



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Timothy Williams

Date: July 17, 2010

Case:

Printed On: July 26, 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

TIMOTHY WILLIAMS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Saturday, July 17, 2010, beginning at 1:05 p.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 ROBERT S. WILSON, 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' Health,

13 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' Health,

20 Safety and Training

21 1615 Washington Street East

22 Charleston, WV 25311

23

24

25

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

2 PATRICK C. MCGINLEY
3 West Virginia Independent Investigation
4 West Virginia University College of Law
5 P.O. Box 6130
6 Morgantown, WV 26506-6130

7
8 DAVID STEFFEY
9 National Mine Safety and Health Academy
10 1301 Airport Road
11 Room C-137
12 Beaver, WV 25813-9426

13
14 NORMAN PAGE
15 Miner Safety and Health Administration
16 100 Fae Ramsey Lane
17 Pikeville, KY 41501

18
19 JOHN MCCUSKEY, ESQUIRE
20 Shuman, McCuskey & Slicer, PLLC
21 1411 Virginia Street East
22 Suite 200 (25301)
23 P.O. Box 3953
24 Charleston, WV 25339

25 COUNSEL FOR TIMOTHY WILLIAMS

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	7 - 11
5	STATEMENT	
6	By Mr. Farley	12
7	STATEMENT	
8	By Mr. McGinley	13
9	DISCUSSION AMONG PARTIES	13 - 21
10	WITNESS: TIMOTHY WILLIAMS	
11	EXAMINATION	
12	By Mr. Steffey	21 - 54
13	EXAMINATION	
14	By Mr. Farley	55 - 57
15	EXAMINATION	
16	By Mr. McGinley	58 - 64
17	RE-EXAMINATION	
18	By Mr. Steffey	64 - 71
19	EXAMINATION	
20	By Mr. Page	71 - 78
21	RE-EXAMINATION	
22	By Mr. Farley	78 - 80
23	RE-EXAMINATION	
24	By Mr. McGinley	80 - 91
25		

I N D E X (cont.)

1		
2		
3	RE-EXAMINATION	
4	By Mr. Steffey	91 - 92
5	RE-EXAMINATION	
6	By Mr. Page	92 - 93
7	CLOSING STATEMENT	
8	By Mr. Page	93 - 94
9	DISCUSSION AMONG PARTIES	94 - 95
10	CERTIFICATE	96
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4	One	Map	30*

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

* Exhibit not attached

P R O C E E D I N G S

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

ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I am an attorney with the Office of the Solicitor,
United States Department of Labor. Today is July 17,
2010. We're here to conduct an interview of Timothy
Williams. Also present are individuals with the State
of West Virginia. I'll ask that they state their
appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. MCGINLEY:

Patrick McGinley, with the Governor's
independent investigation team.

ATTORNEY WILSON:

And also present are Dave Steffey, who is
an investigator with the Mine Safety and Health
Administration, and Norman Page, who is the lead
investigator for MSHA.

All members of the Mine Safety and Health

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

18 Mr. Williams, government investigators
19 and specialists have been assigned to conduct an
20 investigation of the conditions, the events and
21 circumstances surrounding the fatalities that occurred
22 on April 5th, 2010, at the Upper Big Branch
23 Mine-South. The investigation is being conducted by
24 MSHA pursuant to Section 103(a) of the Federal Mine
25 Safety and Health Act and by the West Virginia Office

1 of Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.

3 Now, you should know that your identity
4 and the content of this conversation will be made
5 public at the end of the interview process and may be
6 included in a public report of the accident, unless
7 you specifically request that your identity remain
8 confidential. If you do request confidentiality, we
9 will keep your identity confidential to the extent
10 permitted by law. In other words, if a judge orders
11 us to reveal your identity or some other law requires
12 that we reveal your identity, we may do so. Also,
13 there may be a need to use your information in other
14 investigations or hearings concerning the explosion.
15 Do you understand your right to request
16 confidentiality?

17 MR. WILLIAMS:

18 Yes.

19 ATTORNEY WILSON:

20 Do you have any questions about that?

21 MR. WILLIAMS:

22 No.

23 ATTORNEY WILSON:

24 After the investigation is complete, MSHA
25 will issue a public report detailing the nature and

1 the causes of the fatalities in the hope that greater
2 awareness about the causes of accidents can reduce
3 their occurrence in the future. Information obtained
4 through witness interviews is frequently included in
5 these reports. Since we will be interviewing other
6 individuals, we request that you not discuss your
7 testimony with anyone outside of this room.

8 A court reporter will be recording the
9 interview. Please speak loudly and clearly. If you
10 do not understand a question, please ask that the
11 question be rephrased, and we will rephrase the
12 question. If you need to take a break at any time,
13 please let me know.

14 Your interview is completely voluntary,
15 and we appreciate you coming in here today. You may
16 refuse to answer any question and you may terminate
17 your interview at any time. This is not an
18 adversarial proceeding. Formal Cross Examination type
19 questions will not be permitted, but each of the
20 parties will be permitted to ask follow-up questions.

21 After we have finished asking questions,
22 we will provide you with an opportunity to provide us
23 with any additional information that you think may be
24 helpful to the investigation. At that time you may
25 also make a statement if you would like. If after the

1 interview is completed you think of additional
2 information that you believe might be useful, we ask
3 that you please contact Norman Page and reach him and
4 give him that information. His contact information is
5 included in the letter, requesting your appearance
6 here today. And I'll provide you with another copy of
7 that letter.

8 I do also want to inform you of your
9 rights as a miner under the Mine Act. Any statements
10 given by miner witnesses to MSHA are considered to be
11 an exercise of statutory rights and protected activity
12 under Section 105(c) of the Mine Act. If you believe
13 that any discharge, discrimination or any other type
14 of adverse action is taken against you as a result of
15 your cooperation with this investigation, you are
16 encouraged to immediately contact MSHA and file a
17 complaint under Section 105(c)(a) of the Act.
18 Remedies under the Mine Act include back wages and
19 immediate temporary reinstatement to your most recent
20 position, pending a complete investigation of your
21 complaint. In order to file such a complaint, you
22 should contact the MSHA District 4 office in Mount
23 Hope. Their contact information can be found at
24 MSHA's website. The website address is in the letter
25 that I just provided to you, and it is www.msha.gov.

1 Before we move on to other matters,
2 Terry, did you want to add anything?

3 MR. FARLEY:

4 Yes. Mr. Williams, let me advise you on
5 behalf of the Office of Miners' Health, Safety and
6 Training, that the West Virginia Mine Safety
7 Regulations also provide protection against potential
8 discrimination that might result from participating in
9 these type interviews. I want to pass along a memo
10 here that provides some contact information from the
11 West Virginia Board of Appeals, which hears complaints
12 about discrimination. And the memo also has my phone
13 number and the phone number for Bill Tucker, who is
14 our lead underground investigator. And we caution
15 you, should you have any type of a problem, that you
16 would need to file a complaint within 30 days of the
17 time the event occurs.

18 MR. WILLIAMS:

19 Thank you.

20 MR. FARLEY:

21 Yes, sir.

22 ATTORNEY WILSON:

23 Pat, did you have anything you wanted to
24 add?

25 MR. MCGINLEY:

1 I just wanted to add, on behalf of the
2 Governor's independent investigation team, and I'm
3 sure these comments are shared by the other members of
4 this panel, we've got widows and children of the
5 miners we lost who are depending on this investigation
6 to try to find the cause and determine if anybody
7 should be held responsible, and so we appreciate you
8 coming in here and your truthful responses to our
9 questions is essential to allow us to go forward and
10 perform our functions. So thank you for being there.

11 ATTORNEY WILSON:

12 Mr. Williams, you have a right to have an
13 attorney present with you today. Do you have an
14 attorney?

15 MR. WILLIAMS:

16 Yes.

17 ATTORNEY WILSON:

18 And I'll ask that the representative
19 state his appearance for the record, please.

20 ATTORNEY MCCUSKEY:

21 Yes. My name is John McCuskey, and I'm
22 with the law firm of Shuman, McCuskey & Slicer in
23 Charleston, West Virginia.

24 ATTORNEY WILSON:

25 Now, Mr. Williams, did you voluntarily

1 choose Mr. McCuskey as your representative here today?

