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Transcript of the Testimony of Terry Joe Peterson

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STATEMENT UNDER OATH
OF
TERRY JOE PETERSON

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, July 22, 2010, beginning at 7:58 a.m.

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

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

One

Portal Map

82*

* Exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is July
22nd, 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.

MR. FARLEY:

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

MR. O'BRIEN:

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

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
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's 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 You may have your personal attorney

25 present during the taking of this statement, or

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

8 MR. PETERSON:

9 No, I don't.

10 ATTORNEY BABINGTON:

11 Have you been advised in advance of your
12 right to have a representative?

13 MR. PETERSON:

14 Yes, I have.

15 ATTORNEY BABINGTON:

16 Okay. And you still consent to this
17 interview?

18 MR. PETERSON:

19 Sir?

20 ATTORNEY BABINGTON:

21 And you still consent to go on with this
22 interview?

23 MR. PETERSON:

24 Right. Yes, sir.

25 ATTORNEY BABINGTON:

1 Your identity and the content of this
2 conversation will be made public at the conclusion of
3 the interview process and may be included in the
4 public report of the accident unless you request that
5 your identity remain confidential or your information
6 would otherwise jeopardize a potential criminal
7 investigation. If you request us to keep your
8 identity confidential, we will do so to the extent
9 permitted by law. That means that if a judge orders
10 us to reveal your name or if another law requires us
11 to reveal your name or if we need to reveal your name
12 for other law enforcement purposes, we may do so.

13 Also, there may be a need to use --- may
14 be a need to use the information you provide to us or
15 other information we may ask you to provide in the
16 future in other investigations into and hearings about
17 the explosion. Do you understand?

18 MR. PETERSON:

19 Right. Yes, sir.

20 ATTORNEY BABINGTON:

21 Do you have any questions?

22 MR. PETERSON:

23 No, I don't.

24 ATTORNEY BABINGTON:

25 After the investigation is complete, MSHA

1 will issue a public report detailing the nature and
2 causes of the fatalities in the hope that greater
3 awareness about the cause of accidents can reduce
4 their occurrence in the future. Information obtained
5 through witness interviews is frequently included in
6 these reports. Since we will be interviewing other
7 individuals, we request that you not discuss your
8 testimony with any person aside from a personal
9 representative or Counsel.

10 A court reporter will record your
11 interview. Please speak loudly and clearly. If you
12 do not understand a question asked, please ask the
13 interviewer to rephrase it. Please answer each
14 question as fully as you can, including any
15 information you've learned from someone else.

16 I'd like to thank you in advance for your
17 appearance here. We appreciate your assistance in
18 this investigation. Your cooperation is critical in
19 making the nation's mines safer.

20 After we've finished asking questions,
21 you'll have an opportunity to make a statement and
22 provide us with any other information that you believe
23 to be important. If at any time after the interview
24 you recall any additional information that you believe
25 might be useful, please contact any of us or Norman

1 Page at the contact information previously provided.
2 Finally, any statements given by miner
3 witnesses to MSHA are considered to be an exercise of
4 statutory rights and protected activity under Section
5 105(c) of the Mine Act. If you believe any discharge,
6 discrimination or other adverse action is taken
7 against you as a result of your cooperation with this
8 investigation, you're encouraged to immediately
9 contact MSHA and file a complaint under Section 105(c)
10 of the Act. Terry?

11 MR. FARLEY:

12 Mr. Peterson, on behalf of the Office of
13 Miners' Health, Safety and Training I'd like to advise
14 you that the West Virginia Coal Mine Health and Safety
15 Regulations also provide protection to miners against
16 potential discrimination for participating in these
17 type of interviews. I want to pass along to you some
18 contact information, should you experience any such
19 problems. Now, the information will include a
20 business card for myself and phone numbers for Mr.
21 Bill Tucker, who's our lead underground investigator,
22 and address for the West Virginia Board of Appeals.
23 They here complaints from miners about discrimination.
24 We'd advise you that should you have a problem, you
25 would need to file a complaint within 30 days of the

1 time it happened. All right.

2 MR. PETERSON:

3 Okay.

4 ATTORNEY BABINGTON:

5 Let's go off --- sorry. Let's go off the
6 record for one second.

7 OFF RECORD DISCUSSION

8 ATTORNEY BABINGTON:

9 Back on.

10 ATTORNEY MCATEER:

11 I'm Davitt McAteer from the Governor's
12 Independent Investigative Team.

13 ATTORNEY BABINGTON:

14 Thank you, Davitt.

15 -----

16 TERRY JOE PETERSON, HAVING FIRST BEEN DULY SWORN,
17 TESTIFIED AS FOLLOWS:

18 -----

19 EXAMINATION

20 BY MR. SHERER:

21 Q. Okay. First of all, I want to thank you for
22 coming down here this morning, Mr. Peterson.

23 A. You're welcome.

24 Q. As you know, this is a very complex situation
25 and ---

1 A. Yes.

2 Q. --- we need all the help we can get to try to
3 determine what caused the explosion, and even more
4 important, how to prevent this type of explosion in
5 the future. Would you please state your full name and
6 spell your last name?

7 A. Full name, Terry Joe Peterson. Peterson,
8 P-E-T-E-R-S-O-N.

9 Q. Thank you. What's your address and telephone
10 number, please?

11 A. [REDACTED]

12 [REDACTED]

13 Q. Okay. What's your telephone number, please?

14 A. [REDACTED]

15 Q. Thank you. Are you appearing here today
16 voluntarily?

17 A. Yes, sir, I am.

18 Q. Have you been interviewed by or spoken with
19 anybody else about this explosion?

20 A. No, sir.

21 Q. Okay. Have you talked to any of the company ---?

22 A. Well, I take that back. Massey's lawyers, I have
23 been interviewed with them. Yes.

24 Q. Okay. About when did they interview you?

25 A. Might've been two --- maybe two weeks after the

1 explosion, three, somewhere along in there.

2 Q. Okay. Do you recall where that interview took
3 place?

4 A. It took --- at Marfork Training Center.

5 Q. Okay. Do you recall what they asked you about?

6 A. Just certain things about the supervisors, dislike
7 and like, you know, about certain people, if I liked
8 them or whatever, their job duties, you know, if they
9 had worked anybody unsafe or things like that more or
10 less.

11 Q. Okay. They ask you much about the conditions in
12 the mines?

13 A. Somewhat, more or less rock dust and stuff like
14 that.

15 Q. Okay. Thank you. Roughly, how many years of
16 mining experience do you have?

17 A. Thirty-six (36) years.

18 Q. Thirty-six (36) years. You been at it a long
19 time, buddy.

20 A. Yes, sir, I have.

21 Q. How many places have you worked in those 36 years?

22 A lot of them?

23 A. Quite a few, yes, sir.

24 Q. Hit just the high points for me, would you,
25 to ---?

1 A. Well, I worked at a lot of places in Logan County.
2 A lot of low seams. You want me to state a few them
3 or ---?

4 Q. No, no.

5 A. Okay. Quite a few.

6 Q. Okay. When did you go to work for the Massey
7 organization?

8 A. The year 2000.

9 Q. Year 2000.

10 A. I believe it was around in April.

11 Q. Okay. And when did you go to work for UBB?

12 A. About two years ago. I believe that was around in
13 April, I believe.

14 Q. Okay.

15 A. I was transferred from Marfork, come to UBB.

16 Q. Okay. And what job have you --- what jobs have
17 you done at UBB?

18 A. Altogether for ---

19 Q. Uh-huh (yes).

20 A. --- Massey? I first started as a belt foreman,
21 moving belt and I've section boss some. And then I've
22 been general mine foreman on the Horse Creek belts.
23 That was at the Marfork Mine. And then after that I
24 was sent to UBB.

25 Q. Okay.

1 A. And I've been fire boss and, like, belt examiner,
2 stuff like that, ---

3 Q. Okay.

4 A. --- just shovel belt and things ---

5 Q. Sure.

6 A. --- up until, you know, then.

7 Q. Sure, okay. What part of the mine were you
8 responsible for the belts in?

9 A. South side.

10 Q. South side. We've got a map in front of you.
11 We've discussed it a bit off record. Can I get you to
12 take a marker and just mark the belts that you
13 examined in this area?

14 A. Okay.

15 WITNESS COMPLIES

16 OFF RECORD DISCUSSION

17 MR. SHERER:

18 Okay. And for the record, the witness
19 has taken a pink highlighter and highlighted four
20 belts.

21 BY MR. SHERER:

22 Q. What do you call those belts?

23 A. Okay. This belt on this end here is the south
24 side belt. This is the belt that goes outside to the,
25 well, security complex coming in. Number One North

1 belt comes up to this north end part. And then we
2 have the Number Two South belt. And then it was the
3 end and connecting point of the new --- close to the
4 new section, which was the barrier section, and it was
5 Number Four.

6 Q. Okay.

7 A. My belt head that I was responsible for was One
8 North.

9 Q. Okay.

10 A. As far as my duties was, was, you know, cleaning
11 and greasing P.M. on it. But far as the inspection,
12 fire bossing that was me and another fire boss would
13 more or less split these up. We worked together. You
14 know, I'd do part one run; sometimes he'd do the
15 other, kind of more less take it in the middle, you
16 know, to do it.

