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Transcript of the Testimony of Larry Richmond

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STATEMENT UNDER OATH
OF
LARRY E. RICHMOND

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health and Safety Academy, 1301 Airport Road, Room C-123, Beaver, West Virginia, on Thursday, May 20, 2010, beginning at 8:16 a.m.

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A P P E A R A N C E S

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

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I N D E X

1		
2		
3	OPENING REMARKS	
4	By Attorney Wilson	6 - 10
5	WITNESS: LARRY E. RICHMOND	
6	EXAMINATION	
7	By Mr. Morley	10 - 30
8	EXAMINATION	
9	By Mr. Farley	30 - 35
10	EXAMINATION	
11	By Attorney Davitt	35 - 40
12	EXAMINATION	
13	By Attorney Wilson	41 - 47
14	RE-EXAMINATION	
15	By Mr. Farley	47 - 48
16	CLOSING STATEMENT	
17	By Attorney Wilson	48 - 50
18	CERTIFICATE	51
19		
20		
21		
22		
23		
24		
25		

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

EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

NONE OFFERED

P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Good morning. My name is Bob Wilson.
5 I'm with the Office of the Solicitor, United States
6 Department of Labor. Today is May 20th, 2010 and we
7 are here to conduct an interview of Larry Richmond.
8 With me is Tom Morley, an accident investigator with
9 the Mine, Safety and Health Administration. Also
10 present to participate in the questioning are members
11 from the State of West Virginia. I'll ask that they
12 state their appearance for the record.

13 ATTORNEY MCATEER:

14 I'm Davitt McAteer, with the Governer's
15 independent investigation team.

16 MR. FARLEY:

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

19 ATTORNEY WILSON:

20 And also.

21 MR. KINDER:

22 John Kinder with the Office of Miners'
23 Health, Safety and Training.

24 ATTORNEY WILSON:

25 Thank you. There are several other

1 members of the investigation teams present in the
2 room. All members of the Mine, Safety and Health
3 Administration Accident Investigation Team and all
4 members of the State of West Virginia Accident
5 Investigation Team participating in the investigation
6 of the Upper Big Branch Mine explosion shall keep
7 confidential all information that is gathered from
8 each witness who voluntarily provides a statement
9 until witness statements are officially released.
10 MSHA and the State of West Virginia shall keep this
11 information confidential so that other ongoing
12 enforcement activities are not prejudiced or
13 jeopardized by a premature release of information.
14 This confidentiality requirement shall not preclude
15 investigation team members from sharing information
16 with each other or with other law enforcement
17 officials. Everyone's participation in this interview
18 constitutes their agreement to keep this information
19 confidential.

20 Mr. Richmond, government investigators

21 and specialists have been assigned to investigate the
22 conditions, events and circumstances surrounding the
23 fatalities that occurred on April 5th, 2010 at the
24 Upper Big Branch Mine. The investigation is being
25 conducted by MSHA pursuant to Section 103(a) of the

1 Federal Mine Safety and Health Act and by the West
2 Virginia Office of Miner's Health, Safety and
3 Training. We appreciate your assistance in this
4 investigation.

5 After the investigation is complete, MSHA
6 will issue a public report detailing the nature and
7 causes of the fatalities in the hope that greater
8 awareness about the causes of accidents can reduce
9 their occurrence in the future. Information obtained
10 through witness interviews is frequently included
11 within those reports. You should know that if you
12 request confidentiality, confidentiality will only be
13 granted on a case-by-case basis and your statement may
14 also be used in other law enforcement proceedings.

15 You may have a personal representative
16 present during the taking of this statement and you
17 may consult with your representative at any time. Do
18 you have a representative with you today?

19 MR. RICHMOND:

20 No, sir.

21 ATTORNEY WILSON:

22 You may refuse to answer any question and
23 you may request a break at any time. This is not an
24 adversarial proceeding, formal Cross Examination is
25 not permitted but follow-up questions will be allowed

1 as appropriate. A court reporter will be recording
2 your interview, so we ask that you speak loudly and
3 clearly. If you do not understand a question, please
4 ask that the question be rephrased. Please answer
5 each question as fully as you can, including any
6 information that you have learned from someone else.
7 Again, I would like to thank you in advance for your
8 appearance here today, we appreciate your assistance
9 in the investigation. Your cooperation is critical in
10 making the nations mines safer.

11 After we have finished asking questions,
12 we'll provide you an opportunity to provide us with
13 any additional information that you believe to be
14 relevant to the investigation. We will also give you
15 an opportunity to make any sort of a statement that
16 you would like to make. If at any time after the
17 interview you recall any additional information that
18 you believe to be important, we ask that you contact
19 either the State of West Virginia or MSHA at the
20 telephone number that was provided in the letter that
21 we just gave to you.

22 Any statements given by a miner witness
23 to MSHA are considered to be an exercise of statutory
24 rights and protected activity under Section 105(c) of
25 the Mine Act. If you believe that any discharge,

1 discrimination, or any other type of adverse action is
2 taken against you as a result of your cooperation with
3 this investigation, you are encouraged to immediately
4 contact MSHA and file a complaint under Section 105(c)
5 of the Act. Remedies under the Mine Act include back
6 wages and immediate temporary reinstatement to your
7 most recent position with the company pending a
8 complete review of your complaint. In order to file
9 such a complaint, you should contact MSHA the District
10 4 office in Mount Hope. The address and telephone
11 number for that office is in the letter that we gave
12 to you. You can find additional information
13 concerning your rights at MSHA's website which is
14 www.msha.gov. At this time I will ask that the court
15 reporter swear you in.