2 MR. WILLIAMS:

3 Yes.

4 ATTORNEY WILSON:

5 And do you feel that you had a choice in

6 choosing Mr. McCuskey?

7 MR. WILLIAMS:

8 Yes.

9 ATTORNEY WILSON:

10 Okay. And you consent to having Mr.

11 McCuskey as your representative today?

12 MR. WILLIAMS:

13 Yes.

14 ATTORNEY WILSON:

15 Now, do you understand that Massey Energy

16 and its affiliates, its officers or directors or

17 attorneys may not represent you in this matter?

18 MR. WILLIAMS:

19 Yes.

20 ATTORNEY WILSON:

21 Mr. McCuskey, you are representing Mr.

22 Williams; is that right?

23 ATTORNEY MCCUSKEY:

24 I am, sir.

25 ATTORNEY WILSON:

1 And do you understand that you may not
2 communicate with Massey Energy, its affiliates or its
3 officers or directors or attorneys concerning the
4 substance of this representation without Mr. Williams'
5 consent?

6 ATTORNEY MCCUSKEY:

7 I understand my rules under the West
8 Virginia Rules of Professional Responsibility, yes.
9 And to the extent you've accurately stated that, I'm
10 not going to comment. I'm just going to say I will
11 abide by my professional responsibility, obligations
12 and that those have been explained to my client.

13 ATTORNEY WILSON:

14 And are you being paid by a third party?

15 ATTORNEY MCCUSKEY:

16 That's a question that I think is not
17 appropriate. And my client understands fully our
18 role, and I don't think that's an appropriate
19 question.

20 ATTORNEY WILSON:

21 Please confirm that you have Mr.
22 Williams' informed consent in writing which reflects
23 that you have explained to him the risks and
24 advantages of third-party payee representation,
25 including any real or potential conflicts of interest.

1 ATTORNEY MCCUSKEY:

2 I will simply answer as I did the other,
3 that I have abided by all my responsibilities under
4 the West Virginia Rules of Professional Responsibility
5 with respect to that question.

6 ATTORNEY WILSON:

7 Please confirm that you have Mr.
8 Williams' consent and that he has been given a
9 reasonable opportunity to consider the risks and
10 reasonable alternatives to such representation and to
11 raise questions and concerns with you concerning your
12 representation of him?

13 ATTORNEY MCCUSKEY:

14 Again, I think that's an inappropriate
15 question that's an invasion of the attorney/client
16 privilege, and I'll answer simply by saying that I
17 have abided by and intend to continue to abide by all
18 my responsibilities under the West Virginia Rules of
19 Professional Responsibility.

20 ATTORNEY WILSON:

21 Mr. McCuskey, assuming that you are being
22 paid by a third party, please confirm that the third
23 party payer will not direct, regulate or interfere
24 with your professional judgment in representing Mr.
25 Williams?

1 ATTORNEY MCCUSKEY:

2 I think you can only assume that I will
3 abide by my responsibility under the West Virginia
4 Rules of Professional Responsibility.

5 ATTORNEY WILSON:

6 Do you have any attorney/client
7 relationship with Massey Energy or any of its
8 affiliates at this time?

9 ATTORNEY MCCUSKEY:

10 I think that is also an inappropriate
11 question, and I will again answer by responding that I
12 am abiding by my responsibilities under the West
13 Virginia Rules of Professional Responsibility.

14 ATTORNEY WILSON:

15 Please confirm your understanding that
16 you are prohibited from communicating with Massey
17 Energy or any of its affiliates or its attorneys
18 concerning the substance of your representation of Mr.
19 Williams.

20 ATTORNEY MCCUSKEY:

21 I cannot --- that's an inappropriate
22 question that I am not willing to answer. But I will,
23 again, repeat that I will abide by all my
24 responsibilities under the West Virginia Rules of
25 Professional Responsibility.

1 ATTORNEY WILSON:

2 Now, under the West Virginia Rules of

3 Professional Conduct, it's my understanding that Rule

4 1.8, conflict of interest prohibited transactions,

5 subsection (f), states a lawyer shall not accept

6 compensation for representing a client from one other

7 than the client unless the client consents after

8 consultation. Are you --- will that represent you're

9 in compliance with that provision of the Rules of

10 Professional Conduct?

11 ATTORNEY MCCUSKEY:

12 I think it's completely inappropriate

13 that you would be asking me questions about my

14 understanding of the West Virginia Rules of

15 Professional Responsibility. And it's my

16 understanding I don't believe, but you can correct me

17 if I'm wrong, that you are not a West Virginia

18 licensed attorney. Am I correct about that?

19 ATTORNEY WILSON:

20 I'm asking you if --- do you agree that

21 this is what the Professional Rules of Responsibility

22 in West Virginia provide for?

23 ATTORNEY MCCUSKEY:

24 I'm not going to respond to that except

25 to say that I understand the Rules of Professional

1 Responsibility and I'm going to abide by them.

2 ATTORNEY WILSON:

3 My reading of the Professional Rules in
4 West Virginia state that a lawyer shall not accept
5 compensation for representing a client from one other
6 than the client unless, two, there is no interference
7 with the lawyer's independence of professional
8 judgment or with the client/lawyer relationship. Is
9 your professional relationship with Mr. Williams
10 consistent with that provision?

11 ATTORNEY MCCUSKEY:

12 I think that's an inappropriate question
13 for you to be asking of me as Counsel, and I'm not
14 going to answer it.

15 ATTORNEY WILSON:

16 And Rule .8 states that a lawyer shall
17 not accept compensation for representing a client from
18 one other than the client unless, three, information
19 relating to representation of the client is protected,
20 as required by Rule 1.6. And Rule 1.6 refers to
21 confidentiality of information. Is your
22 representation of Mr. Williams consistent with those
23 provisions?

24 ATTORNEY MCCUSKEY:

25 I don't think that's an appropriate

1 question to ask me about your understanding of my
2 understanding of the West Virginia Rules of
3 Professional Responsibility, but I will answer by
4 saying that I intend to and am complying with the West
5 Virginia Rules of Professional Responsibility.

6 ATTORNEY WILSON:

7 One last question on this point. Mr.

8 Williams, having heard this discussion and these
9 representations, do you still want Mr. McCuskey as
10 your representative today?

11 MR. WILLIAMS:

12 Yes.

13 ATTORNEY WILSON:

14 Okay. All right. Then Mr. Williams,
15 will you please face the court reporter so she can
16 swear you in?

17 -----

18 TIMOTHY WILLIAMS, HAVING FIRST BEEN DULY SWORN,
19 TESTIFIED AS FOLLOWS:

20 -----

21 ATTORNEY WILSON:

22 Dave Steffey, an investigator with the
23 Mine Safety and Health Administration, will start the
24 questioning. For the record, would you please state
25 your full name?

1 A. Timothy Luke Williams.

2 ATTORNEY WILSON:

3 And would you also please state for the
4 record your mailing address and your telephone number?

5 [REDACTED] [REDACTED]

6 [REDACTED] Phone number, [REDACTED]

7 ATTORNEY WILSON:

8 Thank you. And Norman Page is going to
9 take my place, and Mr. Steffey is going to start the
10 questioning.

11 EXAMINATION

12 BY MR. STEFFEY:

13 Q. How are you doing today?

14 A. All right.

15 Q. Are you appearing here today voluntarily?

16 A. Yes.

17 Q. Anyone made any promises concerning the testimony
18 you're about to give?

19 A. No.

20 Q. Has anyone given you anything in exchange for the
21 testimony you're about to give today?

22 A. No.

23 Q. You have to speak up for the court reporter.

24 A. No.

25 Q. Has anyone made any threats concerning the

1 testimony you're about to give?

2 A. No.

3 Q. Has anyone else interviewed you concerning the
4 accident and your knowledge of the conditions in the
5 mine?

6 A. I had some lawyers for Massey at Elk Run's office
7 about a month after it happened.

8 Q. Okay. Do you remember who these lawyers were?

9 A. I don't remember names.

10 Q. Okay. What kind of questions did they ask you?

11 A. My job function, what did I --- things that I know
12 about what happened, just what areas of the mines I
13 was in.

14 Q. Did they caution you about this interview?

15 A. I wouldn't say cautioned. They told me it was
16 coming.

17 Q. Did they give you any instructions about this
18 interview or tell you anything about this interview,
19 give you any advice?

