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Statement Under Oath of **Ralph Plumley**

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STATEMENT UNDER OATH

OF

RALPH PLUMLEY

taken pursuant to Notice by Brett Steele, 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 Thursday, May 27, 2010, beginning at 5:59 p.m.

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Map

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Map

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*exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY FERGUSON:

4 Good evening, Mr. Plumley. My name is
5 Dana Ferguson. Today is May 27th, 2010. I'm an
6 attorney with the Office of the Solicitor, U.S.
7 Department of Labor. With me is John Godsey, an
8 accident investigator with the Mine Safety and Health
9 Administration, MSHA. Also present are people from
10 the State of West Virginia, and I ask that they enter
11 their appearance for the record at this time.

12 MR. TUCKER:

13 My name is Bill Tucker, with the West
14 Virginia Office of Miners' Health, Safety and
15 Training.

16 MR. MCGINLEY:

17 Pat McGinley, with the independent
18 investigation team.

19 ATTORNEY FERGUSON:

20 There may also be other members of the
21 investigation team in the room, but no one else. Mr.
22 Godsey will be conducting the examination today. All
23 members of MSHA and all members of the State of West
24 Virginia investigation team participating in the
25 investigation of the Upper Big Branch Mine explosion

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

14 MR. PLUMLEY:

15 Yes.

16 ATTORNEY FERGUSON:

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

1 You may have a personal attorney or
2 representative present during the taking of this
3 statement and you may consult with that attorney or
4 representative at any time. Your statement is
5 completely voluntary. You may refuse to answer any
6 question and you may terminate your interview at any
7 time or request a break at any time. Since this is
8 not an adversarial proceeding, like a court
9 proceeding, formal Cross Examination will not be
10 permitted, but you can ask clarifying questions at any
11 time. Your identity and the content of this
12 conversation will be made public at the conclusion of
13 the interview process and may be included in the
14 public report of the accident, unless you request that
15 your identity remain confidential or your information
16 would otherwise jeopardize or interfere with any other
17 investigation. If you request us to keep your
18 identity confidential, we will do so to the extent
19 permitted by law. That means that if a judge orders
20 us to reveal your name or if another law requires us
21 to reveal your name or if we need to reveal it for
22 another law enforcement purpose, we may have to do so.
23 Also, there may be a need to use the information you
24 provide to us or other information we may ask you to
25 provide in the future in any other investigation about

1 the explosion. Do you understand?

2 MR. PLUMLEY:

3 Uh-huh (yes).

4 ATTORNEY FERGUSON:

5 Do you have any questions about that?

6 MR. PLUMLEY:

7 No.

8 ATTORNEY FERGUSON:

9 After the investigation is complete, MSHA

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

19 A court reporter will take down the
20 interview. Please speak loudly and clearly. If you
21 do not understand a question asked, please ask me to
22 --- ask Mr. Godsey or anyone asking the question to
23 rephrase it. Please answer each question as fully as
24 you can, including any information you have learned
25 from someone else. We'd also like to ask that all

1 responses be verbal. It's hard for him to take down
2 the nodding of the head or the shaking of the head
3 like we all do. You can't really read that on a
4 transcript. So if you could answer verbally, yes or
5 no, so that it's taken down clearly. Likewise, there
6 are maps on the table here that Mr. Godsey may use or
7 you may use to describe or explain your testimony.
8 The maps are difficult to understand in written ---
9 just in the transcript, so we would ask that you use
10 the names of the areas to describe what you're marking
11 or talking about so that it could be made clear. And
12 if you're forgetting these things, we'll remind you.

13 We'd like to thank you in advance for

14 your appearance here. We appreciate your assistance
15 in this investigation. Your cooperation is critical
16 in making the mines safer. After we've finished
17 asking questions, you'll have an opportunity to make a
18 statement and provide us with any other information
19 you believe to be important. If at any time after the
20 interview you recall any additional information you
21 believe might be useful, please contact Norman Page at
22 the telephone number or e-mail address provided in the
23 letter for you. Do you have any questions before we
24 get started?

25 MR. PLUMLEY:

1 No, none.

2 ATTORNEY FERGUSON:

3 Would you swear the witness?

4 -----

5 RALPH PLUMLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED

6 AS FOLLOWS:

7 -----

8 ATTORNEY FERGUSON:

9 Mr. Godsey?

10 EXAMINATION

11 BY MR. GODSEY:

12 Q. Mr. Plumley, please state your full name and spell
13 your last name.

14 A. Ralph Norman Plumley, P-L-U-M-L-E-Y.

15 Q. What's your address and your telephone number?

16 A. [REDACTED] . Telephone is [REDACTED]

17 Q. What's your physical address?

18 A. Street number [REDACTED]

19 Q. Okay. Are you appearing here today voluntarily?

20 A. Yes.

21 Q. Has anyone other than a government representative
22 interviewed you?

23 A. Yes.

24 Q. Who was that?

25 A. The lawyers from the company and the FBI.

1 Q. Did you receive any directions on how to give
2 testimony today?

3 A. The only direction I got was just tell the truth.

4 Q. Okay. How many years of mining experience do you
5 have?

6 A. I think I'm working on my [REDACTED] I started
7 when I was [REDACTED], and I'm [REDACTED].

8 Q. Please give a brief description of your coal
9 mining history, employment history.

10 A. I started at Stotesbury for Eastern, 1971. I was
11 --- just turned [REDACTED]
12 Worked for them for six months, got laid off. Let's
13 see, three months, got laid off. Worked at Pinecrest
14 for three months, got called back. Worked for them
15 for another six months, got laid off again, went to
16 Rush Springs. I had my black hat, was put on a roof
17 bolter. Run a roof bolter for two years, helped on
18 the loader, cutting machine and once in a while I shot
19 coal. That was in '72 and '73.

20 They called me back to Stotesbury. I went back to
21 the moving crew on the hoot owl. I wanted off the
22 hoot owl and I got a timber job, then I got booted
23 back to the hoot owl, then finally got a track job.
24 Worked there until --- had ten years' time there, '71
25 to '81. And got laid off again. Went to Bonny at

1 Clear Fork. Worked there ten years. I was their
2 trackman. It was a tough mines and gassy. Got laid
3 off there, went to Clay County, worked at a punch
4 mines for two years on the hoot owl. They did not
5 have no track, so we worked belt. From there, I got a
6 job with Massey. I went to Black King in '83 --- '93,
7 and worked there for a little while, then they
8 transferred me to Outpost East and West, where I was a
9 motorman. And I requested to be the trackman at UBB.
10 I always wanted a mines I could start and take care of
11 myself with the track. I took care of two before
12 that. One mine foreman at the punch mines, I asked
13 him what he expected out of me. He said, this is your
14 mines. Treat it like your mines. Everywhere I've
15 worked I've done that through the mine foreman. Most
16 of the time I worked under the mine foreman. If he
17 had a special job or a special need that he needed a
18 couple men to take care of, usually he sent me and
19 men, mostly track. I worked about 36 years on track.
20 I went from UBB, was transferred in front of the
21 longwall to Logan's Fork. I've worked --- what do you
22 call it, contract laborer, for a couple years when I
23 was laid off there, across Bolt Mountain, everywhere.
24 Worked mostly weekends and holidays. But since I've
25 been with Massey, I tried to do what I was supposed to

1 do, my job.

2 Q. Do you have any certifications?

3 A. Shot firer. I took haulage of powder, but I don't
4 know where that certification is. You had to have
5 a --- they questioned me a long time ago on it, to
6 haul powder. I don't have that. I don't know where
7 it's at, but I did take the test to haul powder
8 underground. Shot firer, ---.

9 Q. Do you have foreman certification?

10 A. No. I have no foreman's --- EMT. I think that's
11 it.

12 Q. Are you presently employed?

13 A. Yes.

14 Q. And where are you now?

15 A. Logan's Fork. I'm back to Logan's Fork. I've
16 been there once before and I'm still with Massey.

17 Q. When did you start at Logan's Fork? I mean, this
18 time.

19 A. This time, three weeks --- three or four weeks
20 ago. I worked until they got everybody out, and then
21 I took two days and --- after they got everybody out,
22 I took two days off and then they transferred me the
23 following week to Logan's Fork.

24 Q. What's your present job that you do there?

25 A. I'm basically tearing out the track and getting it

1 outside to be reused again at another mine.

2 Q. Is management attitude at your present job the
3 same as at UBB?

4 A. Yes. I've worked with this fellow off and on for
5 the last --- ever since I worked for Massey, Donald
6 Kelly. And he's the acting superintendent at Logan's
7 Fork.

8 Q. Is there any difference between UBB and this mine?

9 A. Not really.

10 Q. The rest of the questions I ask you will be for
11 UBB or Upper Big Branch Mine. I won't ask you
12 anything about Logan's Fork.

13 A. Okay.

14 Q. What was your first day of employment at UBB?

15 A. It was on a Sunday. I was sent underground to
16 look at the switches and see what they needed to get
17 over them without wrecking.

18 Q. When was that?

19 A. That was in '94.

20 Q. 1994?

21 A. Uh-huh (yes).

22 Q. What was your first job assignment at UBB?

23 A. My main job assignment was to put in track where
24 they can get over it without wrecking.

25 Q. Do you remember the areas of the mine you visited

1 on the first day?

2 A. East Mains, five breaks over there was the first
3 panel. What they call it? You ain't got an old map,
4 have you?

5 Q. I don't think so.

6 A. The old ---.

7 Q. Can you see it on there?

8 A. I believe this is the old portal, UBB Portal, not
9 Ellis Portal.

10 Q. That's the old portal.

11 A. This is the old portal. I checked the switch out
12 here at the entrance --- these cribs rather. I had to
13 fix this switch to East Mains and I fixed the switch
14 to the first panel this far.

15 Q. What panel? Do you remember what that was called?

16 A. I'm trying to think. It was low. That was the
17 first panel.

18 Q. West Mains?

19 A. East Mains.

20 Q. That would be West Mains.

21 A. West Mains. The first switch in the West Mains.
22 The following week I fixed the switches where they
23 could get over them.

24 Q. Did you receive any training prior to being
25 assigned to the job at Upper Big Branch?

1 A. Just the regular training that they give for new
2 employees?

3 Q. Okay.

4 A. I did it on a Saturday and went to work on Sunday.

5 Q. What was your job title on April 5th, 2010, the
6 day of the accident?

7 A. Track coordinator.

8 Q. Just what does that entail?

9 A. Anything to do with the inside or outside yard
10 track, switches, curves, straights, anything that they
11 haul cars and motors over and Jeeps.

12 Q. Did you perform any other duties other than the
13 track?

14 A. Yes, when needed.

15 Q. What are some of those?

16 A. I helped with cleaning belt once in a while,
17 helped them build overcasts, doing anything that needs
18 to be done that they do not have no one to perform ---
19 you know, if they need extra people to help.

20 Q. What time does your shift begin and end?

21 A. It starts at 5:30. First job, clean --- you're
22 talking about this day?

23 Q. Yeah, on April 5th.

24 A. First duty of the day, clean the bathhouse,
25 hour-and-a-half.

1 Q. Was that 5:30 a.m. or ---?

2 A. 5:30 in the morning. No, that's the second job.
3 First job, go and get three mantrips and bring them
4 out for dayshift, and then clean the bathhouse for an
5 hour-and-a-half. Roughly, that's what it took. I had
6 two men helping me.

7 Q. Are you qualified to conduct methane and oxygen
8 checks?

9 A. Yes.

10 Q. How many outby personnel carries a methane monitor
11 or spotter, Solaris or ---?

12 A. All your fire bosses, anyone using a torch. Most
13 everybody outby carries a spotter.

14 Q. Okay. How many miners are in your crew, the ones
15 you work with?

16 A. Two. Usually two.

17 Q. Okay. You and two others?

18 A. Yeah.

19 Q. Okay. Which portal do you all enter the mine to
20 travel underground?

21 A. Ellis.

22 Q. What shape are the mantrips usually in, the buses?

23 A. We clean them every morning. That's one of our
24 duties. Left on charge. All in all, in pretty good
25 shape.

1 Q. What about sanders, do you ---?

2 A. The sanders, Big Roger, he was over --- he
3 keeps --- maintains them pretty good.

4 Q. Does the water on the track ever give much trouble
5 with the sanders?

6 A. No.

7 Q. Who do you receive your assignments from?

8 A. Whoever is acting mine foreman or superintendent.

9 Q. Who do you directly receive ---?

10 A. Everett.

11 Q. Do you know his last name?

12 A. Not really. I know it, but I can't think of it.
13 But I just call him Everett.

14 Q. Do you know who his supervisor is?

15 A. You're going to have to run some names. I'll tell
16 you, if you mention the right name ---.

17 Q. May?

18 A. No.

19 Q. Blanchard?

20 A. Blanchard. Blanchard.

21 Q. And what's his position? Do you know what his
22 position is?

23 A. Is he president?

24 Q. Did you ever work on any ventilation, building
25 stoppings and stuff at ---?

1 A. Yes.

2 Q. Did you spend a lot of time doing that?

3 A. No.

4 Q. When you entered the Ellis Portal and you traveled
5 up, I guess, Ellis Switch, do you ever --- what are
6 the conditions of the --- how is it maintained from
7 float dust and ---?

8 A. Good.

9 Q. How often do they rock dust the beltlines?

10 A. It depends. They try to get whatever is dirty,
11 dusted. Through Ellis Portal it ain't too bad, no.

12 Q. What about throughout the rest of the mine?

13 A. It's --- they try to have somebody dusting every
14 night if they got the manpower to do it.

15 Q. Do they have a regular crew that does that or ---?

16 A. They did have at one time.

17 Q. Why did they stop it?

18 A. I don't know what happened. I know they had ---
19 on UBB side they had the dusters and the dust crew,
20 supposed to have dusted every night. And if anybody
21 didn't have nothing to do, they'd put them on duster.

22 Q. Okay. On your beltlines, do they have people at
23 the transfer points, belt cleaners and ---?

24 A. They have the fire bosses and they --- they had
25 two men that cleaned on the belt every day.

1 Q. And what would the fire bosses do?

2 A. Well, they would clean until it was time to fire
3 boss. They'd check the heads and stuff until time to
4 fire boss.

5 Q. In other words, they don't have any rock dusting
6 schedule, nothing like that? They don't have a
7 schedule to rock dust?

8 A. Well, around the heads or something, they're ---.

9 Q. I'm talking about the mainline track and the belt.

10 A. I don't know. You would have to --- I don't know
11 if they have a regular schedule. I know at one time
12 they had two men on at night, and I don't know at that
13 time if they had anybody dusting our side every night.
14 I couldn't answer that question.

15 Q. Have you ever been directed to tear out stoppings
16 and rebuild stoppings during a shift?

17 A. Yes.

18 Q. Did it make any kind of ventilation change?

19 A. No. Uh-uh (no). This is where we were directed
20 to like an old works to some --- like a crushed
21 stopping. We had to go up there mostly to crush a
22 stopping or something and rebuild it or patch it.

23 Q. Where did that usually take place at?

24 A. This was over on UBB side when we had a lot of
25 trouble with --- towards Ellis.

1 Q. Do you have any trouble on the Ellis side, up
2 towards the section, with heaving or any type of a
3 roof problem, floor heaving on the sections or
4 anything?

5 A. It ain't --- behind the wall or next to the wall
6 I've seen it hoove there. But here recently, I
7 haven't. Over on the other side it was bad.

8 Q. Have you been on the Headgate 22 section face
9 area?

10 A. Yeah.

11 Q. Have you seen any floor heaving there?

12 A. Just a little in the breaks leading from the right
13 side.

14 Q. When was the last time you were there?

15 A. The day it happened.

16 Q. Did you find any problems with the air up there
17 that day?

18 A. It was a normal day. It was really quiet.

19 Q. Did you hear any --- did you say you could hear
20 any roof or any floor?

21 A. No.

22 Q. Did anybody ever complain to you about ventilation
23 up there, on Headgate 22?

24 A. I know they told the bosses if they didn't have so
25 much air, to shut down. I know that.

1 Q. Do you know of any time that the bosses shut down
2 because of ventilation or methane or something and
3 they were told low air and told by upper management to
4 go back to work?

5 A. No. I've seen boys come back and patch holes
6 where they run cables through them. Prior to that, I
7 seen two or three of them going back and patching
8 stoppings. But they were told not to run unless they
9 had the air that was needed to run that section.

10 Q. Have you ever assisted in or been part of an
11 unapproved ventilation change?

12 A. No. As far as I know, I haven't.

13 Q. Do you know if they've ever made ventilation
14 changes with people underground, unapproved?

15 A. Regulators maybe.

16 Q. Have they adjusted regulators with people in a
17 large amount underground, changed air ---

18 A. Not large ---.

19 Q. --- more than 9,000?

20 A. I really couldn't answer that. Truthfully, I
21 couldn't answer that.

22 Q. Did you ever hear anybody talk about that?

23 A. I know that they had knocked a block or two out to
24 change a certain amount of air somewhere, you know, in
25 the past. You're talking --- I got 39 years. This

1 day, you know, I can tell you everything that happened
2 this day, but I couldn't tell you because I get mixed
3 up. Through the years, you know, I know that, you
4 know, once in a while somebody --- as further the
5 section goes up, they have to make --- you know,
6 they'll go back, and if it ain't right, take out one
7 or two block or something on a regulator, yes.

8 Q. What regulators are those?

9 A. Well, this is, you know, --- I couldn't tell you
10 because --- I couldn't tell you. Here recently, no, I
11 don't know of anything recently.

