



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Gary Steven Snyder

Date: July 23, 2010

Case:

Printed On: July 28, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
GARY STEVEN SNYDER

taken pursuant to Notice by Alicia R. Brant, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, July 23, 2010, beginning at 10:31 a.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

1 A P P E A R A N C E S

2

3 MATTHEW N. BABINGTON, ESQUIRE
4 U.S. Department of Labor
5 Office of the Regional Solicitor
6 1100 Wilson Boulevard
7 22nd Floor West
8 Arlington, VA 22209-2247

9

10 JOHN O'BRIEN
11 Safety Inspector
12 West Virginia Office of Miners'
13 Health, Safety and Training
14 Welch Regional Office
15 891 Stewart Street
16 Welch, WV 24801-2311

17

18 TERRY FARLEY
19 West Virginia Office of Miners'
20 Health, Safety and Training
21 1615 Washington Street East
22 Charleston, WV 25311

23

24

25

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

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

ERIK SHERER
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	6 - 9
5	WITNESS: GARY STEVEN SNYDER	
6	EXAMINATION	
7	By Mr. Farley	9 - 42
8	EXAMINATION	
9	By Mr. Sherer	42 - 54
10	EXAMINATION	
11	By Attorney Babington	54 - 56
12	RE-EXAMINATION	
13	By Mr. Sherer	56 - 57
14	CLOSING STATEMENT	
15	By Attorney Babington	58 - 59
16	CERTIFICATE	60
17		
18		
19		
20		
21		
22		
23		
24		
25		

1	EXHIBIT PAGE	
2		PAGE
3	NUMBER	IDENTIFIED
4		
5	NONE OFFERED	
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is July
5 23rd, 2010. I'm with the Office of the Solicitor,
6 U.S. Department of Labor. With me is Erik Sherer, an
7 accident investigator with the Mine Safety and Health
8 Administration, an agency of the U.S. Department of
9 Labor. Also present are several people from the State
10 of West Virginia. I ask that they state their
11 appearance for the record.

12 MR. FARLEY:

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

15 MR. O'BRIEN:

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

18 ATTORNEY BABINGTON:

19 There are several members of the
20 investigation team also present in the room today.
21 Terry Farley will be conducting initial questioning.
22 All members of the Mine Safety and Health
23 Accident Investigation Team and all members of the
24 State of West Virginia Accident Investigation Team
25 participating in the investigation of the Upper Big

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

15 Government investigators and specialists

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

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

12 MR. SNYDER:

13 No.

14 ATTORNEY BABINGTON:

15 Your statement is completely voluntary.

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

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

1 question as fully as you can, including any
2 information you've learned from someone else. I'd
3 like to thank you in advance for your appearance here.
4 We appreciate your assistance in this investigation.
5 Your cooperation is critical in making the nation's
6 mines safer.

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

14 -----
15 GARY STEVEN SNYDER, HAVING FIRST BEEN DULY SWORN,
16 TESTIFIED AS FOLLOWS:

17 -----
18 ATTORNEY BABINGTON:

19 Terry?

20 EXAMINATION

21 BY MR. FARLEY:

22 Q. Would you please begin by stating your full name?

23 A. Gary Steven Snyder.

24 Q. What's your home address?

25 A. ██████████

1 Q. ZIP code?

2 A. ZIP code, [REDACTED]

3 Q. Is there a phone number you can share with us?

4 A. Home phone number is [REDACTED]

5 Q. Okay. Where are you currently employed?

6 A. With the West Virginia Office of Miners' Health,
7 Safety and Training, in the Oak Hill region.

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

10 A. Since November 1st, 1981.

11 Q. Okay. Like 20 ---.

12 A. Approaching 28 years.

13 Q. What's your current job classification?

14 A. Inspector-at-large.

15 Q. How long have you held that position?

16 A. Since July of 2000.

17 Q. Roughly ten years; right?

18 A. Yes.

19 Q. Prior to joining the agency, what was your
20 employment history? How many years of mining history
21 prior to joining the agency?

22 A. I started as a supply clerk at Westmoreland Coal
23 Company in a mine here in Raleigh County in October of
24 1973. I went underground as an apprentice miner in
25 June of 1974 with the Westmoreland Coal Company, same

1 mines. In 1977 I obtained my underground mine
2 foreman's certification, in August of '74, and shortly
3 thereafter became a section foreman for Westmoreland,
4 and remained there until July 1981.

5 Q. Okay. Then you joined Miners' Health, Safety and
6 Training?

7 A. Shortly thereafter.

8 Q. Okay. All right. Are you also trained in mine
9 rescue?

10 A. Yes.

11 Q. Can you give us a little bit of your background in
12 mine rescue training?

13 A. Back in the late '80s, I can't remember exactly
14 what year, '87 or '88, our agency started a mine
15 rescue team. I was one of the first mine rescue team
16 members on that team. Remained with it until I became
17 inspector-at-large in 1992. Was involved in a mine
18 rescue event in January of 1991 at a mines in McDowell
19 County, a fire crew. There were two individuals that
20 were killed in a mine explosion.

21 Q. Okay. Are you currently a member or a trainer
22 with the agency's mine rescue teams?

23 A. Yes.

24 Q. Okay. How long have you been training with them?

25 A. This time, since November of 2009.

1 Q. Now, your position as inspector-at-large, can you
2 kind of give us an overview of what your duties are?

3 A. I'll try. Basically the Oak Hill office covers 11
4 counties in south-central West Virginia. We've got
5 like 123 mining operations, which include probably 44
6 underground mines, seven quarries, 37 prep plans and
7 load-outs, 35 surface mining operations, plus all the
8 contracting that are in there, too. So we --- you
9 know, we inspect all those mining operations as our
10 responsibility.

11 Q. Well over a hundred inspectable sites, I guess?

12 A. 123 going on there.

13 Q. Okay. Now, can you give us an approximate ---
14 well, a description of your staff? How many
15 inspectors do you have and who do you have to help you
16 out, how many people you have to help you out with
17 that?

18 A. I've got 28 people under my supervision, 12
19 underground inspectors, four surface inspectors, four
20 electrical inspectors, five safety instructors, two
21 secretaries and one supervisor.

22 Q. Okay. All right. Does your office review mine
23 plans submitted by operators, such as ventilation and
24 roof control plans?

25 A. Yes.

1 Q. Okay. How many people do you have perform that
2 function, review those plans?

3 A. I mean, certain plans I've got assigned to certain
4 individuals. For example, roof control plans and
5 methane dust control plans, I have two of my
6 underground guys that jointly review those. Safety
7 programs, I have a safety instructor that reviews
8 those plans, a couple of those guys.

9 Q. Okay.

10 A. Communication and tracking plans, shelter plans,
11 SCSR cash plans, they are assigned to other safety
12 instructors. Seal plan are assigned to another
13 individual. Ventilation plans, mostly I review those
14 plans that are submitted.

