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Transcript of the Testimony of Kevin Nutter

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STATEMENT UNDER OATH
OF
KEVIN NUTTER

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 Saturday, July 10, 2010, beginning at 3:58 p.m.

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A P P E A R A N C E S

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

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CELESTE MONFORTON, MPH, DRPH

West Virginia Independent Investigation

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[REDACTED]

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	6 - 10
5	STATEMENT	
6	By Mr. Tucker	10 - 11
7	WITNESS: KEVIN NUTTER	
8	EXAMINATION	
9	By Mr. Sherer	11 - 20
10	EXAMINATION	
11	By Mr. Tucker	20 - 25
12	EXAMINATION	
13	By Ms. Monforton	25 - 26
14	RE-EXAMINATION	
15	By Mr. Sherer	26 - 31
16	RE-EXAMINATION	
17	By Mr. Tucker	31
18	CLOSING STATEMENT	
19	By Attorney Babington	31 - 32
20	CERTIFICATE	33
21		
22		
23		
24		
25		

1		EXHIBIT PAGE	
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P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is July 10th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MS. MONFORTON:

I'm Celeste Monforton with Governor Manchin's special team.

MR. TUCKER:

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

ATTORNEY BABINGTON:

There are several members of the investigation team also present in the room today. Erik Sherer will be conducting initial questioning. All members of the Mine Safety and Health Act's 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 voluntary 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 You may have your personal attorney

25 present during the taking of this statement or another

1 personal representative if MSHA has permitted it, and
2 you may consult with your attorney or representative
3 at any time. Your statement is completely voluntary.
4 You may refuse to answer any question and you may
5 terminate your interview at any time or request a
6 break at any time. For the record, do you have a
7 personal representative with you today?

8 MR. NUTTER:

9 No, sir.

10 ATTORNEY BABINGTON:

11 Also, we have bottles of water available
12 if you get thirsty. Your identity and the content of
13 this conversation will be made public at the
14 conclusion of the interview process and may be
15 included in the public report of the accident unless
16 you request your identity remain confidential or your
17 information would otherwise jeopardize a potential
18 criminal investigation.

19 If you request us to keep your identity
20 confidential, we will do so to the extent permitted by
21 law. That means that if a judge orders us to reveal
22 your name or if another law requires us to reveal your
23 name or if we need to reveal your name for other law
24 enforcement purposes, we may do so. Also, there may
25 be a need to use the information you provide to us or

1 other information we may ask you to provide in the
2 future in other investigations into and hearings about
3 the explosion. Do you understand?

4 MR. NUTTER:

5 Yes.

6 ATTORNEY BABINGTON:

7 Do you have any questions?

8 MR. NUTTER:

9 No.

10 ATTORNEY BABINGTON:

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

21 A court reporter will record your
22 interview. Please speak loudly and clearly. If you
23 do not understand a question asked, please ask the
24 interviewer to rephrase it. Please answer each
25 question as fully as you can including any information

1 you may have learned from someone else. I'd like to
2 thank you in advance for your appearance here. We
3 appreciate your assistance in this investigation.
4 Your cooperation is critical in making the nation's
5 mines safer.

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

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

23 MR. TUCKER:

24 Mr. Nutter, I too would like to thank you
25 for coming today. We do appreciate you coming in.

1 I'd like to advise you also that under West Virginia
2 Law 22A-1-22 of our Code that you have rights against
3 being discriminated against for being here today. If
4 you should experience any actions that you feel like
5 they're discriminatory in any manner, you contact the
6 Board of Appeals who addresses those complaints and my
7 information's there along with Terry Farley's. If we
8 can help you in any way, be sure and let us know. If
9 you would feel like you were discriminated against,
10 you have 30 days to file a claim. So there's the
11 information you need pertaining to that.

12 -----
13 KEVIN NUTTER, HAVING FIRST BEEN DULY SWORN, TESTIFIED
14 AS FOLLOWS:

15 -----
16 EXAMINATION

17 BY MR. SHERER:

18 Q. Thanks for coming down this afternoon, Mr. Nutter.
19 You mentioned that you were at Upper Big Branch for
20 about a day or so prior to the explosion.