12 Q. But you have worked on ventilation ---

13 A. Yes.

14 Q. --- in the past, in the recent ---?

15 A. Not in the recent ---. Well, ---.

16 Q. The last three months?

17 A. Yes, building overcasts.

18 Q. Have you built any regulators?

19 A. No.

20 Q. Where did you build the overcasts at? Is it on
21 the section, outby section?

22 A. Yes. When they started --- and over here, this
23 section.

24 Q. The sections are up here. Okay. Here we go.

25 A. All right.

1 Q. This is a switch now.

2 A. That's the Mother Drive. All right. When they
3 was starting this section here, before they started
4 it ---.

5 Q. You're talking about 040 section, Tailgate 22?

6 A. Yeah. Uh-huh (yes). We had to help build
7 overcasts --- help build these overcasts, help put the
8 belt in right here on 22, and we had to come over here
9 and build two overcasts right here.

10 Q. That is between the connectors between
11 Headgate ---

12 A. No, this is going ---.

13 Q. --- 22 and Tailgate 22?

14 A. Yeah. Right here. These two we helped on one day
15 and --- but before we built these two --- before they
16 even had that section up there, we built these two and
17 then we come over here when they was starting this and
18 then built these two as soon as they had enough room
19 to build them.

20 Q. Do you want to mark those --- circle them and ---?

21 A. Uh-huh (yes). I think we was two days building
22 these. Just put an X on them?

23 Q. Uh-huh (yes).

24 WITNESS COMPLIES

25 A. And this is a rock fall between there, and we

1 helped build this one here. I don't believe we helped
2 build this one, but we built that number for sure.

3 BY MR. GODSEY:

4 Q. Do you know about when that was?

5 A. It was before they started --- we built this one
6 before this section started. And then this section
7 come over, and they started it. But they had to get
8 far enough where we could build the overcasts. And we
9 had a time --- because everything was right here at
10 the next break, and we had a time building them
11 because everything was so close up here.

12 ATTORNEY FERGUSON:

13 Please let the record reflect that the
14 witness has described building overcasts and overcasts
15 near the intersection of --- crossover near Headgate
16 22, and again then two overcasts down at Tailgate 22
17 after that.

18 BY MR. GODSEY:

19 Q. What size overcasts do you build? How much area
20 do you leave overtop of the ---?

21 A. We usually worked with somebody that needs help,
22 and they're the ones that would tell us where to put
23 the last row or whatever. So we're not over the
24 building over it, but we help build them when they
25 need help.

1 ATTORNEY FERGUSON:

2 And just to clarify for the record, the
3 markings that the witness has made on the map are
4 highlighted with Xs.

5 BY MR. GODSEY:

6 Q. Okay. On Headgate 22, exactly how does the
7 ventilation, the intake ventilation, get to the
8 section from the mouth of the --- that area of the
9 mouth of Headgate 22?

10 A. This is the return over here, the belt and the ---
11 I believe --- you mean through the overcast?

12 Q. Yeah. How does it get from the outby --- the
13 connectors up and to the section? How does it get
14 over the overcast is what I'm asking?

15 A. It goes over right here.

16 Q. What does this door signify in front of it?

17 A. There's a man door in it.

18 Q. So the man door is in the overcast?

19 A. There should be --- let's see. There should be a
20 stopping there and the air is coming down.

21 Q. Would your intake --- would --- it appears it
22 would come up and then come over the overcast; is that
23 not right?

24 A. Yeah. It come over this overcast, yes.

25 Q. Okay. And the door you say that's on the map

1 there right beside the overcast is in the overcast?

2 A. There should be a man door in every overcast.

3 Q. Okay.

4 A. There was one in there. Let's see. Yeah. Yeah,
5 there was one to the left, going this way, one on this
6 side.

7 MR. MCGINLEY:

8 You're pointing to which of the ---?

9 A. This one right here.

10 BY MR. GODSEY:

11 Q. And it would be the ---

12 A. It will be ---.

13 Q. --- overcast in the Number One entry of Tailgate
14 22 and the connectors between 040 and 029 section?

15 A. Yeah, because we had to go through that door.

16 Q. How much a distance above the floor or the top of
17 the overcast was it to the roof? Did you have it ---?

18 A. This one here, you had a lot of height. It had
19 been cut out for the miner.

20 Q. What about the other one?

21 A. This one over here on these two sections wasn't as
22 much. I couldn't give you a measurement.

23 Q. Did you have to crawl over it, stoop over it?

24 A. Stoop over it, over these, too.

25 Q. Did your back ever rub the top or something and

1 you ---?

2 A. Well, I never did.

3 Q. Oh, you never did?

4 A. I never went over them.

5 Q. And what did you say about when you was on the
6 tailgate --- the last time you was on Tailgate 22?

7 Was that ---?

8 A. Yeah. It was the day I was on both sections.

9 ATTORNEY FERGUSON:

10 Do you know what time that was?

11 A. I have to explain.

12 ATTORNEY FERGUSON:

13 Okay.

14 A. We run our rails to lay the day before. All
15 right. We had some swags. These two man doors right
16 here, there's two airlock, all right, right here.
17 These two airlock doors, there was swags below them,
18 between the doors and the switch that went back right
19 here.

20 ATTORNEY FERGUSON:

21 And you're talking right ---?

22 A. Right on the --- one break from the overcast there
23 was track laid up through here.

24 ATTORNEY FERGUSON:

25 And at Headgate 22?

1 A. On Headgate 22. We had laid the section over to
2 this, laid track to right in here, ---

3 ATTORNEY FERGUSON:

4 Almost Tailgate 22.

5 A. --- yeah, the previous week, then we used up what
6 rails we had and went to --- I think it's 17 Break,
7 the end of the track. I'm not sure now. I have to
8 keep it in my head how far the track is, but I think
9 we laid to 17 Break on 22 section, run out of
10 materials, the rails. They were supposed to have been
11 getting me some. So we had some ties that was before
12 --- when this section first started that was over
13 here, and we took them from the longwall over here and
14 put them in a break right in here, right there.

15 ATTORNEY FERGUSON:

16 At the crossover between Tailgate 22 and
17 Headgate 22.

18 A. And that morning we come in and got those ties,
19 wooden, they were pothole ties, brought them over here
20 and started filling in the track between the two
21 airlock doors and the switch going over to this
22 section. And we done that and then we gathered up all
23 the loose ties that we changed out and took them to
24 the section to the end of the track.

25 ATTORNEY FERGUSON:

1 At the 17 Break?

2 A. Yeah, that was the end of the track, stashed them
3 beside the rib. And I was going to go back and work
4 on a curve that they left a block of coal sticking
5 out, and I was trying to straighten it up. So I
6 decided to go back. This was about dinnertime. Right
7 before that, the fire boss come by between 12:00 and
8 1:00, I knew where he was going. He was going
9 straight down the other section to fire boss the belt,
10 fire boss over here, fire boss this belt, and then
11 come over to the longwall, fire boss it up it to the
12 Mother Drive. That's where they found him. But I
13 asked him, could he talk to me for a minute, and he
14 said, no, I got to go fire boss. And I knew where he
15 was going, knew which way he was going to go, and he
16 left. When we come back there to start on that,
17 Everett come by us from the section, and he --- the
18 supply crew were there. After we put the bridles, the
19 supply crew were down at the doors unloading, but
20 didn't have enough charge to unload their supplies.
21 And Everett wanted a sled. He wanted a sled --- I'm
22 looking for a double door where they got their
23 supplies. There was a double door ---.

24 BY MR. GODSEY:

25 Q. Was it up in ---?

1 A. No. It's right back here. There's two doors in
2 the break, somewhere right in here. I can't find it.

3 Q. How far in by the connectors were they; do you
4 know?

5 A. Right here is the track switch, one, two, three, I
6 think four or five breaks down.

7 Q. Okay. It would be right here. That would be
8 three breaks in by the crosscut --- I mean, the
9 connectors?

10 A. This is somewhere along in here.

11 Q. Survey Station 24300 supposedly?

12 A. I know we was in the track of the 29 Break because
13 this was around 17 Break here. Yeah. We was at 29 or
14 28 Break. That was the end of the track.

15 ATTORNEY FERGUSON:

16 Instead of 17?

17 A. Yeah.

18 ATTORNEY FERGUSON:

19 Okay.

20 A. Because right here around 17 Break is where the
21 doors was at. There's a set of doors and we took a
22 man up here. I told him to go up and get a scoop off
23 of the 22 section, bring it down and help them unload
24 the supplies off the supply car. They got the supply
25 car --- I mean, got --- I think it was the bolts off

1 the car, took it over here and went down two breaks,
2 and the scoop was screaming for oil. We unloaded them
3 and we come back next to the doors. We put oil, cut
4 it off, and this was getting late. This is almost
5 1:30, two o'clock. We put oil in the scoop. Turned
6 it off, put oil in the scoop. And where the double
7 doors is at, that's where you're going to find the
8 scoop.

9 Q. Did you close the doors?

10 A. Yes. We always closed the doors.

11 Q. Could you mark that where you think the doors
12 were, please?

13 A. I know the switch is here. One, two, three, four,
14 five, it's right in this area. I'd say right in here,
15 within those three ---.

16 ATTORNEY FERGUSON:

17 Let the record reflect that the witness
18 is marking with an orange highlighter the location of
19 the double doors where he believes that they're
20 located.

21 A. The scoop is in the doors on the straight where we
22 left it, right here.

23 BY MR. GODSEY:

24 Q. Do you want to mark that, too?

25 WITNESS COMPLIES

1 A. The sled we was going after was supposed to be in
2 two breaks, in the breakthrough outby, and there was a
3 big rock in front of us. He told us --- Everett told
4 us there's a big rock in front of it. We had to go up
5 two breaks and get that sled out. Well, the motor
6 crew --- it was getting close to quitting time. The
7 motor crew said they'd wait on us. We got the bolts
8 off the car, took them down two breaks, unloaded them,
9 come back, filled the scoop with oil. We turned it
10 off and filled it up with oil. And we couldn't get it
11 to move one way or another. It wouldn't go forward.
12 It wouldn't go back. If it had moved, we would have
13 got that sled and there would have been five more
14 people up there.

15 BY MR. GODSEY:

16 Q. Did you see that --- those doors closed?

17 A. Yes. We closed them. They were closed when we
18 put oil. I'm ---.

19 Q. Did you take any gas checks while you were over in
20 the return?

21 A. I had my detector on and didn't find nothing. The
22 doors, you make sure --- because I'm always scared
23 about the section not having air, and I'm definitely
24 hard on the men about closing the doors. And these
25 were doors while we filled up with oil. One of them

1 stayed close while we got the bolts off. The supply
2 car and the two motormen were over here on the track,
3 waiting on us to go up, and we worked with that scoop
4 for 15 or 20 minutes. It was getting close to our
5 quitting time. I didn't look at my watch. But as
6 soon as we got over and got in our Jeep, we followed
7 the motor crew out in the 22 section. Twenty-two (22)
8 minutes we was 200 or 300 foot inside Ellis when the
9 explosion happened.

10 Q. What was your furthest travel on Headgate 22? How
11 far did you ---?

12 A. I think it was 27 breaks in, the track --- 27, 28
13 breaks.

14 Q. Could you mark that on there?

15 A. I see here. The belt head --- 27, around 27
16 break.

17 Q. That's at Survey Station 24499 up here on Headgate
18 22?

19 A. I think they were eight or nine --- that's
20 somewhere right in there was the end of the track.

21 Q. Did you enter any other entries? Did you go to
22 the belt?

23 A. No.

24 Q. And the only entries you were in was the Number
25 Two and Number Three, the intake and return?

1 A. Yeah. Never in the belt entry. That morning when
2 we went over here to get the ties, the ties were
3 laying right here against this stopping, and we picked
4 them up and took them over, and I seen Head over here.
5 He went through the door to check the belt.

6 Q. Who is that?

7 A. The boss of the Old Main section.

8 Q. What's his name?

9 ATTORNEY FERGUSON:

10 Let the record reflect that the witness
11 has marked an X with an orange highlighter where the
12 ties were and the crossover between the tailgate and
13 the headgate.

14 A. Head was going down here to check the --- I called
15 him Head because he lied to me every morning. He'd
16 tell me a story and make me believe it, and I'd go
17 looking to see where the broke rail was or something
18 like that, and he'd say no. But he went through the
19 door and he was joking and laughing that he got me
20 again. And he went over there to check his belt over
21 here.

22 ATTORNEY FERGUSON:

23 So he went to the mouth of Headgate 22?

24 A. Yeah. There's a belt head right here, yeah, and
25 he went over and checked it.

1 BY MR. GODSEY:

2 Q. Let's just go back out towards the outside and
3 come back in. We'll get back up here in a minute.

4 When you entered the mine, do you all have a certain
5 place you all keep your supplies?

6 A. All the supplies are at UBB. Ellis is just, you
7 know, stuff, you know, a few bits, stuff you ---.

8 Q. I'm talking about stuff you work with.

9 A. It's over at UBB. I have to call over and get it
10 sent to me.

11 Q. Who brings it to you?

12 A. The motor crew, Joe Massey and his buddy.

13 Q. Okay. On the day of the accident, where did you
14 all start and what did you do that day. I mean, just
15 come up the track and come up to the switch here.

16 A. This is 78 Break.

17 Q. Okay. Do you all --- do you have to come through
18 some airlock doors there?

19 A. That's way up here, back in here.

20 Q. I'm talking about coming up ---.

21 A. Oh, right here. No. Right here you got four
22 airlock doors.

23 Q. Okay. Well, what's the function of those doors?

24 A. Airflow, and one of them goes across ---.

25 Q. Does it separate the intake from the ---?

1 A. Yeah.

2 Q. Have you ever came up there and found those doors
3 open?

4 A. One time somebody hit them and we had to repair
5 them.

6 Q. How much damage was done to them?

7 A. I had to replace one side of the door.

8 Q. How long did it take you to repair it?

9 A. Not long. Well, we had to get a door brought in
10 to us. And then there was one down here on the
11 longwall. But we went back and found a door back
12 behind us and took it up there and put it in. It
13 wasn't --- on the way in, maybe an hour,
14 hour-and-a-half.

15 Q. The motor crew comes in. Can the motor crew get
16 all its flatcars and motors in through there?

17 A. They have to split their loads. If they bring two
18 cars, they have to split them, bring a car and the
19 motor separate.

20 Q. Do they ever take the whole unit through there, or
21 have you ever seen it or heard of them taking the
22 whole unit through there and not breaking it?

23 A. No. I had --- I was there --- we'd have to help
24 them open and close the doors. If we were behind
25 them, we had to --- I'd send a man to help open and

1 close them for them.

2 Q. But have you ever heard or ever seen anybody
3 discuss with you about seeing them leave both of them
4 open while they were taking a trip through?

5 A. No. Uh-uh (no). No. I know they were supposed
6 to be maintained and be shut.

7 Q. Well, they're supposed to be, but ---.

8 A. I know we had people that worked --- you'd be
9 coming to them and they'd be plastering around them
10 where somebody has hit them or something and chipping
11 loose.

12 Q. But you're never aware of those ever being ---
13 both of them left open that ---?

14 A. No. I think an inspector caught them once and
15 they reprimanded the people that went through it like
16 that.

17 Q. Well, what did the company do? Did they do
18 anything particular about it at the time that they
19 were caught left open?

20 A. Jumped on all the men.

21 Q. How did they jump on them?

22 A. Gave them a speech.

23 Q. Who gave it to them?

24 A. I don't remember. That was several weeks prior.

25 Q. How long ago do you think was it before --- since

1 the accident?

2 A. I'd say --- got wrote up over it. I'd say a month
3 or two before.

4 Q. Have you ever heard or talked to anyone on the
5 longwall or any of the sections that were concerned
6 about those airlock doors being left open, about a
7 fire --- once a fire occurred, what would happen to
8 them, how they would get out?

9 A. Me, I don't like doors. This is my opinion.

10 Q. What I'm asking, have you ever heard anyone talk
11 about what they would do if ever on a section and
12 those doors were left open and a fire was to occur in
13 that area, how they would get out, because that would
14 jeopardize their intake escapeway?

15 A. I've never heard anybody talk that way, no. If
16 there was a fire or something, most of them said they
17 would try the track first until they ran into smoke,
18 and then go into the ---.

19 Q. So somebody did --- may have mentioned it?

20 A. They cursed about the doors, but not really on
21 a --- like that, like you're talking, no.

22 Q. Why did they construct those doors like that
23 instead of overcasts?

24 A. Save time. I couldn't answer that question. But
25 if it was my mines, I would have put overcasts in.

1 Q. Who directed that to be built like that?

2 A. I don't know. They were there while I was gone to
3 Logan's Fork.

4 Q. You never questioned it?

5 A. Well, I asked why, and I never --- you know, I
6 don't know if it was to save money or there wasn't air
7 on that spot or --- but you could have took a scoop
8 and shot it and re-bolted it and put an overcast up.

9 Q. Do you think that would have been safer than
10 having those doors?

11 A. In my opinion, I --- all the mines I've worked at,
12 I do not like to put doors in a main intake or
13 escapeway. You want a flow of air --- a constant flow
14 of air.

15 Q. Would you think those doors --- in your opinion,
16 do you think that would create a hazard, those create
17 a hazard? Could it potentially create a hazard?