15 Q. Okay. So in terms of ventilation plans, you're
16 essentially a staff of one?

17 A. Pretty much.

18 Q. Okay. Since this investigation began, there's
19 been some conversations about things and media
20 coverage of an MSHA memorandum that was apparently
21 written sometime in --- or dated July 15, 2004,
22 detailing a couple of events that occurred at the
23 Upper Big Branch Mine in July of 2003 and February
24 2004, where there was a methane outburst on the
25 longwall panels in existence at the time. Do you

1 recall the office of Miners' Health, Safety and
2 Training investigating either of those events?

3 A. Our office investigated the February 2004
4 incident. And I wasn't aware until just recently
5 about the 2003 event.

6 Q. Okay. I want to hand you a copy of the MSHA
7 memorandum I just referred to. It's, I think, been
8 previously entered as an exhibit with some other lay
9 witnesses, and I suppose we're going to do the same
10 here today.

11 ATTORNEY BABINGTON:

12 Yeah, that would probably be for the
13 best.

14 MR. FARLEY:

15 Okay.

16 BY MR. FARLEY:

17 Q. Did you ever see that document before April 5th,
18 2010?

19 A. No.

20 ATTORNEY BABINGTON:

21 Well, if he hasn't seen it before, then
22 we probably --- we don't need to include it as part of
23 the record to the transcript. I think it was already
24 available in Mr. Harding's ---

25 MR. FARLEY:

1 Certainly.

2 ATTORNEY BABINGTON:

3 --- transcript.

4 BY MR. FARLEY:

5 Q. Now, the event in 2004 that the Office of Miners'
6 Health, Safety and Training may have --- that you
7 indicated we investigated, do you recall any details
8 of that particular investigation?

9 A. It occurred on a longwall panel. I'm not sure
10 which number panel it was, but it involved an
11 outburst, a floor crack, on the longwall face, and
12 methane gas would have been liberated through the
13 crack going to the face. The longwall was down for
14 several days because of it.

15 Q. And did you participate in that investigation
16 personally?

17 A. Yes.

18 Q. Moving now to April 5th, 2010, at the time you
19 first learned that there was a problem at the Upper
20 Big Branch Mine, where were you located at at that
21 time?

22 A. We were in Logan, West Virginia. We had mine
23 rescue training at Southern West Virginia Community
24 Technical College in Logan. And we finished our
25 training up for the day, and I had gotten back to ---

1 we were staying at Chief Logan Resort. I had just
2 gotten back to the parking lot to go check in when I
3 got a call from the West Virginia Mine Emergency
4 Hotline at ten minutes 'til 4:00 ---

5 Q. Okay.

6 A. --- on the 5th.

7 Q. Can you recall the description you received from
8 the Emergency Hotline person or to some extent, you
9 know, can you describe what they told you?

10 A. The hotline reported that they had an air reversal
11 on the belts, that they were picking up 50 to 100
12 parts per million CO at the portals and that there had
13 been reported at 3:39 by Janet Bowles, who was the
14 safety director at the mines at the time, and that was
15 it. So I had made arrangements to have one of our
16 senior inspectors --- actually I had planned for two
17 of them to take --- to work the office that week
18 because I knew I was going to be out. And Gerald
19 Pauley was working in the office, so I immediately
20 called him and told him to call Performance Coal
21 Company. Told him what I had just learned. Told him
22 to call and find out what was going on.

23 So he called back around 4:30 p.m. He said that
24 he had talked to several people there at the mines,
25 that they had had like four or five strong air bursts

1 coming out of the portals. Wasn't sure what had
2 taken place at the time. Didn't know about any
3 injuries or anything like that, but basically said
4 whatever it is, it's big. So then got off the phone
5 with him. I ended up talking to him again at 4:45.
6 He called back and said that there were people
7 underground, is what he said. I said, what do you
8 mean? He said, well, there are fatalities. They've
9 had an explosion.

10 Q. Okay. Now, at this point had the decision been
11 made to mobilize the agency mine rescue teams?

12 A. Actually, all of our --- I mean, all of our mine
13 rescue team members from across the state were there
14 for that training. We had actually brought our mine
15 rescue trucks there for the training, to utilize them.
16 And everybody was actually pulling back in from our
17 training in the Town of Logan there, at the lodge, and
18 so we started getting everybody together and saying,
19 look, we've got something going on, you know. We need
20 you, you know, to stay here as we were gathering the
21 information. So I mean, everybody was standing
22 around, waiting basically and hearing that all this
23 stuff is going on. They thought --- actually, they
24 thought it was a drill. They thought we were kidding.
25 And finally, we were able --- I was able to convince

1 them that, hey, this is not a drill. This is for
2 real.

3 Q. Okay.

4 A. So and when we found that out, finally you know,
5 we're getting everybody in their vehicles and getting
6 their trucks ready to go, we left that --- the lodge
7 around 5:00 p.m. and started heading toward
8 Performance.

9 Q. Based on your initial call from the Homeland
10 Security Hotline folks, did you have reason to believe
11 that there had been a disaster?

12 A. No.

13 Q. Okay.

14 A. No. I mean, actually, when I got the call, as I
15 was talking --- after I got the call from the hotline,
16 I'm thinking what in the --- I'm thinking to myself,
17 what's going on? It just didn't make sense. So when
18 I called Mr. Pauley at our Oak Hill office, I was
19 talking to him. And I saw our Deputy Director pull in
20 to --- I was guess he was getting ready to go check
21 into his room. And I told him, I said, wait. I told
22 him, I said, I'm on the phone with Gerry. I said,
23 wait. There's something going on with Performance.
24 So then that's when things started. Trying to get
25 more information after that. So we went over and got

1 in the mine rescue truck, got his cell phone and put
2 it on speaker. That way he was able to hear what
3 Gerry was telling us or what he found out after
4 calling the mines.

5 Q. Okay. Now, at that point did you --- or did the
6 mine rescue teams leave immediately?

7 A. Yes.

8 Q. Did you leave immediately with the mine rescue
9 teams?

10 A. Yes.

11 Q. Okay.

12 A. I mean, we were in a caravan. And by that time
13 --- by the time we got back on U.S. Route 119, there
14 are ambulances heading that --- heading down the
15 highway. There are State Police officers parked and
16 leading groups of us, you know, in front of us, behind
17 us. So they kind of helped us get there as quickly as
18 we could.

19 Q. Okay. Approximately how long did it take you to
20 get to UBB and where did you arrive?

21 A. We actually --- actually the way it was reported,
22 it was at Ellis Portal. And most of us arrived, you
23 know, together at the Ellis Portal. We first went in
24 around ten minutes after 6:00.

25 Q. Okay. When you arrived at Ellis portal, can you

1 elaborate on what you saw, who you saw and what
2 transpired when you arrived there? Can you go through
3 that, please?