21 A. One shift.

22 Q. One shift. Where did you work on that shift?

23 A. Longwall section, which would be Headgate 22.

24 Q. What did you do up there that day?

25 A. That's hard for me to remember. We just changed

1 oil filters and stuff like that. And like I said,
2 that was my first shift back from being hurt, so I was
3 --- you know, wasn't doing anything too strenuous.

4 Q. Sure. How long had you been out with your injury?

5 A. They had me on light duty, bathhouse work. I'm
6 going to say right around a month.

7 Q. Okay.

8 A. Well, about three weeks, because I took off a week
9 when my [REDACTED] was born.

10 Q. Okay. Did you do the --- were you asked to do the
11 light duty, or did you ask to do the light duty?

12 A. It was to help me out and to help the company out.

13 Q. Okay.

14 A. You know, they offered it to me and I've heard
15 horror stories about Workers' Comp, so ---.

16 Q. Sure.

17 A. It takes forever to get your money and everything,
18 so I just said, shoot, there ain't no sense in even
19 fighting.

20 Q. You're listed as a welder/electrician; is
21 that ---?

22 A. I'm a trainee electrician.

23 Q. Trainee electrician. Okay. Did you do much
24 welding prior to your injury?

25 A. Yeah. When --- you know, whoever was free to do

1 it, you know, we done it.

2 Q. You ever weld on the longwall face?

3 A. No, sir. I ain't never stepped foot on the
4 longwall.

5 Q. Okay.

6 A. I have always been curious to how it works, but
7 no.

8 Q. Okay. How many years of mining experience do you
9 have?

10 A. Underground?

11 Q. Yes.

12 A. That will be going on two years.

13 Q. Has that all been with Massey?

14 A. Yes, sir.

15 Q. Was it all at Upper Big Branch?

16 A. Yes, sir.

17 Q. Okay.

18 A. I believe November 8th will make me two years.

19 Q. And were you a mechanic/electrician trainee that
20 entire time?

21 A. No, sir. I worked outby when I was a red hat,
22 helping lay track, you know, shoveling. And then for
23 --- I'd say about three months after I become a
24 trainee electrician I worked in a motor barn and
25 helped service the track equipment outside.

1 Q. Okay. What shift would you normally work?

2 A. I was in dayshift up until I went on the section
3 and then I went to hoot owl.

4 Q. And which section did you work on?

5 A. I worked on the old Two section, which was this
6 section right here when I first went underground.

7 Q. That's the tailgate of the current longwall?

8 A. Yeah, yeah. And then we finished, and then they
9 pulled off that. I was outside when they finished
10 this up, and then when they went back on the headgate
11 side of the future panel, they put me back
12 underground.

13 Q. So you worked on the 22 Headgate ---

14 A. Yeah.

15 Q. --- for a while?

16 A. 22 Headgate.

17 Q. What did you do when you were on the 22 Headgate?

18 A. We just --- you know, maintenance.

19 Q. Okay.

20 A. That's all I ever done underground was maintenance
21 after I became a red hat --- I mean, black hat ---

22 Q. Okay.

23 A. --- from my prior experience, you know, in
24 mechanics and welding and stuff.

25 Q. Sure.

1 A. And I didn't have no interest in no equipment.

2 Q. Okay. And so you worked the hoot owl?

3 A. Yes, sir.

4 Q. Is that a maintenance shift?

5 A. Yes, sir. That's an idle shift.

6 Q. Did you hear anything about ventilation problems
7 at this mine in the month or so before the explosion?

8 A. No.

9 Q. Did you ever hear of any problems with methane in
10 that same time period?

11 A. No. Well, that month, you know, like before when
12 I got hurt, Hugh Downs, the superintendent, told me
13 you come in. When the guys go underground, you get
14 your, you know, work --- however long you feel like
15 you could work and then go home.