18 A. Yes. Most definitely. It would short-circuit the
19 air, if both sets were left open.

20 Q. Have you ever --- we talked earlier there's also a
21 set of doors over between I think the tailgate and
22 the --- 22 Tailgate and ---

23 A. On the longwall.

24 Q. --- the longwall. What about those doors? Have
25 you ever found those open?

1 A. No. We shut them. That's the longwall.

2 Q. How often do you think people traveled through
3 those doors?

4 A. I'd say they was like there would be --- there
5 were roughly three mantrips that go through there.
6 Those were sealed.

7 Q. These doors were sealed?

8 A. Yeah. They were sealed. When this section
9 started --- see, before this section started, there
10 were doors that went through the track entry right
11 here.

12 ATTORNEY FERGUSON:

13 When you refer to that's the section, the
14 tailgate section?

15 A. Yeah.

16 BY MR. GODSEY:

17 Q. The tailgate.

18 A. Yeah. Yeah, when this --- before this section
19 started, when they drove this, there were two man
20 doors, but they were supposed to have been sealed, you
21 know, stoppings put. Prior, they were opened or they
22 were working. I couldn't say when they were blocked
23 because the longwall got our ties and brought them
24 over and put them here so they could build this
25 stoppings where the doors were. And see, this was

1 supposed to have been solid right here.

2 Q. You said earlier that you built stoppings on the
3 shift sometimes. Could you --- did you ever build any
4 up in the active section area?

5 A. Like up here in the past, not recently. But like
6 if they needed someone to go and build the stoppings
7 up on the sections, I have done that.

8 Q. Okay. While you're pointing up there, you said
9 you had visited the face of Headgate 22.

10 A. To check the bottom of the track entry.

11 Q. Did you all go into the face? You said you saw
12 the bottom had heaved.

13 A. No. When I go up here up, and someone tell me
14 there's a big swag or something, I'll go check the
15 bottom to see what it looked like, see if they needed
16 to grade down off a hill or grade up a hill.

17 Q. So you said you have seen some heaving up there?

18 A. Not on the working sections, no.

19 Q. Has anyone talked to you about heaving in the face
20 area?

21 A. No. Most of the time it would be in your side
22 entries. And it wouldn't be too much, just you know,
23 like that, coming up maybe four, four inches or
24 something, in certain spots.

25 Q. So you were never directed to build stoppings

1 anywhere else other than up here?

2 A. To help out, like before they get a section
3 started and they have to change air or something while
4 the section is not there yet, to get it ready, they'd
5 be moving equipment or something in there and you'd be
6 getting the section set up.

7 Q. Do you know of any time that --- where maybe
8 Headgate 22 was low on air and someone maybe adjusted
9 a regulator or changed air on the shift to get that
10 air up there, to get them extra air?

11 A. I wouldn't know about nothing like that. Most of
12 the time during a shift I'm on the track.

13 Q. Do you want to take a break?

14 A. If you all want to.

15 SHORT BREAK TAKEN

16 ATTORNEY FERGUSON:

17 Let's go back on the record.

18 BY MR. GODSEY:

19 Q. When you started the shift that day and when you
20 went underground or started underground, which way was
21 the belt air traveling? And you went Ellis Portal;
22 correct?

23 A. Yeah.

24 Q. Which way was the belt air traveling, track air?

25 A. In.

1 Q. Did you ever know any time that it had been
2 reversed and came out since they put ---

3 A. No.

4 Q. --- the Bandytown fan on? Does the belt air
5 travel in the same direction on all the belts?

6 A. I couldn't ---.

7 Q. Which way was it --- oh, you didn't go on Headgate
8 22. I'm sorry.

9 A. I couldn't answer that. We shovel a lot on belts,
10 but I couldn't answer, you know, unless I was there
11 that day, I could tell you which way the air was
12 going.

13 Q. Okay. Were you ever --- have you been ever
14 assigned more work than you thought you could get done
15 in a shift?

16 A. Oh, yes.

17 Q. Who usually assigns your work?

18 A. Everett for now, but I've had so many mine
19 foremans and superintendents and section bosses and
20 motormen. See, I have to explain. Before the
21 motormen, more or less, was my boss. If he had
22 trouble anywhere, he'd write a break number or tell me
23 what, and I'd make a list. And I'd start where he was
24 having the worst trouble and work my way down. Now,
25 it's changed. Instead of the motorman telling me what

1 to do, the superintendent tells me what to do. But
2 that's a little different because before, all the 12
3 years I worked on the other panels, anybody say
4 anything about the track, I was on top of it, fixing
5 --- I fixed three, four places a day. I'd make a list
6 up, get all those places done, start another list.
7 And the motormen were my key people that I listened to
8 more than anybody. And if a switch --- switches on
9 the panels mostly faced out towards motormen going
10 down with those jacks. And that's the main thing,
11 keep those switches in working order. That means
12 cleaned and repaired. And if anybody said anything to
13 me about the switches, I'd just --- the first thing
14 I'd run and get that switch fixed, because you're
15 taking four jacks on those other panels before and ---
16 or sometimes I've seen more than that, maybe five.
17 And they weigh about 28 ton or more, 30 --- well, I
18 know the headgate is 32 or 36 ton. My main concern is
19 the men traveling that track. The motormen, the
20 people riding the mantrips, I take it personal and I
21 want the best track I can produce. And I need the
22 company's help in order to do that. Give me the
23 supplies and give me the people.

24 Q. Do they do that?

25 A. Most of the time they do. Once in a while ---

1 like when a longwall move is done, they don't think
2 you need that many people, but you still need to lay
3 track, block, level and line. Now, most of the time,
4 when they have a panel set up, they reduce my
5 workforce.

6 Q. How far are you behind on the track?

7 A. I think we were behind 16, 17 breaks on 22. The
8 tailgate of the longwall that they were remaining I
9 think were six breaks. I don't know about the other
10 section on the other side.

11 Q. Does Chris Blanchard or the president, does he
12 assign the superintendent work to do like that? Does
13 he kind of manage the mine also?

14 A. Yes.

15 Q. Does he tell him a lot what to do?

16 A. Uh-huh (yes), or what he wants done.

17 Q. Does he come in the mine a lot?

18 A. Yeah. Fair amount of time. I'd say he's up at
19 the mines --- Blanchard comes in, or did two days a
20 week.

21 Q. How does he treat the employees when he comes in?

22 A. He's young.

23 Q. But how does he treat the people?

24 A. I can get along with anybody. And Chris
25 Blanchard, I ain't got nothing --- again, anyone --- I

1 can work with anybody just about. That's my nature.

2 Q. Okay. How does he treat the people?

3 A. I really haven't seen him interact with that many
4 people. I couldn't really tell you.

5 Q. The ones you've seen, how does he do?

6 A. What I've seen, fair. That's all I'd say. Fair.

7 Q. Fair. Okay.

8 A. You have to be around someone a while. Like I
9 can --- they give me a red hat. I keep him two to
10 three weeks. I'll know more about him than what he
11 thinks he knows about himself, but I got to be with
12 him every day for three weeks.

13 Q. Okay. You've been several weeks with Mr.
14 Blanchard. What kind of opinion do you got of him?

15 A. He's young and I think he needs --- he's got maybe
16 a lot of book learning, but it ain't like having been
17 --- done everything. You know, experience is a little
18 bit better than a lot of book learning. I think, you
19 know, you learn from doing. And book learning,
20 there's nothing wrong with it, but I think getting out
21 there and doing it, you learn more in that six weeks
22 in the long run.

23 Q. Did he ever give directions to you all that you
24 thought was detrimental to the safety, where he
25 thought maybe he was right and you all thought better?

1 A. I mainly was track. You talk about track, you're
2 talking down my alley. Now, I wasn't --- I ain't
3 haven't run coal for a long time up in the face.

4 Q. Have you discussed it with other foremen?

5 A. If you haven't got the height or the entry is not
6 straight, that makes my job harder. Used to the old
7 mine foremans, 68 inches, nothing lower. Got the
8 entry straight. But you've got newer people, new
9 miner men. You need to stay on centers. The better
10 you stay on centers and you take what height is
11 required by your equipment, the less trouble you will
12 have.

13 Q. Do you feel that they take shortcuts in favor of
14 production than cost?

15 A. All mines I think this day and time, not Big
16 Branch especially, but most mines this day and time
17 --- what do you call it? Pride in your work is left
18 to young people. I think --- I was raised up under
19 the old school, you took pride on everything you done.
20 The straighter you get that entry, that there's ---
21 you know, that's pride. You cut the bottom level,
22 that's pride. You put your track in right, that's
23 pride. I think the whole new generation has lost
24 their pride about mining coal. And you've got to have
25 long-term goals, long-term commitments. You can't

1 change something overnight. If you're going to do
2 something to a mines, you have to prepare for it ahead
3 of time, way ahead of time. Like cutting your
4 overcasts ---.

5 Q. How much preparation do they do now, planning do
6 they do?

7 A. It seems like any --- where now, if it hits rock,
8 go somewhere where there's coal.

9 Q. Do you think that they put the production ahead of
10 safety, in your opinion?

11 A. In my opinion, the way --- they want you to work
12 safe. The way I train the boys, three things. Show
13 up every day, do the best you can and be as safe as
14 you can. Watch the people around you and be ---
15 they're safety conscious. They don't want nobody
16 hurt. They want to run coal, but --- I've been with
17 them, and I cannot complain, because myself,
18 personally, they're trying to be as safe as they
19 possibly can and run coal.

20 Q. Has anything changed recently in management? Was
21 it better before or better now in the way they was ---
22 in your opinion, in your capacity?

23 A. When I was there before they had ---.

24 Q. I'm talking about maybe in the last six, eight
25 months.

1 A. It's been about the same since I've been back as
2 it was.

3 Q. Was it better or worse?

4 A. Be informed. It seems like I was less informed
5 since I've been back than I was before. Used to --- a
6 few years ago I'd go and I knew what the other
7 sections was doing. I knew that there was going to be
8 a switch here. Give me ahead of time --- you knew ---
9 it seemed like information was changed better.
10 Everyone knew what was going on. When I come back, it
11 seemed like you lacked communications. Informed,
12 keeping your people informed, lack of communications.

13 Q. Do you feel they did everything like on the spur
14 of the moment, changing ventilation and stuff, they
15 just ---? Do you feel in the last six months they had
16 a control over it?

17 A. I think they had two air changes in the last six
18 months with MSHA.

19 Q. How many without MSHA?

20 A. I don't know. I know --- I really couldn't tell
21 you that because I don't know.

22 Q. What's the highest percentage of methane that you
23 ever encountered on the sections or outby?

24 A. Three-tenths of one percent.

25 Q. Have you performed --- you've never --- have you

1 ever performed any mine examinations?

2 A. No. No, because --- no.

3 Q. Have you ever encountered any floor or --- floor
4 gas or any bottom heaving or --- the bottom not
5 heaving but ---?

6 A. Like, you know, possible water above them or
7 something like that.

8 Q. Okay.

9 A. But not that much.

10 Q. And did you take a legal gas check?

11 A. Uh-huh (yes).

12 Q. About what did you find there?

13 A. About three to four-tenths of one percent.

14 Q. Where was this at?

15 A. Down --- that was way down here.

16 Q. On One North Headgate?

17 A. Uh-huh (yes).

18 Q. Is that when they were driving it?

19 A. No. Let's see. Yeah. Yeah. That was when they
20 was driving it. I remember now. It was down in this
21 area.

22 Q. Do you know whether there's ever been any floor
23 rips or methane cracks on the bottom coming out on the
24 longwall as they come out on this panel?

25 A. After they mine it?

1 Q. Yeah. Anywhere on this panel, longwall panel, has
2 there been any problem with floor gas or the bottom
3 heaving or ripping?

4 A. No more than what's normal for a longwall panel.

5 Q. Okay. What's normal, I mean, for a ---?

6 A. You'll see break-throughs where it will come up
7 about like that, maybe a foot. It will be hooved in
8 the middle about a foot.

9 Q. Okay. Have you done any work inby the longwall
10 face recently?

11 A. No.

12 Q. Do you know of anybody doing any work in ---?

13 A. They had men going on the tailgate to check the
14 pumps and the air.

15 Q. And you didn't --- you don't know of anybody ever
16 going inby the headgate on the One North Headgate inby
17 the longwall face recently?

18 A. No. Just you had the one man who was certified,
19 and he had two helpers. He'd check on this water down
20 here.

21 Q. Have you ever been down there?

22 A. Yeah.

23 Q. When was this?

24 A. Before, when they was setting up the wall to the
25 fan.

1 Q. Okay.

2 ATTORNEY FERGUSON:

3 And where is down here?

4 A. Well, to the ---.

5 BY MR. GODSEY:

6 Q. Bandytown fan.

7 A. Yeah, Bandytown fan. We had to come up here and
8 build stoppings. We had to build the metal stoppings.
9 What do you call them?

10 Q. Kennedy.

11 A. Kennedy stoppings we had to build just to direct
12 the flow. Like here's a fan. We had to direct the
13 flow from these entries into the fan. We had to build
14 about six of them down there.

15 Q. Okay. What trouble did you all --- did you all
16 run into any trouble starting the longwall, One North
17 Headgate longwall?

18 A. You have to specify what trouble.

19 Q. Methane.

20 A. Setting it up, no.

21 Q. Before you started, when you were starting it, did
22 you ever have any --- have to shut down for a while
23 for some methane?

24 A. See, I'm --- I'd go up there and lay track behind
25 the wall. And I think I laid what, four breaks behind

1 this wall, and I didn't have no trouble.

2 Q. Did the company have trouble? Are you aware of
3 --- anybody talk to you about it?

4 A. No.

5 Q. Okay.

6 A. I know we laid track in here for a couple breaks.
7 We laid down here and we pulled all that out and laid
8 four breaks over here so we could take shields in
9 behind the wall.

10 Q. Okay. Was you there when they developed this ---
11 I think you said when they developed One North
12 Headgate?

13 A. Where were they at? Yeah. Right in this area
14 here.

15 Q. What were you doing here?

16 A. Well, I was laying track behind the section.

17 Q. Had you continued all the way up the headgate?
18 Have you been all the way up there?

19 A. Yeah, ---

20 Q. Okay.

21 A. --- when they was driving.

22 Q. What trouble did they --- did they have any
23 trouble anywhere driving the roof or the water?

24 A. Right in this area with water and right here, the
25 end --- I'd say back behind it right here with water.

1 Q. Is that back behind Bandytown fan shaft?

2 A. Yeah, back this --- on this side of it, with
3 water. Like right here it's not showing where the
4 water is at.

5 Q. What about the mid longwall panel, did you ever
6 have any problems there?

7 A. There was one swag we had to take bottom in, and
8 it went underneath the belt, from one side to the
9 other. And they took bottom, and there was a little
10 swag of water there, but I don't know what it is right
11 now. They done bypassed all that.

12 Q. Did they ever put supplemental supports --- did
13 they ever have to put any kind of extra support in
14 those areas?

15 A. They put --- on the beltline they put the jacks
16 --- metal jacks.

17 Q. Did they have to put a lot of them?

18 A. They had to put them every five foot on the
19 beltline.

20 Q. What was ---?

21 A. They had the belt and the track in the same entry.

22 Q. You wasn't getting any roof problems?

23 A. No, not really. No. It looked pretty good all
24 the way down through there on the roof.

25 Q. Okay. On March 9th, 2010, this year, they had a

1 ventilation change on the longwall. And do you know
2 any reason --- why they had that changed, why they had
3 to do it?

4 A. No, not really, because usually I'm over the
5 track. I ain't over the ventilation. You know, I
6 help out.

7 Q. Do you know what I'm talking about?

8 A. Not really. They --- you're talking about
9 overcasts over here on the longwall?

10 Q. No. No, I'm not. March 9th they had --- the
11 inspectors went up there and they did like a
12 ventilation survey and stuff and they found the air on
13 the tailgate going in the wrong direction. They found
14 it going in the outby direction instead of going inby,
15 as it's supposed to.

16 A. I heard about it, but I don't know that much about
17 it. I heard about it.

18 Q. So you were not involved in that?

19 A. No.

20 Q. Okay. Did you ever --- after they made the
21 change, did you --- anybody ever talk to you about
22 what happened on the Headgate 22 and the other
23 sections toward ventilation, having more or less
24 or ---?

25 A. No.

1 Q. Okay.

2 A. Usually if --- you know, anything day to day, I
3 don't know, you know, on the air or something.

4 Q. Okay.

5 A. Most of the time, unless they need help with
6 something, I won't know about it.

7 Q. Okay. And back over here --- I'm jumping around a
8 little bit, but over here on the mouth of Headgate 22,
9 do you see these doors? There's a door here and a
10 door ---

11 A. Yeah. Uh-huh (yes).

12 Q. --- and you'll see this air. How does this ---
13 the air coming off of Eight North, you'll see it's the
14 intake air and it comes down. How is that ventilated
15 in there? Are you aware of that?

16 A. I know they had to make a change there. Somebody
17 was building stoppings one day. They moved some when
18 they started this section, and then I think one day
19 they had to come back here and do something, but I
20 don't know what.

21 Q. You don't know the function of these doors and
22 stuff here?

23 A. This here?

24 Q. Yeah. You got a door here.

25 A. To get the air to go --- let's see. The air comes

1 in ---.

2 Q. Okay. But how does it get in there?

3 ATTORNEY FERGUSON:

4 And we're talking about the mouth of the
5 face?

6 MR. GODSEY:

7 Headgate 22.

8 BY MR. GODSEY:

9 Q. Does the air appear blocked there?

10 A. It looks like it by this map.

11 Q. So you're saying the air there at the mouth of
12 Headgate 22 ---?

13 A. Well, ---.

14 Q. It appears that way on the map?

15 A. Right here, to me it looks like it's blocked here
16 and here and you got a stopping. This should be open
17 right here.