17 Q. And who was that other fire boss, please?

18 A. Let me think. My mind's kind of baffled right
19 now.

20 Q. Sure. I understand.

21 A. Bruce Bracket.

22 Q. Bruce Bracket; okay.

23 A. Right. As fire bossing inspections was from the
24 mouth of the south belt, One North, Two North and then
25 the barrier section, belt Number Four on the belts.

1 That consisted of the power boxes along the way here
2 the pumps that we had in them areas and going up the
3 beltlines is the inspections.

4 Q. That's true.

5 A. Fire boss, you know, on pre-shift.

6 Q. Now, do you recall generally how many pumps and
7 power centers and things like that along the belt
8 shaft ---?

9 A. There's quite a few. Do I need to state exactly?

10 Q. No, no. About six, seven?

11 A. More or less. Well, let me see. Let's see if I
12 can give you rundown on ---.

13 Q. Sure.

14 A. We've had on --- okay. There's one more belt.

15 Q. Okay.

16 A. Excuse me. I forgot to give it here.

17 Q. No problem.

18 A. And this was on Three section, this one here. And
19 I think they'd already finished up on it. We didn't
20 have to inspect this anymore because they'd already
21 closed it down right here. They was preparing the new
22 section off of Ellis. Over here they had almost most
23 of their people working over there. But at one time
24 we did this, but right there close to the end, before
25 the explosion, this was more or less --- didn't have

1 to, you know, pre-shift for that.

2 Q. Was that an idled section?

3 A. Yeah, yeah. It's idle. But more or less for what
4 was on the south, this was what was retained, you
5 know, from my inspection on it.

6 Q. And if you just had to guess, how many power
7 centers?

8 A. Okay, the power centers. About approximately,
9 maybe, 13.

10 Q. Thirteen (13) power centers.

11 A. Power centers.

12 Q. That's a lot of boxes to check.

13 A. Right. And ---.

14 Q. Now, did you have many pumps down through there?

15 A. Pumps, okay. Pumps. Well, now, this part here
16 with the --- had to be excluded because of them, you
17 know ---. It wasn't even really --- there was nothing
18 going on here at all pre-shift.

19 Q. Okay. So you weren't inspecting the Three
20 section?

21 A. No, because power was off of it.

22 Q. Okay. Okay, sure.

23 A. Okay. Approximately 13, 14 pumps.

24 Q. Okay. About 13, 14 pumps. Were there any areas
25 you had to do in a weekly exam of?

1 A. Weekly exam?

2 Q. Airways.

3 A. No, I didn't do any airways. No.

4 Q. Okay. Did you examine any seals?

5 A. No, sir.

6 Q. Okay. Was there any other place that you had to
7 do a fire boss run or a pre-shift examination of?

8 A. Any other in my areas?

9 Q. Yeah. And ---?

10 A. Okay. Well, a few times I had been up on the
11 north end to fire boss.

12 Q. But just ---?

13 A. Just for belts and stuff like that, and far as
14 going all the way to the north end.

15 Q. Yeah.

16 A. But now, that was just a few times because of when
17 they didn't have a fire boss for ---.

18 Q. So it was just to fill in?

19 A. Fill-in; right. Yes, sir.

20 Q. It wasn't part of your normal examination duties?

21 A. Right.

22 Q. Was there any other place that you normally
23 examined?

24 A. Normally would be face areas for the barrier
25 section and then whenever they did had this one over

1 here running, the face areas pre-shift and on, like,
2 on a Sunday night before third shift come in.

3 Q. Sure.

4 A. And we'd have to fire boss the face areas for the
5 section before the, you know, before the crews come
6 in. That'd be the only time through the week. That
7 would just be on Sunday night.

8 Q. Okay. So it sounds like you spend most of your
9 time on these belts ---

10 A. Yes.

11 Q. --- in this general area?

12 A. Right.

13 Q. What all did you have to do on the belts?

14 A. Well, we inspect rollers, shovel, clings. Rock
15 dust, check splices on the belts like, the pumps that
16 were on the belt, you know, in different places right
17 there. I'd check them and pump water on it.

18 Q. Sure. You said you did some P.M. --- were
19 responsible for the P.M. of the Number One head drive?

20 A. Right. P.M. consisted of the greasing and more or
21 less the maintenance on the belt head.

22 Q. Sure, uh-huh (yes). Did you have to replace
23 rollers, things like that?

24 A. Well, whenever we had to do that, we had bad roll
25 and we had to shut the belt down, I'd have to have

1 some help to kind of --- to do that job.

2 Q. Yeah, what size are these belts?

3 A. One South and One North was six-foot belt, I
4 believe. Six-foot belts, I believe, here.

5 Q. Uh-huh (yes).

6 A. And the Number Two, on Two North, I believe, so
7 this section here, it was a 48-inch section belt. On
8 the barrier it's 48-inch.

9 Q. I can see why you needed help on that six-foot
10 belt.

11 A. Oh, it's pretty heavy.

12 Q. Sure.

13 A. But we had a crew usually on third shift would do
14 that heavy, you know, regular belt structure work and
15 stuff like that.

16 Q. Sure.

17 A. They did that.

18 Q. Now, I forgot to ask you, which shift did you
19 normally work?

20 A. I worked a shift from 6:00 of the evening until
21 6:00 of the morning.

22 Q. Okay, 12-hour shift. That's a long shift.

23 A. Twelve (12) hours.

24 Q. Did you do, like, six on, three, three off or ---?

25 A. No. I worked five days a week.

1 Q. Okay. That's a long week, buddy.

2 A. Yeah. I start from Sunday evening and get off
3 Friday morning.

4 Q. Sixty (60) hours.

5 A. Yes, sir.

6 Q. You're a better man than I am. Okay. Tell me
7 about those belts. Were they in good shape?

8 A. In these areas, yes, I'd say they were. Yes, sir.

9 Q. Okay.

10 A. The rock dusting was pretty well-maintained, kept
11 up. Yeah.

12 Q. Now, how did you rock dust?

13 A. Well, we used the pull type duster that they had
14 with the motor, you know.

15 Q. Is that what we'd call a trickle duster?

16 A. I don't know what you'd call --- no, it's not
17 trickle duster. It had the big barrels. It was the
18 main, big rock duster we used to maintain the track
19 way. But they'd have to pull the hose through the
20 breaks.

21 Q. Oh, it was a rail-mounted unit?

22 A. Yeah.

23 Q. Okay, okay.

24 A. Yeah. Yeah, it was a rail duster.

25 Q. Okay. I misunderstood you there.

1 A. Yeah.

2 Q. And about how often would that come through there?

3 A. They tried to set it up almost in --- well, they
4 had a lot to --- you know, to do.

5 Q. Sure.

6 A. It all depend, you know, whenever they had it
7 scheduled, you know, to try to get certain areas.

8 Q. Well, just ---.

9 A. We reported certain areas that needed to be
10 dusted. We would record it in the book, then take it
11 to management. Then that is their --- try to schedule
12 to have that crew ---

13 Q. Okay.

14 A. --- be that area to rock dust it.

15 Q. Sure. On average would they be down there, like,
16 once a week?

17 A. Try to be.

18 Q. Okay.

19 A. Yeah.

20 Q. Tell me about that --- I understand there was a
21 problem with that, the crew that did the rail dusting.
22 They fired a guy or something? Did you hear about
23 that? This would've been ---.

24 A. From what I can understand there was one guy. I
25 can't remember his name. I believe they yelled at ---

1 I believe they fired him.

2 Q. Do you recall about when that was?

3 A. When was it?

4 Q. Yeah, in relationship to the explosion? Was it a
5 week before, two weeks before?

6 A. Now, that, I don't know exactly when. It was
7 before the explosion, yes ---

8 Q. Okay.

9 A. --- but when, right at --- I don't know what ---
10 exactly what day it was.

11 Q. Can you recall if that crew got down to --- after
12 that guy got fired, if they got down or dust these
13 belts here in the south, that track-mounted unit? Did
14 you notice the belts being dusted down there, say, the
15 week, couple, two or three weeks before the explosion?

16 A. In what area?

17 Q Anywhere in the southern part of the mine that you
18 were familiar with?

19 A. As far as I --- if I can remember right, they had
20 been doing dusting on this north end somewhere.

21 Q. Okay.

22 A. I don't know exactly where at.

23 Q. Okay. So you didn't see them down in the part of
24 the mine that you worked at?

25 A. No, not unless whenever I was going in on my

1 pre-shift, you know, on this. They'd be coming out,
2 but like I said, I wouldn't know where --- sometimes
3 I'd ask them where they was going.