16 Q. Okay.

17 A. Most of the time he got there at five o'clock in
18 the morning, and if I was there, he'd run me off.

19 Q. Okay. That's a pretty good deal. Did you ever
20 hear of methane outburst or methane inundations in
21 this mine?

22 A. What do you mean, methane explosion?

23 Q. Big bunch of methane coming out like through a
24 crack in the floor or ---.

25 A. No, sir.

1 Q. Okay. Did you ever see much water in this mine?

2 A. Yes, sir.

3 Q. Where was that at?

4 A. On a headgate side of the previous section, might
5 be 131 Break. We set a temporary bridge support in
6 and water was chest deep.

7 Q. Okay. So that was out toward the Bandytown fan?

8 A. Yes. And my instructions was --- I built that
9 bridge outside and we took it in ten foot sections and
10 put it together. And it was for the fire bosses to
11 travel, but it was right in like a deep watering hole
12 or something.

13 Q. Okay.

14 A. Like I said, right around 131, 134 Break,
15 somewhere in there. That was after they pulled out
16 and getting ready to start the longwall face.

17 Q. Okay. Did you notice any pumps in there when you
18 were putting that bridge in?

19 A. No, sir. Like I said, they still had all of the
20 track, beltline and all in. You know, this was ---
21 they hadn't even got all of the longwall set up yet.

22 Q. Oh, okay.

23 A. And you know, you got several water holes here and
24 there where a miner man cut too deep and the water
25 would accumulate in areas. And they would pump them

1 areas.

2 Q. Okay. When you're welding, did you take legal
3 methane checks?

4 A. Yes, continuously.

5 Q. Okay. Did you keep it 12 inches from the roof and
6 rib?

7 A. I took it on --- I suspended it from the roof bolt
8 plate with hangers.

9 Q. Okay. Before you started cutting on the weld ---?

10 A. Yes, yes. Well, back and forth to the entry.

11 Q. Okay. Did anybody ever tell you that you didn't
12 have to take a legal one, you should actually get up
13 next to the roof and rib ---

14 A. No.

15 Q. --- when you're welding? Okay. Thank you.

16 That's actually two different sections of the law.

17 A. I didn't know that. You know, if they went --- if
18 there was any amount of methane wherever, I wouldn't
19 even strike an arc on a tool or welder, nothing like
20 that. I've heard too many horror stories.

21 Q. That's a good way to do it. You ever hear of any
22 advanced notice being given to folks in the mine when
23 MSHA or state people came up on the property?

24 A. No.

25 Q. Do you think that the mine ventilation was

1 adequate at all times?

2 A. Yes, except for during like belt moves and stuff.
3 Then you'd have --- you know, before your stoppings
4 got built, your intake would short circuit and your
5 return.

6 Q. But did you ever hear of them having problems with
7 getting enough air on the section to run?

8 A. No, because we was normally done by then.

9 Q. Okay.

10 A. I mean, once we got on a mantrip, I was looking
11 forward to home.

12 Q. There you go. You guys did all the hard work.

13 A. Most time, yeah. Most time, you know, as soon as
14 you got on the mantrip and that thing started hanging
15 on the rails, you woke up and you was about outside.

16 Q. I've done that a few times

17 A. I slept better on the mantrip than I did in my
18 bed.

19 Q. You better keep that close in the bed. Did you
20 ever hear of ventilation changes being made while
21 miners were underground?

22 A. No, sir.

23 Q. Did you ever hear of anybody in the mine without
24 ventilation curtains in place?

25 A. No, sir. Like I said, we didn't get --- the only

1 thing we heard from production is what was broke down.

2 Q. Okay. I imagine you heard a lot of that.

3 A. Yes, sir.

4 Q. Did you ever hear of methane monitors being
5 bridged out?

6 A. No, sir.

7 Q. Did you ever hear of miners being subject to
8 retaliation or threats for reporting safety issues or
9 other concerns?

10 A. I didn't quite understand what you said.

11 Q. In other words, did you ever know anybody that
12 called the 1-800 number for MSHA or possibly
13 complained to upper management about a safety problem?
14 Did they suffer any ill consequences?

15 A. Uh-uh (no). No.

16 Q. That's a no?

17 A. No.

18 Q. Okay.

19 A. Not that I know of, because, you know, if we
20 presented, you know, anything in that sort of fashion,
21 they --- our boss got --- you know, made sure we had
22 the right stuff, adequate stuff to work with.