16 -----
17 LARRY E. RICHMOND, HAVING FIRST BEEN DULY SWORN,
18 TESTIFIED AS FOLLOWS:
19 -----

20 ATTORNEY WILSON:

21 At this time I'll turn the questioning
22 over to Tom.

23 EXAMINATION

24 BY MR. MORLEY:

25 Q. Please state your full name and spell your last

1 name?

2 A. Larry Eugene Richmond. R-I-C-H-M-O-N-D.

3 Q. And please state your address and telephone
4 number.

5 A. [REDACTED]

6 Phone number, [REDACTED]

7 Q. Are you appearing here today voluntarily?

8 A. Yes, sir.

9 Q. What do you go by, Larry?

10 A. Larry.

11 Q. How many years of mining experience do you have?

12 A. Approximately 28, off and on.

13 Q. Can you give me a brief description of your coal
14 mining employment history?

15 A. What I did?

16 Q. Where you worked. How long you worked.

17 A. I worked at Beckley Coal --- Beckley Coal Mining
18 Company 12 years. I worked a few years off and on
19 coal mines in Summersville as an electrician. And I
20 worked for Massey three different times, four years
21 one time, three years another time and several years
22 this time, since '06 this time. I've also worked for
23 several other coal companies, among them, Black Hawk
24 Mining for a year or so. Most all of it's been as an
25 electrician, underground.

1 Q. Do you have any mining certifications?

2 A. I have Certified Miner and Certified Electrician.

3 I had a certified EMT but I let it go a couple years

4 ago.

5 Q. Are you presently employed?

6 A. Yes.

7 Q. Where at?

8 A. It's through Performance Coal, but we're assigned

9 right now to Hunter Peerless, Sand Creek.

10 Q. When did you start that job?

11 A. I can't remember the day. About a month ago.

12 Q. What's your present job title?

13 A. Underground electrician.

14 Q. Of your mine history --- about how much of your

15 time was with Massey?

16 A. Eleven (11) years.

17 Q. And at UBB, you were there for ---?

18 A. I started January of '06 with Performance, but we

19 were at the Marsh Fork Eagle Mine above Gould's plant,

20 came down to Performance maybe eight or ten months

21 later, been there ever since.

22 Q. Okay. Could you describe for me the management

23 structure in place at the Upper Big Branch Mine?

24 A. What do you mean, like from ---?

25 Q. Like who do you report to? Who's in charge?

1 A. Oh, I reported to the chief electrician in my
2 section box.

3 Q. Okay.

4 A. Rick Nicolau, my chief electrician. And the
5 section boss for the most of the time I was with
6 Performance was --- we called him Smurf, his name is
7 Rick Hutchens, Richard Hutchens. But he quit in
8 February, around the 14th or something. I've got the
9 dates. Smurf's last day is February the 24th and then
10 after that my boss was Pat Hilbert. So that's the
11 only ones I reported to.

12 Q. Who was in charge of the mine?

13 A. The superintendent?

14 Q. Yeah, superintendent, mine foreman as such?

15 A. The last one was --- I just called him Dick, I
16 can't recall his name. Actual mine foreman there I
17 don't --- I'm not sure unless it's Terry Moore.

18 Q. On April 5th, was your job title electrician?

19 A. Yes, it was.

20 Q. And then you worked at that position your entire
21 time there?

22 A. Yes.

23 Q. What were your duties?

24 A. Prepare the equipment, service equipment, check
25 permissibility on the equipment, that's about it.

1 Q. What was your work schedule for the week of the
2 accident?

3 A. 3:00 p.m. start time, until --- we were on ten-
4 hour days. 3:00 p.m. to 1:00.

5 Q. Did you rotate shifts?

6 A. No.

7 Q. What is fourth shift? Is that afternoon shift?

8 A. I was on second shift, evening shift.

9 Q. Have you done any other jobs at this mine?

10 A. No, sir.

11 Q. When was the last time you were on 22 Headgate?

12 Is this your normal section?

13 A. Yes, it is.

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

15 A. I brought my calander with me, so I can tell you
16 exact. That was Monday, April 5th, when the explosion
17 happened.

18 Q. What day of the week was it prior to that?

19 A. It was Monday, April 5th, when it popped. But I'm
20 trying to remember the last day we worked before that.
21 I'd have to look at my calendar, I didn't bring it
22 with me.

23 Q. Would any calendar help or do you need your
24 calendar? The 5th was a Monday.

25 A. Right. That was pretty traumatic for me but I

1 pretty much --- I should have brought my calendar with
2 me.

3 ATTORNEY MCATEER:

4 You could take a look at this one.

5 A. Yeah. I was trying to think if we were still on a
6 six on and three off. And I think we were. Like I
7 said, I hadn't thought about none of this for a while.
8 But I'm assuming we're still on six tens and three
9 off, but that should have been our first day back. So
10 it should have been maybe Thursday, April the 1st.
11 I'd have to check my calendar at home. That was
12 pretty --- that was pretty traumatic for me. I got
13 pretty ill after the accident and haven't been too
14 well since, so ---.

15 BY MR. MORLEY:

16 Q. Okay. Have you ever been to the tailgate section?

17 A. No, I haven't.

18 Q. Have you ever been down to the longwall?

19 A. Not since it's mined back that far. When they
20 were setting it up, I went over and looked at it a
21 couple of times. We'd drove the panel up for them.

