right there we crossed into, so we're right here  
3 (indicating). And then continued. Yeah. I stayed in  
4 a track entry, but now on the way back, we --- because  
5 there was some water in this entry, ---

6 ATTORNEY BABINGTON:

7 Right.

8 A. --- so on the way back, we went around it. I  
9 traveled over here in this entry, when we came back  
10 out for about three breaks.

11 ATTORNEY BABINGTON:

12 Okay. And this entry you're pointing to  
13 appears to be the intake?

14 A. Number Two entry, intake.

15 ATTORNEY BABINGTON:

16 Okay. Do you want to have it marked  
17 return or is that okay for you, Jim?

18 MR. BECK:

19 That's okay.

20 ATTORNEY BABINGTON:

21 Okay. So just to be clear, the blue  
22 marker is showing that you moved in the track entry  
23 until about the 82 Break. You then crossed over for  
24 about three --- about three breaks and then you  
25 returned ---. And then you returned to the track



1 entry ---

2 A. Yes.

3 ATTORNEY BABINGTON:

4 --- or out the 86, and then traveled the  
5 way to the fresh air base. Now, with the yellow  
6 marker, could you --- could you maybe get the green  
7 marker?

8 A. You have a little marker there. I don't know ---.

9 ATTORNEY BABINGTON:

10 That will be fine, yeah. With the yellow  
11 marker, could you then highlight the second time that  
12 you entered the mine, ---

13 A. Yes.

14 ATTORNEY BABINGTON:

15 --- starting from the fresh air base and  
16 as you said, I believe you went up Six North to the  
17 switch and then down Headgate One North.

18 WITNESS COMPLIES

19 ATTORNEY BABINGTON:

20 Okay. Well, for the record, the witness  
21 is drawing this yellow line at the track entry on Six  
22 North belt until about Break 105, which appears to be  
23 where the switch is. The witness then traveled down  
24 about the Number Two entry ---

25 A. Yes.

1 ATTORNEY BABINGTON:

2 --- or the intake entry down inby

3 Headgate One North. And you proceeded as far as what  
4 break along Headgate One North?

5 A. Just a break or two in here. I didn't go very far

6 --- enter where these separate, probably about maybe

7 two breaks.

8 ATTORNEY BABINGTON:

9 Okay. So it appears to be around Break

10 33 on the Headgate One North section. You said you

11 also traveled to the Tailgate 22 section?

12 A. Yeah. I was over here, too, probably in this

13 entry.

14 BY MR. FARLEY:

15 Q. You're using the middle entry on the Tailgate 22

16 section.

17 A. I'm just guessing. I'm just guessing it was one

18 of those.

19 ATTORNEY BABINGTON:

20 And that looks about three entries ---.

21 MR. FARLEY:

22 Three crosscuts.

23 ATTORNEY BABINGTON:

24 Three crosscuts, sorry, into that

25 Tailgate 22 section.

1 A. And then I was --- I know I was down here in this  
2 area, too.

3 BY MR. FARLEY:

4 Q. Now, Dwight, when you left this area in the  
5 longwall headgate, you were roughly six crosscuts inby  
6 the longwall face; okay?

7 A. Yes.

8 Q. Is that right? Now, when you went back --- when  
9 you traveled back outby to get to this --- these  
10 workings on the mouth of the longwall panel, did you  
11 travel the same route back?

12 A. Yeah, I think so, because ---. Yeah, because we  
13 had to cross ---. There was a beltline coming up  
14 through here and we had to cross underneath the  
15 beltline and come back over here and travel down.

16 Q. Okay.

17 ATTORNEY BABINGTON:

18 When you say here at the beltline, you're  
19 talking about ran along Headgate One North ---

20 A. Yes.

21 ATTORNEY BABINGTON:

22 --- and then up the crossover between  
23 Tailgate 22 and the Headgate 22 sections?

24 A. Well, there was a --- there was a beltline running  
25 up Headgate One North and we had to cross underneath

1 it to get over here on the MMU-40.