18 Q. Do you have any reason --- know a reason why that
19 was done like that?

20 A. I do not know.

21 MR. MCGINLEY:

22 Let's mark the map here.

23 A. Well, this should be showing open or a stopping or
24 something. Well, it's got doors here, but this should
25 be showing open ---

1 BY MR. GODSEY:

2 Q. Okay.

3 A. --- from there right there.

4 ATTORNEY FERGUSON:

5 Let the record reflect that the witness

6 is marking the ---.

7 A. Well, the way the map is marked, it shouldn't be
8 marked that way.

9 ATTORNEY FERGUSON:

10 At the mouth of Headgate 22 at least

11 two ---.

12 A. Well, it's that way all the way through. See,
13 right here, I ain't never seen a map marked this way.

14 MR. MCGINLEY:

15 Can you read the numbers there? I know

16 it's hard because it's really tiny.

17 BY MR. GODSEY:

18 Q. I can see it. 20238.

19 A. Those ain't regulators. See, it's marked all the
20 way through here like there's ---.

21 Q. Well, is that the way you remember it?

22 A. No.

23 Q. Okay.

24 A. I'm confused about that, too.

25 Q. Okay. You remember it a different way; right?

1 Did you state that?

2 A. Well, I know we was setting up this section or
3 this --- getting the air right or something, and we
4 had to come back here. And I don't know right here.
5 It's kind of throwing me off. I know they had to do
6 something up there.

7 Q. When was the last time you were there?

8 A. Well, that --- the day of the explosion, I was
9 through there, at the doors right here, went through
10 here.

11 Q. But was the doors in the places shown on the map,
12 where the doors are? Sorry.

13 A. About here, that's right, and that's right. These
14 two doors, ---.

15 Q. Outby the overcast?

16 A. Yeah. It's --- yeah, inby --- or outby the
17 overcast, these two doors. There's one right at the
18 overcast --- they're not right in the same spot, but
19 they're right there.

20 Q. So you're saying those doors, as shown in the map,
21 are in the ---?

22 A. They're in the proper position, yeah.

23 Q. Okay.

24 A. But I don't understand them drawing this, unless
25 this is signifying an older map, and then they sprung

1 off of it with a new section. But to me, when you
2 make a map, that should be open. You know, that there
3 is a faulty drawing of the map.

4 Q. Okay. During your travels, have you felt an air
5 change that was not planned, in other words, you was
6 in an area and one day it would go a certain direction
7 and the next day it comes in a different direction,
8 and you know there hadn't been a ventilation
9 change --- I mean, a planned ---?

10 A. It seemed like sometimes you would have more air
11 than other times behind the section, you know, on your
12 track entry.

13 Q. Do you know when that was?

14 A. No.

15 Q. You don't ---?

16 A. You know, sometimes it feels like you got a little
17 more air than, you know, usually because it's --- once
18 you work and lay track, you know, you're putting off
19 heat and you get awful hot.

20 Q. How often does this happen?

21 A. Well, you know, it depends where I'm at. We're on
22 different sections. Each section is a little
23 different. I couldn't --- you know, I couldn't tell
24 you if it was a specific section or specific day or
25 what. I couldn't tell you that. But I know that, you

1 know, it seems like you got sometimes they seal the
2 curtain off more behind the tailpiece and at the box
3 and some days they might, you know, have it a little
4 more open.

5 Q. How often do you see mine examiners doing their
6 pre-shifts and ---?

7 A. They preach --- they tell them to do their
8 pre-shifts every --- almost --- well, every time they
9 have a safety meeting, pre-shift, pre-shift.

10 Q. Do you think that they have enough men to do the
11 adequate pre-shift of the mine, given the time frame?

12 A. I wouldn't know.

13 Q. Are they usually in a hurry?

14 A. The ---?

15 Q. Examiners, pre-shift examiners and the weekly belt
16 examiner?

17 A. They're all the time moving.

18 Q. Do you know what time they never --- have never
19 got their pre-shift or examinations done in an
20 allotted time?

21 A. I know they're maybe 10, 15 minutes late sometimes
22 getting called out, yeah.

23 Q. Are you aware of any oncoming shifts that were
24 cancelled or delayed due to a safety issue
25 underground, because of a methane, a roof or air

1 problem?

2 A. Yeah, but I couldn't tell you ---. I know when
3 the fan motor went down, that's when I just come back.
4 You're going to have to repeat the question.

5 Q. Are you aware of any oncoming shift that had been
6 delayed or people sent home because of some problem
7 that they've had at the mine?

8 A. I know that something's happened or something and
9 they sent people home, but I don't know what for. You
10 know, I don't know. If I ain't --- like if I was on
11 the longwall, I'd know. If I was on the section, I'd
12 know. But I ain't. I'm all over the place.

13 Q. Yeah. What I'm saying is like have you ever come
14 to work and they've delayed you going underground or
15 sent you home because of problems they've had at the
16 mine?

17 A. No. I know there's been instances, but I don't
18 know. I couldn't tell you what it was over or
19 anything.

20 Q. Or when it happened?

21 A. Or when it happened.

22 Q. Are you aware of any condition that required the
23 mine to be evacuated during a shift?

24 A. When the fan --- mostly when the power goes off
25 the fan or it knocks it over 15 minutes, they start

1 calling everybody.

2 Q. Have they ever evacuated to make a ventilation
3 change?

4 A. Like on a Sunday night or something?

5 Q. Any night.

6 A. I know they post them. I've seen posters, you
7 know, posting of --- or a fan check or ventilation
8 change. They post it.

9 Q. Have they ever been up on a section that they've
10 had low air and they had to send people out so they
11 could make a ventilation change or get one approved
12 where they can increase the air or make changes?

13 A. I think one time they did.

14 Q. Do you remember when that was?

15 A. No. I think one time they sent some people home
16 to make an air change, but I couldn't tell you when or
17 what it was over.

18 Q. You don't remember what section it was ---?

19 A. Uh-uh (no).

20 Q. Okay. Do you travel the primary escapeway?

21 A. Yeah.

22 Q. When's the last time you did that?

23 A. The first day I come back to Logan's Fork. Well,
24 that's Logan's Fork. At UBB?

25 Q. At UBB. Everything I'm asking you is Upper Big

1 Branch.

2 A. I know I walked it, but I couldn't tell you when.

3 Q. Do you know what kind of shape it was in, how it
4 was maintained? Did you have any water that hindered
5 your passing it?

6 A. No. There was one --- where was that at? No.
7 No, no. Let's see. Where was that at? I'm thinking
8 of the wrong section. I know we walked part of it
9 after I ---. We walked it with the longwall one day.
10 Yeah, but they had to walk the lower part.

11 Q. Okay.

12 A. But I don't remember when that was.

13 Q. Did anyone ever talk to you about traveling an
14 escapeway and it being blocked with a Kennedy stopping
15 over an overcast?

16 A. No.

17 Q. Are you aware --- you worked the day of the
18 explosion. Were you aware of anything that happened
19 on the longwall where they were down for any period of
20 time?

21 A. I heard there was a pin --- they were down around
22 12 o'clock for a pin.

23 Q. How long?

24 A. I don't know.

25 Q. You don't know.

1 A. It was a pin, but I don't know what kind of pin or
2 anything.

3 Q. Do you know if they did any welding or cutting up
4 there that day?

5 A. No, I don't.

6 Q. A pin? What kind of pin?

7 A. They have so many on the longwall. You could ---
8 now, I heard something about they were down because of
9 a pin. I don't know if it was a pin on the arm or a
10 pin in the chain or a pin on the jack. You wouldn't
11 believe how many pins was on that. I don't know what
12 it would be. I know they was --- somebody said they
13 had a pin. I even forgot what they said it was.

14 Q. You don't know how long they were down for?

15 A. No.

16 Q. Have you been on Eight North up here?

17 A. Yeah.

18 Q. What's it like on the faces up there?

19 A. I don't know. I haven't --- there's a fall outby
20 the track entry.

21 Q. This fall here that's on Eight North?

22 A. Uh-huh (yes). There's a track up to it. We had
23 to go and pull the track over and change some bridles
24 up through there so the fire bosses wouldn't have a
25 hard time getting up there.

1 Q. Have you been to the face?

2 A. No.

3 Q. Okay. Have you visited the area called the Glory
4 Hole?

5 A. Yeah.

6 Q. What's the Glory Hole like?

7 A. I walked past there once. You're framing and it
8 --- it's being filled up. I haven't been there while
9 it was running. It's filled up and stocked up now. I
10 know more about the upper side of Logan's Fork.

11 Q. What's it filled with?

12 A. I'd say gob.

13 Q. Did you find any methane over there? Would you
14 take a gas check over there?

15 A. I went over and my methane, I had it in my belt.
16 I didn't take one, but it was on. I didn't find ---.

17 Q. Was it hot over there?

18 A. No, not especially, not where I was at. But that
19 was --- been --- not that day. It was maybe three,
20 four weeks.

21 Q. Ago or before the accident?

22 A. Before the accident. Maybe a month.

23 Q. Did you have any concerns with the ventilation
24 before the accident?

25 A. No, not really. No.

1 Q. Do you know if anybody has ever been afraid like
2 to go underground at UBB, any of the miners, or any
3 concerns about going underground?

4 A. No one complained to me.

5 Q. Or have you heard them complain to anybody else?

6 A. About going underground, no.

7 Q. About being afraid to go underground. Has MSHA or
8 state inspectors ever conducted examinations while you
9 were working? Have you ever seen a Federal or
10 State ---?

11 A. Yeah. Uh-huh (yes).

12 Q. Okay.

13 A. Tomlin.

14 Q. Did you know in advance that the inspectors were
15 on their way?

16 A. Sometimes somebody would holler and say somebody
17 is coming ---

18 Q. Who would do that?

19 A. --- if anybody would pass where we're working at.
20 Sometimes I wouldn't --- see, we're out by ourself and
21 somebody will come by and say, we got a State or a
22 Federal man, you know, coming this way or something
23 like that. Make sure you got your safety glasses,
24 gloves and everything on.

25 Q. Well, when you saw a Federal inspector come, did

1 you ever see any ventilation changes being made to put
2 more air on one section?

3 A. No.

4 Q. Anybody ever talk to you about that?

5 A. No. We're out ---.

6 Q. I understand.

7 A. You know, we're not with everybody else. We're
8 out by ourselves, more or less.

9 Q. Do you ever monitor the phone while you're outby?

10 A. No, unless somebody hollers at me. If someone
11 hollers at me or comes and gets me, you're wanted on
12 the phone or something like that.

13 Q. Do you ever hear anybody holler on the phone that
14 you have inspectors outside that's on the way in?

15 A. To us and my crew, no.

16 Q. Have you heard anybody else talk about it?

17 A. The only thing is it's cloudy out here or
18 something like that.

19 Q. Cloudy out here is when they're coming. And
20 what's when they're going?

21 A. Home.

22 Q. So you all got codes for ---? There's a code ---?

23 A. I've heard that. I've heard that, it's cloudy out
24 here.

25 Q. Okay.

1 A. I've heard that.

2 Q. Did you ever have any reservations about talking
3 to an inspector, ---

4 A. No.

5 Q. --- State or Federal?

6 A. I have talked to them and went with them.

7 Q. Ever explained --- told them about a problem you
8 had --- that they had there that you'd like for them
9 to look at?

10 A. I may have talked to them about something, but it
11 had to do something with track.

12 Q. Was it a safety issue?

13 A. In my opinion it was. You know, in someone else's
14 opinion it might not be.

15 Q. Whose opinion was it not?

16 A. Well, I take track more serious than a normal
17 person.

18 Q. I understand.

19 A. A lot of people, I talk about track, they walk
20 away. It's dull.

21 Q. What does your supervisor or Chris Blanchard ---?

22 A. Like running rubber-tired vehicles over a switch,
23 it's not designed for rubber-tired vehicles to run
24 over a metal switch. It's made to run on top of the
25 rail. If it ain't on top of the rail, it shouldn't be

1 on the track.

2 Q. Do you ever find water overtop the track?

3 A. Yeah, if there's a pump down or something like
4 that.

5 Q. Does it happen very often?

6 A. Not very often. Most of the time they --- most of
7 the time they try to keep the water off the top of the
8 rail.

9 Q. Now, this is your --- what was --- what's your
10 workforce view or thoughts about your upper management
11 at UBB?

12 A. I wish I had older people there, the ones that
13 were there before. It's hard to keep old people when
14 it's time for them to retire and stuff.

15 Q. I understand that. Did they have a good or bad
16 impression of the workers there --- I mean, the
17 management at Upper BB?

18 A. I think communications was the worst problem we've
19 had here since I've been back.

20 Q. Was Mr. Blanchard hard to talk to?

21 A. I could --- I could talk to him. It's how you
22 talk to people sometimes. Sometimes they got a lot on
23 their mind. The best thing, not to say nothing to
24 them. Catch them when you can talk to them. So I
25 think a lot of it is how you talk to people. Now,

1 Blanchard, I ain't --- I don't have no trouble talking
2 to him, but you better say what you mean quick, you
3 know, because he's got a lot on his mind. I'd ask him
4 about stuff, and you know, it's like anybody that I've
5 worked with in the past, if you got someone that's got
6 a lot on their minds, they're not thinking about what
7 you're saying, and you got to catch them at the right
8 time and place. I've worked with a lot of men,
9 bosses, you know, and superintendents, and it's
10 catching people at the right time and knowing how to
11 talk to them.

12 Q. Did this accident surprise you?

13 A. Yes, very.

14 Q. Since you've been off a while and you've been away
15 from there, have you had any thoughts about what may
16 have happened?

17 A. Yes.

18 Q. What's your opinion on it?

19 A. They could have hit a gas well. They could have
20 hit a bleeder in the top or bottom. It could have
21 been --- now, these are my opinions. We won't know
22 until we get in there and look. It could have been
23 something happened up here at the Mother Drive and
24 come back on them. I don't really know. Right now
25 that's what I want them to do, is go in there and find

1 out what happened. These boys didn't know what
2 happened to them. I mean, it happened so quick. We
3 were what, two-and-a-half miles away. Three seconds
4 is all we had. They didn't have no time. It had to
5 be somewhere in this area.

6 ATTORNEY FERGUSON:

7 And by this area you mean the longwall
8 area?

9 A. I think --- you take --- you got men on --- in the
10 ride here, three men coming to the ride.

11 BY MR. GODSEY:

12 Q. Headgate 22?

13 A. Twenty-two (22). That section, they done hung the
14 curtain, done dusted what they was going to dust.
15 They were coming off of it. On the old main section,
16 they were at 78 going out. They done cleaned their
17 section out. The longwall belt when I went back that
18 evening was running. That's the only thing running.

19 Q. What time was that?

20 A. It was about 15 'til 3:00. About 15 'til 3:00 the
21 longwall belt was running.

22 Q. Nineteen (19) minutes before the problem.

23 A. We left up here at this scoop at 22 section and
24 was outside at our box about 20, 22, 23 minutes. I
25 looked at my watch when we put up our tools. It was

1 two minutes after 3:00. I just had enough time to
2 walk across the track in front of the evening shift
3 mantrip. I only had three seconds and it hit. And we
4 should have been up there with them. We should have
5 been traveling through there, but the scoop wouldn't
6 run.

7 Q. I just got a couple more questions, just a couple
8 more questions. When you was up here, what was it ---
9 was it well rock dusted or was it ---?

10 A. Yeah, it was --- we had laid track over here and
11 it was --- it wasn't the best rock dusting they did,
12 but it was rock dusted.

13 Q. Did you see much float dust there?

14 A. No.

15 Q. The mouth of 22 Tailgate.

16 A. Yeah. That morning it looked decent. Yeah, it
17 looked pretty good.

18 Q. Is there anything else that I've not asked you
19 that you would like to talk about, information that
20 you have, ---

21 A. No.

22 Q. --- that you've heard or ---?

23 A. I've tried to find out from people where the men
24 were and I have a pretty good location where they
25 were. They were in the 70 Breaks. The old main crew

1 was in the 70s. A few more breaks.

2 Q. Okay. Is there anybody else that you know of that
3 we can maybe talk to or maybe want to talk to us that
4 could give us some information?

5 A. I'd say probably if you talked to very many people
6 you've talked to most of the ones at Upper Big Branch
7 that worked there.

8 Q. Okay.

9 A. I worked at Bonny, and I was more scared of
10 working at the Bonny Mines than I was at this mines.

11 Q. Okay.

12 A. But I've been here so long, I knew every inch of
13 this mines pretty much, you know.

14 Q. Okay. What I'm going to ask you now, it's going
15 to bother you, but I'm going to be as easy as I can.
16 How far outby the portal were you when this happened?

17 A. I was 300 foot in the portal.

18 Q. Oh, you were in the portal. Well, take us through
19 it. What did you go through?

20 A. The Five Head --- I need to go ---. All right.

21 You normally call it 78 Break. Seventy-eight (78)

22 Break and that gets you to road --- Ellis Switch.

23 Ellis Switch --- I'm trying to find out. That's the
24 wrong one. Wait a minute. That's the wrong one.

25 Ellis Switch would be right --- I think this is the

1 track entry right here. Yeah, this is the Ellis
2 Switch, I think. I don't see the track going through
3 UBB.