22 Q. You never worked down in the longwall once they
23 started mining?

24 A. No, never been over there since they actively
25 started mining.

1 Q. Okay. What were your just general observations of
2 the mining conditions underground at this mine?

3 A. Fair.

4 Q. For what?

5 A. Rock dust.

6 Q. It that mine pretty well rock dusted compared to
7 other places you've worked or ---?

8 A. The areas I was in, it was. And then --- and on
9 the sections where I worked, it was.

10 Q. Belt's in pretty good shape? What was the
11 condition, just general observations?

12 A. Just about like any conveyor belt line, they all
13 have weak spots on any of them. You can never rock
14 dust 'em too much. I'd say average, just average.

15 Q. Okay. Ventilation?

16 A. Poor.

17 Q. Can you elaborate on that a little bit?

18 A. Well, when Smurf was with us, several times we had
19 to shut down and go outby and try to patch stoppings
20 and get enough air to run section because the miner
21 men wouldn't have enough air. And even after Pat
22 Hilbert came with us. We had to do that a time or
23 two. Everybody knew we had air troubles up on our
24 section. But as far as the longwall section, one day
25 I know we got sent home after four hours because I

1 think MSHA had us shut down. March 9th, sent home
2 after four hours, low air on the longwall section is
3 what Mr. Persinger told us. They sent us home after
4 four hours outside.

5 Q. Okay. You said you had problems with the air
6 quantity on that headgate. Did you ever have any
7 problems with methane?

8 A. The miner men could elaborate on that better, but
9 I think they did say occasionally there was some
10 methane buildup but I didn't go up to the miner and
11 check.

12 I had my own duties.

13 Q. Did ---?

14 A. Excuse me, sir. Evidentially it didn't get up to
15 one percent because they never notified me. That's
16 just an assumption.

17 Q. Okay. Do you have any idea why they were having
18 ventilation problems?

19 A. No, sir. I just knew we didn't have enough air.

20 Q. What about roof, rib and floor conditions,
21 anything unusual?

22 A. We did have bad top occasionally, but it's about
23 as good as any mine I've been at, as far as the
24 maintaining of the roof. But once again, like I said,
25 that's not my primary duty, but if I was notified to

1 watch the ribs, that they're bad, then I'd pay
2 attention to it.

3 Q. Okay. How about the cleanup at this mine as far
4 combustible material, were they pretty good with that?

5 A. On the section I was, like I said, it was
6 excellent with the foreman I had, Rick Hutchens. And
7 then with Pat he did a good job, too, when he came
8 with us, all on that section I was on but it seemed
9 like they did --- always did their best, those two
10 foremen I worked for, always had it taken care of.
11 That's all I know about it.

12 Q. Did you guys ever run into water up there?

13 A. Sure. We had some water problems. It's mainly
14 --- it's mainly either on the left or the right
15 occasionally.

16 Q. Did they take care of it?

17 A. When we had water travel outby on the right-hand
18 entry, they had to pump for a while but the last time
19 I remember --- and I don't remember a pump being set
20 on the right-hand side when we had a water
21 problem.

22 Q. Was it coming from the mine roof?

23 A. I'm not sure. I wasn't up there. I didn't go up
24 there, you know. I mean, if it was --- where they
25 were mining in that water, you know, they --- when

1 they backed the miner outby, they needed something
2 worked on or serviced, then I worked on it. I don't
3 recall.

4 Q. Did you have any conversations with fellow mine
5 workers or management concerning any unsafe conditions
6 at the mine?

7 A. Not personally.

8 Q. You never observed them mining coal? If you did,
9 can you give me an idea of what kind of methane when
10 they were running coal ---?

11 A. I've never observed any.

12 Q. Never observed the mining or the ---?

13 A. I've observed the mining, I've never observed any
14 methane when they were mining.

15 Q. Nothing on the machine monitor?

16 A. No.

17 Q. Okay.

18 A. But I wasn't there very often unless they had a
19 problem.

20 Q. How often did you calibrate the miner?

21 A. Well, it wasn't my job but if it needed
22 calibrated, I would report it.

23 Q. Okay. Do you know what type it was?

24 A. CSE.

25 Q. Was it always working?

1 A. As far as I know it was.

2 Q. Do you know if the mine ever encountered problems
3 with unknown gas wells?

4 A. I don't know about any unmined ones, I know we
5 mined around some before.

6 Q. Did you ever observe getting into gas bleeders or
7 any conditions where they had more than normal amount
8 of gas?

9 A. No.

10 Q. Did everybody on the crew carry methane detectors?

11 A. I can't answer for everybody.

12 Q. Did you?

13 A. No, they didn't issue me one. I requested it a
14 couple times. But they said it was on order and they
15 had to give 'em to someone else that needed them, but
16 no, I didn't carry one.

17 Q. Who'd you ask for one from?

18 A. Request one from?

19 Q. Yeah.

20 A. I requested one from Rick Hodge when he was there,
21 I requested one from Homer Wallace.

22 Q. Does the company have any type of incentive
23 program in place for production or safety?

24 A. Headgate 22 didn't have any production or
25 anything, if they did, we never reached anywhere near

1 it. Of course you have the safety mask and safety
2 program, ran the safety program, we'd get points and
3 you'd get prizes.

4 Q. How did that work?

5 A. Pretty good, I thought.

6 Q. I mean, how did it ---?

7 A. How did it operate?

8 Q. Yeah.

9 A. You'd get a certain number of points every quarter
10 for working safely and not having excessive
11 absenteeism.

12 Q. How many weeks of vacation do you guys get a year?

13 A. Normally, we get three weeks.

14 Q. Did this company ever cancel vacation for any
15 reason?

16 A. Yes, sir. Once. I had to schedule mine last year
17 for the last two weeks of December because we were
18 working through, trying to drive up to the longwall.