2 ATTORNEY BABINGTON:

3 Okay. That's the Tailgate 22 section?

4 A. Yes. And then back underneath it again to travel  
5 back down to the panel below or outby the longwall  
6 face.

7 ATTORNEY BABINGTON:

8 Okay. So as you were saying, you ---

9 after you were finished at Tailgate 22 and the  
10 Headgate One North section by the longwall face, you  
11 returned outby Headgate One North and then you crossed  
12 and you entered this crossover section inby --- I  
13 guess outby the mouth of the longwall panel?

14 A. Yes.

15 ATTORNEY BABINGTON:

16 Okay. And if you can draw with the  
17 yellow marker how you traveled there?

18 WITNESS COMPLIES

19 ATTORNEY BABINGTON:

20 Okay. For the record, witness --- it  
21 looks like ---. It looks like the second crossover  
22 entry outby the mouth of the longwall panel until  
23 about the Number Six entry on that room-and-pillar  
24 section, and then you traveled outby to around spad,  
25 as you said before, 19864, 19860, 19859?

1 A. Yes.

2 MR. FARLEY:

3 All right. Thank you.

4 BY MR. FARLEY:

5 Q. Okay. Now, this is Sunday morning. Okay. Sunday  
6 morning, which would be April 11th. After your  
7 travels that you just described, what happened then?

8 A. After we marked the locations of where the  
9 stoppings were to go, the temporary stoppings, then we  
10 --- we came back outside.

11 Q. Okay. Can you indicate where the temporary  
12 stoppings were supposed to be?

13 A. These areas, it seems like. And there were a  
14 couple up here, but maybe --- maybe across here.

15 Q. When you say across here, you've indicated with  
16 green lines across the openings immediately outby the  
17 longwall face into that crossover connecting the  
18 headgate and tailgate entries; is that correct?

19 A. Yes.

20 ATTORNEY BABINGTON:

21 And previously, you marked stoppings at

22 --- in the Tailgate 22 and Headgate One North sections  
23 on the Headgate One North around Break 3233, and I  
24 guess on Tailgate 22 on --- looks like between the  
25 second and third breaks. You also marked ventilation

1        stoppings at the connection between Sixth North belt  
2        and that room-and-pillar section in the mouth outby  
3        the longwall panel, and again around those same spads  
4        I looked at before, 19864, 19860, 19859.

5        A. Yes. Yes.

6        MR. FARLEY:

7        This might be a good opportunity to take  
8        a quick break.

9        ATTORNEY BABINGTON:

10       Let's go off the record.

11       SHORT BREAK TAKEN

12       BY MR. FARLEY:

13       Q. Now, personally, I was in and out of the rescue  
14       and recovery, so, you know, my knowledge of exactly  
15       where and how things played out during the rescue and  
16       recovery operation is not perfect. Now, you've drawn  
17       some green lines here in the one --- across the One  
18       North headgate entries inby the longwall face  
19       approximately six crosscuts and about three crosscuts  
20       into the mouth of 22 Headgate section. You've got  
21       some green lines drawn to indicate temporary  
22       ventilation controls. Is it possible that you may  
23       have these in the wrong place?

24       A. Yeah. Because let me tell you, that night they  
25       didn't give me a map, they gave it to the MSHA

1 inspector.

2 Q. Okay.

3 A. He had the map and I'm just guessing here. It  
4 could have been --- it could have been back down here  
5 (indicating).

6 Q. Don't --- don't guess. If you don't know, that's  
7 okay. Or if you don't remember, just ---.

8 A. I told you to begin with, approximately, I wasn't  
9 for sure.

10 Q. Okay.

11 A. I'm pretty sure about this. I remember ---  
12 because I remember the angles.

13 MR. STOLTZ:

14 You're referring to your travel for that  
15 area?

16 A. Yes.

17 MR. STOLTZ:

18 Okay.

19 A. Because I looked at the map the MSHA inspector  
20 had ---

21 MR. STOLTZ:

22 Uh-huh (yes).

23 A. --- because he was trying ---. He was trying to  
24 find this. And I looked at that. I looked at that  
25 area on the map and that's how I remember that.