4 Q. Okay.

5 A. But it's somewhere right in here. Usually ---.

6 ATTORNEY FERGUSON:

7 I'm sorry, Mr. Plumley. Can you mark
8 where right in here is?

9 A. Oh, Ellis, I'm going to say it's ---.

10 ATTORNEY FERGUSON:

11 Put a big X wherever ---.

12 A. This is Ellis Switch. This is 78 Break. These
13 are the two switchout points.

14 MR. MCGINLEY:

15 Can you mark them with orange Xs?

16 A. These are the two switchout points. People that
17 are coming out will call the road. After they get to
18 the road, they'll call the road to 78 Break and
19 they'll either get up in here towards One section and
20 wait on the incoming crews. But it depends where they
21 are. If they've started in, inby this point or up
22 next to this point, they'll make them sit here.

23 BY MR. GODSEY:

24 Q. The dispatcher?

25 A. The dispatcher. If you can get up here, you get

1 in here and get out of their way. You've got two
2 crews on this side that come, but they don't come all
3 the way. And then you got your motor crews and
4 everything. You call to the 78 Break. Once you get
5 there, then you call and see if you can get to Ellis
6 Switch. They had a crew working on a new panel down
7 here, an overcast, that day that went to UBB.

8 ATTORNEY FERGUSON:

9 And down here?

10 A. The new section for the longwall. See, it ain't
11 started --- see, this panel here, this would be off of
12 Ellis. They were cutting overcasts down there that
13 day. This crew --- normally what would they be
14 working? They'd be working down here next to UBB, but
15 they shipped them up there and they had been working
16 up there for about a week or so and getting ready to
17 start a section this way.

18 MR. MCGINLEY:

19 Can we identify that on the map?

20 BY MR. GODSEY:

21 Q. Track mains it says there.

22 A. It would be off the track mains, I reckon. See,
23 they was going to put a panel out here.

24 ATTORNEY FERGUSON:

25 Where it says headgate and then it

1 says --- looking at this map, it would be south of
2 Ellis.

3 BY MR. GODSEY:

4 Q. It would be like the first left off of Ellis?

5 A. Yeah. They had a mantrip sitting here. Well, you
6 had two switches.

7 ATTORNEY FERGUSON:

8 And sitting here is?

9 A. At Five Head ---

10 ATTORNEY FERGUSON:

11 Okay.

12 A. --- you have two switches, one going down towards
13 the new section and one to the battery --- I mean,
14 chargers.

15 MR. MCGINLEY:

16 The two orange Xs are marked close to
17 each other.

18 A. Yeah. There's two switches. One, they got
19 chargers in it where we parked our mantrip if it is
20 charged. Once we got the road to here, we put our
21 Jeep on charge, got our tools off. The people that
22 were behind the wall, the pumpers, they come with
23 their ride. We put our tools on their ride and rode
24 with them down so we could give our ride to the next
25 dayshift coming in. And they're parked --- you have a

1 charger one break outby and then the next break you
2 got another charger. And you got another charger
3 right here. You got three chargers.

4 ATTORNEY FERGUSON:

5 And the witness is marking these chargers
6 with an orange highlighter.

7 MR. GODSEY:

8 In the Number Two entry.

9 A. Uh-huh (yes). And we have a box opposite side
10 where we put our tools. We put our tools in the box
11 and locked it up. The first ride that come in that we
12 rode in with the pumpers, the longwall had loaded up
13 and started back in. Now, there's two sets of doors
14 down here about eight, nine --- about ten breaks in
15 before you get to Five Head. They had just left. The
16 next mantrip, the boss had left his light outside and
17 had to go back out, so he was parked. Then men were
18 loaded up in it. I walked across in front of that
19 mantrip. As soon as I got to the corner, to the left
20 side of it, it felt like a breeze, and then a little
21 heavier and a little heavier, and then everything that
22 wasn't nailed down come out of that entry. It was
23 blowing anything it could pick up. You could not turn
24 your head and look back to see what it was. You would
25 just be like somebody throwing a bucket of dirt in

1 your face. And it was constant. It wasn't just a ---
2 it was a constant force with pressure for three to
3 four minutes. The men that were up here next to these
4 doors, they jumped out of their mantrip. Some of them
5 went in the breakthroughs and stuff. But finally,
6 they got together and turned their mantrip around and
7 they worked their way back out. You could not run.
8 It was so strong, if you tried to run, it would knock
9 your feet out from under you. And we held --- most of
10 them held to the timbers or the side of the rib and
11 walked to the portal, to the open portal. But it
12 lasted three to four minutes. And it was pressure.
13 It didn't let up. It stayed the same for that amount
14 of time.

15 Q. Did anyone don a rescuer or anything?

16 A. Not around us. Now, you had the boys that were
17 working on this overcast. We passed them.

18 ATTORNEY FERGUSON:

19 In the overcast down on the track mains?

20 A. Yeah. And they were coming out, going back to
21 Ellis Switch and go out UBB. There's a duster along
22 the belt right in here. That's as far as --- that's
23 as far as they made it. There's a --- it goes away
24 from the belt and goes up one break away from the
25 belt. I don't see it. Oh, right here.

1 ATTORNEY FERGUSON:

2 And where is --- is there a number there?

3 A. I can't see it. They got right in this area.

4 ATTORNEY FERGUSON:

5 22539. And can you mark here? There's a

6 duster there you said?

7 WITNESS COMPLIES

8 A. There's a duster beside the belt right here, which

9 blows down the beltline, ---

10 ATTORNEY FERGUSON:

11 And the witness has ---.

12 A. --- a vehicle duster.

13 ATTORNEY FERGUSON:

14 And the witness has marked this location

15 with the orange highlighter.

16 A. What I've heard, they made it to there and then

17 they had to turn around and come back. But they were

18 going to Ellis and then they would come out UBB. We

19 passed them and hollered at them right there at Five

20 Head.

21 ATTORNEY FERGUSON:

22 And did they have their SCSRS on?

23 A. I think some of them may have opened them and

24 started to put them on.

25 BY MR. GODSEY:

1 Q. Did they have them on their mouth?

2 A. I don't know. I was not there.

3 Q. Okay.

4 A. I do not know.

5 Q. Okay.

6 A. Because I know the Jeep --- 70 Break, somewhere
7 right in here, the old main crew was on. We had got
8 out and they told us to put our names down on a piece
9 of paper, make sure who was outside. And then they
10 said write a copy of what happened. In your own words
11 put a copy of what happened. And I had another boy
12 write a paragraph of what I, you know, experienced.
13 And they got everybody's name down and the people from
14 this ride that goes back to UBB, they come out and
15 they caught a truck over to UBB. And we were still
16 wondering what in the world went on. And then you
17 heard a --- somebody holler for an ambulance.
18 Somebody hollered, all you can get. None of us
19 outside knew what happened. We moved the mantrips.
20 They've got a switch outside --- the whole track goes
21 around the pin. The one side's not working. They
22 brought the three mantrips down here that were inside
23 here. The fourth one come out. We moved them up in
24 the yard. I think we left one down here.

25 Q. Was that near the mine office?

1 A. Yeah. The mine office is right here.

2 ATTORNEY FERGUSON:

3 Let the record reflect that the witness

4 is drawing these locations on the map with an orange
5 highlighter.

6 A. We went and moved them up to the yard. I think
7 there's just one down here. I don't know how much
8 time, it wasn't long, the mantrip that was here come
9 out.

10 ATTORNEY FERGUSON:

11 That was the mantrip that's outby the 78

12 Break?

13 BY MR. GODSEY:

14 Q. Who brought that out?

15 A. I'm not sure. But we thought it was another
16 mantrip from up here, and somebody hollered, and all
17 of us jumped in and pulled all the men and put them
18 beside the mantrip and started working on them.
19 Somebody hollered for an oxygen bottle. I went and
20 tried to hunt some oxygen and bring them back out and
21 put them where they could get them. By then the
22 ambulance showed up. We had to put a piece of curtain
23 out here, laid it on the ground. They used it --- we
24 tried everything. They used --- and one by one they
25 had laid them over here on this piece of curtain. The

1 three that were --- two of them had a pulse. The one
2 that made it all right, we set him down on a chair.
3 He wouldn't leave. Right here in front of the mine
4 office, wiped his face off. They put the two that had
5 a pulse in the ambulances and took off with them. By
6 then they done started getting a rescue team together.
7 It wasn't long, the rescue team got there and was
8 trying to get ready to go back in. I don't know who
9 --- I know Everett, he put his stuff --- as soon as it
10 happened and --- he put his stuff back on. I know he
11 went in. I don't know who else went in, but they
12 helped get the mantrip up there out. The boy that was
13 with him, he tried to put their air --- put their nose
14 clips on, the mouthpiece in their mouth. He done all
15 he could and tried to get the mantrip. And Everett
16 and them, I think, started to give them CPR and
17 mouth-to-mouth as soon as they got up there to them
18 and was trying to work with them all the way out. And
19 I tried to, you know, help them keep up with
20 everything.

21 We were --- what was tore off the men we put in
22 bags and took them upstairs. Put them in plastic bags
23 and took them up in the bath house and cleaned the
24 paper and stuff up while they was getting everything
25 set up. And everybody come up through there. And I

1 was trying to take care of the bathrooms and make sure
2 they had toilet paper out and make sure that
3 everything was working and kept the trash --- as
4 people mounted, trash built up, and I kept keeping
5 trash empty so --- and kept --- you know, anything
6 anybody needed, I tried to help them out there during
7 that night, trying to wonder, you know, if there's
8 anybody left up on 22 and longwall.

9 I trained those guys at Bonny. I trained them,
10 four or five of them at Bonny. They were red hats.
11 That's been what, 25, 30 years ago --- 25, 30 years?
12 Well, 25 years I've known them. And they were good.
13 They knew what their job was and they were good at it.
14 Something happened up there that caught them off guard
15 and caught them off guard quick. This was the end of
16 the shift. What could have happened next to the end
17 of the shift? Something happened at the end of the
18 shift. It was two minutes after 3:00. They were on
19 their way out. Something happened. I was making
20 friends with the younger ones, and there was one that
21 wore red underwear. The first day I jumped on him and
22 I told him he stole them off Santa Claus. And me and
23 him was becoming buddies. He worked, I think, 40 days
24 and then they put the brothers --- the ones that were
25 on the longwall with me that day. And if we would

1 have stayed up there, there would have been four in
2 that family killed. Tommy, he was a good worker. He
3 was a lineman. They put him with me to --- you know,
4 to get him on dayshift. He lost a son and older
5 brother. I seen him tearing stuff apart that evening.

6 Q. You about ready for a break?

7 SHORT BREAK TAKEN

8 BY MR. GODSEY:

9 Q. I want to clarify just a few little things here.
10 We talked earlier about the overcasts, you know, the
11 one that you worked on, the one they cut and the one
12 that they ---.

13 A. Uh-huh (yes).

14 Q. Can you point to one that you showed me that was
15 cut out with a miner, an overcast you worked on? Is
16 it Headgate 22?

17 A. No. Wait a minute. Wait a minute.

18 Q. Is it Headgate 22?

19 A. Yeah. Right here.

20 Q. You're saying that's the one at the mouth of
21 Headgate 22 in the connector between Headgate 22 and
22 the old 40 section?

23 A. See, they had to cut all this out for the next
24 Mother Drive and all that, and they went on down to
25 cut it, you know, pretty high all the way down through

1 here.

2 ATTORNEY FERGUSON:

3 Is that a track entry or a belt entry?

4 A. That's a belt entry. It would be like this right
5 here.

6 ATTORNEY FERGUSON:

7 Okay.

8 A. And see, you've got a storage unit that goes one
9 panel. It's got to be 12 foot high. I'd say 12 foot
10 high from the head all the way back to the end of the
11 storage unit. They went a little bit further here and
12 went all the way down overtop of the overcast.

13 ATTORNEY FERGUSON:

14 Towards the mouth of --- that's Headgate
15 22.

16 BY MR. GODSEY:

17 Q. Okay. Did you talk to those pumpers any time
18 since ---?

19 A. Yes. I talked to them one time.

20 Q. How did they say the water was in behind the
21 longwall?

22 A. I talked to him --- well, he was --- that night it
23 happened we was together and he was helping me keep up
24 with everything. And I asked him how was the air in
25 behind the wall coming out. He said it was like it

1 always had been. He'd come back up in here I think
2 four or five breaks and checked the air because they
3 had falls down through here and they wouldn't allow
4 nobody in there.

5 Q. Did he say anything about those pumps being down
6 or anything, the air pumps?

7 A. No. He didn't tell me, but he said they checked
8 all the way down to the fan.

9 ATTORNEY FERGUSON:

10 And what you're referring to where they
11 had falls was along ---?

12 A. That would be the headgate after it was mined, the
13 head --- the ---.

14 ATTORNEY FERGUSON:

15 But it was the tailgate ---?

16 A. The head part of the wall. This is the wall.
17 This is ---.

18 BY MR. GODSEY:

19 Q. Headgate Number One North?

20 A. Yeah.

21 ATTORNEY FERGUSON:

22 And down to the ---.

23 A. See, he had to check on this water and down here
24 next to the end. He had to check that. Every day he
25 worked he checked that water.

1 ATTORNEY FERGUSON:

2 And this is Headgate One North inby
3 toward Bandytown fan?

4 A. What I understood, that they couldn't walk this no
5 more, so they had to come around over here, come down
6 here.

7 ATTORNEY FERGUSON:

8 From Tailgate One North around ---

9 A. Yeah, and around and at least go up at least four
10 or five breaks and take air readings there, which I
11 say he had them. I'd say they asked for them and he
12 had them, because he kept a little tablet.

13 ATTORNEY FERGUSON:

14 And what was his name? Nickname?

15 A. I don't know his name. I know I talked to
16 him ---.

17 ATTORNEY FERGUSON:

18 On the 5th?

19 A. And I don't know his name.

20 ATTORNEY FERGUSON:

21 You talked to him on the 5th?

22 A. The day that it happened. No, the 6th. It would
23 be the next day, that evening.

24 BY MR. GODSEY:

25 Q. Now, with your knowledge of the mine and since

1 it's been down for over a month and the water --- what
2 would you think would be the water in the mines right
3 now? Where would you --- do you think it would be
4 flooded or ---?

5 A. It depends. This would be roofed out. I don't
6 know. They'd have to check the fan. I don't know if
7 the fan is even running. No one has told me about the
8 fan back here. I don't know if it's running or what
9 shape it's in. I couldn't tell you about there.

10 Q. Well, what about on the sections, on the tailgate
11 or the headgate?

12 A. They didn't look that bad on the sections, but you
13 don't know how far it will build up here and come up.
14 It depends on these pumps and --- I don't know. You
15 know, there's supposed to be air pumps back there, but
16 I don't know if there's any electrical pumps back
17 there.

18 Q. What about on the track, do you have any water on
19 the track?

20 A. Yeah, you'd have --- all the swags you'd have
21 water build up.

22 Q. How much could it --- quite a bit?

23 A. I don't think it would be that bad that --- you
24 could go over in one of the entries and get around it.
25 There's a couple places you may have three foot of

1 water on top of the track now.

2 Q. Okay.

3 A. Right there at the drift mouth of UBB, I'd say
4 there was at least a foot of water right there within
5 the first two breaks. But it shouldn't be all that
6 bad.

7 Q. Quick --- not quickly, but when you was up here on
8 Headgate 22, would you care to take us outside, how
9 you went, you traveled, the crew and stuff?

10 A. Where we left the scoop ---.

11 Q. The scoop?

12 A. Yeah. There's a scoop right here.

13 Q. At the mouth of Headgate 22?

14 A. Uh-huh (yes). We followed the motor crew. The
15 motor crew was in front of us. We come straight out.

16 ATTORNEY FERGUSON:

17 Down Seven North belt and Six North belt?

18 A. Yeah. Let's see. Seventy-eight (78) --- where's
19 78? Yeah. You had to call for a ride. I think we
20 called for a ride here, at the mouth of 22, and went
21 all the way to the 78 Break. And then we called from
22 78 Break to Ellis Switch and went to Ellis Switch ---
23 I mean --- yeah, went to Ellis Switch, and then we
24 stopped and put our ride on charge at Five Head, and
25 then rode with the pumper crew the rest of the way

1 out.

2 BY MR. GODSEY:

3 Q. So you came from here ---?

4 A. Seventy-eight (78).

5 Q. Seventy-eight (78).

6 A. Yeah. And we had to call again at the Ellis
7 Switch, there's a phone right there on the crib, to
8 get to Five Head. We got to Five Head. That's where
9 we seen the crew that was cutting overcasts up here
10 for this new section here.

11 ATTORNEY FERGUSON:

12 The track main? The crew coming from the
13 track main?

14 A. And we put our ride on charge at Five Head and
15 rode with the pumper crew to give the ride they had to
16 the dayshift longwall crew, 300 foot in Ellis.

17 MR. GODSEY:

18 That is all I have. Thank you.

19 EXAMINATION

20 BY MR. TUCKER:

21 Q. Mr. Plumley, I'm going to try not to repeat a lot
22 of what you've already been asked, but I'm going to be
23 bouncing around, trying to go back and touch on a few
24 points. So if I do, just forgive me. You mentioned
25 you followed the motor crew out?

1 A. Now, they --- at Ellis, they went towards UBB.

2 Q. Okay. So you ---?

3 A. We split up. I went to Ellis and then they went
4 to UBB side.

5 Q. Went to Ellis Switch?

6 A. Uh-huh (yes).

7 Q. Okay. When you came up on the ventilation doors
8 on the track, as you was following them out, how did
9 that work? Did they go through them and ---? Can you
10 explain to me how that worked?