4 Q. Sure.

5 A. And sometimes I --- you know, I wouldn't know.

6 Q. Okay. But they were still --- even though that,
7 the guy that did it got fired, somebody was doing it?

8 A. Right; they had somebody else with the other ---

9 Q. Okay.

10 A. --- guy that done that to do that, yes, sir.

11 Q. Okay. That helps. Appreciate it.

12 A. Right.

13 Q. Any problems with water down through there?

14 A. On the end that I took care of here?

15 Q. Uh-huh (yes).

16 A. Not really major that I had ever seen, really,
17 except for in the LBB area. If we would have a pump
18 go down, it would more or less flood the track area
19 out where we had to get up through here.

20 Q. Yeah, UBB's a little further north.

21 A. Yeah, it'd be here, right here.

22 Q. Okay.

23 A. And in a few areas here where we had a 110 pump to
24 pump it down, we had to change a sump pump out one
25 time. But other than that, as far as major water

1 problems, no, sir, I hadn't ---

2 Q. Okay.

3 A. --- really seen anything real major.

4 Q. Okay. What about the roof, rib and floor down
5 there?

6 A. Are you talking about general in the area ---

7 Q. Yeah.

8 A. --- I worked? Well, that same type of coal was
9 --- had a lot --- they cut a lot of rock up. They had
10 a lot of cribs set. We had lot of, you know, places,
11 track where the ribs roll off or we'd have timbers set
12 and stuff. But any other mine that I've worked at is
13 not more or less normal, what I seen, you know, deal
14 with for as far as rib-wise. The top was screened on,
15 you know, the main line. Far as the section places,
16 if they set up, had a lot of rib roll-offs, you know,
17 in places. They had to set timbers and stuff, not
18 more or less than normal that you would say, you know.

19 Q. Okay. So the ribs were kind of ratty?

20 A. Little bit of adverse type conditions.

21 Q. Sure. Now, just in general, how high was the
22 mining height down in this other part of the mine?

23 How high was that?

24 A. The height?

25 Q. Yeah.

1 A. Generally run right at about on the average of six
2 foot.

3 Q. Six foot.

4 A. Yeah, generally.

5 Q. Okay. And you mentioned there was a lot of rock
6 in the ribs. About how much coal and how much rock?

7 Just guess.

8 A. On the average?

9 Q. Yeah.

10 A. Well, I would say probably coal, maybe close to,
11 maybe five foot.

12 Q. Okay.

13 A. A little bit less, maybe. Then the rest may be
14 rock.

15 Q. Okay. So they're taking about 12 to 18 inches of
16 rock?

17 A. Somewhere around --- maybe more sometimes.

18 Q. Were they leaving the rock at the top or taking
19 the top rock or the bottom rock?

20 A. Well, taking the --- well, it all depends if
21 sometimes it was bottom and sometimes it was top ---

22 Q. Okay. So ---?

23 A. --- from what I can see, you know.

24 Q. Yeah. Probably the easier rock to cut is what
25 they took.

1 A. Yeah. Yes, sir.

2 Q. Okay. What sort of top did you have down through
3 there? Was it sandstone or shale or ---?

4 A. A mixture. Sandstone. I understand they had, at
5 the time they had sandstone on the longwall, you know,
6 right in there, you know, in that area. As far as
7 anywhere else, more or less looked like slate ---

8 Q. Okay.

9 A. --- you know, like that.

10 Q. Sure. Now, where you had the slate, was it the
11 top slate that kind of dribbles out around the roof
12 bolts?

13 A. Some places, but a lot of it, you know, had been
14 screened.

15 Q. Okay.

16 A. If you're talking about years past where the mine
17 had been mined, yeah, it'd been screened.

18 Q. Okay.

19 A. A lot of slate, you know.

20 Q. Okay. Now, where they had that mesh on the roof,
21 was the mesh starting to sag down with a lot of stuff
22 had fallen onto the mesh?

23 A. Some places.

24 Q. Okay. You said they had a lot of timbers and
25 cribs down through there?

1 A. Right. Now, if they didn't have the mesh screen
2 in a lot of places, it'd already been --- well, had
3 they re-maintained it, tried to take care of a lot,
4 because it's, you know, flaky stuff, you know, where
5 the screen would keep a lot of it up.

6 Q. Okay. Now, you say the track entries were meshed
7 like that. What about if you got off into the side
8 entries, the intakes and returns and stuff? Were they
9 screened?

10 A. Well, they'd be in some of the airways and stuff.
11 I never even traveled most of them, so they might have
12 been a few places like that, different breakthroughs
13 that were screened, ---

14 Q. Okay.

15 A. --- you know.

16 Q. And when you got if into those airways, and I know
17 you didn't have to travel them, did you notice if
18 there was a lot of flake rock laying around?

19 A. Some places would be.

20 Q. Okay. What about the rock dust back on those side
21 entries?

22 A. Sir?

23 Q. What about the rock dust back in the airways or
24 the side entries?

25 A. In the airways?

1 Q. Uh-huh (yes).

2 A. Well, now, that I don't know because I never do
3 travel airways, so I don't know what kind of ---.

4 Q. Yeah, but you mentioned occasionally you got off
5 into them. When you got over there, what did it look
6 like, just in a few places?

7 A. Well, the only airways I can think of that I'd
8 been in would've been close to the section.

9 Q. Okay. How'd they look?

10 A. Pretty well rock dusted. Yeah, they was rock
11 dusted.

12 Q. Okay.

13 A. In general, yeah.

14 Q. Okay. What about equipment doors? Did you go
15 through any equipment doors or track doors?

16 A. Yes, sir.

17 Q. How were they? Were they in good shape?

18 A. Pretty well maintained in good shape, yeah. We
19 have a few that would --- the jacks would break off
20 sometimes where they'd be repaired, but most of them
21 had to be, you know, hand opened, stuff like that on
22 my end, you know. They was maintained good.

23 Q. Okay.

24 A. They were electric.

25 Q. Okay. You ever come up on any of those doors and

1 find some of them open?

2 A. One, maybe one time I have. On the main line I
3 had come in. But that was when they had a problem
4 with the jacks where the one jack's broke off ---

5 Q. Uh-huh (yes).

6 A. --- where they had to shut them, then had to prop
7 it shut with the wedge or something come open.

8 Q. Okay.

9 A. That was just maybe once.

10 Q. Now, you mentioned those doors were electric.

11 A. Right. That was on this, on the south end, on the
12 main end from UBB. Be going toward north.

13 Q. Uh-huh (yes). And you said sometimes the jacks
14 would break or tear up?

15 A. Yeah, the flanges or the jacks would hook to the
16 doors where it would open, would sometimes, you know,
17 break off.

18 Q. Oh, okay.

19 A. And then it wouldn't open, you know. You'd have
20 to go in and pull the pins out of the jack and open up
21 the doors manually until they repaired it.

22 Q. Sure. And when one of those would break like
23 that, how long, just on average, would it take for
24 them to be repaired? Would they get them the next
25 shift or the next day or ---?

1 A. Sometimes. It varied, and then sometimes it might
2 take a --- maybe a day or two before they did it.

3 Q. But they were pretty good about repairing them?

4 A. Right.

5 Q. Okay. Did those doors leak? Did you hear air
6 coming through them or around them?

7 A. A little bit.

8 Q. Okay. You ever been in the mine that had as many
9 equipment doors?

10 A. Been in another mine?

11 Q. Yeah, uh-huh (yes), that had all these equipment
12 doors?

13 A. Not as many as this one.

14 Q. Okay. Now, you mentioned occasionally you got up
15 on the north end. Were there somewhere equipment
16 doors up there?

17 A. Yes, sir.

18 Q. Were they about the same type of doors?

19 A. Yes, but --- well, at the time I was up there
20 they'd been --- being set up for being electric doors
21 that ---

22 Q. Okay.

23 A. --- which I'd never seen being electric opened.

24 They had to hand open them, you know, to stop and open
25 them up by hand and shut them.

1 Q. You ever have to get out and open and shut those
2 doors yourself?

3 A. Right. Yes, I have.

4 Q. Were they easy to open and shut or were they hard?

5 A. They pretty well easy. You'd get one maybe every
6 now and then without the balance so it would stick on
7 the track a little bit, trying to open it, you know,
8 push it open or shut it back.

9 Q. What about the air pressure on those doors? Were
10 they hard to initially crack open?

11 A. Yeah, one, because it cost me two screws in my

12 [REDACTED] . I've got two screws in my [REDACTED]
(C)

13 [REDACTED] because of the too much
14 pressure on a door.

15 Q. Oh, jeez.

16 A. Do I need to explain or anything?

17 Q. Yeah, if you don't mind.

18 A. It was the first door coming to the UBB Portal
19 outside. Electric. I pulled up on it coming out to
20 finish my pre-shift to go to the other side on south
21 side, you know, the pre-shift.

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

23 A. And the door wouldn't open when I come up to the
24 switch. So I went ahead and pulled up close to the
25 door, and usually we have toggle switches on the other

1 side to open up the door manually on it.

2 Q. Sure.

3 A. And I couldn't remember if it had one, so when I
4 opened up the man door part to step through, at that
5 time it had so much air pushing against this door, it
6 was hard for me to get through it. But when I did,
7 when I got to the other side, there was no toggle
8 switch to use manually to open it. So I pushed the
9 door back open with the force pushing and I stepped
10 the left leg through. And then when I got through, I
11 was trying to hold the door, pushing it open with me
12 left shoulder. And by the time I got my right leg
13 through, I lost my balance and the force of the air
14 pushing against it, I fell, all my body weight on my
15 [REDACTED].