1 MR. STOLTZ:

2 Uh-huh (yes).

3 A. But I did --- I did not have a map at that time.

4 ATTORNEY BABINGTON:

5 And that area with the angles you're

6 referring to is that area that connected the Six North

7 belt to that room-and-pillar section outby the mouth

8 of the longwall panel with those spad numbers that we

9 previously said?

10 A. Yes. Yes.

11 ATTORNEY BABINGTON:

12 Thank you.

13 A. I'm sure about this location. This area --- this

14 area here going up by the longwall, I'm not.

15 ATTORNEY BABINGTON:

16 Okay.

17 BY MR. FARLEY:

18 Q. So again, we're into Sunday morning here on April

19 11th. Now, as best you remember, you installed ---

20 help spot or set some temporary ventilation controls

21 but you're not sure where; is that correct?

22 A. Yes.

23 Q. Okay. All right. Now, after Sunday the 11th,

24 were you in the mine again?

25 A. I was in there one more time.



1 Q. Okay. Do you recall when that was?

2 A. Yes. That was --- that would have been on the  
3 following Monday.

4 Q. Okay. Maybe April 12th, does that sound about  
5 right?

6 A. Yes.

7 Q. Okay.

8 A. April the 12th, entered the mine. That Monday  
9 evening, I was in there Monday evening, Tuesday  
10 morning. We traveled --- we traveled to 78.

11 Q. Okay. All right.

12 A. We had our apparatus. We were open-face.

13 Q. Okay.

14 A. We wore apparatus. And, again, I'm not sure about  
15 the location, but it was ---.

16 Q. As you traveled --- was there a fresh air base  
17 inby 78 on Monday the 12th?

18 A. Yeah. Yes.

19 Q. Do you recall approximately where that was?

20 A. No. But it had been moved up to 98 or on inby.

21 Q. Okay.

22 A. And we traveled --- we traveled basically the  
23 track entry. I was traveling with the ICG team out of  
24 Beckley.

25 Q. Okay.

1 A. I was with them.

2 Q. Now, when you traveled from 78, you traveled track  
3 entry from 78 in the inby direction all the way; is  
4 that correct?

5 A. Yeah. I think we actually, when we left 78, we  
6 crossed over into the isolated intake and traveled  
7 that a ways.

8 Q. Okay.

9 A. And then at some point, we crossed back over into  
10 the track entry.

11 Q. Okay. Now, the isolated intake, would that have  
12 been to your left as you were heading inby in the  
13 Number One and Number Two entries?

14 A. In the Number Two, to the left of the track.

15 Q. Okay. And you were traveling inby; is that  
16 correct?

17 ATTORNEY BABINGTON:

18 Just to clarify, we're talking about the  
19 Number Six North belt section moving inby?

20 A. Yes. Yes. The exact location that we went to, I  
21 don't remember, but we did not go as far as the Glory  
22 Hole.

23 BY MR. FARLEY:

24 Q. Okay.

25 A. So I'm assuming that it was probably around maybe

1 120, between 115 and 120 in that area.

2 Q. Okay.

3 A. And we traveled up there and of course what our  
4 job duty was, was to help transport the nine bodies  
5 out.

6 Q. Would those nine bodies have been on the 22  
7 Headgate section?

8 A. Yes.

9 Q. Okay. Now, this being April the 12th, would it be  
10 correct that all miners who had been originally  
11 unaccounted for were confirmed dead?

12 A. Yes, they were.

13 ATTORNEY BABINGTON:

14 Let's take a break. Off the record.

15 SHORT BREAK TAKEN

16 ATTORNEY BABINGTON:

17 Back on the record.

18 BY MR. FARLEY:

19 Q. Okay. Now, did you advance ---? Did I understand  
20 you correctly, you did not advance in by the Glory  
21 Hole on Monday, April 12th?