11 A. They went and took their motor and I sent a man to
12 help them switch and close the doors as they went
13 through, and we stayed behind until they went through.
14 And I had a man with me to help me through the door.
15 So they open one, go through it, close it, open the
16 other one. You got four doors. You have to repeat it
17 four times.

18 Q. Okay. You did that --- coming all the way out
19 that day?

20 A. Yeah. I let one of the --- we got up behind them
21 at the doors. One man of the motor crew opened up.
22 I think they had two motors and one car, but he had a
23 --- he could fit in one door, but he couldn't fit in
24 the other. And I sent my man to help them get through
25 those doors, so we could get through them --- after

1 they left them, so we could get through them.

2 Q. Okay. You mentioned early on, when we was talking
3 about the air on the sections, that they were told if
4 you didn't have enough air, not to run. Who did you
5 hear tell the bosses not to run unless they had enough
6 air?

7 A. I've heard it several times. I heard it from the
8 --- from different people. And they had to have, I
9 think --- I done forgot how much it was, 16,000 cubic
10 feet behind the line curtain or the --- I forgot what
11 it was. It seems like to me 16 --- but anyway, I've
12 heard them tell them that and I've heard the men talk
13 to the boss or the boss talking to the men. If they
14 didn't have it, they couldn't bolt. If you didn't
15 have the proper air, they couldn't bolt or couldn't
16 start the miner up. And they preached on that until
17 last --- since January. They preached on that since
18 January. I've heard it more than once. Dino, I
19 worked behind him.

20 Q. Who's Dino?

21 A. He was the boss at 22 section. He's been through
22 a lot and he knew how to handle different situations.
23 He was probably the best section boss I have ever
24 seen. Head was a good --- I know he's seen a lot and
25 he's dealt with a lot. Both of those bosses on the

1 driving sections, you couldn't ask for any better ---
2 you know, they knew if they didn't supposed to run,
3 they would shut down.

4 Q. So if they did shut down, do you think they had
5 been pressured to get back in the coal if they ---?

6 A. They would tell them to go find the problem and
7 fix it and then get back in the coal.

8 Q. All right.

9 A. You know, if you take Dino and Head, they had more
10 experience running the section than anybody, you know,
11 that I know at that mines.

12 Q. Okay. It sounds like you spent a lot of time down
13 around the mouth of 22 Headgate. When you first start
14 toward 22 Tailgate here, the MMU-040 section, this
15 area here in the Number Two entry is designated as a
16 fall.

17 A. Uh-huh (yes).

18 Q. Have you been to that fall?

19 A. I've laid track overtop of it. There's track
20 overtop of it now.

21 Q. There's track laid overtop of this?

22 A. Uh-huh (yes).

23 Q. It looks like almost a two-break ---

24 A. Yeah.

25 Q. --- fall. It's almost two breaks, yeah. There's

1 track overtop of it now.

2 Q. Okay. So they, apparently, cleaned it up and
3 bolted and ramped up on it?

4 A. Well, they put --- ramped up on it, bolted it,
5 made enough height where I could lay track through
6 there.

7 Q. Okay. On the 22 Headgate section, do you know if
8 they had a battery-powered ride up there that they
9 could use for a mantrip?

10 A. They had an emergency ride up there.

11 Q. That would haul the entire crew?

12 A. No. It won't haul the entire crew, no. But it
13 was an emergency ride three-wheeler.

14 Q. Okay.

15 A. Because they were down one time and they had to
16 get a rear end or a wheel for it or two wheels for it.
17 But I know there's a ride up there. They called it an
18 emergency ride, but it's a three-wheeler. And I was
19 trying to close the section, the gap, and I think
20 there was --- I don't know how far it was, but I know
21 I was getting closer and then we ran out of rails.
22 Didn't have any more rails to take up there.

23 Q. Up toward the end of the track on 22 Headgate,

24 A. It looked ---.

25 Q. --- was that ---?

1 A. It looked good. It looked --- I see things that
2 other people don't see. And one thing I see is the
3 height and bottom. But it didn't look too bad. And
4 it needed dusted, but it didn't look that bad. You
5 know, it wasn't that dark.

6 Q. Was there any waterholes up through there?

7 A. Yeah. There was two. We went through one and was
8 getting ready to go through another one. I was right
9 at the edge of another one there.

10 Q. I know --- I mean, it's real obvious you take
11 great pride in your work, in being a good trackman.
12 Do you feel like that you've been given ample time to
13 lay the track in a manner that would meet your
14 standards and be given the equipment to block it, to
15 ballast it and that type of thing?

16 A. Well, I only had two men and we had been busy and
17 we had just started trying to reinforce it with wooden
18 ties. I would probably need more help to get it
19 blocked the way I'd want. Because if I would have had
20 to --- normally, if I had my stuff and three men to
21 lay, I can catch --- I could have caught them and
22 about another week I would have been right behind
23 them.

24 Q. So it's behind a little bit up on the 22 Headgate?

25 A. Oh, yeah. Yeah, it's --- it's either, I think, 15

1 or 16 breaks behind, but we was closing the gap but we
2 run out of rails. But you need more than the laying
3 crew. You need a blocking crew. And I tried to get
4 --- and in the past we did try, but whoever was free,
5 hey, I'd take them with me.

6 Q. Do you have very much pressure put on you as far
7 as to get more track laid, to get caught up?

8 A. Well, it seemed like I was running out of stuff
9 more. I never had enough stuff to work with. It
10 seemed like I would lay it quicker than what they'd
11 get to me. You'd order stuff, it may take two weeks
12 to get it.

13 Q. So a lot of times you was waiting on supplies and
14 couldn't be laying track, so you'd get farther and
15 farther behind?

16 A. Yeah. Well, we was getting --- the rail that we
17 laid there, I think, we retrieved. And I don't know
18 where we retrieved it at, but I know we retrieved some
19 so we could have some to lay. And we was getting
20 ready to go down here on the Number One section, the
21 tailgate of the wall, and start pulling some more
22 track out.

23 Q. So the day of the explosion, you were up around
24 the mantrip on 22 Headgate; is that correct?

25 A. We were up there and laid ties into the --- all

1 three of the high voltage. I always tell my men to
2 lay them to the offside and stand them up. You get
3 anybody else to go up there, they'll lay them down.
4 Always stand them up so people can see them, so they
5 won't trip over them. We laid about 60-some ties
6 there, although we didn't lay them, we stood them up
7 right in front of the mantrip, on the offside of the
8 high voltage ---.

9 Q. Did you notice anything at all out of the way
10 about the mantrip as far as smelling anything, like
11 maybe, say, electrical wire getting hot, anything at
12 all out of the way?

13 A. I think the power was knocked on it. And we
14 didn't move it that day. Normally, you know, when we
15 lay we switch them out. But that day, we went up to
16 the mantrip. We did not touch it, move it or nothing.
17 I think the power was knocked on it because I didn't
18 see no lights.

19 Q. Okay. Let's back up to the scoop. You all went
20 over to the scoop and it was in the return entry, and
21 you tried to move it. So you were able to start it.
22 It just wouldn't tram; is that correct?

23 A. It wouldn't tram forward or backwards. The boy
24 that was with me, we tried --- and he trammed it up to
25 that point. And then when we shut it off and poured

1 it with oil and then started back up, it would not
2 tram. And then even I got in it and I tried to tram
3 it, and it would not move backwards or forwards.
4 There was a switch that they hadn't replaced that
5 morning in the panel box. When it got hot, it
6 spreaded and wouldn't make contact, and it was still
7 outside. We would have went up two breaks, moved
8 rock, got the sled out, brought it back, we'd have
9 went through the doors and loaded it on the flat car
10 to the motormen, and it would have been probably
11 almost four o'clock the time we would have started out
12 of there.

13 Q. So while you were around the scoop right there at
14 the last before you left, I mean, you trammed it for a
15 couple breaks and then when you put oil in it
16 apparently it got hot and then it wouldn't tram. You
17 said they had a part ordered for it, but it came in
18 late. So did you smell anything out of the way around
19 the scoop? Could you tell where something ---?

20 A. No. I put the bucket down. I was in the --- I
21 was the last one in the scoop. I put the bucket down.
22 It's facing towards the outside. The batteries are
23 towards the section. I put the scoop bucket down and
24 I made sure the breaker was knocked before I left.
25 And I made sure both doors were good and tight and

1 shut. I think we laid a rock up against that outer
2 door and made sure it stayed shut. I know we laid a
3 rock on one of them, because I don't like those supply
4 doors. I like them, but they need to be maintained.
5 If you build one and it's tilted the wrong way, those
6 doors will crack open. They ought to come up with a
7 better system than what they had to keep them shut.

8 Q. At any time throughout the day did you notice any
9 type of burning sensation to your eyes, any ---?

10 A. It was an unusual, quiet day. There was no ---
11 other than Head, him checking that belt head, it was a
12 quiet day. No one come in there until we took the
13 bridles up and put them up there next to the mantrip
14 on the section. We come back, there was a motor crew
15 unloading supplies. Those is the only ones we seen
16 other than Head's crew, the two men that was with him
17 and the motor crew, and it was unusually quiet, nobody
18 running back and forth. It was an unusually quiet
19 day.

20 Q. And I'll ask the question. I know you haven't
21 mentioned anything about it, but you didn't do any
22 cutting that day or anything?

23 A. No. Normally, like a switch or taking rails out
24 like I do them now, after two years you can't take the
25 bolts off --- usually off the track. You've got to

1 cut them off. And normally I'm pretty good with a
2 torch, cutting bolts and cutting switches and laying
3 switches. But that day we did not use --- I didn't
4 even have them with me. They were in my box. So we
5 did not do --- I wanted to strengthen the track and
6 start blocking it because it hadn't been blocked very
7 good down through there, just enough to lay it.

8 Q. You say you didn't have your tanks with you. Did
9 you notice any up around the end of the track or any
10 laying up in that area?

11 A. There might have been a couple at the head, at the
12 Mother Drive, right in this area there might have
13 been, but I couldn't tell you for sure.

14 Q. Okay. And you were talking about the Mother Drive
15 area at the mouth of 22 Headgate, ---

16 A. Yeah.

17 Q. --- is that what you're talking about?

18 A. Uh-huh (yes). Let's see. There might have been
19 tanks --- there might have been two tanks right here
20 on this back switch where you go in this way. There
21 might have been two tanks. I'm not sure.

22 Q. Right there at the crossover?

23 A. A switch where you --- yeah, where you turn back,
24 a back switch. There might have been two tanks right
25 there, but I couldn't tell you for sure.

1 Q. Okay.

2 A. See, we had put this switch in and put this track
3 up through here and started laying that way within a
4 week-and-a-half.

5 Q. Okay. And you mentioned earlier about Mr. Elswick
6 coming by. He was getting ready to start his fire
7 boss run. He was in a hurry. And you mentioned
8 something about talking, and he said he had to do ---.

9 A. I said, do you want to sit down and talk a minute.
10 He looked at me, took his glasses off and wiped them.
11 And he hadn't been back but two or three days. And I
12 knowed him before, when he was there before. He said,
13 no. I better go on and start my run. That's all he
14 said.

15 Q. So he didn't comment anything about his eyes
16 bothering him, burning or anything?

17 A. At that time I'd say his eyes --- I'd say we was
18 the last one to see. He didn't look like anything was
19 wrong. You know, he had to go start making his fire
20 boss run.

21 Q. So when you all started out, you know, you spotted
22 the motor crew, you all didn't see anybody on your way
23 out that you --- once you left ---

24 A. No.

25 Q. --- 22 Headgate?

1 A. No. We seen him as a fire boss. No, I didn't pay
2 any attention if he was sitting there or not. I don't
3 know if he was there at the head or not because I
4 didn't pay any attention. He had been over here ---
5 he had been over here at this head, at the longwall
6 Mother Drive.

7 Q. You're saying that's where he should have been,
8 but do you recall ---

9 A. I don't know.

10 Q. --- seeing a light or anything when you went by?

11 A. Usually we see somebody there, a fire boss there,
12 but I don't know if he was there sitting where the
13 other ones sit at. See, they rotate. I don't know if
14 I seen him there or not. I know I noticed the belt
15 running and it was dusty right there around --- to me,
16 you know, it was dusty, in the air.

17 Q. In suspension?

18 A. Yeah, because of the belt running. But I don't
19 know if he was there at that head or not. I couldn't
20 tell you for sure.

21 Q. You mean he had only been back a couple days, that
22 he came from a different mines or they just hired him
23 or ---?

24 A. I don't know if he come back from a different
25 mines or was laid off and they called him back. I

1 don't know for sure. You would have to check with the
2 company about that.

3 Q. You mentioned. I know you have men. They give
4 you men that work for you. Basically you direct them
5 and train them ---

6 A. Train them. Mostly ---.

7 Q. --- to help you lay track. Are you salary or
8 hourly?

9 A. I'm salary. I'm different than the regular salary
10 people, though. It started at Stotesbury and then it
11 went on to Bonny and everyplace I worked I bossed
12 under the mine foreman's papers. He's responsible for
13 my actions and responsible, you know, and I've worked
14 like that all my life. I'm more or less a pusher, but
15 I work with the men. I do the same thing they do. I
16 know how tired they get, how weary they get. I work
17 with the men and I try to show them --- most of the
18 time I'll have a man anywhere from a few days to six
19 months, sometimes a year, and then they'll rotate them
20 out. How's he --- they'll come and ask you, is he
21 section material or outby material? Does he want to
22 learn? You know, they ask me questions like that, and
23 I tell them. There's been two or three people that I
24 didn't recommend for a section. One had a plate in
25 his head and he couldn't keep focused over two hours,

1 and I had to --- him took to the hoot owl and let
2 another boss check him out, and they found the same
3 thing I found. He wouldn't stay focused for two
4 hours. I liked the boy. I felt sorry for him. But I
5 was afraid he'd get hurt if he was turned loose on a
6 section. And most of the time there'd be somebody
7 that you'd let go because they wouldn't show up for
8 work. Someone misses two and three days a week every
9 week for two or three weeks, they don't want somebody
10 like that. So most of the time they'll get rid of
11 people on absenteeism. That's the first thing they'll
12 get rid of you on, if you miss a lot of work.

13 Now, most men that had problems in the past I've
14 worked with, they --- the company will see that, you
15 know, if something went wrong, they would work with
16 them. Most of the people I've known, they worked with
17 them. And I know when my dad died a couple years ago,
18 instead of three days off, they told me I could take
19 as much time as I wanted off. And you know, if you
20 come for a good reason, they'll work with you on
21 getting you time off, many of the people that I, you
22 know, know.

23 Q. Do you have a radio as part of the tracking
24 communication system?

25 A. Uh-huh (yes).

1 Q. You mentioned about that sometimes you'd hear
2 about it being a cloudy day. Have you heard that
3 since you got your own personal radio? Has it come
4 across that radio?

5 A. No. No. It would be through the wall phone.

6 Q. Through the wall phones?

7 A. Yeah. Most of the time we don't --- we have our
8 radios, but we don't --- are not around a phone, a
9 wall phone.

10 Q. Okay. I'm almost finished. You mentioned that
11 Mr. Elswick came by. I can't recall if you noted what
12 time it was when he came by?

13 A. It was between 12:00 and 1:00. I don't know for
14 sure, but it was between 12:00 and 1:00.

15 Q. Okay. And what time did you say you started out
16 from 22 Headgate?

17 A. We got --- put up our tool at --- took us roughly
18 20 minutes to get outside, and that was about three
19 o'clock, so 2:40. 2:40, 2:30, 2:40, somewhere around
20 in there when we --- probably 2:30 when we started
21 outside from 22 section.

22 Q. You mentioned you parked the ride and put it on
23 charge at Five Head?

24 A. Five Head. There's two chargers at Five Head, and
25 we put two mantrips.

1 Q. Is there any reason you stopped there and don't go
2 on outside?

3 A. Well, we were told not to bring our ride because
4 it will be in front. Our Jeep is an open-end Jeep,
5 and it will be in front of the mantrips, section
6 mantrips. They could not take our Jeep, and then it
7 would block them from going to the section.

8 Q. So they don't have a switch-out place outside?

9 A. They had --- there's a switch-out place, but they
10 didn't want us to put our Jeep in our way, so we had
11 to keep a track ---.

12 Q. Was that every day?

13 A. Every day.

14 Q. So a lot of times you'd walk out from Five Head
15 or ---?

16 A. Sometimes. And sometimes we'd take our tools down
17 and drop them off, take the Jeep back, put it up and
18 then walk back out. Most of the time that's the way
19 it worked.

20 Q. Did they have enough rides to go around?

21 Sometimes a ride's a problem?

22 A. If one breaks down or something, it may become a
23 problem. Most of the time, you know, communications.
24 If someone knows, and then they'll bring one from the
25 other side over through the mountain and somehow pick

1 them up and take them back. So communications is the
2 key on your rides. Communications is the key on your
3 rides. Communication is the key on anything. I like
4 to know as much as I can about everything about
5 anything happening, but you know, I keep my ears open
6 and stuff, but a lot of times you don't, you know, you
7 don't know.

8 Q. How do you usually lay your rail? Do you have a
9 rail truck that you spread your rails or do you use a
10 scoop to drag them?