16 Q. Sure.

17 A. And then the door slammed on my foot.

18 Q. Oh, jeez.

19 A. So I had a hard time getting it out.

20 Q. Uh-huh (yes).

21 A. But just that cost me having the [REDACTED]

22 [REDACTED]

23 Q. Oh, jeez.

24 A. The [REDACTED] pulled off [REDACTED] [REDACTED] and then it
25 had to have two screws put back in it.

1 Q. That sounds painful. How long were you off from
2 work?

3 A. About eight months.

4 Q. Oh, jeez.

5 A. Eight, nine months.

6 ATTORNEY MCATEER:

7 Erik, when did this happen?

8 BY MR. SHERER:

9 Q. When did this happen, please?

10 A. When did it happen?

11 Q. Uh-huh (yes).

12 A. February of '08, I think it was, '09. This is
13 '10. '09 I believe is when it was.

14 Q. February '09. Did you do any light-duty work
15 during that eight months or ---?

16 A. Oh, no.

17 Q. You were just ---?

18 A. I was off until I was recovered to come back to
19 work.

20 Q. Okay. Sounds rough. What about the --- when you
21 injured yourself, what about the emergency services?
22 Did you call out for help or did you go ---?

23 A. Oh, well. I was close to a phone at that time. I
24 had to more or less try to drag myself in a way to get
25 to the phone, which I was only maybe less than a break

1 away to call, which I was lucky that I had the other
2 fire boss that was making their upper ends, coming
3 down. And they called when they got --- which I
4 called and told, you know, possibly need an ambulance,
5 you know. I didn't know if I had a broken collar bone
6 or what.

7 Q. Sure.

8 A. And then my other two guys that was fire bossing,
9 they helped, you know, bring me outside.

10 Q. Okay. Were the emergency --- did you get First
11 Aid for that?

12 A. Oh, yes.

13 Q. Okay. How was that?

14 A. How was it?

15 Q. Yeah.

16 A. Good.

17 Q. Good? Okay. How about the ambulance service?
18 Did it get there?

19 A. Right. Yeah. It wasn't very long until they was
20 there, yeah.

21 Q. Okay. Did you have any problems with the
22 treatment you got at the mine?

23 A. No.

24 Q. Okay.

25 A. I didn't have no problems.

1 Q. Okay. When you got to the emergency room or
2 hospital, wherever they took you, were you accompanied
3 by anybody from the company?

4 A. Later I had the safety director come in.

5 Q. Okay. What did he talk about?

6 A. Sir?

7 Q. What did he talk about?

8 A. What did he talk about?

9 Q. Uh-huh (yes).

10 A. He just asked me how it happened.

11 Q. Oh, okay.

12 A. You know, I just explained to him what had
13 happened.

14 Q. Okay. Did he encourage you to do --- try to come
15 back to work?

16 A. No.

17 Q. Okay.

18 A. No, I come back to work on my own the very next
19 day.

20 Q. Okay.

21 A. I worked until a month later until I had to go get
22 an MRI and I finally figured --- found out what was
23 wrong with it. The x-ray only showed it was a
24 contusion.

25 Q. Oh, okay.

1 A. So ---.

2 ATTORNEY BABINGTON:

3 Sorry. Who's the safety director?

4 A. Greg Ryans, I believe, at the time. Greg Ryans.

5 BY MR. SHERER:

6 Q. Okay. Are you satisfied with the service and
7 treatment you got for your injury?

8 A. Well, pretty much, but I would rather had been ---
9 I would rather have been sent to Charleston at the
10 time, if I would've had my --- which they asked me
11 where I wanted to go.

12 Q. Okay.

13 A. I wished I'd went to Charleston Medical, because
14 they would've took an MRI of it and I would've knowed
15 right then.

16 Q. Okay. So a month later you had to schedule some
17 surgery?

18 A. About a month I went ahead and worked until it got
19 where I figured out that it wasn't healing.

20 Q. Okay.

21 A. And I knew there was something wrong, you know,
22 so ---.

23 Q. Okay. And then you scheduled your surgery. You
24 were off for approximately eight more months?

25 A. After surgery.

1 Q. Okay.

2 A. Now, wasn't at --- I worked a month until they'd
3 had me set up for an appointment, the big surgery, you
4 know. And then I took off work.

5 Q. Okay.

6 A. Then I was off about eight months ---

7 Q. Okay.

8 A. --- after that, and then I come back to work.

9 Q. Okay. You're satisfied with the treatment you got
10 during the surgery and your recovery and when you came
11 back to work?

12 A. Yeah.

13 Q. Okay. Good enough. Appreciate that. You can sit
14 down if you want to.

15 A. Sure.

16 Q. Unless you want to stand up.

17 A. Oh, no, it doesn't matter.

18 Q. Okay. Okay. Your fire boss books or belt
19 examination books, what'd you call those books?

20 A. Pre-shift and on-shift books.

21 Q. Pre-shift, on-shift. Did you have a separate belt
22 examination book?

23 A. I just had one book that took care of our south
24 side end.

25 Q. Okay.

1 A. Pre-shift and on-shift.

2 Q. Okay. Different mines do it different ways.

3 A. Yeah.

4 Q. Okay. So pre-shift and on-shift books, when you
5 found a problem, I guess if you considered it a
6 hazardous condition, you put it in the book?

7 A. Right. Yes, sir.

8 Q. What do you use to decide whether it's a hazardous
9 condition or just some --- a little something?

10 A. Well, as far as a bad roller in the belt?

11 Q. Uh-huh (yes).

12 A. Starting to get bad, it needed to be changed.

13 Q. Sure.

14 A. We'd always mark rollers on the board for the
15 third shift maintenance to take care of. If they were
16 stuck or bad enough, the belt would shut down. So it
17 was replaced then. More or less like a --- well,
18 places on the beltline that was walkway that need to
19 be timbered again or maybe a dislodged timber,
20 additional rock dust and so, compliances we had to
21 record that. Tailpieces that needed extra cleaning or
22 needed to be cleaned.

23 Q. Sure, uh-huh (yes). Okay. So if you thought it
24 was a hazardous condition, you'd mark it in the book?

25 A. Right.

1 Q. You ever get questioned about what you put in the
2 book?

3 A. No, not that I can recall.

4 Q. Okay. Now, you mentioned if you just had a roller
5 that was starting to give you some problems, you'd
6 mark it on the board. Can you explain that?

7 A. Okay. If we had a bad roller that had to be
8 changed, normally we would --- if we didn't have the
9 roller there we had the belt shut off and drop it out.
10 And then mark it and have maintenance try to come in
11 and replace the roller, put a new one in.

12 Q. Okay. And this board you're talking about, where
13 was that?

14 A. It was in the office where --- more or less where
15 all the pre-shift belt examiners part was, you know,
16 where we had all of our books, you know, for the
17 belts ---

18 Q. Okay.

19 A. --- and the airways and stuff.

20 Q. It was like one of those whiteboards you write on?

21 A. Yeah. Okay. I understand, a whiteboard. Yeah,
22 it's a whiteboard.

23 Q. Okay.

24 A. It was marked. They had it marked up.

25 Q. Okay. Was there any, anything else? Did you have

1 to fill out, like, a work order or ---?

2 A. Yeah. We'd always fill out what we did on shift.

3 Q. Okay. Do you know where those records --- those
4 things you did on-shift, do you know where those were
5 kept?

6 A. The only thing we did was when we wrote, filled
7 out the report, we'd file it in the cabinet in there.
8 Then our supervisors or whatever would pick them up
9 and read them and stuff.

10 Q. Okay. Did you ever get any feedback or questions
11 about that report? Anybody ask you, what'd you mean
12 here, or, do we need a crew of six people to do this
13 or do you think we can get by with four or five,
14 or ---

15 A. No.

16 Q. --- anything like that? Okay. Do you recall what
17 that form was called? Did it have a title?

18 A. No, it was just a --- it was just a regular form
19 that they had made up, you know, more or less just
20 stating what rollers need to be changed in what area
21 and then, like, what supplies are needed at certain
22 locations.

23 Q. Oh, okay.

24 A. And write it down.

25 Q. Okay. It sounds like it was mainly about rollers.

1 A. Sometimes, yeah.

2 Q. Okay. What'd you do --- if you have problems with
3 a head drive, would you put that same problem on that
4 same form?

5 A. Yeah, sometimes I would, but specifying a problem
6 like that, I'd go straight to my supervisor and let
7 him know upfront, you know, instead of waiting to let
8 him read it.

9 Q. Oh, okay.

10 A. If it's something --- either if it was something
11 else pertaining to a safety part, otherwise than
12 maintenance or anything, if I thought it would have to
13 be looked at in general, I would let him know
14 immediately on it.