4 A. Of course, when we get to the mine entrance there
5 are ambulances and fire department trucks and state
6 and county police officers everywhere. You know,
7 arrive on the property. We get up there. As soon as
8 I get up to the mine office, you know, I'm looking
9 over and I see line brattice covering bodies. You
10 could see feet sticking out from underneath the line
11 brattice. You could tell had --- you know, it was
12 roped off. There was people everywhere. I mean, they
13 was walking around everywhere. I met some other guys
14 who had just gotten there. Actually, when I talked to
15 Gerald Pauley earlier, he called and dispatched two of
16 our inspectors there immediately. So they were there
17 waiting on us when we got there. One was Wayne
18 Wingrove. He was there on the site. And then another
19 one of our underground inspectors, Jeff Spratt, had
20 been sent. He went over to the fan at Bandytown. And
21 then, of course, Wayne is trying to fill me in as
22 quickly as he can as to what he knew, what he learned,
23 you know, as to, you know, what had taken place, where
24 they found the individuals.

25 And then we almost immediately went into the

1 office. The power was off at Ellis Portal, so we went
2 into one of their offices. And Elizabeth Chamberlin,
3 who is, I guess, their head safety person for Massey,
4 along with some MSHA folks, C.A. Phillips, Eugene
5 White, who's one of our supervisors out of Danville,
6 we all --- Wayne Wingrove. We went in and they were
7 trying to explain to us using a wall map to explain
8 where the crews were, where they thought they were,
9 where they found the mantrip with the seven victims
10 --- first seven victims, and tried to explain to us
11 about, you know, where the crew was which should have
12 been on the 22 Headgate. So at that time, we had ---
13 according to them, we had 21 persons unaccounted for.

14 Q. Thank you. Did that eventually turn into 22
15 people?

16 A. It ended up being 22 people.

17 Q. Okay. Now, I think you mentioned --- did you
18 mention Wayne Persinger, you met with when you arrived
19 at the Ellis Portal office?

20 A. Yes.

21 Q. Were there any other Massey management people
22 present that you can recall?

23 A. I think Gary Frampton was there. He's a
24 compliance officer, I believe. There may have been
25 some other folks, Terry. I don't know. There was

1 just so many people there, that those are the ones I
2 remember.

3 Q. Okay. Now, did any of them offer any insight as
4 to what might have happened at that portal?

5 A. No, other than there had been an explosion.

6 Q. Okay. They did use the word explosion at that
7 point?

8 A. I'm not a hundred percent on that, but ---.

9 Q. Okay. Did it seem apparent to you that that's
10 what had occurred?

11 A. Yes.

12 Q. Okay. The bodies that you encountered, were they
13 lying on the ground?

14 A. Yes.

15 Q. All right. After you arrived at the Ellis Portal,
16 as I understand it, the power was off there; is that
17 correct?

18 A. Yes.

19 Q. Was it then necessary to essentially transfer the
20 rescue operation to the other portal?

21 A. That's correct. Actually, you know, I think it
22 was about 6:20 or 6:22 when we met there, and they
23 were trying to go over the mine map and describe
24 where, you know, individuals were and stuff like that.
25 But it was decided that we'd go back over to the UBB

1 portal at Montcoal, and that's where the command
2 center would be set up. And so I immediately left
3 there and went to the Montcoal Portal.

4 Q. Okay. Can you estimate approximately what time
5 you arrived at the Montcoal ---?

6 A. Actually, I got there at the command center that
7 they temporarily set up about five after 7:00 and
8 started taking notes about ten after 7:00.

9 Q. Okay. Can you describe where the command center
10 was located at that point?

11 A. It was in a second floor of the building, a real
12 small room, you know, a lot of people in there. It
13 was crowded.

14 Q. Okay. Who was present, representing Massey; do
15 you recall?

16 A. Chris Adkins.

17 Q. Okay. And you, of course, were representing
18 Miners' Health, Safety and Training?

19 A. Yes.

20 Q. Who was representing MSHA at that time?

21 A. Bob Hardman.

22 Q. Okay. Did you have anybody else from the agency
23 mine rescue team assisting you in the command center?

24 A. Yeah. Initially, when I went over there I had
25 Wingrove --- well, Wingrove stayed back. He was going

1 to issue the order in writing. I had John Cruse, he's
2 one of our mine rescue team members, and he assisted
3 in taking notes there at the command center.

4 Q. Okay. And was Cruse on the headset during ---
5 throughout the evening, too, ---

6 A. Yes.

7 Q. --- monitoring the underground activity?

8 A. Yes.

9 Q. Is Cruse also an engineer?

10 A. Yes.

11 Q. Okay. Now, by this time had any mine rescue teams
12 entered the mine, to your knowledge?

13 A. It was my understanding that Massey's mine rescue
14 team was already there and underground.

15 Q. Okay. Do you know whether that was one team or
16 two?

17 A. I think there were two teams.

18 Q. Okay. Anybody else underground at that point, any
19 additional Massey teams that you can recall?

20 A. There weren't any that I'm aware of at that ---
21 Terry, as far as --- I know there were some --- there
22 was some Massey management people underground.

23 Q. Okay. Anybody in particular that you recall?

24 A. Chris Blanchard and Jason Whitehead.

25 Q. What was your understanding at that point of why

1 they --- as to why they were underground?

2 A. I guess they were trying to determine what
3 happened, if they could locate any of those
4 unaccounted for at the mines.

5 Q. Okay. And do you feel comfortable in continuing
6 just to give us a description of what --- how things
7 played out throughout the evening?

8 A. Basically, you know, after we got there, we tried
9 to start getting the mine rescue teams that had been
10 called in, trying to get them assembled and get them
11 underground and start rescue and recovery operations.
12 And throughout the evening, continually, you know,
13 teams showed up. I mean, I don't know how many teams
14 they had there to start out with. There was quite a
15 few. And then we were trying to decide, you know, who
16 to send, how many to send and where to send them. So
17 when that played out, you know, we were instructing
18 the teams where to call and how frequently to call
19 and, you know, received reports from those folks
20 that --- as they were exploring the mine. And that
21 continued until we had a --- actually, we split up the
22 crews and we had a crew going to --- going to 22
23 Headgate, had mine rescue crew go to the longwall and
24 --- simultaneously. And later in --- probably over
25 into the 6th, probably shortly before 1:00 a.m. the

1 mine rescue team on the --- on 22 Headgate was in
2 heavy smoke. They reported they could just see about
3 two feet in front of them. And then they actually got
4 to the mantrip where the other, you know, six victims
5 were located on 22 Headgate, had got there, and about
6 that time they encountered some high methane.

7 Q. Okay.

8 A. And we immediately told them to retreat. About
9 that time, maybe a few minutes later, the crew was ---
10 had a crew going across the longwall face. They were
11 probably around Jack --- Shield 120. They found six
12 victims as well. And they, as well, found high
13 methane. So they were ordered to retreat and we told
14 everybody to get out of the mine. We told them to
15 evacuate the mines.