11 A. I have a rail truck and use pull/push. Pull one
12 off, push it up. Take a bar, roll it over in place,
13 but you --- you have to lay one rail and get your
14 bridles that your --- there should be 12 bridles to a
15 33-foot rail. You put six bridles on a half a rail.
16 You put them next to the plates, 15 inches from the
17 plates. In case the bolts come out of a plate, you
18 got that bridle holding that in place, and you may
19 have enough time to put bolts back in that plate
20 before someone wrecks on it. I keep my bridles next
21 to the plates on both sides, especially --- and then
22 you pull rail off on those bridles, you roll it over,
23 you lug it. While two men are lugging, one man
24 putting the bolts in, do the process all over again.
25 It takes --- usually you can do it without any

1 trouble. Every 12 minutes you're laying a rail,
2 33-foot rail. It can be 85 or 60. It don't matter.

3 Q. You mentioned --- I just got a couple more
4 questions. You mentioned when you got outside
5 somebody told you to write a paragraph about what had
6 happened. Do you recall who asked you to do that?

7 A. I think it was one of the safety men. Safety men
8 --- one of the safety men, I think.

9 Q. Would that have been a company safety man?

10 A. Uh-huh (yes).

11 MR. GODSEY:

12 Was it Berman Cornett?

13 A. I think it was Berman.

14 BY MR. TUCKER:

15 Q. Is that who received them after everybody took
16 them? Do you know who got them after ---?

17 A. They went up and was put in the office, so I don't
18 know who got them.

19 Q. So just everybody on the surface that wrote ---?

20 A. Yeah. They told him, you know, tried to describe
21 what happened.

22 Q. Okay.

23 MR. TUCKER:

24 That's all I have for now. Appreciate
25 it.

1 EXAMINATION

2 BY MR. MCGINLEY:

3 Q. I'll try to be as brief as I can and not go over
4 the same areas that have been covered, except I'll ask
5 some questions to clarify some of the things. You
6 said the lawyers from the company interviewed you?

7 A. Yeah.

8 Q. Do you recall, approximately, when that took
9 place, just roughly?

10 A. A week or so after --- I'd say a week or so after.
11 It was before I was sent to Logan's Fork.

12 Q. Where did the interview with the lawyers ---?

13 A. At the mine office --- it was at Logan's Fork.
14 They interviewed me at Logan's Fork, so I was already
15 moved to Logan's Fork. So it's been about two weeks
16 ago. Instead of three, it's been about two weeks ago.

17 Q. Was anyone in the room other than you and the
18 lawyers?

19 A. Just two lawyers and me. I told him practically
20 where I thought everybody was at and what happened,
21 and --- about the same thing I told you all.

22 Q. Did their questioning last as long as ours?

23 A. No.

24 Q. Nowhere near it or close to it?

25 A. No. It was about an hour long. And then the FBI,

1 they called me up and told my wife, I know where you
2 live, and made her hot, so I had to go meet them
3 instead of them coming to the house. And she didn't
4 like the young boy, but they were two nice young
5 gentlemen. They had a questionnaire and they more or
6 less --- about like you all. I had to explain to them
7 how a longwall section worked, how they got the coal
8 out, how much coal they was getting out, more or less
9 how --- tell them how to mine. They didn't know
10 nothing about mining. And I was with them three hours
11 and told them basically the same thing I told you all.
12 And they were perfectly good gentlemen. I was
13 surprised.

14 Q. The company lawyers, did they talk to you at all
15 about you're going to be interviewed by either this
16 group or anyone else?

17 A. Yes. They told me that there would be people
18 wanting to interview me or talk to me and, you know,
19 tell them the truth if you want to talk to them, but
20 --- the FBI kind of scared me. But after I met the
21 boys, they were fine boys, so ---. You tell the truth
22 and, you know, what you know. A lot of stuff --- you
23 know, I was mostly told where to lay track and stuff,
24 and a lot of the other stuff about the mines, they ---
25 you know, that's upper --- higher management, so I was

1 not included in a lot of stuff.

2 Q. Do you know anything about the hotline that the
3 company's ---?

4 A. Yeah. They got it on all the boards. Where you
5 call the company?

6 Q. Uh-huh (yes).

7 A. Yeah, it's posted everywhere.

8 Q. What's the purpose of the hotline; do you know?

9 A. Anything --- well, it was told by --- anything
10 that the company needed to know, anybody stealing, any
11 problems with anything, call the hotline.

12 Q. Did that include problems with concerns about
13 safety?

14 A. Yeah. Well, the safety man, Berman. I know
15 Berman. I worked for him. And most of the men, if
16 they had a safety issue, they went to Berman.

17 Q. Right.

18 A. And Berman, he would, you know, find out things
19 for the men. If you was concerned about something, he
20 would find it out or ---.

21 Q. So the hotline was not ---?

22 A. Not really, because you had channels to go through
23 before then. You know, like if you had a problem ---
24 like if I have a problem, first I talk to whoever I
25 have that problem with, and then I go to the mine

1 foreman or the safety man.

2 Q. And do you ---?

3 A. I've never --- I never --- I've only had one
4 problem with one boss, and that was at Rush Branch,
5 setting timbers. And I didn't like that boss, but
6 that was the reason, he didn't give me my timbers to
7 pillar. I needed them. But other than that, I've
8 worked with a lot of bosses. They'd be harsh at
9 times, but you got to look at what they go through. I
10 put myself in their shoes, and I tried to, you know,
11 help them as much as --- that's why I'm there. I'm
12 there to help the --- plus put in track. I'm there
13 --- anything they need. Cleaning toilets to run the
14 end-loader to --- anything, you know, I feel like I'm
15 supposed to do to help whoever needs help. Like any
16 man there, if they come to the track and say, I need
17 some help with this or that, we help them.

18 Q. Donald Keller, ---

19 A. Oh, yeah.

20 Q. --- he's the acting superintendent of where you're
21 working now, Logan's Fork.

22 A. Uh-huh (yes).

23 Q. Did he --- was he at ---?

24 A. Upper Big Branch, yes, he was.

25 Q. And how long was --- do you have any sense of when

1 he went over to ---?

2 A. He's been over there about four or five years.

3 Q. So you knew him quite a while ago?

4 A. Yeah. Yeah. He's a good man, but he gets too
5 excited and very destructive.

6 Q. Okay. You've been at the --- you were at the UBB
7 since 1994, ---

8 A. Uh-huh (yes).

9 Q. --- but yet there is some period that you ---?

10 A. They would send me to other companies. I went to
11 about everything on Route 3 at one time or another.

12 Q. So 2003/2004, were you at --- do you recall
13 whether you were at UBB?

14 A. 2003? Oh, yeah.

15 Q. Do you remember when there was --- there were a
16 couple incidents with methane bursts coming up out of
17 the ---?

18 A. Well, the longwall --- on the longwall?

19 Q. Right.

20 A. They had gas on the longwall, and we shut down ---
21 we shut down --- I don't know how long we shut --- two
22 or three days, wasn't it?

23 Q. Was it a couple times once in the summer of 2003
24 and maybe once in the winter of 2004? Does that ring
25 a bell?

1 A. I know that instance, I think we was down three
2 days. And there's been a time or two that, you know,
3 that either --- that instance, yeah, I remember that.
4 And that was on Headgate 12, I think.

5 Q. You mentioned that --- a couple of times about the
6 other side, the problems they had. For the record,
7 what did you mean?

8 A. Upper Big Branch towards this side. MRS, that's
9 the section, MRS section. That was the first section
10 that was drove, MRS. I remember now.

11 Q. Okay.

12 A. I think they had 12 sections on this side,
13 longwall sections. When I come back, when I started
14 at UBB, I went up on Three section and Four section
15 while they were up in here, finishing --- getting some
16 more coal, but then they sent me to Ellis and I was
17 told --- from Ellis Switch, my side, this side, they
18 got somebody else to do stuff.

19 Q. Okay. So you said that there was some floor
20 heaving on the other side.

21 A. Huh?

22 Q. You said there was some floor heaving on the other
23 side.

24 A. That would have been towards --- this is only half
25 of the mines.

1 Q. Right.

2 A. When we mined outside the --- what is that called?

3 I can't think about what --- where we punched out down
4 here.

5 Q. That would be what direction, south, north?

6 A. I'm trying to think.

7 ATTORNEY FERGUSON:

8 You know, take the map just
9 literally ---.

10 A. Yeah. All this here.

11 ATTORNEY FERGUSON:

12 Ellis is north?

13 A. Yeah.

14 ATTORNEY FERGUSON:

15 The witness is talking about ---

16 A. South.

17 ATTORNEY FERGUSON:

18 --- due south?

19 A. Yeah. All this was mined out, but over here we
20 had the --- we drove one track. Two weeks after we
21 put it in we had to take it back out. We had to
22 crawl, put a road to it, tore the rails out. It
23 hooved eight foot up in this area right here. There
24 was so much pressure on the mountain, but that was a
25 few years ago.

1 BY MR. MCGINLEY:

2 Q. Was there any release of gas or concerns about
3 methane?

4 A. No. Even the top shifted on one of these sections
5 up in here. The top shifted and the bolts went
6 underneath the coal. That was around Headgate 11, 12,
7 13, somewhere like it. You could go and look at the
8 bolts. And bolts are normally three to four foot out
9 from the rib. These bolts was up next to the coal.
10 Where the top shifted, we had to change the cribs.
11 Cribs would be leaning like at an angle. We had to
12 tear them down and straighten them back up.

13 Q. A couple of times you were asked about people
14 complaining about air and if miners had told the boss
15 there was not enough air, to shut the section down.

16 A. The boss --- those two bosses would.

17 Q. Why were they saying that? Were they
18 concerned ---?

19 A. The company told them if they didn't have the air,
20 to shut down. If they didn't have the air and the men
21 knew about it, they would shut the section down.
22 They'd cut their machine. I know some miner
23 operators, roof bolters, if they didn't have air in
24 there, they would shut the machine down itself,
25 especially on those two sections.

1 ATTORNEY FERGUSON:

2 Did the bosses tell the miners to shut it

3 down if they didn't have the air, or did the miners

4 tell the bosses they were going to shut it down?

5 A. Most miner men I know, if they ain't got the air

6 or if they got too much gas, they'll shut it down and

7 then they'll tell the boss. Those --- 22 and Head,

8 those men would tell Head if something was wrong. The

9 ones on 22 section, if something was wrong, they would

10 tell Dino, you know.

11 BY MR. MCGINLEY:

12 Q. So do you know that they actually told ---?

13 A. Yeah. You know, you got to know Boone Payne.

14 He's big and he's loud. If something wasn't right,

15 he'd go and pull the power on the --- he'd go hit the

16 panic bar on the back of a power box, and then he'd

17 take it up ---.

18 Q. What section ---?

19 A. Twenty-two (22) section. Those boys worked with

20 those bosses for a long time. And if something went

21 wrong, they would have shut the power off that

22 section. They would have went back and they would

23 have completely shut the power off that section.

24 Q. They told you that they had done that on a number

25 of ---?

1 A. You know, I know one or two guys told me they went
2 and shut the power down or, you know ---. You got to
3 know those men that was on 22.

4 Q. They did it because there wasn't adequate air?

5 A. It was either gas or not enough air. But that's
6 been a long time ago. I don't know if they had any
7 problems.

8 Q. Well, how about the 22 section?

9 A. Since they've been driving that section, I don't
10 know.

11 Q. But that's the time period you're talking about on
12 the 22 section?

13 A. I'm saying if there was anything wrong and the men
14 felt there was something wrong, they would have took
15 care of it. They would have knocked the power. They
16 wouldn't have went through the boss. If they thought
17 it was unsafe, they would have made it safe or knocked
18 the power and then told Dino.

19 Q. I understand that, but I'm just trying to get the
20 time frame.

21 A. Yeah.

22 Q. I think you said they told you they did do that on
23 22 ---.

24 A. But I don't know if they done it on this section.
25 I don't know. I couldn't tell you. I know they've

1 done it in the past.

2 Q. When did they tell you that?

3 A. I know from experience.

4 Q. No, no, no. I mean, do you recall when they told
5 you?

6 A. No.

7 Q. Was it ten years ago? Was it ten months ago? Do
8 you have any sense of time?

9 A. Well, most of the men I know would automatically
10 do it. I would.

11 Q. Yeah. But you said they told you they had done
12 it. Do you have any sense of the ---?

13 A. I know they're like me. If they felt it was
14 unsafe, they would have knocked the power. They
15 would. I couldn't tell you --- I know of --- know
16 they've done it. I know they did, and I know Dino and
17 I know Head, and if they felt their men were unsafe,
18 they would have done it.

19 Q. Right. Just for the record, you used the term
20 swag. Most of us understand that, but what do you
21 mean by it?

22 A. The swag is a low place between the two humps.

23 Q. You said at one point, I'm always scared about the
24 section not having air.

25 A. Not at UBB, at Bonny.

1 Q. So you're not ---?

2 A. Bonny, you got --- you got to look. Bonny was a
3 hot mines.

4 Q. Okay.

5 A. Everybody knew it was hot.

6 Q. So you're not always scared. You were only scared
7 at Bonny?

8 A. More or less I dreamed about that place blowing
9 up. I never did dream about Upper Big Branch blowing
10 up.

11 Q. So you ---?

12 A. If you would have told me two weeks ago or two
13 weeks prior, I would have told you never, not in a
14 hundred years.

15 Q. But to clarify, when you said I'm always scared
16 about the section not having air, you were talking
17 about Bonny?

18 A. No, not at UBB, Bonny. Bonny had to have a lot of
19 air, and you had to brace the curtains in the ribs.
20 You had to put timbers and then brace it to hold it
21 away from it.

22 Q. Okay.

23 A. We had to have a lot of air down there at that
24 mines.

25 Q. That was never a concern at Upper Big Branch?

1 A. To me, no. To me, I was never concerned about it.

2 Q. But there were others that were concerned?

3 A. There probably were. I don't know. See, I'm on
4 the track entry.

5 Q. Sure.

6 A. I ain't over in ---.

7 Q. Let me ask you about the shifts. Can you --- what
8 was the timing of the shift changes? We've heard a
9 couple of different ---.

10 A. It depends where you're at and --- like Dino was
11 30 minutes later than the tailgate section.

12 Twenty-two (22) section came out 30 minutes later.

13 Q. Than?

14 A. This section, the tailgate section.

15 Q. Okay.

16 A. The longwall worked 12-hour shifts, and they
17 rotated.

18 Q. When would they go in and out?

19 A. Usually everybody went in at 6:00. They would
20 come out at 3:00 and 3:30, 4:00. The longwall would
21 come out 4:00 and ---. And our time was from 5:30 to
22 2:30, but we always usually worked 3:30. So most of
23 the time something happened, we had to go do
24 something, we worked an hour over almost every day.

25 Q. When you say the longwall would come out at 4:00,

1 do you mean be out or leave the face?

2 A. Be out by 4:00. They'd leave --- I don't know
3 what time they left, but usually they were out by
4 4:00. They would work 12 hours.

5 Q. Okay. So they would be leaving ---?

6 A. They worked 12 hours. They worked
7 nine-and-a-half.

8 Q. Okay. The folks on the longwall, they would be
9 leaving about when in the afternoon to get out at
10 4:00?

11 A. It depends if they switch out at the face. See,
12 they're supposed to hot seat. That's when you come in
13 and they'll be running and you just take the one's
14 place that's there, that's running the shearer. And I
15 don't know really what time they'd leave, really. I
16 know they come out around 4:00.

17 Q. Okay.

18 A. They was outside around 4:00.

19 Q. You said with regard to Mr. Blanchard, you can ---
20 he's young and he's got a lot of book learning. You
21 said you can work with anyone.

22 A. I can work with about anybody.

23 Q. So he was young and he had a lot of book learning.
24 There were some folks there that you worked with that
25 maybe can't work with everybody. There were some

1 problems there.

2 A. Everybody's different. I've worked under eight,
3 nine superintendents, probably more than that.

4 Q. You can work with anybody.

5 A. At this mines. I like for them to keep me
6 informed ahead of time. I don't like for them to
7 spring something one day and expect me to be ready the
8 next day.

9 Q. That was the big change from when you came back to
10 UBB?

11 A. Yeah. It was more --- give me a little time to
12 get ready, you know. If you give me time, I'll have
13 it ready.

14 Q. What's an example of when you were at UBB and they
15 were giving you time on something --- they gave you
16 time to prepare for and not giving you time to prepare
17 for?

18 A. A lot of times before I come back, they let me
19 know a month ahead of time where they wanted a switch.

20 Q. Okay.

21 A. Rib, if you got enough room in a rib, clean it.
22 Have a switch ready to go in. Sometime during that
23 time you can put the switch in before the section even
24 gets there and have it ready and have --- ready to put
25 the curves made up and ready so when they start the

1 section two or three days after they get developing in
2 there you can have your curve in.

3 Q. That's the way you like to work?

4 A. Yeah, that's the way I like to work, when I have
5 time to do what I need to do beforehand.

6 Q. Okay. What's an example where you came back ---?

7 A. Go put a switch in here and they ain't even got
8 one ready or got to clean up. But you explain to
9 them, they agree, but we wish we had it in there
10 yesterday.

11 Q. When you say they, who ---?

12 A. Whoever is over me.

13 Q. Okay. And is that more of a general problem, not
14 just with you but when you're talking to the other
15 guys, the communication is not as good as it was?

16 A. I don't think the communication is slowed down to
17 where even among the people, the ones that work
18 together, I think they should take more time to
19 communicate and explain.

20 Q. Do you see any safety problems that come up when
21 there's a lack of good communication and lack of plan?

22 A. I fussed with the safety at the retraining the day
23 we had retraining. I told him something wasn't right.

24 I don't know what it is, but something ain't right.

25 Me and him kind of argued for a few minutes, but you

1 can sense something wasn't right.