19 Q. Trying to drive up to 22 Headgate section?

20 A. Trying to drive up the other one.

21 Q. Oh, that would be Headgate One North?

22 A. Yes.

23 Q. When you worked on the belt into that One North
24 panel, did you guys have any problems with the roof or
25 water in that section?

1 A. Yes. But I do remember roof bolt operators and
2 the miner operators --- yeah, we had a lot of water
3 and we had some bad top, bad readings.

4 Q. Could you tell me approximately where that was?

5 A. No, sir.

6 Q. There's crosscut numbers on here.

7 A. As long as I know, it was intermittent up through
8 there.

9 Q. Did you guys change shifts --- did you do that at
10 the section or on the surface?

11 A. We've been changing ---. We just go in at our
12 starting time, we'd usually rendezvous with other
13 crew, what they called 78 Break, about halfway up.

14 Q. Did you discuss conditions with the other crew
15 that was coming out?

16 A. Sure.

17 Q. Did you ever check the bulletin board and review
18 ventilation changes that were submitted to MSHA?

19 A. I did.

20 Q. Did you ever receive any training when ventilation
21 changes were planned?

22 A. I don't know what you're talking about, actually.

23 Q. Did the company ever notify you that they're going
24 to implement a plan to change the air?

25 A. Well, that would be a change in the roof control

1 plan, too, right?

2 Q. Well, not necessarily.

3 A. I don't know. Don't recall.

4 Q. Did you ever discuss any mining plans or revisions
5 with MSHA inspectors?

6 A. No, sir.

7 Q. Are you aware of any problems they'd have in that
8 One North headgate since they started longwalling?

9 A. I didn't work on the longwall.

10 Q. Did you ever hear of anything?

11 A. No, sir.

12 Q. Have you ever been up to --- I think we're calling
13 it Eight North, now, up to the section here at the top
14 of the mine?

15 A. Near the Ellis punchout?

16 Q. No, this would be up past Headgate 22. It's the
17 Glory Hole.

18 A. Is it call the Old Mains? Up around the Glory
19 Hole and Old North Main?

20 Q. Up past the Glory Hole.

21 A. Yeah, I helped Rick Nicolau one Thanksgiving bring
22 a couple continuous miners out of there. We
23 started ---.

24 Q. Did you encounter or hear of any methane, or floor
25 heaving up in that area?

1 A. No, not at first. And when they were mining in
2 that area, we weren't even down there yet.

3 Q. Okay.

4 A. We were still at Marsh Fork Eagle, as far as I
5 know.

6 Q. One question on the ventilation. Does the use of
7 airlock doors instead of overcasts separate the main
8 intake from the belt intake concern you?

9 A. I didn't --- I didn't like 'em as well as
10 overcasts.

11 Q. Why is that?

12 A. Leakage. Someone could leave 'em open. And
13 overcast is more permanent, more stable.

14 Q. Was it often that they were left open? Did people
15 leave them open?

16 A. Not that I know of.

17 Q. Were they maintained in pretty good shape?

18 A. Fair.

19 Q. Were they pretty air tight or did they have a lot
20 of leakage? I know it's a subjective question.

21 A. Yeah, I don't know. I'll just say I don't know.

22 Q. Okay.

23 A. Fair condition, as far as I seen.

24 Q. Other than the March 9th incident you told me
25 about, are you aware of any other conditions or times

1 when parts of the mine had to be evacuated?

2 A. Not personally. I don't recall dates, so I'm not
3 going to elaborate.

4 Q. Okay. Did they ever cancel your shift or delay
5 shifts because of problems at the mine?

6 A. I don't recall.

7 Q. The low air that you had on this section,
8 ventilation problems, was that always there? Do you
9 have --- did it start at a certain time?

10 A. We had air problems when we were driving up the
11 other section and we had 'em driving in this section,
12 the Headgate 22 section and the other section I was
13 on.

14 Q. So it would be Headgate One North and then
15 Headgate 22. Did it get better after they put the
16 Bandytown fan on?

17 A. Off and on, but still we had to shut down
18 occasionally and go outby.

19 Q. Did you ever visit the area that they call the
20 Glory Hole?

21 A. I have before.

22 Q. Did you have any problems --- aware of any
23 problems that were in that area, in terms of methane,
24 low oxygen or carbon oxide?

25 A. Not personally, no.

1 Q. Did you ever hear of anything?

2 A. No.

3 Q. Okay.

4 A. That's something I don't wish to --- unless it
5 happened on the section I was working in, I really
6 wasn't in any discussions with anyone about it.

7 Q. Okay. Has the seal monitoring system ever gone
8 off on your section?

9 A. Occasionally yes.

10 Q. Do you know what the problem was or what the
11 reason was?

12 A. Most of the time was because of malfunction and
13 they would reset --- with the resetting get back. I
14 have had battery chargers, the hydrogen from them
15 charging would set it off sometimes, that's all I
16 know.

17 Q. What would you do if the system went off?

18 A. I'd go --- well, if I was instructed to go check
19 it out, if it was on my section, close, then I would
20 check it out, otherwise outby the electrician will
21 check it out. So I'd have the boss go with me, you
22 know, he'd have a CSE monitor.

23 Q. What did the crew do?

24 A. I don't know.

25 Q. Do you know who performed the calibration on this

1 CA system?

2 A. Not personally. As far as I know the midnight
3 shift calibrated a lot of 'em, but, I mean, they had
4 dayshift personnel take care of it.