16 Q. So as you recall, that's shortly before 1:00 a.m.

17 A. Yeah. I'm thinking --- I'm thinking that actually
18 around 12:30 to 12:45, I mean, within 15 minutes, you
19 know, talking to 22 Headgate, telling those crews to
20 get out, that the longwall mine rescue teams called
21 out and they had encountered the same thing. But we
22 hadn't talked to them for a few minutes. And just ---
23 because we were going to tell them to get out anyway,
24 but they had found the same --- you know, the same
25 problems with high methane.

1 Q. Okay. All right. Now, at that point how many
2 people would you recall were still unaccounted for?

3 A. There was some confusion, Terry, about the number
4 of victims that were found on the headgate, and it was
5 later cleared up, you know. Instead of three there
6 were four.

7 Q. And so after doing the math we figured out, well,
8 we were still missing four. We thought that there was
9 three still on 22 Headgate and there was one still
10 unaccounted for on the longwall.

11 Q. Okay. Now, did that number of four ultimately
12 prove to be correct?

13 A. Yes.

14 Q. Okay. Now, did you remain at the mines throughout
15 the night on April 5th?

16 A. Best I can remember, I was there more than I
17 wasn't so. I mean, it's all kind of a blur, to be
18 honest with you.

19 Q. Okay. Were you present as the rescue and recovery
20 operation continued through the following Monday?

21 A. Yes.

22 Q. Okay. Now, back to the command center. During
23 the evening of April 5th and during the night --- the
24 morning of April 6th, what was the relationship among
25 the Office of Miners' Health, Safety and Training,

1 MSHA, and the Performance Coal representatives? Was
2 it cooperative or was it functional?

3 A. Yes. There weren't any issues. There weren't any
4 issues that --- argumentative-type issues. I mean, I
5 think that whenever --- whenever the teams reported
6 what they found, everybody knew that we needed to get
7 everybody out and it wasn't --- I don't know of any
8 disagreements with anyone.

9 Q. Okay. Would you describe the operation as
10 aggressive?

11 A. Yes.

12 Q. Are you comfortable in taking us through the rest
13 of the rescue and recovery operation, some general
14 description of how things played out?

15 A. I'll try to the best of my knowledge.

16 Q. Take your time.

17 A. Actually, after the teams were ordered to retreat
18 and nobody was in the mines at the time, we you know,
19 looked at plans, what do we need to do to try to make
20 it safe to go back in. Looked at drilling some holes
21 which were started up into the upper end of 22
22 Headgate for the purpose of installing sampling tubes,
23 fans. So we --- you know, a lot of work was done,
24 trying to get those plans together, get them corrected
25 and things of that nature. So there was a lot of work

1 on where we needed to drill holes, what made sense, so
2 we could have at least a monitoring point from the
3 surface so we could tell what the atmosphere was like
4 before we sent anybody back in. So I know that we had
5 two holes that were eventually put down into 22
6 Headgate. There was a hole put up into what's called
7 Eight North. There was just a lot of issues with
8 trying to get the holes down into the coal seam.
9 There was so many mined-out seams above them they had
10 to drill through and case through. There was just a
11 lot of drilling issues, a lot of drilling problems.
12 I actually didn't go back into the mines until the
13 8th of April, waiting for all these holes to go down,
14 waiting for samples to be drawn, ventilation to be ---
15 fans to be put on, stuff like that. So you know, from
16 the early morning hours of the 6th until the ---
17 probably 4:00, 5:00 a.m. on the 8th, no one was in the
18 coal mines. Around, you know, maybe 4:50, 4:55 we
19 decided after sampling we felt --- you know, we felt
20 comfortable we could send teams back underground. At
21 the time, instead of sending in the amount of teams we
22 had in the past, we decided to step it back to two
23 teams and, you know, not expose as many individuals to
24 the dangers that we were facing. So anyway, sent two
25 teams back underground. They may have been

1 underground five hours. And one of the holes, I can't
2 remember which it was, they got a bad sample. There
3 was high CO. They were underground five hours, and we
4 told them to come back out. And a decision was made
5 to start introducing nitrogen in the 22 Headgate
6 because that seemed like a problem area with methane,
7 and then there was a decision made at the ---
8 initially to start pouring nitrogen in there and wait
9 at least 12 hours, do it for at least 12 hours. So
10 that took place. Went back in the mines like 12:30,
11 one o'clock a.m. on the 9th, after dumping all this
12 nitrogen into that area, hopefully inerting it. Went
13 back underground with the two teams. Again they
14 encountered high methane early that morning. The
15 teams were underground maybe five hours again. So we
16 had to pull them out again. I mean, we're still
17 putting holes down, trying to drill --- you know, all
18 these things we're trying to do. I mean, we finally
19 ended up trying to put a hole up here on the Number
20 Three entry up here on the --- I think they call it
21 Headgate 22 hole or something, HG 22 hole or whatever
22 it was.

23 Q. Was that at the ---

24 A. It was on the back end ---

25 Q. --- back end of the longwall?

1 A. --- of the longwall, where the longwall initially
2 started mining, so ---. I mean, still waiting on all
3 these holes to go down, samples to be drawn, the
4 ventilation to be done and stuff like that, so ---
5 finally, after things started clearing up on some of
6 the borehole samples and --- we decided to go back in
7 on the 9th. Was able to --- I'm trying to think now.
8 Was able to go back in. I think we actually found the
9 last four victims, I think.

10 Q. As best you remember?

11 A. As best I remember, I think we found the last four
12 victims, the three victims inby the mantrip on
13 Headgate 22, and we found the last victim on the
14 longwall face.

15 The 10th and the 11th, proceeded in. There was a
16 lot of discussion on how we were going to get those
17 folks out. I think the 10th and into the early
18 morning hours of the 11th we recovered 13 bodies from
19 the longwall, and including the Mother Drive. A
20 decision was made we needed to do some ventilation
21 work, so the 11th and 12th of April, again, I don't
22 know what the hours are, you know, we decided to go
23 ahead and build curtains across this diagonal here
24 inby 78, these entries, put seals across the mouth of
25 Eight North and then ventilate up into Headgate 22.

1 And the reason we --- that we decided to do that, to
2 some extent, was to flush out the CO and hopefully
3 take care of any methane issues. But we had some
4 major concerns about our mine rescue team members
5 wearing the apparatus on their face in recovering
6 these victims because it was reported there was a lot
7 of damage, and we were afraid --- I mean, these guys
8 had never done anything like this before. I mean,
9 working on an ambulance and stuff, didn't see this
10 stuff every day, so we were afraid that the
11 victims --- some of the damages to these victims, we
12 wanted them to recover those victims bare faced, in
13 fresh air.

14 Q. Right.

15 A. Okay. So ventilation work was continued from the
16 11th into the 12th. Finally got the air --- the line
17 curtain up, extended up into Headgate 22, up to the
18 last victim, and then we started recovery operations.
19 And that --- for those last nine victims.