20 A. If they did, it was too long ago, but they told me
21 that this --- well, these proceedings were already
22 going on with other people, so I knew it was coming.
23 But as far as advice, I'd say no.

24 Q. Okay. How many years of mining experience do you
25 have Mr. Williams?

1 A. Six.

2 Q. And if you would, could you give me a brief
3 description of your coal mine employment history?

4 A. I started in July of 2004. I have --- what do you
5 mean, like what all have I done?

6 Q. Where did you work at, when, just briefly?

7 A. Okay. I worked for --- it's all been with Massey.
8 I worked at Marsh Fork Mine for about two years. Then
9 we moved to Allen Powellton Mines. I worked there
10 about a year. Went to Parker Peerless Mines for about
11 a year, and started at UBB August of last year.

12 Q. Do you have any mining certifications?

13 A. I got my assistant mine foreman's card.

14 Q. Are you presently employed?

15 A. Yes.

16 Q. Where at?

17 A. I'm currently with Elk Run, Shonk No. 1 Mine.

18 Q. When did you start there?

19 A. Monday.

20 Q. This past Monday?

21 A. Yes.

22 Q. What is your present job title?

23 A. Fire boss, belt man.

24 Q. And where did you work at prior to this?

25 A. Shonk No. 2 Mine. We just --- they just

1 transferred me last week to --- for the belts. They
2 come up with a new schedule, so I started portalling
3 at the other side of the mines.

4 Q. And what did you do there?

5 A. Belt man, fire boss.

6 Q. What was your job title at UBB?

7 A. Fire boss.

8 Q. Fire boss?

9 A. Yes.

10 Q. Okay. When was your first day of employment at
11 Upper Big Branch?

12 A. It was either July or August of last year,
13 somewhere right in there.

14 Q. And did you receive the Massey initial training?

15 A. Yes.

16 Q. When did you receive this?

17 A. You mean when I first started working for Massey?

18 Q. You can tell me when you first started working for
19 Massey.

20 A. Yeah. That would have been orientation back in
21 2004.

22 Q. Okay. What about an annual retraining, did you go
23 through that?

24 A. Yes.

25 Q. Where did you go through that at?

1 A. At the old Marsh Fork Elementary School, I
2 believe, is where it was.

3 Q. What sort of subjects did they cover here in
4 annual retraining?

5 A. You go through a smoke trailer, SCSR retraining,
6 your outby chambers, your spotters, methane testers.
7 There's a few more things there.

8 Q. Did they go over a ventilation plan?

9 A. Go through a roof control --- go over a roof
10 control plan, yes.

11 Q. What about the mine ventilation plan?

12 A. I'm trying to think what part of that's in there.
13 Yeah, it's in there. Yeah. I've got a bad memory.
14 It's in there.

15 Q. What did they tell you about the mine ventilation
16 plan?

17 A. Like minimums, how much air you've got to have,
18 stuff like that.

19 Q. What did they say about the minimums?

20 A. Like 9,000 across the face.

21 Q. What was your first job assignment at Upper Big
22 Branch? What was the first thing they started you out
23 doing there?

24 A. I started out as a section boss ---

25 Q. A section boss?

1 A. --- or trained for section boss.

2 Q. And what section were you training to be ---?

3 A. Number Three section.

4 Q. Number Three section. And where is Number Three
5 section? We have a map here and then we have a map in
6 front of you. Can you point out to me where the
7 Number Three section is at?

8 A. Yeah, if I can get to the map.

9 Q. Feel free to just get up and --- feel free.

10 A. Number Three section when I was on it was in this
11 area.

12 Q. Okay.

13 MR. STEFFEY:

14 We'll indicate that that's in the
15 southern end of the mine, near the silo portal, the
16 panel adjacent to EP 62.

17 BY MR. STEFFEY:

18 Q. Okay. And after you were training to be the
19 Number Three section boss, then what did you do?

20 A. I was section boss for maybe six weeks ---

21 Q. Okay.

22 A. --- and then I asked to be --- told them I just
23 didn't care for that job, asked to be pulled off of
24 it, and they changed my job to fire boss.

25 Q. Fire boss. Okay. I had you down here as a roof

1 bolter or a shuttle car operator, so that was
2 initially wrong. What areas did you fire boss?

3 A. Basically I did airways for Number Three section,
4 and I would do the intake for what used to be the
5 Number Four section.

6 Q. Can you ---?

7 MR. PAGE:

8 Let's take the map and lay it down here.

9 MR. STEFFEY:

10 Yes. Let's just get the map here. We'll
11 get it over here. Can we go off the record for a
12 minute?

13 OFF RECORD DISCUSSION

14 MR. STEFFEY:

15 Go back on.

16 BY MR. STEFFEY:

17 Q. Okay. If you would here, looking at the map in
18 front of you, would you take a highlighter and trace
19 out the areas that you had --- the areas that you had
20 to fire boss with the pink highlighter?

21 A. Do you want me to write overtop the intake all the
22 way?

23 Q. Yeah, just trace right over it.

24 WITNESS COMPLIES

25 A. Let's see. Yeah, they drove up through there.

1 When I did airways, I would do all --- the section was
2 up here at the time, I believe. Yeah, and they pulled
3 back to here. But I did like the intake all the way
4 to Three section, and then I would --- wherever the
5 section was at at the time, I'd do the --- like the
6 right return. Well, I'm going to ask you. Like do
7 you want me to mark out when they were here or when
8 they were here, you know?

9 MR. PAGE:

10 Where were they at when you was here?

11 A. They had pulled back up here, so I'd do like the
12 right return. These panels weren't here then.

13 MR. PAGE:

14 Mark the return with that from wherever
15 they was at the last time you examined them.

16 A. Well, I'd say the last time I examined them, they
17 were up in here. So like the right return would be up
18 to here, going up through this old panel, go
19 across ---.

20 MR. PAGE:

21 Use this one, if you don't care, for the
22 return.

23 A. When I was there, they were up here and go up into
24 these old panels, come up though here, stay above
25 these old panels here, stay all the way out to the

1 outside. And our left return, depending like when
2 they was up here, I would follow our left return out.
3 Let's see. The left return out all the way --- it
4 would come all the way back out to the portal next to
5 the bath house.

6 BY MR. STEFFEY:

7 Q. Did that left return go --- the last time you fire
8 bossed this area, you said they were right here?

9 A. When they was up in here, the left return would go
10 up through all this and then back around out.

11 Q. Okay. This return going across the mouth of these
12 panels, was that return in place?

13 A. Yes. Yes. I would travel it out and then I would
14 come back in right through here, and I'd get that area
15 traveled also.

16 Q. Okay. Approximately --- and this may seem like
17 it's jumping around a little bit, but I'd like to get
18 a date on this. Approximately when were you the
19 Number Three section boss?

20 A. August --- sometime in August, maybe up into
21 October.

22 MR. STEFFEY:

23 There's a blue highlighter down there.

24 Would you be so kind as to pass that to me?

25 MR. MCGINLEY:

1 Yes.

2 (Williams Exhibit One marked for
3 identification.)

4 MR. MCGINLEY:

5 And let the record show that the witness
6 is writing on what has been marked as Williams Exhibit
7 One.

8 MR. STEFFEY:

9 Thank you.

10 BY MR. STEFFEY:

11 Q. Now, with the blue highlighter I want you to
12 circle where that Number Three section was when you
13 were section bossing, and just write out from it
14 Number Three section and the date.

15 A. I don't remember ---.

16 ATTORNEY MCCUSKEY:

17 If you don't mind me interrupting just
18 for a second, I believe he had said he was in training
19 to be a section boss.

20 MR. STEFFEY:

21 Okay. Where he was training to be a
22 section boss. My apology. But he was a section boss
23 after that.

24 ATTORNEY MCCUSKEY:

25 Right. That's why I want to make sure

1 we're clear which one he's talking about.