5 Q. Do you know how often they calibrated it?

6 A. No. It had been a while, but since I've been back
7 with Massey, I've never had to calibrate one.

8 Q. Okay. How was your primary escape plan
9 maintained? Did you ever travel it?

10 A. Pretty good. Yes.

11 Q. Approximately, when was the last time you traveled
12 it, like how many months ago or ---?

13 A. I'm thinking a couple.

14 Q. Was the lifeline in good condition?

15 A. Yes. Everything seemed fine to me.

16 Q. They designate a responsible person for each
17 shift. Do you know who that would be?

18 A. Well, my shift it was --- the foreman is all I can
19 remember. I do remember when Rick Hutchens was there
20 as section foreman, because he was the responsible
21 person on evening shift.

22 Q. Did mining in the seams above you ever concern you
23 or other miners?

24 A. I never discussed it with anyone.

25 Q. No concerns?

1 A. I never discussed it with anyone.

2 Q. Okay. During your time with Massey, were you ever
3 assigned to another mine and brought back to Upper Big
4 Branch?

5 A. No.

6 Q. Do you know how the tracking system works at this
7 mine?

8 A. Are you talking about the little trackers, the new
9 things you wear on your belt?

10 Q. Yes.

11 A. I just know if you got a problem you hold it down
12 for more than three seconds. I know it may be three
13 to five seconds, I can't remember. And then --- but
14 if you just bump it, it won't go off, but supposedly
15 they can find you and locate you in that mine.

16 Q. Do you have any idea how the whole system in
17 general operates?

18 A. No.

19 Q. Have you ever worked on it?

20 A. Not really.

21 Q. Okay. You said you did the, if I understood you
22 correctly, electrical inspections on your section?

23 A. Yes, sir.

24 Q. How much time did that take to do?

25 A. It was a constant thing. I'm always looking for

1 any problems. It wasn't like something you do once in
2 a while, it's ongoing. You search the --- around the
3 equipment, if it's not being run ---. It's a
4 constant.

5 Q. Did you ever have any problems with your face
6 equipment, things you just normally fix? Any
7 continuing problems?

8 A. Nothing that I can think that was a continuing
9 problem.

10 Q. Did you ever take equipment out of service?

11 A. Well, specify what you mean by that?

12 Q. Face equipment that needed repaired?

13 A. Do you mean did I shut it down and take it out of
14 service?

15 Q. Yeah.

16 A. Not if there's a problem, we didn't have to do
17 that. If there was a problem, the foreman I worked
18 for, would have to get the equipment out so we could
19 make it right.

20 Q. Did they always give you ample time to make it
21 right before it went back to service?

22 A. The two foremen I worked with, yes. On these
23 sections, absolutely.

24 Q. I'm going to start --- I want to ask you about the
25 April 5th accident. But before we do that, I wanted

1 to give the State a chance to follow-up on anything we
2 talked about, just general questions we talked about
3 so far, if that's okay?

4 A. Yes, sir.

5 EXAMINATION

6 BY MR. FARLEY:

7 Q. Larry, again, I'm Terry Farley with the State.
8 Please be patient with me because I'll be jumping
9 around here a little bit.

10 A. Okay, sir.

11 Q. You were talking about Hutchens. Is it Hutchens
12 or Hutchenson?

13 A. The boss before Pat Hilbert was Richard Hutchens.

14 Q. Okay.

15 A. We called him Smurf, so ---.

16 Q. You said he quit in February. Would you happen to
17 know why he quit?

18 A. From overhearing conversations, I'd say January he
19 just had enough of it. Personally, that's the first
20 statement I heard. He always tried to do things right
21 and I never heard a conversation between him and Dick,
22 but as far as I know, you know, he was getting in a
23 little trouble over that.

24 Q. Okay. Do any --- would you know if he sometimes
25 called the mine foreman or the superintendent or the

1 president or anybody in upper management to complain
2 that he didn't have enough air on the section?

3 A. I didn't observe him do it, but, yeah, we shut
4 down several times. He would always call.

5 Q. When that happened, did he call outside and tell
6 him or did they call --- immediately call over and ask
7 him what was going on?

8 A. I don't know. As far as I know, Rick would call
9 and notify, because ---. I can't imagine him not
10 notifying someone when he has to cease production for
11 any reason.

12 Q. You said one time that --- about hydrogen from a
13 battery charger set off the CO alarm?

14 A. As far as I know. That's the only problem I could
15 see.

16 Q. Where was this charger located?

17 A. Well, the specific area, I don't know. I just
18 know it's happened a couple times.

19 Q. Okay.

20 A. Usually in the Two entry, belt being One.

21 Q. Would that be on the 22 Headgate section panel?

22 A. I don't recall if it went off once over there or
23 not.

24 Q. Okay. When Mr. Hutchens left the UBB Mine in
25 February, do you know where he might have gone to work

1 after that?

2 A. Yes. As far as I know, he went --- I can't
3 remember the name right now, ---

4 Q. Okay.

5 A. --- but he did tell me where he was going.

6 Q. Okay. And you said sometimes you watched the
7 continuous miner operate. Did you notice any sparks
8 coming from the bits as it was continuing cutting?

9 A. I've seen 'em before, but specific dates, I
10 couldn't give a date. Sure, I've observed that
11 before.

12 Q. Okay. Now, you said that air problems on 22
13 Headgate were common knowledge?

14 A. In my opinion, yeah, very common knowledge.

15 Q. All right. Would that mean that you had dust
16 problems in the face, too; is that correct?

17 A. I'd say the men had some dust problems, if you
18 have low air in there.

19 Q. Sure. Okay. To the best of your memory, when you
20 started your shift or at the end of your shift, as you
21 entered or existed the mine, do you recall
22 encountering any of the doors along the track being
23 open when you approached them?