20 Q. Can you recall approximately how many rescue teams
21 or how many rescue team members were actually
22 underground at the time when the bodies were removed
23 from the 22 Headgate Section?

24 A. I don't know. I had asked that question and we
25 talked about it. There were well over a hundred

1 individuals in the coal mines. We talked about how we
2 were going to get those nine individuals out because
3 there's so much debris from the 22 Headgate down to 78
4 Break, where the mantrips are stopped. There was no
5 way that those --- that a team or two teams could
6 actually carry those victims that entire distance. So
7 we decided to stretch everybody out, the teams out
8 from 78 Break up to the last victim, and then go like
9 a bucket brigade, if that makes any sense.

10 Q. Uh-huh (yes).

11 A. You just pass them off to the next crew, they pass
12 them off, pass them off. So they were stretched out,
13 lined out all the way from 78 Break up to 22 Headgate.

14 Q. Was it like a relay operation?

15 A. They were relaying. Okay. They'd carry them
16 maybe two, three, four breaks, go back and get the
17 next one, you know, and then they'd pass them off,
18 pass them off, pass them off, pass them off until they
19 got to the mantrip. So there was --- there may have
20 been 120 people underground at that time.

21 Q. Okay.

22 A. Because I had asked the coordinator, the guys
23 coordinating that stuff for Massey, didn't work for
24 Massey, but Harvey Ferrell had --- he and I talked
25 about doing this. So we went to MSHA and said, hey,

1 here's what we need to do. It's too labor intensive
2 to get those individuals out of here. This makes
3 sense. So everybody agreed, and that's what we did.

4 Q. Okay. I guess the recovery operation would have
5 ended around sometime in the morning of the 13th?

6 A. Right around 1:00 a.m. or so.

7 Q. Okay. Jump back to a couple earlier things off
8 the mine rescue and recovery. I think we determined
9 earlier that when it comes to approval of ventilation
10 plans, approval of the regional officer, you
11 essentially have a staff of one.

12 A. Yes.

13 Q. Do you recall any instances in the six months or
14 so preceding the April 5th explosion at UBB when you
15 had problems with ventilation plans where it was
16 necessary to cite violations or anything like that?

17 A. Yes. The Bandytown fan, the approval for that
18 opening, I think I approved it on June the 8th of
19 2010. Okay. And I --- and our office approved
20 that ---.

21 Q. Do you mean June 8th, 2009?

22 A. I'm sorry, 2009.

23 Q. Okay.

24 A. Okay. The only thing that was approved was for
25 the opening itself. Performance did not submit a plan

1 as to how this opening was going to effect the
2 ventilation in this coal mines. The inspector at the
3 time, shortly before September, came to me and he said
4 that when they put the fan on line, that it completely
5 changed the ventilation scheme in this coal mines.
6 And I told him, I said, well, go to management and
7 tell them they need to submit a ventilation plan to
8 our agency, which he did several times before he
9 actually got a response. So finally, on September the
10 8th of 2009 I instructed Mr. Pauley to issue them a
11 violation for not submitting a ventilation plan as it
12 relates to that fan, that opening. Okay? And they
13 still were dragging their feet to get the plan to us,
14 okay. So finally, on or around September the 25th, I
15 told them to put an order on the mines, okay. On
16 September 25th the vice-president of Performance Coal
17 Company, Jamie Ferguson, and an engineer came to the
18 office to discuss the ventilation in this coal mines.

19 Q. Do you recall the engineer?

20 A. Matthew Walker.

21 Q. Okay.

22 A. And we're wanting to get this resolved because the
23 longwall was down at the time. We basically had the
24 longwall down. Okay?

25 A. Okay.

1 Q. The longwall was down. So he comes to me, wanting
2 to know what they can do to get everything back up
3 into production. Well, I had already gotten a map and
4 I realized after I got the map and this fan had come
5 on line that they were using belt air --- introducing
6 belt air from the Ellis Portal all the way into the
7 longwall face and into Headgate 22, okay, which is an
8 issue because we have a law that requires the use of
9 belt air to be approved. So when Mr. Ferguson comes
10 in, I'm telling him, I said, do you realize that
11 you're introducing belt air from the Ellis Portal to
12 not only your longwall but to any future sections that
13 start up into this end of the coal mine. And he
14 didn't realize it, to be honest with you. He did not
15 realize that the ventilation scheme of this mines
16 consisted of that. So I said, I'm not going to
17 approve it. I said, basically, I'm not going to
18 approve ventilation of this coal mines in this
19 fashion. I said, typically --- I said, it's the first
20 time I've ever seen it. Typically, we will allow and
21 have allowed in the past, to some extent, to use point
22 feed, basically introducing intake air only at the
23 mouth of the longwall belt to assist in ventilating
24 the longwall face.

25 So I left him in the office there. Mr. Walker and

1 Mr. Ferguson are there in the office, and they're
2 calling back and forth to their people and they're
3 there for several hours trying to come up with some
4 way that will get this end of the mines back in
5 production. So they come up with a --- and I can't
6 show you exactly where it is because it's changed
7 since then. This map is not the same. This crossover
8 right here had never been completed.

9 Q. Now, you're referring to the ---

10 A. I'm talking ---.

11 Q. --- crossover at the mouth of the longwall panel?

12 A. Right, here somewhere between 30 and 35 break.
13 That crossover had never been completed. They never
14 cut that through into from the tailgate One North
15 mains and the Headgate One North mains. So they were
16 going to have to get this cut through, get all their
17 controls, and I'm talking about all their overcasts
18 and doors and stoppings and all that other stuff in
19 place after the cut-through in order for this belt air
20 to not dump into this section or the Headgate 22
21 section.

22 Q. Okay. Now, this section ---?

23 A. Meaning the longwall.

24 Q. Okay.

25 A. Okay. And they were going to put in some

1 regulators and some box checks back out here around
2 this Mother Drive to limit temporarily and on the
3 longwall belt to limit --- temporarily limit the
4 amount of belt air going to this section, the longwall
5 section. And they were going to be able to dump that
6 belt air back into this cut-through on this angle here
7 on the north belt --- or Six North belt back into the
8 return. It was quite --- it was quite complicated, to
9 be honest with you. So I approved temporarily for
10 them to put in some box checks and some stoppings and
11 try to limit the amount of airflow until such time ---
12 I gave them three weeks on the approval. I gave them
13 three weeks to go in, get these entries cut through
14 between the head and tail of the longwall, get their
15 overcasts installed and all the other controls that
16 were required to keep the belt air from going up
17 toward the section.