2 BY MR. STEFFEY:

3 Q. So where were they at when you were section boss?

4 A. We were up in this panel here, up in this whole
5 area.

6 Q. Okay. So you actually section bossed on this
7 panel?

8 A. Correct.

9 Q. Circle that panel, and then if you'd be so kind,
10 draw a line out from it.

11 A. I don't remember no dates, if it was August ---.

12 Q. Approximately.

13 A. Okay.

14 Q. And be sure to write approximately on that.

15 WITNESS COMPLIES

16 BY MR. STEFFEY:

17 Q. And that's in 2009 or ---?

18 A. 2009.

19 Q. Okay. Would you please write 2009 under that?

20 WITNESS COMPLIES

21 BY MR. STEFFEY:

22 Q. Okay. Now, then I believe you said that you did
23 this for about six weeks; right?

24 A. Two months, somewhere right in there.

25 Q. Okay. So for two months you did this and then you

1 told them you didn't want to section boss no more, so
2 that would put it up to like October?

3 A. Right.

4 Q. So in October you began fire bossing for this
5 area; ---

6 A. Correct.

7 Q. --- is that correct? What time did your shift
8 begin?

9 A. 6:00 a.m.

10 Q. 6:00 a.m.

11 A. Until 3:00.

12 Q. And how many men did you have on your crew
13 normally?

14 A. I'm counting. Eight to nine.

15 Q. Eight to nine?

16 A. Uh-huh (yes).

17 Q. And did you run sweep air or a single split ---

18 A. Sweep.

19 Q. --- or double split air? So you ran split air?

20 A. I'm sorry, split air.

21 Q. Split air. Thank you. My apologies. Before you
22 went into the section or went into the mine, take me
23 through your typical morning.

24 A. I would have to be early to take reports from
25 whoever was up there on hoot owl, get the reports, get

1 all the names of my people turned into the dispatcher
2 who was going in with us, just get everything ready to
3 go before start time, actually.

4 Q. Okay. And who pre-shifted that area prior to your
5 crew entering the mine?

6 A. That would be the hoot owl move boss. Now, I
7 don't remember the name of the guy.

8 Q. Okay. So you got your report from him?

9 A. Correct.

10 Q. Okay. And this consisted of him calling out his
11 report for it to be entered in the book?

12 A. Correct.

13 Q. Okay. Did you ever call out any hazards?

14 A. Yes.

15 Q. What typically did you find down here? What type
16 of roof and floor and rib conditions did you have?

17 A. Well, it would be like bad ribs or need extra
18 timbers, maybe water, water in the face.

19 Q. Where did the water come from?

20 A. Just outby us.

21 Q. Did you ever go up there and find something that
22 you hadn't been told about?

23 A. Yeah. I may have found an area that wasn't bolted
24 and wasn't called out.

25 Q. Anything else?

1 A. In my opinion, it might have been dirty, the
2 section was dirty. It needed to be cleaned and
3 dusted, ---

4 Q. Okay.

5 A. --- and it wasn't called out.

6 Q. So when you get up there, then what's the first
7 thing you do after that?

8 A. Just start correcting what you can get corrected,
9 get things taken care of.

10 Q. Okay. What did your men typically --- what were
11 they doing?

12 A. Well, typically, at the beginning of the shift
13 they would start checking out their --- whatever
14 equipment they were running, getting the first
15 inspection of the morning.

16 Q. So they would service their equipment at the
17 beginning of the shift?

18 A. Correct.

19 Q. Okay. So you'd go in, you'd be correcting
20 hazards, your crew would be servicing their equipment?

21 A. Well, I might not be --- I would be helping
22 correct hazards, but I would have to get somebody who
23 just wasn't --- like I say, a buggy man who wasn't
24 really that busy, had already checked his buggy out,
25 get him to help.

1 Q. Okay. Then what?

2 A. Then I suppose we just get ready to start running
3 coal.

4 Q. Did you hot seat?

5 A. No. We didn't hot seat on regular, but it may
6 have happened a time or two where we just had a bad
7 day.

8 Q. Okay. What was your budgeted footage up there?

9 A. What do you mean by budgeted footage?

10 Q. Most Massey sections have a budgeted footage that
11 they're expected to meet.

12 A. Oh.

13 Q. What was the footage that they expected you to get
14 per shift?

15 A. 200 feet.

16 Q. 200 feet is what you were budgeted at?

17 A. Uh-huh (yes).

18 Q. Okay. All right. So you go up there and you go
19 around and you'd be helping correct hazards and get
20 your equipment serviced and start getting ready to run
21 coal. What did starting to get ready to run coal
22 consist of, what type of activities?

23 A. Well, I know when I first got up there, I had to
24 run faces when I first got up to the section. That
25 was the first thing I had to do. But I don't know

1 what you're saying with that question.

2 Q. I'm just asking, you know, what type of activities
3 did --- they serviced their equipment. That included
4 bitting up. Did you put her right in the coal after
5 that or was there, you know, anything else you had to
6 do?

7 A. I had to make sure ventilation was right.

8 Q. Okay.

9 A. Make sure we were ready to run coal before we
10 started running coal.

11 Q. Okay. Could you use a scrubber on the section?

12 A. No.

13 Q. Okay. So did you have all exhausting face
14 ventilation?

15 A. Yes.

16 Q. Okay. How much air did you have to have in the
17 last open crosscut?

18 A. 9,000.

19 Q. 9,000. All right. What about evacuation drills
20 for your crew, how often did you guys participate in
21 those?

22 A. I believe those were every three months. But I
23 know that the short period that I was section bossing
24 we did one.

25 Q. Okay. And what did that consist of?

1 A. That consists of using some training ---
2 self-contained rescuers and going through putting
3 those on and then walking out the intake.

4 Q. Okay. Who was designated as the responsible
5 person for each shift?

6 A. You mean outside?

7 Q. Yeah. Do you have an emergency response plan that
8 designates a responsible person? Do you know who that
9 was?

10 A. I'd say it was Gary May and Rick Foster.

11 Q. Okay. What was --- how did you and your crew know
12 who that was?

13 A. I believe it was wrote on the board.

14 Q. Okay. And if that changed, if that person
15 changed, the responsible person for that shift?

16 A. Change --- they would change the names on the
17 boards.

18 Q. Okay. Did you travel through any equipment doors
19 going to this section?

20 A. Yes. Yes.

21 Q. Could you indicate their locations on the map for
22 me?

23 A. Yeah. We had some doors down here.

24 Q. If you would, take the orange marker and circle
25 the locations to the best of your memory.

1 WITNESS COMPLIES

2 A. I believe that's where the intake come to, that
3 right there.

4 BY MR. STEFFEY:

5 Q. Okay. And were these track doors?

6 A. Track doors, yes.

7 Q. Were they automatic or were they manual?

8 A. Automatic.

9 Q. What type of condition were they in?

10 A. They were in pretty good shape.

11 Q. Could you fit a supply motor and a flatcar between
12 them?

13 A. Yes.

14 Q. Did you ever come in and found them open?

15 A. I may have came up and found the first set of
16 doors already open. Maybe when the crew went out,
17 they just left that first set open.

18 Q. Okay. When you would open the doors up, did you
19 notice anything about the air?

20 A. Yes. It would change your air as you opened the
21 doors. You could hear the pressure of the air on the
22 other doors.

23 Q. Would it reverse the air?

24 A. No.

25 Q. Okay. Did you ever --- up here on this section,

1 while you were bossing --- we'll talk about when you
2 fire bossed here in a little bit. But when you were
3 section bossing up here, did you ever detect any
4 methane?

5 A. No.

6 Q. Even when the miner was cutting, never saw
7 anything on the methane detector then?

8 A. Never.

9 Q. Okay. Have you been anywhere else in this mine?

10 A. Yes.

11 Q. And where else have you been in this mine?

12 A. I've been up in what used to be the old Number
13 Four section. I've traveled along all the seals.

14 Q. Okay.

15 A. I've walked from the seals, walked the left return
16 all the way outside.

17 Q. Okay. Anywhere else?

18 A. I've been up to what they're calling now as the
19 barrier section.

20 Q. Okay.

21 A. And up into the --- what they called LBB.

22 Q. Uh-huh (yes). Have you ever been in the mini-
23 panel construction area?

24 A. No, but I did go to the longwall one time.

25 Q. You went to the longwall one time?

1 A. Yes.

2 Q. Okay. When was that?

3 A. Probably January or February of 2010.

4 Q. What did you go up to the longwall for?

5 A. I gave a man a ride up there. And while I was up
6 there, he gave me like a little short tour of what the
7 longwall looked like. I had never seen a longwall
8 before.