23 Q. Okay. Who was your boss?

24 A. Rick Nicolau.

25 Q. Okay.

1 A. He was a chief electrician, and that's who we
2 reported --- well, that's who my immediate boss, which
3 was Andrew Lucas, reported to.

4 Q. Okay.

5 MR. SHERER:

6 That's all the questions I got for you.

7 MR. TUCKER:

8 I just got a couple.

9 EXAMINATION

10 BY MR. TUCKER:

11 Q. Did you work on 22 Headgate prior to being
12 injured?

13 A. Yes, sir. That's where I worked when I got
14 injured.

15 Q. What type of injury did you have?

16 A. Back.

17 Q. So you was off on light duty about a month, so
18 that would have put you around the 10 of February or
19 the 1st of March?

20 A. Yeah, the 1st of March. Yeah.

21 Q. During that time before you were injured, did you
22 --- did you hear comments during that time about
23 ventilation problems on the section from the crew
24 members?

25 A. No. I mean, you know, once --- when we met at our

1 mantrips, you know, we met the on shift, and you know,
2 it was pretty much discussed what was broke down and
3 pretty much just, you know, pre-shift talk and stuff.

4 Q. Hear any bath house talk about ---

5 A. No.

6 Q. --- ventilation problems?

7 A. No, because we was the only one in there, and we
8 was --- you know, when we come in and when we left ---
9 you know, we was the black sheep I guess you could
10 say. Nobody wanted us.

11 Q. And I know you were only back for one shift after
12 your injury, ---

13 A. Yes.

14 Q. --- but could you tell any difference in the
15 ventilation between ---

16 A. No.

17 Q. --- those two time periods?

18 A. No. My mind was --- from what I can recall, my
19 mind was pretty much just watching what I was doing so
20 I wouldn't end up in the same shape I was in prior.

21 Q. Right. It just takes a split second, doesn't it,
22 one wrong move?

23 A. I'll tell you what, it gives you a whole new
24 respect for people in them wheelchairs because the
25 time they got me to Raleigh General, I couldn't feel

1 from my waist down.

2 Q. Were you in the face area on April 5th when you
3 were on 22 Headgate?

4 A. I can't really recall everything I done that
5 night. I know I changed some oil filters, yeah, in
6 the miner, yeah, on the --- if I ain't mistaken, on
7 the right miner.

8 Q. So if you all were working on a miner, servicing
9 or whatever, you typically power the miner up?

10 A. No, not ---.

11 Q. You would have the power on?

12 A. No, not changing oil filters because they're all
13 right there in a bank filter.

14 Q. Do you recall that night if the miner had power on
15 it?

16 A. No, I don't. No idea.

17 Q. My next question was going to be, if it did have
18 power, did you notice the methane monitor, any readout
19 on the methane monitor?

20 A. No. When I change filters on something, I --- you
21 know, I don't fire it up because I don't want
22 something to go haywire and I have to, you know, work
23 over to change it. That's dayshift electrician's
24 problem. They pass the book on us enough.

25 Q. Have you ever calibrated the methane monitors on a

1 miner?

2 A. I've helped.

3 Q. You've helped.

4 A. Yeah, I've been the gopher up there on the head
5 switching bottles.

6 Q. Okay. And you mentioned you were an electrician
7 trainee.

8 A. Trainee, yes, sir.

9 Q. Okay. When they've calibrated the monitors, have
10 you ever heard the electricians make any comments or
11 lead you to believe that the monitors were bridged
12 out?

13 A. No. Well, to go to an extra measure on that, we
14 did read a fault one night and we had to change out
15 the sniffers on them. I mean, you know, it was as far
16 as --- you know, as far as stuff like that, no, we
17 done everything by the book that we could.

18 Q. Typically, when you drive or arrive up on the
19 section, they'd still be loading coal?

20 A. No, we'd meet the on shift at mantrips.

21 Q. Okay.

22 A. Or we'd pass them on the track and we stop.

23 Q. On the way in?

24 A. Yeah, we stop, and you know, they'd give us a
25 daily report of what was down, what needed to be

1 fixed.