24 A. No, sir.

25 Q. Okay. And if I understand you correctly, you said

1 that it was not your duty to maintain the methane
2 monitors on the continuous miners; is that correct?

3 A. If we have a problem, I know how to calibrate 'em.

4 Q. Did you ever calibrate ---?

5 A. Yes, I've calibrated 'em. If the sensor would go
6 bad, we'd replace 'em and calibrate them.

7 Q. Did you use a gas bottle, too, use it to calibrate
8 them?

9 A. Absolutely. Zero air and methane.

10 Q. Now, I think the best you could determine, your
11 last work date before April 5th was maybe around
12 Thursday, April 1st, thereabouts?

13 A. Yes, sir.

14 Q. Do you recall any problems with the mining machine
15 methane monitor on the 22 Headgate section those last
16 few days before April 5th?

17 A. No.

18 Q. Okay. Do you help maintain permissibility
19 equipment on the section?

20 A. Absolutely.

21 Q. I think you said earlier that you had requested
22 more than once for someone to provide you with a
23 methane tester? Now, when you had to do cutting or
24 welding --- or did you do cutting and welding
25 sometimes?

1 A. Yes.

2 Q. Okay. When you had to do cutting or welding, did
3 you have to find someone else to take a methane test
4 for you?

5 A. Any time I had any major problems like that, the
6 foreman would be right there with me.

7 Q. Now, I know you're a section electrician but at
8 any time did you operate equipment on the section?

9 A. No.

10 Q. Okay. What about the foreman, did he routinely
11 operate equipment?

12 A. I've never seen no one --- no foreman ever
13 routinely operated any around there.

14 Q. Okay. Have any knowledge or ever hear of any
15 possible face emission at the UBB mine while you
16 worked there?

17 A. No.

18 Q. Now, you said, too, that your crew drove the One
19 North headgate entry for the longwall. As you were
20 driving those entries, did you experience any floor
21 hooving?

22 A. Occasionally.

23 Q. Okay. When you say occasionally, would that be
24 anywhere in particular or at any ---?

25 A. All I can say is just occasionally.

1 Q. Okay. Now, what about on 22 Headgate section, did
2 you experience any floor heaving as you drove in
3 there?

4 A. I don't recall any floor hoove.

5 Q. I know you talked about Mr. Hutchens and Mr.
6 Hilbert and the common knowledge of the ventilation
7 problems. Did the section bosses --- did they ever
8 openly discuss it with you or other members of the
9 crew on the section?

10 A. What, that we got a low air problem?

11 Q. Yes, sir.

12 A. Yes.

13 Q. Anything in particular that they had to say? Did
14 they ever offer any explanation or reasoning as to why
15 you had low air problems?

16 A. No.

17 MR. FARLEY:

18 Davitt.

19 ATTORNEY MCATEER:

20 Thank you very much.

21 EXAMINATION

22 BY ATTORNEY MCATEER:

23 Q. Is it all right if I call you Larry?

24 A. Yes, sir.

25 Q. I'm Davitt McAteer. Do you recall any saying

1 about the air up in your section?

2 A. Do I recall what, sir?

3 Q. There's been other testimony about some type of
4 slogan about air in this section.

5 A. That ---?

6 Q. That if you want air, you have to bring it with
7 you. You never heard that?

8 A. No, sir.

9 Q. Did Smurf, when he left, did he stay in the area
10 or did he go to another mine or ---?

11 A. He went to another mine.

12 Q. In Raleigh County or Boone County, do you know?

13 A. I don't know if it was Raleigh or Boone County.

14 Q. And when did Pat Hilbert come to work? That would
15 have been in February? He followed Smurf right away?

16 A. Yes, sir. I didn't hardly have time to prepare
17 for this interview. I did write a couple things down.
18 Smurf's last day was February the 24th. Pat's first
19 day was February the 28th.

20 Q. Is there anything else you want to add from the
21 stuff you wrote down that we haven't asked you?

22 A. No, sir.

23 Q. Okay. When you were an electrician at other
24 mines, were you provided with a methane detector as a
25 regular matter?

1 A. As an electrician, ---

2 Q. Yes, sir.

3 A. --- or as a regular miner?

4 Q. I'm sorry, as an electrician?

5 A. Very seldom, actually.

6 Q. Is that right.

7 A. Not a multi-gas detector. I always worked with
8 someone that had one but I've never personally had
9 one, very seldom, issued to me.

10 Q. Did the post --- the tracking system, does that
11 fall within your responsibility as an electrician ---

12 A. No.

13 Q. --- to check those?

14 A. No, sir.

15 Q. Okay. How long had you had it, do you recall?

16 A. A couple months. I don't recall the date they
17 issued them.

18 Q. Do you remember the manufacturers name on it?

19 A. No, sir.

20 Q. The safety system, you said you got points for ---
21 quarterly for not excessive absences. Are there any
22 other ---?

23 A. Safety. Mainly safety --- mainly safety programs.

24 Q. So there would be no reportable incidents, no
25 reportable accidents, I should say?

1 A. No, I could report that.

2 Q. I'm just after how it worked.

3 A. I'm not sure what would take it from you other
4 than excessive absenteeism or --- and actual --- been
5 disciplined for something, safety-wise. I'm not sure
6 --- I don't think even a lost-time accident would take
7 it from you, as far as I can recall.

8 Q. Okay. You said on occasion that there were
9 problems with the air and that either Rick or Pat
10 would make these efforts to try to improve that. Did
11 that improve the ---? These steps that you took,
12 could you first describe them and then answer whether
13 that improved the air?