2 Q. When was that?

3 A. A month ago.

4 Q. Before the --- a month before the explosion?

5 A. Uh-huh (yes). Three or four weeks before the
6 explosion. And he asked me what I thought the problem
7 was, and I told him I didn't know.

8 ATTORNEY FERGUSON:

9 Was that Berman?

10 A. No. This is ---

11 ATTORNEY FERGUSON:

12 Who was it?

13 A. --- the one on the evening shift. He's a good
14 man, but you --- it wasn't Berman, but it's the one
15 that works with Berman. He mostly comes to the
16 evening shift. But if it was Berman, I would have
17 told him the same thing. I told him there's
18 something --- the communication was not there when I
19 went back. I was done lost. The communication wasn't
20 the same as it was before I left.

21 BY MR. MCGINLEY:

22 Q. You thought that was a safety problem?

23 A. I think it could be because usually --- on all the
24 other panels we done in that mines, you knew what to
25 do. This was, we don't know what we're going to do

1 today, but we're going to do something. But before
2 you knew the setup. All those panels we done before,
3 you knew what you was going to do beforehand. Seemed
4 like they lost it.

5 Q. You said they had two air changes in the last six
6 months with MSHA.

7 A. With --- I don't know how MSHA --- I don't know if
8 it was MSHA or did they put in a --- I don't know how
9 it works. I don't know if they put in a plan and MSHA
10 says, okay, we'll go with that or you're free to go
11 with that. I don't know really how it works. I know
12 MSHA's got to approve it.

13 Q. Right. So I just wanted to clarify that.

14 A. MSHA's got to approve the --- any changes and ---
15 I'm old-fashioned, but I would have never --- I would
16 have never put that section there.

17 Q. When you're referring there ---.

18 A. The old main section. My opinion, I wouldn't have
19 put it. As far back as they was, I would have left
20 that wall come out, stopped the wall and then drove
21 that up. I would not have put that section right
22 there.

23 Q. What section are you talking about?

24 A. The old main section for a new tailgate.

25 Q. Are you talking about 22 Tailgate?

1 A. No. The tailgate section there, I wouldn't have
2 put that there. If I run that mines, that section
3 wouldn't have been there.

4 Q. Why is that?

5 A. When they started that wall, they should have
6 cribbed all the way up through there. They wouldn't
7 have had no falls. You would have cribbed all the way
8 up in front of the wall as it moved out. You would
9 have kept that entry open at all costs. You would
10 have put four or five ribs in a break and double lined
11 cribs up through there every four foot.

12 Q. Why do you think they didn't do that? Do you have
13 any sense of that?

14 A. I know they cribbed over here on the tail, over
15 here, but I don't know why they didn't crib that up.
16 Maybe they thought the bolts will hold or --- I don't
17 know, but I would have cribbed that up. I wouldn't
18 have had that there. I wouldn't have had that there.
19 We had crawled up on top of falls before on one of the
20 sections. I think it was right down here, in this
21 section. A long time ago, when they first had that
22 section, had five or six falls. Well, they didn't
23 have two ways off a wall.

24 Q. That's the --- you're pointing there to the
25 mined-out section at the bottom of ---?

1 A. That's been a long time ago. That's been a long
2 time ago. We were --- had four falls there we had to
3 timber a crib overtop of it to have two ways out of
4 the longwall.

5 Q. There's no reason why they couldn't have cribbed
6 that side where they were having ---?

7 A. I don't --- it would have --- yes, it would have
8 cost money and you would have had to have people in
9 there from the first day building them, but I believe
10 I would have had that cribbed up all the way up
11 through there. Now, you didn't have no need for that
12 section there. If this was done right right here, you
13 wouldn't have had no need for that section to be right
14 there.

15 Q. When you're referring to that section ---?

16 A. The tailgate section.

17 Q. Okay.

18 A. No, if that was me and I was running the show, I
19 would have never put those men in there.

20 Q. So you're pointing right to the area below the ---
21 marked in blue it says, what is that, MMU-0400?

22 A. Yeah.

23 Q. I'm just doing that so ---.

24 A. I'm a dumb trackman, but I never had that section
25 there. If I owned the mines --- if I had anything to

1 do with running this mines, that would have been
2 cribbed up and left open.

3 Q. You mentioned the fan motor went down.

4 A. Huh?

5 Q. You mentioned the fan motor went down.

6 A. No, the scoop, fan motor.

7 Q. The question was about Headgate 22. Did it appear
8 blocked?

9 A. Oh, if they pulled the men out or something?

10 Q. Yeah. Yeah.

11 A. I know there's been instances like the motor burn
12 up and ---.

13 Q. Fan motor?

14 A. Yeah. And I think we missed a week over it.

15 ATTORNEY FERGUSON:

16 Was that the Bandytown fan?

17 A. No. That was over at UBB, one of the main fans.

18 BY MR. MCGINLEY:

19 Q. Okay.

20 A. And I know we've been called out --- I've been
21 called out at both mines when a fan goes down. I
22 think it's what, 15 minutes at both mines, they have
23 to start you out.

24 Q. So the Bandytown fan never was down for motor
25 burnout?

1 A. I know at one time, but that's been four years ago
2 we had the --- not this new one. That would be ---.
3 No, that wouldn't be that one. That was a new fan. I
4 don't believe it's ever been down unless the power
5 went out.

6 Q. You said --- you were asked whether Mr. Blanchard
7 was hard to talk to. You said, I can talk to him.
8 Did other people find it hard to talk to Mr. Blanchard
9 because they didn't know how to talk to him?

10 A. Anyone that's so busy and got so much on their
11 mind, you got to catch them at the right time. I'd
12 say if people would have talked to him and caught the
13 right time, he would have stopped and talked to them.

14 Q. Well, what if they didn't catch him at the right
15 time, what would he do?

16 A. Well then, he'd be thinking whatever is on his
17 head.

18 Q. He's not responding to them or ---

19 A. Or ---.

20 Q. --- he barks at them?

21 A. I know I could talk to him, but I had to wait
22 until my chance. But I know Boone, he didn't wait.
23 He'd talk --- he'd tell his piece anyway, so --- he'd
24 even go down there and talk to him down at the office.
25 So Boone could talk to him, but he'd talk to him in

1 his way. I'd talk to him in my way.

2 Q. You said as you were coming out on the 5th you had
3 three seconds after the explosion.

4 A. Three seconds you had --- we were two-and-a-half,
5 maybe three miles away.

6 Q. Right. And do you mean by three seconds, three
7 seconds before the explosion would get to you?

8 A. Before all the pressure.

9 Q. Right.

10 A. You felt like a little mist of air, the first
11 thing.

12 Q. Just a little ---?

13 A. And you wonder --- you just wonder, what's causing
14 it, and then a little more, a little more. About
15 three seconds and then it was --- you know, it wasn't
16 --- it was just like a light weight, you know, and you
17 had two more, it seemed like, every second behind it,
18 and then all at once. You had about three seconds.

19 Q. When they brought the men out on the mantrip, you
20 know, the two still had a pulse. Do you have any
21 sense of when they came out?

22 A. It wasn't long. It wasn't long at all.

23 Q. After you came out?

24 A. It was one, two, three, three rides before they
25 come out. And we moved two of them and we left that

1 one for the team --- safety team that was supposed to
2 have been coming. So we left that one. And I know
3 the men at Upper Big Branch, they was in the truck
4 going off the hill, and about that time we come out.
5 I don't know if it was 15 or 20 minutes. And we
6 didn't know it was them. And the mantrip was black.
7 I mean, it was grayish-black. And after we got all
8 the men situated and everything, I had to climb on it
9 to move that mantrip in case there would be another
10 one coming. And you rubbed the dial to get the brake
11 off. It was real fine, fine dust. I mean, heavy, but
12 fine.

13 Q. Greasy?

14 A. I wouldn't say greasy, but it was real --- it was
15 --- you know, that's what killed them. That's what
16 went on their lungs. That's what coated their lungs.
17 And I moved the mantrip out of the way and we got the
18 team in, rescue team, and then we had to pull that
19 Jeep back down, after everything and cover it up with
20 curtain.

21 Q. Okay. You said at some point that Ellis ---
22 there's a place in Ellis where it hooved three feet.
23 Do you remember that? I think you were talking about
24 the floor, was it, at Ellis?

25 A. At Ellis. What do you mean?

1 Q. I wrote down here that Ellis hooved three feet,
2 and I didn't catch what you said.

3 A. I ain't catching it now.

4 Q. Okay. That's all right.

5 A. Three feet?

6 Q. That's all right. You said the bosses were
7 preaching since January ---

8 A. About the ---.

9 Q. --- about not running ---

10 A. Of the air.

11 Q. --- if there isn't adequate air. Do you recall
12 saying that?

13 A. Yeah.

14 ATTORNEY FERGUSON:

15 Is that January this year, 2010?

16 A. Well, I don't know if they changed the amount of
17 air you're supposed to have behind a mine curtain or
18 the last open break?

19 ATTORNEY FERGUSON:

20 But did they start preaching that in
21 January this year, 2010?

22 A. Probably around December.

23 ATTORNEY FERGUSON:

24 Okay.

25 A. November or December. I know it was before the

1 snows come. And there was something that they ---
2 they got wrote --- the first violation, they got wrote
3 up on low air. And I don't remember when that was in.
4 And they told them after that, do not start nothing
5 until you have such and such. And I believe that was
6 the first time they caught them with low air on the
7 section. I'm not sure, but I believe when they --- I
8 think they wrote them up one time for low air, and
9 then they started telling them, don't --- telling the
10 bosses, don't run unless you got such-and-such air in
11 the last open break or such-and-such behind the line
12 curtain.

13 Q. Who told the bosses that?

14 A. The company, the ---.

15 ATTORNEY FERGUSON:

16 Blanchard?

17 A. Blanchard, the safety people, Everett. They had a
18 meeting over it and they had to explain to everybody,
19 you got to have so much air behind the line curtain,
20 so much for the pinner, so much for the miner, and so
21 much in the last open break.

22 BY MR. MCGINLEY:

23 Q. And when would that meeting have been?

24 A. Huh?

25 Q. When do you think that meeting took place?

1 A. It was between the bosses. When they got a ---
2 and that was over at UBB. I think, you know, each
3 shift, you know, were told that.

4 Q. Okay. But did it happen one time or more than
5 once?

6 A. More than once I've heard them, you know, tell
7 them and explain to them, such-and-such --- and then
8 the mean air velocity and ---. You hear it, and like
9 safety, you have to preach safety to men. Like me,
10 the red hats I get, they hate hearing my voice the
11 first two weeks. Until they show me they're learning,
12 I won't stay off of them. I'm like a drill sergeant.
13 I'll drill them until they get it right.

14 Q. Did you know how many citations that the mine
15 received in the year before the explosion?

16 A. No.

17 Q. Do you have any way of knowing when citations were
18 issued ---

19 A. No.

20 Q. --- by MSHA or the state?

21 A. No. And sometimes we'd help clear them up. You
22 know, they'd say, Ralph, I need you to go clear this
23 violation up for us and tell me where maybe to set
24 timbers or something. You know, every once in a while
25 we'd have to do something like that or clear the water

1 from the track, something like that.

2 Q. Was there ever a meeting where the safety people
3 or management were there and said, well, we've got a
4 lot of violations and we've got to do ---?

5 A. That's brought up in safety meetings.

6 Q. But did they explain what the violations were?

7 A. Yeah, sometimes. You know, what they were and how
8 we can prevent getting more of them and like --- the
9 same thing over and over again. They'd tell you,
10 we're going to have to get smart and change the way we
11 look at things so these people won't come in here and
12 write us violations over the same thing over and over
13 again. And that's basically what they were writing,
14 the same thing over and over again.

15 Q. So why wasn't the citations having an effect? Was
16 it people working at the face, you know, the ---? Was
17 it management? What was going on there that ---

18 A. I think it's ---.

19 Q. --- resulted in people not changing what they were
20 doing?

21 A. I think it's a lot to do on the personality of
22 people. If you have something big to lose, and your
23 job is a big thing to lose, be more impressed to go
24 --- like if you see a fire extinguisher ain't got a
25 tag on it or if it's out, you're going to take that

1 fire extinguisher outside and change it out. But you
2 have to be programmed to do this. You have to be
3 programmed time over time. I think that's where a lot
4 of companies is at a loss. Stay on them and do the
5 right thing. If they see a fire extinguisher that's
6 out, take it out, replace it. Have everybody,
7 communication-wise, alert.

8 Q. Okay. Well, my question is, I understand what
9 you're saying.

10 A. Yeah.

11 Q. It makes all the sense in the world. You got to
12 be on it. It's got to be number one all the time.
13 But it wasn't at that mine. What was --- was it the
14 men working at the face or the --- was it management?
15 What --- why didn't it get through?

16 A. That's what I brought up, more or less, in the
17 safety meeting.

18 Q. That's what you were concerned about?

19 A. I was concerned of safety, but I couldn't pinpoint
20 it.

21 Q. Well, if there were numerous violations of the
22 same sort of thing that you were talking about, then
23 something was very wrong?

24 A. Uh-huh (yes).

25 Q. Would you agree with that?

1 A. Yes, very ---. I wish everything was simple as
2 track. I'd know every inch.

3 MR. MCGINLEY:

4 I don't have any further questions.

5 A. But like you have to keep on people, and you can't
6 let up on them. I think a lot of it's just letting up
7 on them, letting them get by, letting --- you know,
8 letting up on them and not staying --- a person is
9 going to do better if you stay and remind him every
10 day.

11 BY MR. MCGINLEY:

12 Q. So your experience earlier in your career was that
13 people took pride in their work, management took pride
14 in their work, and they were --- you know, management
15 was on the people working in the mine all the time and
16 reminding them about safety, and that's ---.

17 A. That's --- I know it gets deaf.

18 Q. But you don't feel like that's going on now, in
19 your experience?

20 A. I think it's --- I think it's communication. And
21 if I get a new fellow, I communicate to him. I
22 verbally communicate to him all the time. They get
23 tired of looking at me. And then after a while they
24 --- I can see they're catching on. I'll let up. I'll
25 let up. Once they catch on and then they prove to me

1 that I don't have to be there, then I'm all right.
2 But I think we've lost something in years. I think
3 communication is one of the most important things
4 we've got.

5 MR. MCGINLEY:

6 Thank you very much. Thanks for putting
7 up with my questioning.

8 RE-EXAMINATION

9 BY MR. TUCKER:

10 Q. One question just to clear up. When you first got
11 the scoop up on 22 Headgate, where was it parked at
12 when you all went to get it?

13 A. It was on the charger.

14 Q. And the charger, was it in the ---?

15 A. It would be --- it's down here. It's down here on
16 the section.

17 Q. Okay. So it was on charge on the section and you
18 took it back?

19 A. Uh-huh (yes), put it up there.

20 Q. Toward the miner section?

21 A. Yeah.

22 Q. Okay.

23 MR. TUCKER:

24 Got a brief statement I need to read you

25 just to get on the record. That's all the questions I

1 have. I mentioned to you previously my name is Bill
2 Tucker. I'm a lead investigator for the state on its
3 investigation. I'd just like to mention to you that
4 West Virginia Code 22A-122 also protects you from
5 discrimination for speaking to us today. So if you
6 feel like you've been discriminated in any way for
7 being here today, you have 30 days to file
8 discriminatory action, papers on that. So I'm going to
9 give you a memo with the address of the Board of
10 Appeals. It's got my telephone number on it and Terry
11 Farley's. If you have any problems at all, you can
12 just give us a call.

13 ATTORNEY FERGUSON:

14 Mr. Plumley, on behalf of MSHA and the
15 Office of Miners' Health, Safety and Training, I want
16 to thank you for appearing and answering questions.
17 Your cooperation is very important to the
18 investigation as we work to determine the cause of the
19 accident. We request that you not discuss your
20 testimony with any person, aside from your personal
21 representative. After questioning other witnesses, we
22 may call you if we have any follow-up questions. If
23 at any time you have additional information regarding
24 the accident that you would like to provide to us,
25 please contact us at the contact information provided

1 to you in your letter.

2 If you wish, you may now go back over any
3 answer you have given in this interview and you may
4 also make a statement that you would like to make at
5 this time.

6 A. Well, it bothers me it interferes with my life.
7 I've lost a whole lot. Lost part of my life with
8 them, part of my future, part of my past. It
9 shouldn't have happened. This should not have
10 happened. I don't know what caused it, but it should
11 not have happened. I don't know --- those men were
12 experienced. I can't get over it. They were
13 experienced. They've been through hell on those other
14 panels. They've been through everything. What
15 happened? I want to know what happened, what caused
16 it, for their sake and mine and for the other young
17 people going in the mines.

18 You train kids and they're like your own. You see
19 them out, they might not like you at the time, but
20 once they experience a little bit of the world, then
21 they want to come back and be with you. I've had a
22 lot of them come back. Can I go back with, Ralph?
23 It's too late. You got to get on your own and run
24 coal. I want to know what happened. Everybody down
25 there wants to know what happened.

1 (Plumley Exhibits One and Two marked for
2 identification.)

3 ATTORNEY FERGUSON:

4 Let the record reflect there were two
5 maps marked as Plumley One and Plumley Two. Thank you
6 very much, Mr. Plumley.

7

8 * * * * *

9 STATEMENT UNDER OATH CONCLUDED AT 9:26 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Brett Steele, 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.



Brett Steele