18 Q. Did they eventually achieve how to do it?

19 A. Eventually, yes. Eventually, they did.

20 Q. Okay. Were there any --- now, this is, of course,
21 the latter part of September of 2009

22 A. Right.

23 Q. Did you encounter any other instances?

24 A. Yeah. There were two other instances after that
25 that just amazed me, to be honest with you.

1 Q. Can you describe them, please?

2 A. They were just starting out the 22 Headgate. And
3 instead of actually --- at the mouth of the panel
4 where you've got all these overcasts and stuff, they
5 started the panel and didn't have those in place and
6 were actually --- when they started the panel out,
7 they were dumping their belt air down through this
8 crossover between Headgate 22 and the head of the
9 longwall, dumping their belt air back across it and
10 dumping it into the intake of the longwall, if that
11 makes sense. So I'm thinking, we've already went
12 through this thing. And this was in --- this was in
13 --- this was in December, okay. We've already went
14 through this in September. Well, in December they
15 turn around and rather than putting their controls in
16 place before they start the panel, they're dumping
17 belt air from another section into the intake of the
18 longwall.

19 Q. Okay.

20 A. So we issued a violation on it and gave them, you
21 know, a short period of time. I mean, they had to
22 shut the section down, basically had to shut the
23 section down and started coming back to do the
24 construction work.

25 Q. Meaning the construction of the overcasts?

1 A. Yes. Yes. Yes. Because actually, at the time,
2 the longwall was further back up and they were using
3 this crossover here between the headgate of the
4 longwall and the Headgate 22 section. They had their
5 belt coming through that crossover at the time. Okay?

6 Q. Uh-huh (yes).

7 A. And what they eventually were planning to do was
8 to belt it all the way out and connect it onto this
9 Seven North belt, which they hadn't done. And then
10 again, in January, I think it was January the 27th of
11 '10, 2010, they pretty much did the same thing. They
12 made an air change or something for some reason.
13 These entries up through here on the head were
14 starting to fail.

15 Q. When you say head, you mean the longwall
16 headgate?

17 A. The longwall headgate entries were starting to
18 fail, okay, ---

19 Q. Uh-huh (yes).

20 A. --- so they were trying to find a way to get the
21 return off of Headgate 22 somewhere. Okay? So what
22 they ended up eventually trying to do was dump the
23 return into the intake of the longwall to get it to
24 go, okay. I know that's probably kind of complicated,
25 but ---

1 Q. Go ahead.

2 A. --- anyway, and what happened was, they had taken
3 out stoppings up through here and they were
4 contaminating ---.

5 Q. When you say up through here you mean ---?

6 A. Up through the headgate of the longwall, the
7 headgate entries of the longwall. So what they were
8 doing, they were actually contaminating the headgate
9 intake with return air off that section.

10 Q. Okay. Was their situation eventually resolved?

11 A. Yes. They ended up doing some work, building some
12 controls here, which would be at the mouth of the now
13 existing Tailgate 22 section, to dump it, to come back
14 out, down the headgate, establish a return down the
15 Four and Five entries of the headgate, come back
16 across this crossover between the headgate and the
17 tailgate, to put it back up and go toward Bandytown
18 fan.

19 Q. Okay. All right. Now, this is the latter part of
20 January 2010.

21 A. Right.

22 Q. Are there any other ventilation problems of this
23 nature that you were aware of that occurred after that
24 time, before the explosion?

25 A. No. Well, I'll take that back. There was one

1 issued in --- it is my understanding that they had
2 submitted a ventilation revision that there was an
3 issue that MSHA had found about the reversal of air on
4 the tailgate. Okay. And they had submitted a
5 ventilation plan change to deal with that to get it
6 going toward the Bandytown fan and not outby.

7 Q. Okay.

8 A. Okay. But the changes that they had submitted, I
9 mean, it didn't make sense to me. I mean, it was like
10 they had --- I just didn't understand it. We never
11 did approve it. Okay? I figured, well, MSHA is
12 already there. I figured they would handle it. I
13 mean, they were the ones that found the issue with
14 that air reversal. And so, I mean, it laid dormant.
15 I never approved it, we called and said, look, how are
16 you getting --- you know, how are you getting this air
17 going the way it's showing on the map when you've got
18 this problem right down here with --- around 35 Break
19 or so with all these doors and overcasts and stoppings
20 and --- so anyway, ---.

21 Q. Okay. All right.

22 MR. FARLEY:

23 Mr. Sherer, you have any questions?

24 EXAMINATION

25 BY MR. SHERER:

1 Q. I've got a few follow-up and clarification
2 questions, Mr. Snyder. While we're talking about
3 ventilation, let's continue on with that a bit. You
4 mentioned several problems with a plan, several
5 problems which you found in the mine. Did you find
6 any methane in the mine at any time?

7 A. You mean, high methane that we would have cited?

8 Q. Yes.

9 A. No.

10 Q. Did you cite any low ventilation quantities?

11 A. Yes.

12 Q. Where was that, please?

13 A. Well, I mean, I can't --- show you --- tell you
14 specifically. But typically, I mean, you know, if you
15 look over, I'm just ---

16 Q. Sure.

17 A. --- if you go over the past two years, you know,
18 we probably cited during the course of a year, I'd
19 say, an average of 25 ventilation violations. And I
20 mean, a lot of it may be face ventilation violations,
21 okay. I know that probably back in October of '09, on
22 at least two occasions, we've cited doors. I think
23 doors were left open down at the --- they call them
24 LBB doors, down where --- near Ellis Portal or Ellis
25 Switch is. Doors damaged up in the area here in this

1 --- inby 78.

2 Q. Okay.

3 A. Mostly face ventilation violations and I recall a
4 couple on mine doors.

5 Q. Do you know of any other mines you're aware of
6 that has so many mine doors?

7 A. No.

8 Q. Do you have any idea why this particular mine has
9 so many mine doors?

10 A. No, sir. As a matter of fact, I started to
11 mention that a while ago when Mr. Ferguson came in on
12 the 25th of September. I pointed out to him, I said,
13 why in the world do you have so many mine doors in
14 this coal mines. Because they got their intake --- I
15 mean, they have to go through four doors and their
16 main intake crosses it.

17 Q. Sure.

18 A. You know, I said --- he just --- actually he just
19 hung his head. He could not answer it. I said, you
20 know, because of the --- the best approach would have
21 been to put overcasts in and you wouldn't have had to
22 open and close doors and rely on individuals to open
23 and hopefully close the doors back.

24 Q. Sure. We've been asking this of everybody. It
25 still bothers me that there were so many doors. It to

1 tally compromises the ventilation system. Is --- let
2 me ask this. You mentioned on the 22 Headgate that
3 they started the section, then later on you kind of
4 forced them to build overcasts, what it sounded like.

5 A. They had nowhere else to put their return.

6 Doesn't most people build overcasts and turn the
7 section off?

8 A. Yes, sir.

9 Q. Okay. You talked about problems with the
10 Bandytown fan and they basically couldn't ventilate
11 the mine correctly. Comparing the other mines that
12 you deal with on a regular basis, what was the
13 ventilation planning and execution like in this mine
14 compared to others?

15 A. My opinion was that the planning was very, very
16 poor. I mean, if you just look at the ventilation
17 scheme of this entire mine, that, to me, is a bleeder
18 fan.