15 Q. Okay. Who was your supervisor?

16 A. Gary May.

17 Q. Okay. Was he good about getting those things done
18 once you told him?

19 A. Yes, sir.

20 Q. Okay. Now, did you take your pre-shift, on-shift
21 information out of the mine with you or did you call
22 it out on the mine phone?

23 A. The first run that I would do for the third shift,
24 sometimes it would be called out. Most of the time I
25 brought it out and filled the book out before the

1 third shift started. But now, most of the time on the
2 --- for the dayshift run we normally called it out and
3 it was recorded.

4 Q. Now, you're making two fire boss runs during your
5 12-hour shift?

6 A. Yes, sir.

7 Q. That sounds rough.

8 A. Well, you spend more time just by fire bossing
9 than you do in general, with just two people.

10 Q. Were all the fire bosses like that? Or do you
11 know if the other fire bosses ---?

12 A. I don't know how their shifts worked on the north
13 end as far as if they rotated or how they done that
14 end up there. There for a while I know it was just
15 like our shift run, but now I understand later that
16 they changed it for some reason. I don't know.

17 Q. Okay. Do you recall about when you heard that
18 they had changed it?

19 A. No.

20 Q. Okay. Do you feel like you had enough time to do
21 all the examinations and maintenance work and such you
22 had to do on the belts?

23 A. As far as on both parts, no, never did have
24 enough. No, sir.

25 Q. Okay. Can you explain your feeling that you

1 didn't have enough time?

2 A. Well, you look at a 12-hour shift, you start at
3 six o'clock and you got to start three hours prior to
4 the next oncoming shift. You're only looking at maybe
5 time you get to point A to point B to try to do
6 something before you start your pre-shift examination,
7 you don't have much time to do anything.

8 Q. Okay.

9 A. As far as maybe shoveling a certain area, you'd
10 get caught in the middle somewhere before pre-shift,
11 and you got to get all the way back to point A to
12 start, it's kind of rough to do ---

13 Q. Sure.

14 A. --- that, you know.

15 Q. I imagine.

16 A. When you've got two people for on this lower end,
17 it helps a little bit to split things up when you
18 start to do your pre-shift. It helps out a lot.

19 Q. Okay. Do you feel like you ever had to compromise
20 the safety along the areas that you examined because
21 of the time pressure?

22 A. Explain again?

23 Q. Did you ever feel like you weren't doing a good
24 job with your examinations and maintenance and such
25 because you didn't have enough time?

1 A. Well, maybe sometimes, but if I was in a certain
2 area that I was examining, and I knowed it had to be
3 took care of, certain things that I would take my time
4 more to look at the situation and ---. But that'd be
5 --- you know, I wouldn't let it go to where it'd be,
6 you know, unsafe or something like that.

7 Q. Okay.

8 A. If it would happen to slow me down for my
9 examination, then I would definitely let somebody know
10 before then before nobody could come underground until
11 my examination was finished.

12 Q. Okay. Did you ever mention that, that you were
13 getting too much pressure to do too many things? Did
14 you ever mention that to Gary May?

15 A. I may have maybe a couple times, but it wasn't
16 very --- it wasn't very seldom because, I don't know,
17 it just ---.

18 Q. Okay. Did he say, you know, we'll try to get you
19 some relief, or anything like that?

20 A. Yeah.

21 Q. Okay. What'd he do?

22 A. Yeah. There's a couple times that I had to make
23 these runs by myself, ---

24 Q. Okay.

25 A. --- you know, until I could --- they could end up

1 getting me somebody else to help me, you know, on
2 certain stuff.

3 Q. Okay.

4 A. Basically, quite a few times I had to make this
5 run by myself on pre-shift.

6 Q. Okay.

7 A. That's pretty rough.

8 Q. I imagine, I imagine. And was one of those times
9 when you said something to Gary about it, said
10 something like, I need --- we need to get somebody
11 else down there? Did you get somebody else?

12 A. Yeah, yeah.

13 Q. Oh, okay, good. Okay. Bear with me just a
14 minute. What sort of methane detector did you have?

15 A. It was a Solaris.

16 Q. Solaris. Three-gas, 4-gas?

17 A. Four-gas.

18 Q. Four-gas. Did you take that home and charge it?

19 A. Yeah.

20 Q. Okay. How'd you calibrate it?

21 A. At the mine.

22 Q. Okay. Does it have one of those things you put it
23 in?

24 A. Yes, sir.

25 Q. Did you do the daily bump test on it?

1 A. Well, no, not at ---. We just kept it --- I kept
2 mine calibrated once a week ---

3 Q. Okay.

4 A. --- until this happened. Then they had the other
5 machine now that they use for the bump.

6 Q. Oh, okay. Okay. You ever detect any methane
7 along these belts?

8 A. Not on the belts, I haven't.

9 Q. Okay.

10 A. Not in my area.

11 Q. Okay. Did you ever detect any methane anywhere in
12 your area?

13 A. Not that I can recall of.

14 Q. What about when you did the pre-shift on the
15 sections? Did you ever get any in the faces?

16 A. No.

17 Q. Okay. So you never saw even a tenth of a percent?

18 A. Not even a tenth of a percent.

19 Q. Okay.

20 A. That was, like I said, on the barrier and over
21 here on the Three section, if I recall.

22 Q. Okay.

23 A. Four section.

24 Q. Did you have good ventilation throughout this
25 area?

1 A. Yes.

2 Q. You ever notice if the ventilation changed?

3 A. In the areas that I worked?

4 Q. Uh-huh (yes), yeah.

5 A. No.

6 Q. Okay. Always about the same quantity of air?

7 A. Yeah.

8 Q. Okay. You ever see any float dust down on the
9 belts?

10 A. We would have some normally on One South out here
11 where it went outside, because of so much air coming
12 down the belt, we'd have a lot accumulation sometimes
13 in that area, but we always kept dusting everything.

14 Q. Okay.

15 A. I mean, we'd have to hand dust it and everything.

16 Q. Okay. So when you found some ---?

17 A. You had so much air blowing this way, ---

18 Q. Sure.

19 A. --- you know, that it would carry, you know,
20 through the air.

21 Q. Okay. Did you hand dust it on average once a
22 shift or ---?

23 A. Yeah.

24 Q. Okay. Did you have any trickle dusters down
25 through there?

1 A. Not at that area, no, we didn't have one there.

2 We had one up here at --- on Three section. See where
3 I'm at. Oh, I see, right there ---.

4 Q. Can I ask you to take a different color marker and
5 mark where the trickle dusters were at?

6 A. Mark that. You want me to just circle or ---?

7 Q. Yeah, just draw a circle or ---?

8 A. Just draw a circle

9 Q. --- about where you think they're at.

10 A. Okay.

11 Q. Or were at.

12 A. I'll write T.D. ---

13 Q. That'll be great.

14 A. --- at each ---. Okay. T.D. This here.

15 MR. SHERER:

16 Okay. So the witness has marked three

17 blue circles on the map, showing where trickle dusters
18 were at, and he labeled each one with the letters T.D.

19 BY MR. SHERER:

20 Q. How many bags of rock dust would those trickle
21 dusters hold?

22 A. Six.

23 Q. Six bags. Did you normally have to fill them up
24 during your shift?

25 A. Right.

1 Q. So you put six bags in each trickle duster?

2 A. Right.

3 Q. When you came up to the trickle dusters at the
4 start of your shift, were they empty?

5 A. Sometimes. Sometimes they'd still be running.

6 Q. Okay. When you ended the shift were they still
7 running?

8 A. Normally --- oh, when I'd come back on my second
9 runs from this end coming out, if this was my head to
10 take care of, I would normally fill it back up and let
11 it run constantly, ---

12 Q. Okay.

13 A. --- which I let them run constantly.

14 Q. Okay, good.

15 A. At my head I did.

16 Q. Okay, sure. Did Gary May ever travel with you
17 when you did your fire boss runs?

18 A. No.

19 Q. Okay. Did he ever come up to you while you were
20 doing --- working down there?

21 A. Maybe once or twice, but that was a long time ago
22 whenever I fire bossed the belts on the Ellis side
23 there a long time ago.

24 Q. Oh, okay.

25 A. And I was at Ellis Number Four Tail there for a

1 while. I had to take care of that head there. He
2 come down a couple times, but that was more or less
3 him bringing in a load of block or something for that
4 end down there.

5 Q. Okay. So you didn't see him much on the south end
6 of the mine?

7 A. No.

8 Q. Okay. Now, we understand that there was a split
9 in this mine. Gary May did the --- he was the
10 superintendent over the southern end and there was
11 another gentleman, Everett Hager, that was
12 superintendent over at the north end.

13 A. Yes, sir.

14 Q. And you still didn't see Gary down the south end
15 much?

16 A. On my end?

17 Q. Uh-huh (yes).

18 A. Oh, yeah, most of the time I would.

19 Q. Oh, okay.

20 A. But see, I worked the evening part of the shift,
21 see?

22 Q. Okay, okay.

23 A. So his shifts done finished on day. He was gone.

24 Q. Oh, okay. So you might see him outside or ---?

25 A. Outside in the morning ---

1 Q. Okay.

2 A. --- after I come out on my shift, yeah.

3 Q. Okay. Was there, like, a mine foreman in charge
4 of the south end on the evening shift?

5 A. No, not really. We had electrician that he was
6 --- more or less just helped Everett --- helped out,
7 you know, ---

8 Q. Okay.

9 A. --- on things on our shift.

10 Q. Sure.

11 A. That was on the second shift part from 6:00 until
12 hoot owl come on.

13 Q. Okay. On the hoot owl shift, or the evening
14 shift. Is that the person you'd call if you had a
15 problem in there during your ---?