9 Q. Okay. Pretty interesting, aren't they?

10 A. Yes, it is.

11 Q. Did you happen to notice what way the air was
12 going across the longwall? Did you happen to notice
13 any --- do you remember anything in your memory that
14 stands out?

15 A. No, just that I never --- I would not want to have
16 to work up there.

17 Q. Why was that?

18 A. Just the low quarters you got there, working up
19 underneath them jacks, a tight area.

20 Q. Did you ever hear anybody on the longwall talk
21 about methane or anything?

22 A. No.

23 Q. Did you talk to those guys much?

24 A. No, not really. Not really.

25 Q. What about the headgate and tailgate section up

1 there? Were you ever up there?

2 A. No.

3 Q. Okay. So you were primarily on the south end of
4 the mines?

5 A. Correct.

6 Q. Okay. Let's go back to over here. Number Three
7 section I believe is what you called that. When
8 you're --- when supplies would come up to the section,
9 how would they unload those supplies?

10 A. With a forklift.

11 Q. With a forklift. And where would they typically
12 store those supplies at?

13 A. Outby the section.

14 Q. Outby the section. Where at?

15 A. Along the track maybe. Sometimes it could be 12
16 breaks away from the section.

17 Q. Okay. This forklift was diesel powered, battery
18 powered?

19 A. Battery powered.

20 Q. Battery powered. Was it permissible, non-
21 permissible?

22 A. No.

23 Q. Non-permissible?

24 A. Not permissible.

25 Q. Did you ever see anybody take one in the return?

1 A. No.

2 Q. Do you know if the mine ever had any problems with
3 gas wells, known or unknown? Did you ever hear of
4 any?

5 A. Not to my knowledge.

6 Q. Not to your knowledge. What about the lower Eagle
7 Seam or the little Eagle Seam that was under you, did
8 anybody ever discuss that with you or your crew?

9 A. I didn't even know we had a seam underneath us.

10 Q. Okay. What can you tell me about methane
11 outbursts in this mine? Did you ever hear of any?

12 A. Never did.

13 Q. What about problems with excessive water?

14 A. We had excessive water in the old Number Four
15 section that we were in the process of trying to get
16 pumps set and get it pumped out.

17 Q. And where was that at?

18 A. I believe it was in this area right here.

19 Q. In that area right there. And this was the area
20 around MPs 6 and 9; right?

21 A. Yes.

22 Q. Okay. Did the water ever roof out?

23 A. Not to my knowledge.

24 Q. Okay. Ever interrupt ventilation in any way
25 there?

1 A. Not that I am aware of.

2 Q. Okay. Let's talk about when you fire bossed this
3 area. What time would you typically enter the mine?

4 A. Probably about six o'clock.

5 Q. 6:00 a.m.?

6 A. Yes.

7 Q. Okay. And when did the next shift start?

8 A. They start at 4:00.

9 Q. They start at 4:00?

10 A. The evening shift would start at four o'clock.

11 Q. Okay. So were you fire bossing for that shift?

12 A. Yes.

13 Q. Okay. Did you have a probe?

14 A. You mean a spotter?

15 Q. I'm assuming you had a spotter.

16 A. Right.

17 Q. Well, let's talk about the spotter. Did you take
18 the spotter home?

19 A. Yes.

20 Q. Who did the maintenance and calibration of the
21 spotter?

22 A. I would put it on the --- we had a calibration
23 unit at the mines that I would --- I would put it on
24 and make sure it was done every 30 days.

25 Q. Okay. Were there any high spots along your travel

1 route?

2 A. Yes.

3 Q. And where were they at?

4 A. I can't say that I remember where they was at, but
5 high spots is where I would check for methane.

6 Q. And how would you check for methane at those
7 spots?

8 A. Holding my spotter up towards the high spot.

9 Q. Could you get it up to within a foot of the roof?

10 A. Yes.

11 Q. Were there any areas in here that required the use
12 of a probe to reach the high spot?

13 A. No. No.

14 Q. What typically would you find traveling this? Did
15 you ever find any methane?

16 A. I have never found any methane at all.

17 Q. Bad top, anything like that?

18 A. Bad top, draw rock.

19 Q. Okay. What about rock dusting along the belts,
20 did you make those areas?

21 A. Yes.

22 Q. So you did make the belt areas also?

23 A. Yes.

24 Q. How were they rock dusted?

25 A. We had a track duster that would go in and dust

1 the belts. Some places we couldn't get it to, we'd
2 just have to get hand dust put in there and throw it
3 around.

4 Q. Okay.

5 A. Hand dust the best you could.

6 Q. Would you describe the rock dust, in your opinion,
7 to being adequate?

8 A. Most of the time, yes.

9 Q. Most of the time?

10 A. Yes.

11 Q. Any situations where you didn't think it was
12 adequate?

13 A. There would be sometimes when it needed to be
14 dusted, and you'd get dust and dust it or you report
15 it and they'd send the track crew in to dust the
16 belts.

17 Q. Okay. Did you always report your findings --- you
18 reported your findings outside, to management. Did
19 they ever --- what did they say to you about the stuff
20 that you were finding? Did anybody ever have anything
21 to say about anything that you found?

22 A. Be more specific. What do you mean?

23 Q. Did they express any concerns that, you know, you
24 might want to correct that but not report it? Did
25 anybody ever do that to you?

1 A. There's been times I've found things and corrected
2 it myself or there's been times where it didn't get
3 corrected that night, and I've have to correct it the
4 next day.

5 Q. Was it entered in the record book?

6 A. Yes.

7 Q. Who was your immediate supervisor?

8 A. Rick Foster.

9 Q. Rick Foster. And who was his supervisor?

10 A. Gary May.

11 Q. Gary May, okay. Do you know of any instance in
12 this mine or heard of any instance anywhere in this
13 mine where a methane detector was bridged out ---

14 A. No.

15 Q. --- on a piece of equipment, a miner or longwall
16 unit?

17 A. No.

18 Q. Was ventilation adequate at all times?

19 A. To my knowledge, yes.

20 Q. Do you know of any major ventilation changes made
21 while miners were underground?

22 A. Not while --- no, not while miners were
23 underground.

24 Q. Did mining ever take place without ventilation
25 curtains in place?

1 A. No.

2 Q. Do you know if anybody had ever had any safety
3 concerns at this mine, ever expressed a concern to you
4 or to management outside? Did anybody ever tell you,
5 I've got a situation up here, this is bothering me,
6 something to that effect?

7 A. Not that I recall, no.

8 Q. Did you ever hear of anybody expressing that to
9 somebody outside, from one of the other sections?

10 A. No.

11 Q. Were miners subjected to retaliation and threats
12 for reporting safety concerns?

13 A. I don't think so.

14 Q. What about inspectors, did you know when they were
15 on the property?

16 A. Usually, yes.

17 Q. Okay. How did you know?

18 A. Just maybe somebody --- motor crew come in and say
19 we've got inspectors outside or they might call you on
20 the phone and tell you we've got company outside.

21 Q. Who would call you on the phone?

22 A. It could be the dispatcher.

23 Q. Okay. Did anybody call him and tell him? How did
24 that work?

25 A. I don't know how it worked outside. It may have

1 been somebody calling him, telling him.

2 Q. Okay. So the dispatcher would call in or the
3 motor crew would call, and some way, somehow, somebody
4 would let you know?

5 A. Pretty much, yes.

6 Q. Pretty much. And then what would you do?

7 A. Just make sure --- make double sure that you've
8 got everything right.

9 Q. Make double sure that everything is right?

10 A. Right. You already know it's right, but you still
11 want to back up and make sure everything is right.

12 Q. Did you --- what was the feeling towards the
13 inspectors?

14 A. I was always glad to see one come because they see
15 things that we don't see.

16 Q. Were you ever there when they issued a citation?

17 A. Yes.

18 Q. What kind of citations did they issue? Was one
19 ever issued on ventilation while you were there?

20 A. Yes. I had taken an air reading before a roof
21 bolter went to start bolting, and I guess I learned I
22 was taking it in the wrong place, because I got ---
23 where I took it and where the inspector took it were
24 two totally different places.

25 Q. What did they say to you outside about that

1 citation?

2 A. I don't know. It's been so long ago. I'd say
3 just try not to let it happen again. I just didn't
4 know I was taking my readings in the wrong place.