19 Q. Sure.

20 A. And we're trying to ventilate this coal mines, the
21 longwall and two sections with a bleeder fan.

22 Q. Sure.

23 A. I mean, if you even look back at Ellis Portal, I
24 cannot imagine thinking that I would drive a
25 three-entry system to provide intake and neutrals or

1 whatever to ventilate this end of this coal mines.

2 Q. Sure.

3 A. You know, the planning issues is just --- I mean,
4 you know, just like here, we get in a hurry. We don't
5 plan. We don't get our overcasts in. We start a
6 section, then worry about getting the overcasts. And
7 that's my opinion. Same thing down here when we got
8 down here and we got all these doors. We have to go
9 through our track entries and where the intake crosses
10 the track. I mean, it's just poor planning.

11 Q. Sure. During the course of these issues, did you
12 ever talk to anybody with MSHA out of the District 4
13 office concerning these ventilation issues?

14 A. No.

15 Q. Do you think we should communicate more on things
16 like that?

17 A. Absolutely.

18 Q. Should we set up some system to do that, maybe not
19 for every mine but for the mines that involved that?
20 This is just your opinion.

21 A. Yes, I would think so.

22 Q. Thank you. Let's go back to the rescue and
23 recovery effort. When you got there, it seemed like
24 it was kind of already going to some degree. And one
25 of the things you mentioned was --- in fact, you

1 mentioned several times, trying to determine how many
2 victims there were left in the mine?

3 A. Yes.

4 Q. Do you recall if they had the computerized
5 tracking data that they were using to help determine
6 that?

7 A. Well, I had asked the question when we first got
8 to eh mines where I wanted to go pull that
9 information. And just, to be honest with you, it
10 amazed me that it came up. And it didn't come up
11 until probably around 9:30 or ten o'clock that night
12 that we may have another person in there that's
13 unaccounted for.

14 Q. Geez.

15 A. Because actually Kevin Stricklin had been --- he'd
16 been in and out of the room, and he came in there, and
17 he's kind of irate, to be honest with you, and he's
18 talking about, you know, we think we got another
19 person in there. What's --- you know, what's going on
20 here. When I first got there, I didn't think there
21 was an issue. But then, you know, I thought we knew
22 how many people we had unaccounted for underground.
23 So then apparently there was an issue with that
24 system. I don't know. They couldn't --- I don't
25 know, something.

1 Q. Sure.

2 A. And they ended up bringing in the longwall
3 coordinator, and he went down the line and named each
4 individual that was on this section. I think what had
5 taken place, they had an individual up there that was
6 training. They were training him. So we had an extra
7 person on the longwall that they didn't account for
8 originally.

9 Q. Okay. Do you know if they had a tag-in/tag-out
10 system in place?

11 A. Yes.

12 Q. Did you use that data, that somebody actually got
13 out and took the tags off the board or something or
14 count them?

15 A. Sir, I'm not sure. I mean, that's something --- I
16 think that we assumed, you know, that their count was
17 right.

18 Q. Sure. Who was in charge of the evacuation of the
19 mine; do you recall?

20 A. Originally?

21 Q. Yeah. Yes.

22 A. I'm not sure, but the name that came up when
23 Gerald Pauley had called back was Wayne Persinger.

24 Q. Do you recall if anybody ever talked about the
25 responsible person?

1 A. That night?

2 Q. Uh-huh (yes).

3 A. Yes.

4 Q. Who was that?

5 A. I can't remember his name, sir.

6 Q. Okay. But that was discussed?

7 A. Yes.

8 Q. Okay.

9 A. There was discussion with him because we were
10 trying to figure out the last contact that they had,
11 you know, anybody in this end of the mines that had
12 with the outside world. And according to him, that
13 the --- at 3:03 p.m., is what he said, that the crew
14 coming off of 22 Tailgate had called at 78 Break for
15 the road to come outside.

16 Q. Okay. Let me ask you a more general question. We
17 had a lot of ventilation problems with this mine. You
18 guys obviously had some ventilation problems with this
19 mine. What can we do to better address those sorts of
20 issues in the future? Do you have any suggestions?

21 A. Well, I mean, typically, I mean, the State of West
22 Virginia's laws on ventilation are very lax. I mean,
23 actually, the only regulations we have as far as
24 ventilation is concerned and ventilation plans are
25 concerned is the longwall. They're required to submit

1 belt section bleeder ventilation and the use of belt
2 air, okay. Any other changes, as far as we're
3 concerned, we do not have a regulation requiring it.
4 Most of the operators in the region that I work in
5 submit --- if they submitted a change to MSHA, they'll
6 submit it to us. Not all of them, ---

7 Q. Okay.

8 A. --- most of them. Okay. I mean, as far as
9 addressing problems, I would welcome, you know,
10 interaction between our agencies, ---

11 Q. Sure.

12 A. --- I mean, like you described before. I mean, I
13 can give you an example.

14 Q. Sure.

15 A. This happened several years ago. I mean, this
16 mines had advanced up to about right here, where the Y
17 is inby 78 Break.

18 Q. Sure.

19 A. Okay. And here's a problem I have with some of
20 MSHA's policy. I mean, I'll be upfront with you,
21 okay.

22 Q. That's all I'm trying ---.

23 A. What had transpired --- and it could have come
24 into play in this particular incident. They drove
25 these two parallel mains up here. And they're not on

1 this map what they're called.

2 Q. There's actually a map right under this. We've
3 been referring to the northern mains as the
4 parallel ---.

5 A. North parallel, okay. Back in 2007 or so this
6 mines had just gotten to this --- just inby 78 Break
7 where they wow. The company had went into at MSHA's
8 request and took this intake away right here in the
9 Number Two entry and put all of their intake up at
10 this north parallel mains.

11 Q. Uh-huh (yes).

12 A. Okay. So what that did was all you had in your
13 track and belt entry mains, the north mains, was a
14 return and a neutral.

15 Q. Okay.

16 A. Okay. So something happened between 78 Break, in
17 here --- if I was in here, I had no access to an
18 intake escapeway because it's over here.

19 Q. Okay. Sure.

20 A. Okay. So we made them put this intake back in
21 here. So if anything would happen on the track and
22 belt entry, I would have access, immediate access, to
23 an intake escapeway system.

24 Q. Okay. Did you talk to anybody with the district
25 about that particular ---?

1 A. We talked to them a couple times, sir, okay. We
2 talked about this same thing, about trying --- you
3 know, having --- you know, creating common entries. I
4 mean, you know, this could have been ---.

5 Q. Sure.

6 A. According to MSHA, everything could have been
7 common. Okay. And we fought that and fought that in
8 our agency and have had meetings with several
9 different district managers and ---.

10 Q. Sure. So that is the issue trying to separate the
11 belt and the track entry?

12 A. Well, the issue is, is providing an intake
13 escapeway to anybody that works in this coal mine.

14 Q. Okay.

15 A. Okay. And I'm talking about at intervals based on
16 mine height, if it's 500 feet, if it's over 48 inches,
17 500 feet, if it's under 500 feet, every --- you know,
18 I'm getting backwards, anyway, 500 feet, 300 feet.