22 A. Right. We did not.

23 Q. All right. Did you assist in carrying bodies?

24 A. Yes. We would --- one team would bring them down  
25 to us. We would carry five breaks, hand them over to

1 another team, ---

2 Q. Okay.

3 A. --- go back and get another body. We'd do that  
4 continuously until we got all nine bodies out.

5 Q. Okay. Now, eventually when all nine bodies were  
6 out, did you recall what time you might have headed  
7 outside the next morning?

8 A. I'm not sure about the time. I'm not.

9 MR. FARLEY:

10 Okay. That's all right. Okay. I don't  
11 think I have any more questions right now. These  
12 other gentlemen might have some clarifying questions.  
13 Just, you know, for me personally on behalf of the  
14 agency, everyone appreciates the effort that the mine  
15 rescue team members put into this.

16 A. Thank you.

17 EXAMINATION

18 BY MR. STOLTZ:

19 Q. Dwight, Terry asked you if you were currently  
20 assigned to Upper Big Branch to inspect it. Have you  
21 ever inspected Upper Big Branch?

22 A. No.

23 Q. No? You mentioned --- and, again, I'm asking you  
24 from your recall, which may have been several months,  
25 a couple months now, is that you mentioned about going

1 through a door, when you traveled through a door. Was  
2 that door actually there or did you just look on a map  
3 here and back to your first night there ---?

4 A. Oh, I'm sorry. From the track entry to the belt?

5 Q. Yes.

6 A. There was none.

7 Q. There was no control?

8 A. No, there wasn't. I remember that now.

9 Q. Okay. I appreciate it. Thank you. The next  
10 time, on the 11th, when you re-entered the mine to  
11 build some ventilation controls, I guess those were  
12 going to be temporary ventilation controls?

13 A. Yes.

14 Q. Out of curtain.

15 A. Curtain.

16 Q. And pogo sticks or ---?

17 A. Pogo sticks, yes.

18 Q. Pogo sticks. Do you recall the approximate number  
19 that you all rebuilt that night?

20 A. How many stoppings we marked to be built?

21 Q. Yes.

22 A. Because we went in to spray paint and mark where  
23 they were to be built.

24 Q. Okay. You didn't actually build 'em then?

25 A. Yeah.

1 Q. Did you all carry material ---?

2 A. No.

3 Q. Okay. You just went in, traveled in and  
4 marked ---?

5 A. We marked 'em and another group came in and  
6 carried material ---

7 Q. Okay.

8 A. --- and rebuilt 'em.

9 Q. Was there five, ten, or you don't recall how many  
10 you actually marked?

11 A. I'd say we probably --- approximately we marked  
12 about --- our whole group probably marked, I'm going  
13 to say 12 locations.

14 Q. Okay.

15 A. Just an approximate.

16 Q. Approximate. Okay. On the 5th, I guess when you  
17 arrived at the mine, who did you report to?

18 A. I was with my supervisor, Greg Norman.

19 Q. Okay.

20 A. And I sort of took direction from him.

21 Q. Okay. Then you said you all prepared your  
22 apparatus at the UBB Portal?

23 A. Yes.

24 Q. And were you all briefed before going underground?

25 A. I'm sure he probably was or Bill Tucker, he

1 actually was ---. He was actually the captain ---

2 Q. Okay.

3 A. --- and he received briefing and then, you know,  
4 he would talk to us.

5 Q. Okay. And the team, the Welch team you're  
6 referring to, that was made up of all State persons?

7 A. All State inspectors.

8 Q. Okay. Do you recall when you traveled to the  
9 fresh air base, was there other teams in place  
10 already, already exploring the mine?

11 A. Yeah. We were not the first team in.

12 Q. Okay.

13 A. There was probably several other teams in there.

14 Q. Okay.

15 A. In fact, there was --- and I don't remember their  
16 name, but there was two individuals that worked for  
17 Massey that were at this location bare-faced, no  
18 apparatus.

19 Q. Bare-faced and no apparatus. Did you all have any  
20 conversation with those when you arrived at the fresh  
21 air base?