14 A. We'd shut the section down and drove outby ---

15 Q. Okay.

16 A. --- and try to repair any holes or leaks in
17 stoppings or overcasts.

18 Q. Would that result in --- improve air quality?

19 A. We got it adequate to run. I wouldn't say it was
20 great.

21 Q. What were the ---? I'm sorry, maybe you testified
22 --- did you say the methane monitors were --- what
23 brand were they?

24 A. CSE.

25 Q. And the malfunction that you encountered with

1 those was the hydrogen off the battery?

2 A. Out of the CO monitor ---

3 Q. I'm sorry.

4 A. --- on the belt line, sir. Methane monitors ---
5 the CSE methane monitors, occasionally, they would
6 malfunction.

7 Q. And what was the setting for those when you
8 corrected the malfunction? Was it zero? Was it one
9 or ---?

10 A. Zero.

11 Q. Zero. Both for air and for methane?

12 A. Just the methane detector on the continuous mine,
13 the CSE monitor.

14 Q. Do you know if they have a memory in those CSEs?

15 A. No, sir. I don't understand what you're saying,
16 actually.

17 Q. Well, some of these machines now have a
18 computerized memory in 'em that they can --- they'll
19 tell you what March 1st ---.

20 A. No, sir. As far as I know, no.

21 Q. Okay. On the 9th of March, you said that Wayne
22 Persinger sent the longwall crew home, or --- I'm
23 sorry sent people home?

24 A. Sent Headgate 22 people home but the longwall crew
25 stayed because I know they was in the bath house when

1 I left, ---

2 Q. Okay.

3 A. And that was the crew that died.

4 Q. Did Mr. Persinger explain why they were being sent
5 home or ---?

6 A. They were on the longwall section.

7 Q. Okay.

8 A. They kept us for four hours.

9 Q. Would you get paid for being --- on those hours
10 that you were sent home?

11 A. Got paid four hours, sir.

12 Q. Did you have annual refresher training?

13 A. Yes, sir.

14 Q. Do you remember when that was?

15 A. Just very recent.

16 Q. Have you had an interview with the company since
17 the mine accident?

18 A. No. I have not.

19 ATTORNEY MCATEER:

20 That's all the questions I have right
21 now.

22 A. Thank you, sir.

23 ATTORNEY MCATEER:

24 Thank you.

25 EXAMINATION

1 BY ATTORNEY WILSON:

2 Q. Mr. Richmond, I just have a couple questions and
3 then maybe we can take a short break. You stated that
4 you felt that the doors in the mine were maintained in
5 fair condition; is that correct?

6 A. Yes.

7 Q. Could you explain in a little more detail what the
8 condition of those doors were?

9 A. Just occasionally they would get hit and they had
10 to be replaced or they'd been damaged in some way and
11 some of the locks were loose, causing one reason or
12 another the leakage.

13 Q. Well, when those things would happen, would they
14 replace them pretty quickly or would they sometimes
15 let 'em stay?

16 A. I'm sure it was reported by the foreman. I
17 wouldn't say immediately, but fairly quickly.

18 Q. Now, going back to your discussion about the low
19 air on the 22 Headgate, and also on the headgate for
20 the One North, do you recall ever MSHA or State
21 inspectors coming up on the section and doing
22 inspections?

23 A. Occasionally, we didn't get a lot on evening
24 shift.

25 Q. Do you recall whether or not the air up on the

1 sections was the same or different when an inspector
2 would come up there?

3 A. No, sir, I don't know because it's not in my
4 scope. I don't know. I don't want to elaborate if I
5 don't know.

6 Q. When the inspectors would come up on your
7 sections, did you ever know in advance that they were
8 on their way?

9 A. Yes.

10 Q. Could you explain how you knew that?

11 A. The same as anywhere I've ever worked, you always
12 got a call from outside. When inspectors arrive on
13 the property, it's general knowledge.

14 Q. And when you would receive that notification,
15 was anything done differently to prepare for their
16 arrival?

17 A. The same with anywhere I've ever worked before,
18 there would always be --- just double check to make
19 sure everything was all right, to the best of their
20 ability.

21 Q. And when the inspectors come up on those sections,
22 did you or anyone else that you know of talk to them
23 about the air problems you were having?

24 A. I didn't talk to them about it.

25 Q. Do you know if anyone else did?

1 A. I've heard the continuous minor operators
2 discussing it with the inspectors, sure.

3 Q. Is there anything specific that you recall about
4 that?

5 A. Just they didn't have enough air most of the time.

6 ATTORNEY WILSON:

7 Do you want to go ahead and take a short
8 break?

9 MR. FARLEY:

10 Do you need a break or do you want to
11 keep going?

12 A. No, sir, I don't need a break.

13 MR. FARLEY:

14 Okay.

15 BY ATTORNEY WILSON:

16 Q. Let's talk about the April 5th accident. Where
17 were you at the time of the accident?

18 A. Getting ready to walk the inside. Getting ready
19 to step inside. Most of my crew were walking
20 underground. I was getting ready to step underground.
21 That was the punch-out.

22 Q. So you weren't actually underground that day?

23 A. I was not.

24 Q. Somebody notify you that the accident happened or
25 did you just know from right there? How'd you find

1 out?

2 A. Wayne Persinger was the first person I saw coming
3 out and he yelled at me, do not go underground, do not
4 go in there.

5 Q. Do you know what time that was?

6 A. 3:00 to 3:03 is my guess.

7 Q. Can you --- just basically, can you just tell me
8 what happened and run through your day there and what
9 happened afterwards?