16 A. Yeah.

17 Q. Who was that person, please?

18 A. John Henline.

19 Q. Okay.

20 A. He was chief electrician, section chief.

21 Q. Okay. And so like he kind of --- kind of took
22 care of more than just electrical stuff?

23 A. Yeah, most the time.

24 Q. Okay. Are you aware of or were you aware of any
25 ventilation problems at this mine?

1 A. Yes, I was.

2 Q. Could you explain, please?

3 A. There for a while I could understand that they was
4 having some problems up on the north end. Where at, I
5 don't know, ---

6 Q. Okay.

7 A. --- as far as trying to get the air a certain way,
8 you know.

9 Q. Uh-huh (yes).

10 A. I understand a few times they had to knock a lot
11 of stoppings out and rebuild a lot of stoppings back.
12 And that's the only thing that, you know, that I know
13 of.

14 Q. Okay. Now, do you know if this was a week before
15 the explosion they were doing that or two weeks before
16 or ---?

17 A. Oh, no, that was --- God, maybe, maybe a month or
18 two or so ---

19 Q. Okay.

20 A. --- before then.

21 Q. Okay. Do you recall if there was --- anybody
22 talked about or mentioned or did you hear over the
23 mine phone any ventilation type problems in the week
24 before the explosion?

25 A. No.

1 Q. Okay. Did you ever hear of any place that there
2 was problems with methane at this mine?

3 A. No.

4 Q. Okay. Never heard anybody say the miner gassed
5 out or ---

6 A. No.

7 Q. --- anything like that? Okay. You ever hear of
8 any methane outbursts or inundations at this mine?

9 A. Uh-uh (no). Maybe in the past I heard some people
10 say where they've worked on a longwall or something
11 like that, that they had a --- you know, a pop-off or
12 something like that, but that was years here, maybe,
13 ago, way before I ever worked there.

14 Q. Okay.

15 A. But nothing major, from what I can understand.

16 Q. Okay. What do you call a pop-off?

17 A. Where it just may burst like that, you know, and
18 it'd just go off ---

19 Q. Okay.

20 A. --- go out.

21 Q. Little ignition.

22 A. I've never been around methane to see an
23 ignition ---

24 Q. Oh, okay.

25 A. --- what they call a pop-off, you know, just what

1 I hear ---

2 Q. Okay, sure.

3 A. --- what it does.

4 Q. Sure. I've seen them and you don't want to see
5 them.

6 A. They just tell me it's kind of a bluish type flame
7 that ---.

8 Q. Sure. If you see one, you'll recognize it. It's
9 like art. Do you recall anything that was different
10 about this mine about a week before the explosion,
11 within a week prior to the explosion? Did you hear
12 anything, see anything, see anybody? Does anything
13 stick out in that week or so before the explosion?

14 A. No.

15 Q. Okay.

16 A. Not that I can think of, no.

17 Q. Okay. Now, were you coming on-shift about when
18 the explosion occurred?

19 A. I was coming to work.

20 Q. Okay.

21 A. And my shift, like I said, started at 6:00. I'm
22 always up there around five o'clock.

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

24 A. I was up there around 15 'til when all this had
25 already happened.

1 Q. Sure. Okay.

2 A. Yeah.

3 Q. Now, what's the previous shift that you worked
4 prior to that?

5 A. The night --- the day before, I believe. This is
6 Monday. The following shift was on a Sunday night.

7 Q. So you worked Sunday?

8 A. Now, did this happen Monday morning?

9 Q. No, this happened Monday afternoon.

10 A. Monday afternoon; right, okay.

11 Q. About three o'clock.

12 A. So I started Sunday, the day before, Sunday night
13 and worked, you know, until that morning.

14 Q. Okay.

15 A. Okay.

16 Q. Now, that shift --- you worked immediately prior
17 the explosion, Sunday night from six o'clock in the
18 afternoon to six o'clock on Monday morning, do you
19 recall anything that seems a little different?

20 A. No.

21 Q. Okay. Everything was just a typical Sunday night?

22 A. Yeah.

23 Q. Okay. Do you recall any odd smell or anything
24 during that shift?

25 A. No.

1 Q. Do you recall if your eyes burned ---

2 A. No.

3 Q. --- anytime during that shift? Okay. When you
4 got out the next morning, was there anybody at the
5 mine that you normally didn't see at the mine?

6 A. No.

7 Q. Okay. When you were working underground, did
8 anybody ever call in and say there's inspectors on the
9 property?

10 A. Sometimes.

11 Q. Okay. Who would do that?

12 A. Well, that I wouldn't know. I just --- hearsay,
13 you know.

14 Q. Okay. Do you think the ventilation was adequate
15 in this mine at all times?

16 A. What'd you say?

17 Q. Do you think the ventilation was adequate in this
18 mine at all times?

19 A. On my end I would say, yes, it was.

20 Q. Okay. Do you recall any major ventilation
21 changes?

22 A. Yeah.

23 Q. Did they pull the miners out of the mine when they
24 made those?

25 A. Yes, they did.

1 Q. Did you have to stay in the mine since you're a
2 certified person?

3 A. No.

4 Q. Okay. You didn't assist in the ventilation
5 change?

6 A. I didn't have to assist in that, no.

7 Q. Okay. You ever hear of mining without having
8 ventilation curtains in place?

9 A. No.

10 Q. Okay. You ever hear of methane monitors being
11 bridged out?

12 A. No.

13 Q. Okay. You ever hear of any miner that was
14 threatened or fired or anything because of reporting
15 safety issues?

16 A. No.

17 Q. Okay. We've been going a little over an hour now.
18 You want to take a short break?

19 A. Doesn't matter to me.

20 Q. Okay.

21 MR. SHERER:

22 Want to take a break?

23 MR. FARLEY:

24 I'd like to take a real quick one, if you
25 don't mind.

1 MR. SHERER:

2 Okay.

3 A. Okay.

4 MR. FARLEY:

5 I mean real quick.

6 MR. SHERER:

7 Sure.

8 SHORT BREAK TAKEN

9 MR. FARLEY:

10 Back on?

11 ATTORNEY BABINGTON:

12 Okay.

13 EXAMINATION

14 BY MR. FARLEY:

15 Q. All right. Mr. Peterson, most of my questions are
16 sort of to clarify, and then I may be jumping around a
17 little bit, so just please be patient with me, if you
18 don't mind.

19 A. Okay.

20 Q. Let me understand your job a little better. Were
21 you an hourly employee at UBB?

22 A. Salary.

23 Q. Salaried employee?

24 A. Yes.

25 Q. Okay. Were you considered a supervisor?

1 A. No.

2 Q. Okay. Now, you indicated that you'd been to the
3 north area of the mine a few times to fill in when
4 someone was off when you made exams.

5 A. Right.

6 Q. What areas in the north part of the mine did you
7 examine?

8 A. The far end would be the north end. And then I
9 fire bossed on Five and Four North belt and Ellis Four
10 and Five belt.

11 Q. Okay. Did you happen to make it to the 22
12 Headgate, 22 Tailgate sections at any time?

13 A. No, I hadn't. I never been up on there.

14 Q. Okay. Were you ever inby 78, the area of the mine
15 known as 78?

16 A. Yes.

17 Q. How far inby there were you?

18 A. Whenever they was driving the cut-across for the
19 --- like, longwall.

20 Q. Oh, at the mouth of the longwall?

21 A. Yeah ---

22 Q. Mouth?

23 A. --- where they had that one section driving across
24 to connect it up. That was the farthest I been up on
25 that end.

1 Q. Okay. And that would've been a pretty good while
2 ago, wouldn't it?

3 A. Yeah, it's been a long time ago.

4 Q. Maybe at least a year?

5 A. Year, close to a year, maybe.

6 Q. Okay. All right. To make sure I understood your
7 exam schedule. You started at 6:00 p.m. to 6:00 a.m.
8 Either you and you and someone else would make two
9 exams; is that correct?

10 A. Yes, sir.

11 Q. Okay. You made one for the ---?

12 A. Third shift.

13 Q. And another one ---

14 A. Nightshift.

15 Q. --- for the dayshift? Okay.

16 A. Right.

17 Q. Now, I guess the boys on the other shift only made
18 one; is that right?

19 A. On the north end?

20 Q. No, on your end, south end. I'm talking about the
21 belt examinations.

22 A. Oh, belt examination, yeah.

23 Q. Yeah.

24 A. Dayshift only had to make one.

25 Q. Okay. When you injured your [REDACTED] you were

1 trying to get through a door, if I understood that
2 right, and you described the --- the way you described
3 the door, there was great pressure; is that correct?