22 A. Not really. They were on the phone busy talking  
23 and communicating back and forth. We really didn't  
24 interrupt 'em or ---.

25 Q. Now, do you recall who was there for the company?

1 A. No.

2 Q. No?

3 A. I wouldn't know 'em.

4 Q. Okay.

5 A. I'm not familiar with that outfit or anyone that  
6 works there.

7 MR. STOLTZ:

8 Okay. That's all I have.

9 EXAMINATION

10 BY MR. BECK:

11 Q. Dwight, on behalf of the independent team, I'd  
12 like to commend you and thank you for your work during  
13 this rescue and recovery.

14 A. Thank you.

15 Q. Could you talk a little bit about some of the  
16 conditions that you've seen, conditions in the mine  
17 that you've seen as you traveled in that first night?

18 A. Sure.

19 Q. What was your, you know, perception of what you  
20 saw?

21 A. Well, like I stated before, we rode the mantrip up  
22 to Break 78 and we couldn't go any further than that  
23 because there was debris over the track. It seemed  
24 like everything was just blown back down on the track;  
25 metal, rock, you name it. And so we had to walk from



1 that point on. And even before we got to 78, I could  
2 smell like something with --- you know, the burnt  
3 smell.

4 Q. All right.

5 A. And after we walked up to there, you know, it was  
6 really noticeable because like I said, we were bare-  
7 faced. We had our apparatus but we were walking bare-  
8 faced up to 98 and it was just a terrible smell, like  
9 something had been burnt.

10 Q. Any overcast or stoppings knocked out that you'd  
11 seen?

12 A. Stoppings were blown out. We seen --- we seen  
13 stoppings that were just blown out and ---.

14 Q. Now, you're a roof control inspector; right?

15 A. Yes.

16 Q. Did you take any notice about the roof bolts in  
17 areas, if any damage was done to the plates or were  
18 they using pizza pans? Could you tell me anything  
19 about that?

20 A. Sure. They were using roof bolts and they had  
21 pizza pans, and --- but they were like bent down on  
22 both sides, ---

23 Q. Both sides.

24 A. --- both ways. It was hard for me to determine,  
25 you know, which way it had blown because both sides

1       were bent down.

2       Q. Did you ever see any roof falls that might have  
3       been the result of the explosion? Did you see  
4       anything like that?

5       A. No.

6       Q. I was just curious if maybe the roof got weak  
7       areas because ---.

8       A. I don't --- I don't recall any.

9       MR. BECK:

10      Thank you, Dwight.

11      RE-EXAMINATION

12      BY MR. STOLTZ:

13      Q. Did you notice any roof bolt sheared when you  
14      traveled underground --- sheared off, in addition to  
15      the bent pizza pans?

16      A. No, not really.

17      Q. Okay. And the last thing I have was part of the  
18      record, I guess. Could you please spell your last  
19      name?

20      A. M-C-C-L-U-R-E.

21      ATTORNEY BABINGTON:

22      I just have a quick two. One, I want to  
23      state for the record that the map that the witness has  
24      been marking is labeled McClure One. We're entering  
25      that map into the record.

1 (McClure Exhibit One marked for  
2 identification.)

3 EXAMINATION

4 BY ATTORNEY BABINGTON:

5 Q. When you reached UBB property, did you speak to  
6 any Massey employees on the surface prior to going  
7 underground?

8 A. No. I don't recall talking to any.

9 Q. You mentioned a burning smell. About where in the  
10 mine did you notice the burning smell?

11 A. I noticed it slightly before we reached 78, Break  
12 78.

13 Q. Okay.

14 A. But traveling from 78 to 98, it was --- it was  
15 very noticeable.

16 Q. Okay. Did you notice any other --- did you have  
17 any other physiological reactions to being  
18 underground?

19 A. No, I don't think so.

20 Q. Okay. You mentioned there was the group at the  
21 --- the group at the phones at the fresh air base, ---

22 A. Yes.

23 Q. --- including two Massey individuals.

24 A. Yeah. There was a couple Massey people. Someone  
25 told me, and I'm not for sure about this, that one of

1 'em was a mine foreman.