5 Q. What other --- did you ever have to miss work or
6 have your shift delayed because of a citation on
7 ventilation or some other safety problem that was
8 cited?

9 A. Not that I recall.

10 Q. When you'd go outside, did you see citations
11 posted from other areas of the mines up from other
12 areas of this mine? They post them on the bulletin
13 board, don't they?

14 A. Yes.

15 Q. Did you see those citations? Did outside
16 management ever go over those citations with
17 everybody? Did they ever give you a dollar amount as
18 to what that citation costs?

19 A. I know I've heard of them before, but --- like if
20 they were on our side, we would have to work on
21 clearing it up.

22 Q. But did you ever have meetings outside over the
23 citations with your supervisor or the person above
24 him?

25 A. I don't know if you'd call them official meetings,

1 but we would be told about some of them that we had
2 gotten, yes.

3 Q. And what were you told?

4 A. Like what type of violation it was and maybe how
5 much it --- you know, how much of a fine it was.

6 Q. What else did they say about the citation and the
7 fine? Did they ever imply MSHA was trying to put you
8 out of business?

9 A. No, I don't think so.

10 Q. Did anybody --- did you ever have to work during
11 your vacation?

12 A. Yes.

13 Q. How often did that happen?

14 A. Just the last year. What was that, Christmas
15 vacation?

16 Q. What about weekends?

17 A. You mean scheduled weekends off or ---?

18 Q. Yeah. When you had a scheduled weekend off, how
19 often did that get canceled?

20 A. I don't know what you mean by often, but it did
21 happen. I don't know if it was real often, but it
22 would happen.

23 Q. Did anybody ever talk to your crew about
24 production at the mine, talk to you --- even when you
25 were fire bossing, did people come up there and talk

1 to you about production, that production had to pick
2 up?

3 A. I don't recall.

4 Q. You don't recall that?

5 A. No.

6 Q. Do you think this was a high-pressure mine?

7 A. What do you mean by high pressure?

8 Q. Was there pressure to run coal?

9 A. Well, we all wanted to run more coal than what we
10 could, but --- of course, you're always asked to try
11 to do better, try to get more coal.

12 Q. Would you characterize it then as there was
13 pressure to run coal?

14 A. I don't think I'd call it pressure. It was just,
15 you know, you're asked to do what you can to make more
16 happen, I suppose.

17 Q. What about Chris Blanchard and Jason Whitehead,
18 how often did you see them at the mine?

19 A. Maybe once a week ---

20 Q. Once a week?

21 A. --- that I would see them because I would go
22 underground, and I'd be underground all day.

23 Q. Did they ever come up in the area where you were
24 at?

25 A. Yes.

1 Q. What were they up there doing?

2 A. Well, there was times when we was starting a new
3 --- the barrier section, they came up there to see how
4 progress was going before we could get that section
5 going.

6 Q. And how was progress on that day?

7 A. I'd say it was going pretty slow is why they was
8 up there.

9 Q. Did they talk to you guys ---

10 A. No. No.

11 Q. --- about the progress?

12 A. They just came up there to look around. I wasn't
13 with the section there.

14 Q. Did you ever see any engineers underground?

15 A. Yes.

16 Q. Surveyors?

17 A. Yes.

18 Q. What were they doing?

19 A. Are you talking about spad crews?

20 Q. Yeah.

21 A. Putting up spads.

22 Q. Did you always turn on centers?

23 A. Turn?

24 Q. Yeah, you'd set your spad at the center point.

25 Did you stay on your centers or did you sometimes get

1 off?

2 A. Sometimes we'd get off centers, yes.

3 Q. Okay. How often would that occur?

4 A. I don't know. I'd say you always had at least one
5 entry that was off center.

6 Q. What about wide entries?

7 A. We had some of those, too.

8 Q. You had some wide entries?

9 A. Yes.

10 Q. How often would that occur?

11 A. Probably, again, you always had at least one entry
12 that would be wide.

13 Q. Was there ever any areas where you cut it wide and
14 the surveyor posted it to go on the map as though it
15 was a 20-foot-wide entry? Did you ever know of that
16 happening?

17 A. No.

18 Q. Did they ever talk to you about the width of the
19 entries?

20 A. Yes.

21 Q. What did they say to you?

22 A. Are you talking about like if it was a wide entry?

23 Q. Uh-huh (yes).

24 A. We'd have to set sand jacks or timbers.

25 Q. Okay. So how wide did you end up cutting them

1 sometimes?

2 A. I believe I remember one incident one was cut 24
3 foot wide.

4 Q. Twenty-four (24) foot wide. Was that in --- how
5 wide could you cut in your belt entry? How wide did
6 your roof control plan allow you?

7 A. I believe it's still 20 foot. I don't remember.

8 Q. So you had one instance where it was at least 24-
9 foot wide?

10 A. Correct.

11 Q. Any other instances where you had wide entries?

12 A. There was --- I'm not saying there was just one
13 incident. I mean, there was a few places that did cut
14 wide and have to go back and timber or put sand jacks
15 up.

16 Q. Did this happen at other places in the mine?

17 A. I'd say it happens everywhere, doesn't it?

18 Q. Well, we hope not.

19 A. I don't know, but it does.

20 MR. STEFFEY:

21 Have you guys got any questions to follow
22 up?

23 MR. FARLEY:

24 A couple, three things.

25 EXAMINATION

1 BY MR. FARLEY:

2 Q. I think you indicated that you made one trip to
3 the longwall?

4 A. Correct.

5 Q. One time you gave somebody a ride and you got a
6 quick tour?

7 A. Yes.

8 Q. Aside from that trip to the longwall, how many
9 times did you ever travel inby the Ellis Switch? And
10 when I say inby the Ellis Switch ---

11 A. Yes.

12 Q. --- toward the longwall and the Headgate 22 and
13 Tailgate 22 section.

14 A. Maybe five times before that I would go up to the
15 --- what they call Number 76 Break, up there where
16 that switch is at.

17 Q. Why did you go up there?

18 A. I'd go up there --- I went up there a couple times
19 with another fire boss and checked the seals.

20 Q. Okay. Did you ever find any problems with the
21 seals?

22 A. We had some seals on the south side that needed to
23 be repaired, had some leakage on those seals.

24 Q. Okay.

25 A. Other than that, no.

1 Q. Okay. Now, what was the time frame that you
2 encountered these seals that needed to be repaired on
3 the south side? Was that this year, last year?

4 A. Last year.

5 Q. Okay. Were the repairs made to the seals?

6 A. Yes.

7 Q. Okay. Now, you started at UBB around August 2009.
8 Now, from August 2009 through April 5th of 2010,
9 during your time as section foreman and as a fire
10 boss, did you observe any mining equipment being moved
11 into or out of the mine at any time?

12 A. I know there was some mining equipment moved, but
13 maybe it wasn't during my shift. I know I never --- I
14 never observed any being moved, no.

15 Q. Let me be a little bit more specific and be sure.
16 When I talk about equipment being moved I'm talking
17 about something like a continuous miner or a roof
18 bolter machine or a shuttle car being transported on a
19 track-mounted car, towed or pushed by a track-mounted
20 vehicle. Did you ever observe that?

21 A. No.

22 Q. Okay. Are you aware --- but you were aware of it
23 being done?

24 A. Correct.

25 Q. When was it usually done, if you know?

1 A. I believe it was done during like on a weekend or
2 --- I don't know when they did it, but I never
3 witnessed it being moved. But I know they were moving
4 some equipment.

5 Q. Okay. I think David asked you earlier about
6 ventilation requirements on your section when you were
7 section bossing for a short period of time. You
8 indicated you had to have 9,000 cubic feet per minute
9 in the last open crosscut. Was there a Massey rule
10 that required more air than 9,000 in the last open
11 crosscut?