4 A. Right.

5 Q. Now, was this one door of a set of two doors?

6 A. Right.

7 Q. Now, the other door at the time, was the other
8 door open?

9 A. No.

10 Q. Was it fully closed?

11 A. It was electrically --- it was shut.

12 Q. Okay.

13 A. Because I was going toward the outside.

14 Q. Was this a malfunction of the door? And I'm
15 trying to understand.

16 A. Yeah, it was just a malfunction of the door. It
17 wouldn't open.

18 Q. Okay. Because I was trying to understand the
19 pressure. The pressure was not caused by air; is
20 that ---?

21 A. I figured maybe the power had knocked on the door,
22 but I couldn't get it open.

23 Q. Okay. All right. It was not caused by air
24 pressure?

25 A. No.

1 Q. Okay. Now, the particular door at the time you
2 were injured and the other doors, were they made out
3 of steel, wood, aluminum or what?

4 A. Steel. Well, aluminum I'd say. Wouldn't call it
5 the real heavy aluminum.

6 Q. Okay. And they all did --- most of them also have
7 a smaller man door for people to travel through?

8 A. Yeah.

9 Q. Okay. Do you know if there was a fire boss light
10 or signal at the UBB and Ellis Portals to let the
11 oncoming shift know if the mine was safe to enter?

12 A. On the UBB side was, yes.

13 Q. Okay.

14 A. We had the regular pre-shift lights, you know, on
15 the outside, right.

16 Q. Okay. Do you know who routinely changed the
17 light?

18 A. We did whenever we --- the fire boss had to have
19 for the oncoming shift, oncoming shift coming on.

20 Q. Okay. Now, you got two portals there. You got
21 UBB and you got Ellis. Did the people on the UBB side
22 enter the mine when only the south end of the mine was
23 pre-shifted or did the north side have to be pre-
24 shifted, also?

25 A. All of it had to be pre-shifted before.

1 Q. Okay. All right. You also said that you recall
2 some ventilation changes, during which time --- when
3 they were made you were removed from the mine. Do you
4 recall the last time that happened?

5 A. I can't remember then, that.

6 Q. 2010, sometime this year?

7 A. Yeah, it was. I think it was, maybe February or
8 something like that.

9 Q. Okay.

10 A. January, February, somewhere along in there.

11 Q. Okay.

12 A. I remember one time when I was up there we
13 couldn't go in until they changed.

14 Q. Okay. Any idea what they were doing?

15 A. They were trying to change some stoppings or
16 something, that there was something different. I
17 don't know exactly what it was.

18 Q. Okay.

19 A. I don't even know what area it was in at the time.

20 Q. Okay, all right. And again, you never made it
21 inby 78?

22 A. Just --- when?

23 Q. 2010 or 2009, anytime?

24 A. Yeah, it was 2000 --- probably 2009 I did. That's
25 when I'd only been up there a couple times to fire

1 boss when they didn't have another --- fire boss was
2 sick or something like that.

3 Q. Okay. Now, was this before the longwall started
4 up?

5 A. No, the longwall was running then. It was running
6 then, I believe.

7 Q. Okay. Had the 22 Headgate section started up yet?

8 A. I believe it had.

9 Q. Okay. Were you ever up there, around there?

10 A. No.

11 Q. Okay. Now, I know you were on the belts most of
12 the time. Did you ever have occasion to witness any
13 major equipment moves in process? Now, by major
14 equipment moves I mean somebody transporting something
15 like a continuous miner or a shuttle car or a roof
16 bolt machine on the track entry on a flat car, towing
17 it or pushing it with a locomotive.

18 A. No.

19 Q. Did you ever notice any equipment like that being
20 trammed as part of an equipment move?

21 A. No.

22 Q. Okay.

23 EXAMINATION

24 BY ATTORNEY MCATEER:

25 Q. Mr. Peterson, thank you very much for coming and

1 going through this with us. It's helpful. When you
2 met with the Massey lawyers, how many were there?

3 A. Two.

4 Q. And did they offer to volunteer to represent you?

5 A. Yes.

6 Q. Okay. And what'd you tell them?

7 A. Sir?

8 Q. What did you tell them?

9 A. I felt that I didn't need any representative ---

10 Q. Okay.

11 A. --- because I don't have anything to ---

12 Q. Sure.

13 A. --- you know. Just tell the truth and what I
14 know.

15 Q. Okay. You said on occasion you'd enter in the
16 books, and I'm referring here to books on the north
17 side --- these are pre-shift books --- that you would
18 notify someone or identify a person to schedule rock
19 dusting. Who would that person be?

20 A. That would be between Gary May and Everett Hager.

21 Q. And why would that be between those two?

22 A. Well, they was the immediate supervisors of the
23 mine, you know, ---

24 Q. Right.

25 A. --- as far as being responsible for the upkeep of

1 everything by ---.

2 Q. But are you suggesting that there was one crew
3 that both, one rock dusting crew?

4 A. Far as I know, back at the time they only had one
5 crew that tried to do all the dusting.

6 Q. Okay. And you testified that there was a fellow
7 who got fired from that crew, you remember?

8 A. Right.

9 Q. Okay. Was that the African American fellow?

10 A. Sir?

11 Q. Was he an African American guy?

12 A. Yeah.

13 Q. Okay. And the other members, member of the crew
14 --- you testified there was one other guy?

15 A. That worked with him?

16 Q. Yeah.

17 A. Yes.

18 Q. Was that a red hat?

19 A. No, I don't think he was a red hat. I'm sure he
20 wasn't a red hat.

21 Q. Do you remember his name?

22 A. No, sir, I don't.

23 Q. Okay. Now, you testified that they had a track
24 mounted duster that would come along, and you

25 testified that there was a --- that you'd have to get

1 the hose and bring it in.

2 A. Right. There's places that they'd have to bring
3 the dust hose in off the track area into the
4 breakthrough to get over to the beltlines ---

5 Q. Okay.

6 A. --- to dust.

7 Q. And would you work on that with them or would they
8 do ---?

9 A. No.

10 Q. They would do that themselves?

11 A. Yes, sir.

12 Q. Okay. And you testified about the bags that you
13 would load up the trickle duster with. How big were
14 those bags?

15 A. Oh, now, that unit that they used to dust with was
16 fed out of a hopper that they had outside ---

17 Q. Right. Okay.

18 A. --- that they would fill it up with.

19 Q. Okay.

20 A. And the trickle dusters was the only thing we had
21 that we had to fill up with bag-type dust.

22 Q. And how big a bag is that?

23 A. About a 40-pound bag.

24 Q. Forty (40) pound bag?

25 A. Yeah.

1 Q. But the track mounted would be loaded before it
2 was brought in?

3 A. Right.

4 Q. Okay. Do you remember how big a container it was
5 that had it?

6 A. Oh, just the duster part?

7 Q. Yeah.

8 A. Oh, gosh. It was one of the --- I don't know what
9 you call them. Had two big tube type oval shapes on
10 each end of it ---

11 Q. Right.

12 A. --- you know. I don't know what type model of
13 duster it was. I don't know. It would hold quite a
14 bit of dust. I know that.

15 Q. And you said the ---? How many mines have you
16 worked in, in your career?

17 A. How many mines?

18 Q. Yeah, just a guess.

19 A. A guess, maybe close to 20, I'd say.

20 Q. Uh-huh (yes).

21 A. Plus.

22 Q. And you'd never seen as many other --- any other
23 mine had as many equipment doors as this mine?

24 A. No, I haven't.

25 Q. What would those other mines have in place of

1 equipment doors?

2 A. Well, they would have about the same type, but not
3 as many as what we had there.

4 Q. Did other mines use overcasts in place of doors?

5 A. Yeah.

6 Q. And you said you'd been in the mines 36 years?

7 A. Yes, sir.

8 Q. What, did you start when you were six?

9 A. Just about. I started after I got out of the
10 Service, back in '70 --- 1974.

11 Q. Okay. The accident --- the injury that you
12 suffered to your [REDACTED], was that counted as an
13 accident, do you know?

14 A. Counted as an accident?

15 Q. Yeah.

16 A. Yes, sir.

17 Q. And it was in February of '09?

18 A. Yeah.

19 Q. Do you remember the date?

20 A. 13th.

21 Q. And was it reported to the MSHA or to --- do you
22 know if it was reported to MSHA or State?

23 A. I don't know if it was or not. I'd say it
24 probably would've been. It was a lost-time accident,
25 because I didn't have --- couldn't go back to work.

1 That's considered as lost time; isn't it?

2 Q. Well, you went back for a month, though.

3 A. Yeah, I went back, you know, for a month until it
4 didn't ever get no better. And then after that, ---

5 Q. Sure.

6 A. --- that was it.

7 Q. All right. Which door --- where did the accident
8 occur? We're going to use a different color here, I
9 think. And now, mark it so that in a hundred years
10 they'll know what you're marking there.