2 Q. So when you arrived on the section, there would be
3 nobody on the section and then you would go up to the
4 equipment, which a lot of times would be parked up in
5 the face area?

6 A. Uh-huh (yes).

7 Q. So did you notice, was the line curtain hung when
8 you all arrived on the section in the ---

9 A. Yeah.

10 Q. --- working face?

11 A. Yeah. Because I'd --- I mean, the reason I know
12 because every time we'd have to take a scoop or a
13 maintenance ride across a section or something, it'd
14 take two or three people to hold the line curtains up
15 so we wouldn't rip them down.

16 Q. Okay. That's a good thing, good deal.

17 A. And up there, I believe they just seen how much
18 curtain they could hang. It was just --- I mean, it
19 was everywhere.

20 Q. And I realize you only worked one shift, but it
21 was the night before the explosion.

22 A. Yes, sir.

23 Q. And you never heard any comments about anything
24 out of the way ---

25 A. No, sir.

1 Q. --- that would throw up a red flag to you in any
2 way?

3 A. Uh-uh (no).

4 MR. TUCKER:

5 That's all I have.

6 EXAMINATION

7 BY MS. MONFORTON:

8 Q. I just have a couple of questions about your
9 injury. When did you suffer your injury?

10 A. When ---?

11 Q. When did you have your injury?

12 A. I'm thinking right around March 10th.

13 Q. Around March 10th. I have a record of the injury
14 reports that were submitted by the company, and so I'm
15 trying to identify the injury that --- to see how it
16 was reported by the company. How did the injury
17 occur?

18 A. Pulling miner cable.

19 Q. Would you look at this list and see if you can see
20 which one is the injury? It has some of the dates
21 here, so these are some of the ones in --- which
22 you're saying would be in 2010.

23 A. Yes, ma'am.

24 Q. This is December. So it doesn't appear that it's
25 on this record.

1 A. No. There was a woman that --- a lady that
2 contacted me with MSHA's safety --- or it was an 877
3 number, but she did contact me to verify. She said
4 she had to go through all the injuries that Massey
5 reported at Upper Big Branch Mine and she, I mean ---.

6 Q. But your injury occurred in March of 2010?

7 A. Yes, ma'am.

8 Q. Okay. And it was an injury to your back, ---

9 A. Yes, ma'am.

10 Q. --- a serious injury? Okay. Thank you very much.

11 RE-EXAMINATION

12 BY MR. SHERER:

13 Q. Okay. I've got just a couple follow-ups, Mr.
14 Nutter. When you were going into the section, did you
15 go through any equipment doors?

16 A. Airlocks?

17 Q. Yeah.

18 A. Yes, sir.

19 Q. Several of those?

20 A. From outside or once we ---?

21 Q. Yes, sir.

22 A. Oh, yeah.

23 Q. What shape were those in?

24 A. For the most part, they was all pretty good except
25 for --- let's see. Let me look at your map to be able

1 to tell you exactly. Okay. Right here is 78 Break.
2 Okay. You should have had one set of doors. Let's
3 see. Where's the Mother Drive at? I'm trying to find
4 that here.

5 Q. The Mother Drive's going to be right up here.

6 A. You had a set in between. You had ---.

7 Q. There's double doors here.

8 A. Okay. Double doors here, and you ought to have
9 had a set right here.

10 Q. Right there.

11 A. Okay. I can't remember which one, but one of
12 these on the inby door, they was like tore up where
13 like a motor slid through them or something.

14 Q. Okay.

15 A. It was on a downhill, because they was hard
16 shutting.

17 Q. Okay. Did it stay in that condition for any
18 period of time?

19 A. No. Well, they had --- before I got hurt, they
20 had brand new doors laying there. Now, on mantrip in
21 on the 5th, I don't recall if they was up or not.

22 Q. Okay. Do you recall if any of those doors had a
23 man door either in the door or beside the door?

24 A. They had them in the doors.

25 Q. Okay. When you're up on that section, the very

1 last shift you worked up there, did you notice
2 anything different, anything unusual?