12 A. Yes. They required 20,000, but you might have had
13 14,000.

14 Q. Were you ever able to achieve the 20,000 that they
15 wanted?

16 A. There was times when you could have that much, but
17 realistically we might have had 14 --- about 14,000.

18 Q. Was the 14,000 sufficient to get you to the
19 required minimums in your faces?

20 A. Yes.

21 MR. PAGE:

22 Patrick? Do you want to take a break?

23 A. I'd like to. I'd like to get it over with, too,
24 though.

25 SHORT BREAK TAKEN

1 EXAMINATION

2 BY MR. MCGINLEY:

3 Q. Mr. Williams, when did you get your assistant mine
4 foreman papers?

5 A. Is it on my card?

6 MR. STEFFEY:

7 I don't know.

8 BY MR. MCGINLEY:

9 Q. I'm not looking for an exact date or the hour.

10 A. Instead of me trying to scramble my brain, let me
11 look here. Date of issue, third month, seven day of
12 2005.

13 Q. And had you ever worked as a boss anyplace other
14 than that ---

15 A. No.

16 Q. --- Three section?

17 A. No.

18 Q. How long was the training before you took over as
19 boss on that section? You said you were up there
20 training I thought.

21 A. I had a one-and-a-half week training.

22 Q. What did that --- what was that comprised of?

23 A. Working with another section boss.

24 Q. And who was that?

25 A. Brandon Bowling.

1 Q. And then you took over?

2 A. Yes.

3 Q. That was the evening shift?

4 A. That was a swing shift.

5 Q. Swing shift. And then after two months, somewhere
6 around October 2009, you decided you didn't care for
7 the job and you asked to be reassigned; is that right?

8 A. Correct.

9 Q. Why didn't you care for the job?

10 A. I don't --- I didn't feel comfortable in that
11 position.

12 Q. Why not?

13 A. I didn't think I had enough knowledge or
14 experience to be comfortable in that position.

15 Q. Was it connected to the citation you got, I mean,
16 your feeling of not being comfortable?

17 A. That may have been part of it, but it was just too
18 much going on for one person to look after.

19 Q. What more training or experience do you think was
20 necessary to be able to run that section confidently?

21 A. Maybe more time with another section boss, more
22 training with another section boss.

23 Q. And when you asked to be reassigned, did they
24 immediately reassign you?

25 A. I believe it was within a week.

1 Q. And how is the present job, fire bossing? Do you
2 feel more comfortable doing that?

3 A. Yes.

4 Q. With regard to the citation that was issued, can
5 you go into a little more detail --- you took the
6 reading in the wrong place, is that --- was that the
7 essence of it?

8 A. Correct. I did it from behind a piece of line
9 curtain, and the inspector did it at the end of the
10 line curtain.

11 Q. And had anybody in your training at Massey
12 explained where you should take the reading?

13 A. Yes, Brandon Bowling.

14 Q. And what did he --- had he told you? Was this
15 before the citation?

16 A. Yes.

17 Q. And what had he told you?

18 A. He told me to take it from behind the piece of
19 line curtain.

20 Q. And when management talked to you about that
21 violation, you explained that that's why you took the
22 reading where you did?

23 A. Yes.

24 Q. And what was their response?

25 A. I think they agreed with the inspector that I was

1 taking it in the wrong place.

2 Q. Who did you talk to about that violation?

3 A. Gary May.

4 Q. At that time, what was his position?

5 A. Superintendent.

6 Q. Did you ever see the track duster?

7 A. Yes.

8 Q. When you were working as a boss at that section,
9 that Three section, did you see a track duster then?

10 A. Well, we might be on our way in on the track and
11 it would be sitting in a spur, waiting for us to come
12 in so it could come out.

13 Q. And they had to use hoses ---

14 A. Yes.

15 Q. --- to get beyond the track?

16 A. The track dusters sat on the track, but the belt
17 would be over in the other entry. So they'd have to
18 use a hose to get over to the belts.

19 Q. And did they have problems with that track duster,
20 to your knowledge, the hoses getting clogged?

21 A. I didn't really talk to the dust crew.

22 Q. How many crews did they have for the mine doing
23 track dusting?

24 A. They had one crew on the hoot owl shift.

25 Q. For the whole mine?

1 A. I believe.

2 Q. You answered one question --- I think the question
3 was do you think ventilation was adequate at all
4 times, and you said yes. Do you recall that?

5 A. Yes.

6 Q. Did you mean ventilation was adequate at all times
7 where you were working or at all times that you've
8 been in the mine? You were working up at the Three
9 section?

10 A. Right.

11 Q. I'm just trying to determine the scope of your
12 statement you thought ventilation was adequate. The
13 whole mine ---?

14 A. There was enough air coming in the intake to be
15 enough air for the section.

16 Q. What about in terms of as you were --- you've been
17 traveling through the mine, doing your fire bossing,
18 was ventilation --- did you see any problems with
19 ventilation during that period? I assume from what,
20 October until the explosion?

21 A. Correct. No, not that I'm aware of. There was
22 never no problem with ventilation there.

23 Q. Well, you knew that there was a citation issued
24 for reversed air. The air was reversed for a couple
25 weeks. Did you know about that?

1 A. I had heard about that. That was up on the
2 longwall. I didn't do that area.

3 Q. I understand, but I'm just wondering if you're
4 aware of that?

5 A. I had heard about it, about something going on up
6 there.

7 Q. Are you aware of any major ventilation plan
8 changes in that time? From the time you got to
9 working in the mine there, was it --- when did you go
10 there at UBB first?

11 A. I believe it was --- it was either July or August
12 of 2009. There was a time when we were shut down for
13 a ventilation change.

14 Q. And who went over the ventilation change or did
15 anybody go over it with you after that change was
16 made?

17 A. No, because that was on the other side again.

18 Q. Okay. That's the only ventilation change you're
19 aware of, the one when you were shut down?

20 A. Yes.

21 Q. During the time you've been fire bossing at UBB,
22 did the areas you were assigned to fire boss change
23 significantly at any point? I mean, have you been
24 essentially traveling the same route from the time you
25 started?

1 A. Yes.

2 Q. You said too much was going on in Number Three
3 section. What did you mean by that?

4 A. Just for me to be put up in there as the boss and
5 not having enough experience, enough training in that,
6 I just didn't feel comfortable doing that.

7 MR. MCGINLEY:

8 That's all the questions I have.

9 RE-EXAMINATION

10 BY MR. STEFFEY:

11 Q. Mr. Williams, when you were fire bossing, did you
12 always record the hazards that you found?

13 A. Yes.

14 Q. You always recorded them in the record exam book?

15 A. If I found hazards, I would record them, yes.

16 Q. Were you ever instructed by anybody above you in
17 management to not record these hazards?

18 A. No.

19 Q. Have you had any training supplied by Massey
20 Energy on dealing with inspectors?

21 A. No.

22 Q. No training at all?

23 A. No. I don't know --- what kind of training would
24 you be calling that? I mean, ---.

25 Q. No one ever had any type of presentation to show

1 you the proper way to deal with inspectors, taking
2 notes, how to ---

3 A. No.

4 Q. --- how to deal with violations or anything like
5 that?

6 A. No, just be considerate is all I know.

7 Q. Okay. When you were section bossing, when did you
8 conduct your on-shift respirable dust parameter check?

9 A. At the beginning of the shift.

10 Q. And how did you do that?

11 A. I would get my air readings for the last open
12 break, left and right side, water pressure and sprays
13 on the miner and suction in the bolters.

14 Q. And how did you check the water pressure on the
15 sprays on the miner?

16 A. Had the electrician check them.

17 Q. How did he do it?

18 A. He had a pressure gauge and he would put it on the
19 end of the bolter.

20 Q. Let's talk about the day of the accident. Where
21 were you at the time of the accident?

22 A. Outside.

23 Q. Outside? Had you just finished your shift?

24 A. Yes.

25 Q. Take me through that day. What happened?

1 A. That day I had been up here on the barrier section
2 with --- taking care of that belt all day long,
3 greasing the belt head, shoveling, dusting. I even
4 recall there was an inspector up there that day. I
5 don't remember his name, but ---. Normally my
6 quitting time is 3:30, but I had a --- somebody was
7 coming out on the track, so I caught me a ride
8 outside, and I quit at three o'clock that day instead
9 of 3:30. And I was already outside, just getting
10 ready to take my boots off, when the fan went crazy.
11 I went outside and seen the fan, and I seen two
12 electricians go towards the fan, go down over the hill
13 and just in a matter of minutes it cleared up and had
14 somebody tell me the fan must have kicked in reverse,
15 which I had never heard of. But I bought the story
16 and went ahead and showered and went home. Didn't
17 even know anything was going on.