11 A. Okay. Well, you got two of them here. I'll have
12 to mark --- you want to circle it?

13 Q. Yeah, just circle it and then draw a line out to
14 the clear area and say, February 13th accident.

15 WITNESS COMPLIES

16 ATTORNEY MCATEER:

17 Okay.

18 ATTORNEY BABINGTON:

19 For the record, the witness used an
20 orange highlighter for that one.

21 BY ATTORNEY MCATEER:

22 Q. Now, when you called out, who would you call out
23 to if you called out your pre-shift examinations?

24 A. Whatever section boss that was outside ---

25 Q. Okay.

1 A. --- for the next un-coming --- oncoming shift,
2 called out to him. He would take it.

3 Q. Okay. But for example, who would be one?

4 A. Name?

5 Q. Yeah. I'm sorry.

6 A. Jeremy Burdoff at the time. He was the boss for
7 the portal section.

8 Q. Okay.

9 A. Third shift move boss. Normally it would just
10 most of the time be him. I don't think anybody else I
11 can think of that would --- because normally, I would
12 say 90 percent of the time, I was always outside to
13 fill that report out before they started.

14 Q. Okay. Where is the cabinet that you filled out
15 the report for?

16 A. Sir?

17 Q. The cabinet --- you said that you filled out the
18 reports and they kept them in a cabinet.

19 A. Okay.

20 Q. Where's that located?

21 A. Located? It was in the main office upstairs.

22 Q. Oh, okay.

23 A. Okay. We had one big room. It was called the
24 longwall room. They call it ---

25 Q. Right.

1 A. --- for them. Then the other big room where you
2 could stay with it, we more or less said it was for
3 the barrier and portal section and the fire bosses for
4 the belts.

5 Q. Okay. And when you filled those out, who would
6 read those?

7 A. The mine foreman and then the next oncoming belt
8 boss, fire boss, whatever.

9 Q. Okay. But you said there were times when you had
10 information that you wanted to get directly to the
11 supervisor. Who would you talk to?

12 A. Gary May.

13 Q. Okay. You said there was a change in the fire
14 bossing system for the north end. When was that? Do
15 you remember?

16 A. I don't know exact date when that occurred. It
17 wasn't maybe a couple months, two or three months
18 before this happened. I couldn't give you a specified
19 month what ---

20 Q. Sure.

21 A. --- that was. I just remember, you know, they
22 changed.

23 Q. Do you remember what they changed from to, or just
24 how they did it?

25 A. No, just --- or repeat the question again.

1 Q. What kind of change? What they do? How did they
2 change it?

3 A. How did they change it?

4 Q. Yeah.

5 A. I don't understand what you mean by that.

6 Q. Well, you said --- you testified that there was a
7 change in the way they did fire bossing or something
8 in the north end.

9 A. No. Well, they didn't make it ---. They split
10 the mine up ---

11 Q. Okay.

12 A. --- is what they done, you know.

13 Q. Right.

14 A. They had fire bosses for the north end and then we
15 had, you know, two of us on the 6:00 to 6:00 shift ---

16 Q. Okay.

17 A. --- on the south end.

18 Q. And did the fire bosses on the north end work the
19 6:00 to 6:00, as well?

20 A. There for a while they did, but then I can --- I
21 understand that they might've changed their scheduled
22 shift some.

23 Q. I see.

24 A. Like a four on or something. I can't remember
25 what it was. I think they had just done that before

1 --- prior before this explosion happened. I mean, I
2 didn't keep up with all the ---

3 Q. Sure.

4 A. --- information that was on that end, you know.
5 Just lots just what I'd hear sometimes is all.

6 Q. But I mean, among the fire bosses that would be
7 something you'd listen ---

8 A. Yeah.

9 Q. --- you'd pay attention to?

10 A. Yes, sir.

11 Q. You testified there was good ventilation in the
12 area you worked in?

13 A. Yes, sir.

14 Q. Are you suggesting that there might not have been
15 good ventilation in another area of the mine or did
16 you hear about it or something like that?

17 A. Just what I would hear.

18 Q. Right.

19 A. But in the area --- I don't know exactly what part
20 of that area they'd be pertaining to, that they did
21 have a problem, because I understand that third shift
22 had to knock stoppings and rebuild them, put them in a
23 different area, you know, things like that. That's
24 the only thing I heard, ---

25 Q. Okay.

1 A. --- you know, that they was doing.

2 Q. Okay. Now, you worked Sunday before the
3 explosion.

4 A. Yes, sir.

5 Q. What'd you have for lunch that day?

6 A. I don't remember.

7 Q. What'd you drive to work that day?

8 A. My Toyota truck.

9 Q. All right. That Sunday morning, 6:00 a.m., now,
10 underground, did you ---? You made your pre-shift
11 examinations. You find anything unusual? This is
12 pre-shift.

13 A. No, not that I can remember, anything just not out
14 of the ordinary.

15 Q. Yeah.

16 A. Just ---.

17 Q. Did you see anybody underground or ---?

18 A. Just the fire bosses.

19 Q. Who would that have been?

20 A. Well, just me and my buddy that worked with me.

21 Q. What's his name?

22 A. What did I say it was? I can't ---.

23 Q. Does he have a nickname?

24 A. Bruce Bracket.

25 Q. Bruce Bracket.

1 A. That's the hardest name try for me to remember.

2 Q. Where'd you see him?

3 A. Well, we would end up riding out together.

4 Q. Okay.

5 A. I'd meet him at Plumley. Then we would work
6 together to finish doing the rest of the pre-shifting
7 up to 126 Break. That was a couple breaks outby Ellis
8 door.

9 Q. Sure.

10 A. And then we was together from there on out, coming
11 out that morning.

12 Q. So you came out that morning with him?

13 A. Yeah.

14 Q. Yeah. This would've been, now, 6:00 a.m. Monday
15 morning?

16 A. Right.

17 Q. So you took the --- you went in upstairs and
18 recorded in the book?

19 A. Did my regular, yeah, pre-shift ---

20 Q. Right.

21 A. --- on the belts and ---

22 Q. Right.

23 A. --- stuff, yeah.

24 Q. And would that have been in --- you would've have
25 been in the longwall room? You'd have been in the

1 other one?

2 A. Right.

3 Q. Right. So that morning in that room, did you see
4 anybody?

5 A. Just the oncoming people that, you know, worked,
6 like ---. Well, the section bosses, you know ---

7 Q. Sure.

8 A. --- begin that run.

9 Q. Right.

10 A. And maybe a few that --- the workers. They'd come
11 up and get a cup of coffee, then ---

12 Q. Oh, yes.

13 A. --- go back downstairs ---

14 Q. Right.

15 A. --- because they normally stayed downstairs before
16 the shift started.

17 Q. Did you see Blanchard or ---?

18 A. No, didn't see him that morning.

19 Q. Did you see ---?

20 A. See Gary.

21 Q. Gary May?

22 A. Yeah ---

23 Q. Did you see Everett?

24 A. --- he was always there before --- before 5:30,
25 you know, somewhere along there.

1 Q. Sure. How about Everett Hager?

2 A. No, because Everett already been ---. When they
3 split everything, they --- he went over on Ellis.

4 Q. Oh, okay. Right.

5 A. He was on that side, so I never did see him.

6 Q. Uh-huh (yes). How about Jason Whitehead? Did you
7 see him?

8 A. That day?

9 Q. Uh-huh (yes).

10 A. No, I didn't see --- no, I didn't see him.

11 Q. Okay.

12 A. Not unless he come after I'd left, you know, when
13 I ---.

14 Q. Sure, uh-huh (yes). And when you arrived at the
15 day of the explosion, that would've been Monday
16 afternoon at five o'clock or thereabouts?

17 A. I was there about 15 until 5:00.

18 Q. 4:45 then?

19 A. Yeah.

20 Q. Yeah. Where'd you go at that time?

21 A. Far as they would let me go was at the guard
22 shack.

23 ATTORNEY MCATEER:

24 Okay. That's all the questions I have.

25 Thank you.

1 ATTORNEY BABINGTON:

2 All right. Well, we marked up one map.

3 It'll be labeled T. Peterson One. It's one of the
4 portal maps.

5 (T. Peterson Exhibit One Marked for
6 identification.)

7 ATTORNEY BABINGTON:

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

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

25 A. Okay. As far as anything, like I said, this

1 ventilation change I did know that they had. I don't
2 know what they were doing at that time. I knew they
3 had a problem with it, you know, trying to change
4 things. All these guys that are deceased were my
5 friends. I really hated this. I just don't
6 understand how this happened, you know. I have no
7 idea. I hope that they do find out, you know, what
8 caused this.

9 If I didn't think that this was a safe mine to
10 work at --- I've been there for two years --- I
11 wouldn't be there today until this has happened. I
12 would still like to find out what caused it for my own
13 benefit and other people. That's about all I have to
14 say.

15 ATTORNEY BABINGTON:

16 Thank you. And again, I want to thank
17 you for your cooperation in this matter.

18 * * * * *

19 STATEMENT UNDER OATH CONCLUDED AT 9:38 P.M.

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1 STATE OF WEST VIRGINIA)

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4 CERTIFICATE

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

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

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

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



22 *Alicia R. Brant*

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