3 A. No.

4 Q. Anything that smelled different?

5 A. Not as I can recall. Now, they was doors --- from
6 the Glory Hole, we turned, went on the section. There
7 was a set of doors before we got to the number one
8 split here --- I mean, number two split to go over on
9 the Two section. There was a set of doors there.
10 They was aluminum type doors. Now, they didn't have
11 no man doors in them, the best I can remember. Now, I
12 could be wrong.

13 Q. Okay. Yeah, we were just asking. We've heard
14 some people talking about the doors in the doors and
15 we weren't sure what they were talking about, but we
16 appreciate that.

17 ATTORNEY BABINGTON:

18 To clarify, those aluminum doors were
19 just outby the face of Headgate 22?

20 A. No. No, they was ---.

21 MR. SHERER:

22 Outby the mouth.

23 A. Yeah, outby the mouth.

24 ATTORNEY BABINGTON:

25 Sorry. Yeah. I said face. I meant

1 mouth.

2 A. So you had to cross --- see, we was coming up ---
3 what is this, 118? I believe right here. We was
4 coming up this and then turning at ---.

5 BY MR. SHERER:

6 Q. That connector?

7 A. Yeah. See, we drove all this up and then we
8 turned this way. And once they said longwall got
9 close to us, me and Damian, you know, they wanted us
10 to start coming in this way. So we covered all the
11 track and built stoppings in here and ---.

12 Q. Hung a bunch of doors?

13 A. Yeah, put some doors. Well, for a long time, it
14 was a curtain. We had to replace curtain every time
15 we turned around right here. But once we got all this
16 track laid in here and then once --- I mean, Two
17 section, started using this way to come in, too.

18 ATTORNEY BABINGTON:

19 Okay. So sorry, just to clarify,
20 originally before the longwall ---

21 A. Advanced back.

22 ATTORNEY BABINGTON:

23 --- advanced too far, ---

24 A. Yeah.

25 ATTORNEY BABINGTON:

1 --- your team --- your crew traveled from
2 Six North to Headgate One ---

3 A. Yes.

4 ATTORNEY BABINGTON:

5 --- and then up crossover section
6 Headgate 22?

7 A. Yes, sir.

8 ATTORNEY BABINGTON:

9 But once the longwall advanced far
10 enough, then you started taking Six to Seven up to
11 Glory Hole area and then did the switch over to
12 Headgate 22 there?

13 A. I reckon you would call Headgate 22 from here up,
14 wouldn't you?

15 ATTORNEY BABINGTON:

16 Right, right.

17 A. Because this was a --- you had the belt from Two
18 section coming off and that's how their track run up.

19 ATTORNEY BABINGTON:

20 All right. So for the Two section, which
21 is also known as Tailgate 22, I believe, they would
22 travel down that crossover section?

23 A. Yes.

24 ATTORNEY BABINGTON:

25 Okay.

1 A. To stay away from this, because they went in ---
2 this is how all of our high line run and everything
3 else --- we had to re-run all of our high line, and we
4 put a splitter box in and everything else that way.

5 ATTORNEY SHERER:

6 That's a lot of work. That's all the
7 questions I have.

8 ATTORNEY BABINGTON:

9 Bill?

10 RE-EXAMINATION

11 BY MR. TUCKER:

12 Q. Where are you currently working?

13 A. Elk Run Repair Shop.

14 ATTORNEY BABINGTON:

15 Okay. For the record, would you state
16 your full name, address and telephone number, please?

17 A. Kevin Edward Nutter, [REDACTED]

18 [REDACTED] Phone number is [REDACTED]

19 ATTORNEY BABINGTON:

20 Okay. And did you appear here today
21 voluntarily?

22 A. Yes.

23 ATTORNEY BABINGTON:

24 Thank you. All right. On behalf of MSHA
25 and the Office of Miners' Health, Safety and Training,

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

15 A. No.

16 ATTORNEY BABINGTON:

17 Again, I want to thank you for your
18 cooperation in this matter. Thanks for coming in.

19 * * * * *

20 STATEMENT UNDER OATH CONCLUDED AT 4:28 P.M.

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1 STATE OF WEST VIRGINIA)

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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