2 Q. Okay. Did you --- you said that they were  
3 speaking on the phones. Do you recall --- did you  
4 overhear what they were talking about?

5 A. I just remember them relaying information from one  
6 of the teams that they had encountered like 20 percent  
7 methane, the CO pegged, and three percent oxygen.

8 Q. Okay. Roughly how long did it take you and your  
9 team to walk from the 78 Break to the 98 Break?

10 A. Half hour. About a half hour.

11 Q. At any point, did you encounter the need to don  
12 your apparatus?

13 A. No.

14 Q. Do you have any --- did you have any sense of what  
15 was causing the burning smell or what the nature of it  
16 was? Did it smell like an electrical smell, metallic  
17 smell?

18 A. It was just like a burnt smell. Of course I  
19 realized --- I realized, you know, probably why the  
20 smell was there, you know, probably being fire or  
21 something.

22 RE-EXAMINATION

23 BY MR. STOLTZ:

24 Q. I've got two other questions, then. Dwight, I  
25 guess on the 11th and 12th, did you come upon any

1 other fires?

2 A. The 11th or 12th?

3 Q. Yes.

4 A. No.

5 Q. Okay.

6 A. I was just going to say, on the 5th when we went  
7 in, also, you know, everything was black. Everything  
8 was blackened. So I could go from one part of the  
9 mine where it had rock dust and then from that point  
10 on, it was --- everything was black.

11 Q. Do you recall what crosscut that was or recall  
12 what point in the mine ---?

13 A. Seventy-eight (78).

14 Q. Seventy-eight (78).

15 A. Actually --- actually, it's probably a little bit  
16 outby 78, probably --- probably, you know, about 66,  
17 somewhere around in there.

18 Q. Okay. On your travels out of the mine on the  
19 morning of the 6th, if it was the 6th or late on the  
20 5th, on your way up, did you see any other Massey  
21 employees or anybody else in the mine on your way ---?

22 A. Oh, yeah. Once we got back to ---. Once we got  
23 back to --- before we left 98, the other teams come  
24 --- come back there, everybody got together because we  
25 wanted to make sure we had everybody. And it seemed

1       like there was probably three, four teams there. I  
2       mean, there was quite a few people.

3       Q. A lot of people?

4       A. Yeah.

5       Q. Okay. And everybody loaded up in the mantrips  
6       then at that point?

7       A. We all walked back down to 78 and loaded up and  
8       came outside, yeah.

9       Q. Okay.

10      RE-EXAMINATION

11      BY ATTORNEY BABINGTON:

12      Q. I have one more. You talked about, I think it was  
13      in order to mark ventilation stoppings, but you moved  
14      --- on the Headgate One North section, you moved inby  
15      the longwall face?

16      A. You know, I'm not sure about that. Like I said, I  
17      marked this but I didn't have a map and I wasn't sure  
18      about it. I may not have even been in this area but I  
19      know we put some --- marked for some ventilation  
20      controls across here somewhere.

21      Q. Okay. And here somewhere, you're referring to  
22      looks roughly about like the 12 Break on Headgate One  
23      North?

24      A. Yeah. It might have been back down in here  
25      (indicating) up at this location.

1 MR. STOLTZ:

2 Without a map, you can't be a hundred  
3 percent positive?

4 A. No. If I'd had the map, you know, I would have  
5 memorized it.

6 ATTORNEY BABINGTON:

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

20 If you wish, you may now go back over any  
21 answer you've given during this interview. You may  
22 also make any statement that you'd like to make at  
23 this time.

24 A. I'm fine.

25 ATTORNEY BABINGTON:

1 All right. Well, thanks again, and I  
2 want to thank you for your cooperation.

3 A. Thank you.  
4  
5

6 \* \* \* \* \*

7 STATEMENT UNDER OATH CONCLUDED AT 11:40 A.M.

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1 STATE OF WEST VIRGINIA )

2 )

4 CERTIFICATE

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

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

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

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



22 *Alicia R. Brant*