10 A. Well, Wayne came out, he said, don't go in there.
11 The other guys came out and they had black faces and
12 dust in their eye. So we knew there was a problem.
13 Initially they thought that an overcast --- a fall had
14 taken an overcast out. And Wayne and some others went
15 back underground to check it out. And the next thing
16 I recall was them bringing the mantrip out with his
17 crew on it, trying to revive those guys. Of course
18 you had the one man that survived was walking around.
19 And I pretty much just helped put blankets down to
20 cover up bodies as they were declaring 'em dead,
21 couldn't bring 'em back.

22 Of course the one guy had a faint heartbeat. They
23 rushed him immediately out. And then we just ---
24 eventually more and more personnel showed up from the
25 agencies, Federal and State agencies and the company.

1 And the guys --- quitting time went by and from the
2 --- Headgate 22 and the longwall crew and no one come
3 outside then everyone knew pretty much that they were
4 in trouble, too. And then the I stayed until
5 approximately 20 minutes 'til 8:00 and I went home.

6 Q. Did you know what time they brought the mantrip
7 out?

8 A. No, sir.

9 Q. Any of the men that came out of the mine, did any
10 of them have their SCSR on, do you remember?

11 A. Well, just --- are you talking about on the ones
12 the mantrip that came out, that was in the explosion?

13 Q. I guess there were some other people that were
14 walking in there.

15 A. Then the crew --- the new section crew that was
16 closest to the punch-out, I recall them coming out
17 with their respirators on.

18 Q. Were they breathing through 'em?

19 A. They took 'em off and threw 'em down when they got
20 outside, so I'd say they were.

21 Q. Do you know, are they keeping track of people who
22 are going in and out of the mine?

23 A. Yes, sir.

24 Q. How were they doing that?

25 A. The check-in and check-out system.

1 Q. Is that like hanging a tag ---

2 A. Yes.

3 Q. --- or somebody writing it down?

4 A. Or slide.

5 Q. Do you know if anybody kept a written record of
6 people going in or coming out?

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

8 Q. When you were at the portals, was there air with
9 dust or smoke or anything that came out of the mine?

10 A. Yeah, some black dusty smoke. It looked like
11 black smoke, a little bit puffed out.

12 Q. The air was usually going in there; is that
13 correct?

14 A. I mean, you have to --- you know, everything was
15 going wrong.

16 Q. So it's coming out after the explosion?

17 A. Yeah. And even the intake --- I remember one of
18 the fire bosses said that it was even going the wrong
19 way on the intake.

20 Q. How long did that smoke or dust ever last, coming
21 out of those portals?

22 A. I don't know. I didn't stand around to look, but
23 not long. And it wasn't very much.

24 Q. Is there anything else that you can add that I
25 haven't asked you about?

1 A. No, sir, not really.

2 RE-EXAMINATION

3 BY MR. FARLEY:

4 Q. I think you indicated that you weren't sure where
5 Mr. Hutchens went to work when he left. Do you know
6 if he went to another Massey mine?

7 A. No, sir, he went to Speed.

8 Q. Okay. Thank you. On the 22 Headgate section, are
9 you aware of anybody at any time bridging out,
10 bypassing or overriding methane monitor on the
11 mining machine?

12 A. No, sir.

13 MR. FARLEY:

14 Thank you.

15 ATTORNEY MCATEER:

16 Do you want to take a break?

17 ATTORNEY WILSON:

18 Okay. We're going to take a short break.

19 Off the record.

20 SHORT BREAK TAKEN

21 ATTORNEY WILSON:

22 We're back on the record.

23 ATTORNEY MCATEER:

24 I don't have any further questions,

25 Larry.

1 MR. FARLEY:

2 I have one more.

3 RE-EXAMINATION

4 BY MR. FARLEY:

5 Q. When you were outside the Ellis Portal after the
6 explosion, by the time they brought the mantrip out,
7 was there an ambulance onsite?

8 A. There was one because the guy that they initially
9 checked when the mantrip came out, they said this
10 one's got a faint pulse. They rushed him in the
11 ambulance right away.

12 Q. Do you know which ambulance service it was?

13 A. No, sir. I'm not sure. I would assume
14 Whitesville, but I'm not sure.

15 Q. And do you know --- recall which individual it was
16 that had the faint pulse?

17 A. No, I don't recall his name right now.

18 MR. FARLEY:

19 Okay. All right.

20 A. The only one I know on that crew was the boss.

21 ATTORNEY WILSON:

22 All right. Mr. Richmond, on behalf of
23 MSHA and the State of West Virginia, I want to thank
24 you for appearing and answering questions today. Your
25 cooperation is very important to the investigation as

1 we work to determine the cause of the accident.
2 We will be interviewing additional witnesses, so we
3 require that you not discuss your testimony with any
4 other person. After questioning other witnesses, we
5 may call you if we have any follow-up questions that
6 we feel that we need to ask you. If at any time you
7 have any additional information that you would like to
8 provide to us, please contact us at the contact
9 information that we've provided to you.

10 At this time, I want to give you the
11 opportunity to go back over any of the answers that
12 you gave us, if there's anything that you feel you
13 want to clarify or if there's any additional
14 information that you want to provide to us or if
15 there's any statement that you would like to make, you
16 have that opportunity now.

17 A. Not right now. I may later.

18 ATTORNEY WILSON:

19 That's all right. You just let us know.

20 A. Yes, sir.

21 ATTORNEY WILSON:

22 Again, I want to thank you for your
23 cooperation in this matter.

24 A. Thank you, very much.

25 ATTORNEY WILSON:

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We'll go off the record.

* * * * *

STATEMENT UNDER OATH CONCLUDED AT 9:33 A.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Alison Salyards