19 Q. Yeah. I think the issue may be we only consider
20 escapeways from working sections. It's a definitional
21 thing.

22 A. But we consider escapeways for anybody that works
23 in that coal mines.

24 Q. Okay. Sure. And we should be able to work that
25 out with you guys. So that's something we --- what

1 all this is suggesting, and I appreciate your opinion
2 and comments, is we need to work together better as
3 two regulatory agencies?

4 A. I agree.

5 Q. Do you think it would be worthwhile for your time
6 to sit down with our district managers, say, once a
7 month and spend a few hours discussing the particular
8 problems that each agency may have, trying to work for
9 some common resolution or cooperative efforts or
10 anything like that?

11 A. Sure.

12 Q. Thank you. Okay. One last question. You
13 mentioned the methane bleeders issue, I think it was
14 2004.

15 A. Yes.

16 Q. Were you aware of an incident that took place I
17 think in 1998?

18 A. At this coal mines?

19 Q. At this coal mine. Down in the south side, south
20 of the UBB portals, supposedly?

21 A. No, sir.

22 Q. Okay. Are you aware of an issue --- similar issue
23 that took place supposedly in 2003, about a year
24 before the 2004 event?

25 A. No, sir, not ---.

1 Q. Do you know if anybody did anything to --- at the
2 mine, any of the plans, any of the practices, to
3 address the methane bleeders after 2004?

4 A. Not that I'm aware of.

5 Q. Thank you.

6 MR. SHERER:

7 That's all the questions I've got.

8 EXAMINATION

9 BY ATTORNEY BABINGTON:

10 Q. I have two quick follow-ups. You're referring
11 to ---.

12 ATTORNEY BABINGTON:

13 If we can get that map back.

14 BY ATTORNEY BABINGTON:

15 Q. With the September ventilation issues you had at
16 this mine, you're referring to the crossover section
17 right at the mouth of the longwall panel. And you
18 said that part of the crossover had not been cut all
19 the way through. I just want to clarify for the
20 record, where were those entries or where were those
21 areas that had not been cut through yet?

22 A. See, you got one, two, three, four five entries.

23 Q. Just off the Headgate One?

24 A. Yes. None of those had been cut through.

25 Q. Okay. So those weren't cut through until

1 September 2009?

2 A. Correct.

3 Q. Okay.

4 A. I mean, typically, you would have this --- you
5 would think this would have already be in place before
6 you'd start your longwall.

7 MR. FARLEY:

8 You'd think.

9 A. You would think.

10 BY ATTORNEY BABINGTON:

11 Q. You talked about the poor planning for the
12 ventilation plan. In your opinion, why did you think
13 that they had poor planning? Did you think there was
14 a slack of effort, lack of confidence? What was your
15 impression?

16 A. Get in a hurry, you --- I think they just got in a
17 hurry to get --- you know, to get on production and
18 --- it's just like the doors, you know. I mean, you
19 know --- they knew they were going to set a longwall
20 panel up here. They knew this section was going to
21 start and had to tie in here. You know, they had to
22 come back down here and slab --- you know, mine ribs
23 and stuff off to get the belt through. And that was
24 done after they had started the section. I mean, you
25 would think that would be done the first thing. It

1 just --- I don't know. The priorities were kind of
2 askew, in my opinion.

3 MR. FARLEY:

4 I don't have anything else.

5 ATTORNEY BABINGTON:

6 Do you mind if we take just a one-minute
7 break? I want to talk to Erik about something.

8 MR. FARLEY:

9 Oh, sure.

10 ATTORNEY BABINGTON:

11 Off the record.

12 OFF RECORD DISCUSSION

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. I've got one follow-up question, Mr. Snyder. The
16 2004 methane outburst, you mentioned you guys
17 investigated that. Did you generate any sort of
18 report about that incident?

19 A. I'd have to check.

20 Q. Okay. Sure. Do you recall who would do the
21 investigation?

22 A. For our agency?

23 Q. Yes.

24 A. I mean, there were several people involved. I
25 mean, I was there and I think Gerald Pauley was there,

1 had several other inspectors. Clark Gilliam, he's no
2 longer with us. He --- Clark Gilliam was one of the
3 inspectors. I have to --- I'd have to go look and see
4 if there was a report.

5 Q. Sure. Now, we've heard various reports of how
6 long that bleeder emitted enough gas to seriously
7 affect the ventilation along the longwall. Do you
8 recall how long that time period was?

9 A. You mean how long the longwall has been producing
10 coal?

11 Q. Yes.

12 A. Again, I'm not sure. I remember the incident, but
13 I don't remember a specific report or how long the
14 longwall was down, but it was down for some period of
15 time, 24, 36 hours. I don't know.

16 Q. So it was down at least a day?

17 A. I think so.

18 Q. Okay.

19 MR. SHERER:

20 Thank you.

21 ATTORNEY BABINGTON:

22 Are there any other significant details
23 you can recall from that investigation? I understand
24 that was a few years ago, but ---.

25 A. Nothing significant.

1 ATTORNEY BABINGTON:

2 All right. And I guess we'll --- we'd

3 like to follow up with you --- or if you could follow
4 up with us about whether or not there's a report that
5 was produced about that, we'd appreciate that.

6 A. Okay. All right.

7 ATTORNEY BABINGTON:

8 Anything else, Erik?

9 MR. SHERER:

10 No.

11 ATTORNEY BABINGTON:

12 Terry?

13 MR. FARLEY:

14 No.

15 ATTORNEY BABINGTON:

16 On behalf of MSHA and the Office of
17 Miners' Health, Safety and Training, I want to thank
18 you for appearing and answering questions today. Your
19 cooperation is very important to the investigation as
20 we work to determine the cause of the accident. We
21 request that you not discuss your testimony with any
22 person, aside from a personal representative or
23 Counsel. After questioning other witnesses, we may
24 call you if we have any follow-up questions. If at
25 any time you have additional information regarding the

1 accident that you'd like to provide to us, please
2 contact us at the contact information previously
3 provided. If you wish, you may now go back over any
4 answer you've given during this interview. You may
5 also make any statement that you'd like to make at
6 this time.

7 A. I have no statements to make.

8 ATTORNEY BABINGTON:

9 Okay. Thank you. And again, I want to
10 thank you for your cooperation in this matter.

11 A. Thank you.

12 ATTORNEY BABINGTON:

13 Thanks for coming in.

14 * * * * *

15 STATEMENT UNDER OATH CONCLUDED AT 11:50 A.M.

16 * * * * *

17

18

19

20

21

22

23

24

25

1 STATE OF WEST VIRGINIA)

2)

3

4 CERTIFICATE

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

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

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

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



20
21
22 *Alicia R. Brant*
23
24
25