18 Q. Who told you the fan went in reverse?

19 A. I don't remember who it was. Just a few of us
20 were outside because the fan was making so much noise.

21 Q. Did you see any dust or anything come out of the
22 portal?

23 A. Yes, coming out of the fan.

24 Q. Coming out of the fan?

25 A. Coming out of the fan.

1 Q. So then after that you just took a shower and went
2 home?

3 A. After the fan smoothed out, I figured they fixed
4 the problem and went on home.

5 Q. Okay. When did you find out that there had been
6 an explosion?

7 A. It was about 5:30 my brother called me. He works
8 at another mines nearby, and his son works in that
9 mine.

10 Q. His son works in this mine?

11 A. Correct.

12 Q. Was his son one of the victims?

13 A. No.

14 Q. Okay. He was evening shift. Hadn't made it ---
15 just --- he was at the --- on the Ellis side, just at
16 the mantrip.

17 Q. Okay. What did they tell you, just that there had
18 been an explosion?

19 A. Been an explosion, yes.

20 Q. Okay. What happened after that? Did you ever go
21 back to the mine?

22 A. Yes. Me and my brother went back to the --- that
23 mine rescue building they had there at UBB to find out
24 what had happened and find out where his son was at.

25 Q. Did you do anything while you were on the

1 property? Did you assist with the operations in any
2 way?

3 A. No.

4 Q. Nobody gave you any instructions or anything?

5 A. No.

6 Q. Okay. What happened after that? Did you leave
7 the property or ---?

8 A. Well, it was about 8:00 or 8:30 when his son came
9 up and --- this was after we were told about the
10 fatalities.

11 Q. Okay. Did you go underground at all that day,
12 after the accident, after the explosion?

13 A. After the --- no, no.

14 Q. Okay. Do you have any knowledge of how people
15 were accounted for going in or out of the mine after
16 the explosion?

17 A. No, because I didn't --- I didn't even go back up
18 to the mine office after this happened.

19 Q. After the explosion, do you have any knowledge of
20 anyone who entered the mine, ---

21 A. Yes.

22 Q. --- anything that you know or may have heard?

23 A. I've heard.

24 Q. What did you hear?

25 A. Chris Blanchard, Gary May, Rick Foster, I heard of

1 them reentering the mine right after the explosion.

2 Q. Did you hear anything else?

3 A. I've heard of them finding --- bringing Tim ---
4 what's his last name? Tim ---?

5 Q. I don't know who you're talking about.

6 A. The guy they brought out.

7 MR. PAGE:

8 Yeah, we know who you're talking about.

9 I can't remember his last name.

10 A. I can't remember his last name.

11 BY MR. STEFFEY:

12 Q. Did you ever hear how far they made it inside the
13 mine?

14 A. They made it to the mantrip of the Four section's
15 ride.

16 Q. Now, where is the Four section ride?

17 A. Forty-two (42) or 46 Break, up above Ellis Switch
18 is what I understood is where they found him at.

19 Q. Did you hear of them making it any further inby?

20 A. I've heard of rumors that Chris Blanchard made it
21 all the way to the longwall.

22 Q. Okay. But you don't know for sure?

23 A. No, no, just what I hear, hearsay.

24 Q. Were you surprised by what happened?

25 A. Yes.

1 Q. Did anybody ever express any concerns about this
2 mine at all?

3 A. Not to me and not on our side of the mines.
4 Afterwards I've heard of some bad things going on up
5 there on the longwall.

6 Q. What did you hear going on on the longwall?

7 A. I heard that they had a lot of --- or they
8 reported methane before, but it's just all hearsay.

9 Q. Okay. That particular day, when you were working,
10 did you happen to hear any conversations on the mine
11 phone? Was anybody talking on the mine phone that
12 day?

13 A. I don't stay on the mine phone. I've been working
14 with the belt all day.

15 Q. Were you near a phone? Did you hear anybody
16 hollering from the longwall or from one of the gate
17 road sections? Did you hear them call outside and say
18 they had any problems?

19 A. No.

20 Q. Were the sections running that day ---

21 A. Yes.

22 Q. --- or do you know?

23 A. Yes.

24 Q. Was the longwall down that day or was it running?

25 A. As far as I know, it was running.

1 Q. Okay. Is there a --- is there anything that you
2 can tell me that may help us determine what happened
3 here?

4 A. If there was anything, I would gladly tell you
5 because I want to know what caused this, but I have no
6 knowledge of anything going on there.

7 MR. PAGE:

8 Terry, you got anything?

9 MR. FARLEY:

10 No.

11 MR. PAGE:

12 I got a few questions.

13 EXAMINATION

14 BY MR. PAGE:

15 Q. Let me ask you, you got your papers, you're an
16 examiner; right?

17 A. Yes.

18 Q. Have you ever traveled the trackway down through
19 north mains?

20 A. I've traveled a trackway to Ellis Switch up to 76
21 Break.

22 Q. Okay. What kind of condition would you say that
23 track is in, the track --- the whole entry, as an
24 examiner?

25 A. There was a lot of places that were wide that had

1 already been timbered, a few places where we had water
2 on the track, always had one ten pump set up there for
3 that.

4 Q. Is that all?

5 A. Yeah.

6 Q. No wide places, I mean as far as sloughing, no top
7 scaled out, needed spot bolted, nothing like that?

8 A. There was places where there had been timbers set
9 because it was wide.

10 Q. Would you --- is there any areas that you would
11 think would needed spot bolted because you couldn't
12 set a timber in the middle of the track?

13 A. No, not that I recall of any.

14 Q. Okay. What kind of ride was you in? Covered ride
15 or ---?

16 A. Covered ride.

17 Q. Was you driving?

18 A. Sometimes I would and sometimes somebody else
19 would drive it.

20 Q. So when you're driving you can see pretty well
21 everything; right?

22 A. Yes.

23 Q. Okay. Have you ever filled the book out, come
24 back the next day and it had been whited out or
25 anything, in the examination book, where you filled it

1 out and signed it?

2 A. Where I had filled it out and somebody whited out
3 overtop of it?

4 Q. Yes.

5 A. No, no.

6 Q. Have you ever found a book like that?

7 A. I think I've seen Whiteout in a book before, but
8 we were told never to do that again. I don't remember
9 who did it, but I remember it was a big thing.

10 Q. Why would they --- why would you think that they
11 whited something out?

12 A. I couldn't answer that. That would be somebody
13 --- whoever did that could tell you that.

14 Q. Okay. Have you ever made that intake down through
15 there, down the north mains?

16 A. No.

17 Q. Was you aware of any problems that had been in
18 that area?

19 A. I don't believe I was ever told of any.

20 Q. Are you sure?

21 A. Yeah.

22 Q. Okay. I got a --- I'm going to make a statement,
23 and then I got a few more questions. This is --- and
24 Pat hit on it. We're trying to get to the bottom of
25 this. We want to make sure we get everything as

1 accurate as possible. And this is a Federal
2 investigation, and we need the truth as close as
3 possible. Okay?

4 A. Yes.

5 MR. PAGE:

6 Is something wrong?

7 ATTORNEY MCCUSKEY:

8 No. Just listening to you.

9 MR. PAGE:

10 Okay.

11 ATTORNEY MCCUSKEY:

12 Is there something wrong from your end?

13 MR. PAGE:

14 Well, I just --- you know, the way you
15 was looking, I didn't --- you know, I know everyone
16 understands we're in a Federal investigation and the
17 results of everything. I just wanted to make sure
18 everybody knew that.

19 ATTORNEY MCCUSKEY:

20 Yeah. I think he's been sworn in. And

21 it seemed to me you were suggesting that ---

22 MR. PAGE:

23 Okay. I got it.

24 ATTORNEY MCCUSKEY:

25 --- perhaps he wasn't telling the truth.

1 I thought that was the problem.

2 MR. PAGE:

3 No. I just want to make sure everyone
4 understands.

5 BY MR. PAGE:

6 Q. When was the last time you made this area down
7 through here that you marked?

8 A. Let's see. That happened on a Monday.

9 Q. Let me rephrase the question. Okay. We know what
10 this looked like down the north mains, okay, down the
11 track.

12 A. Right.

13 Q. Now, I've not been over in here. What is this
14 area compared to that as far as roof scaling, wide
15 places and hazardous conditions?

16 A. I'd say this area down here does not have as many
17 wide places as what it did going up the track there.

18 Q. When you say wide places, is that wide places,
19 wide bolts or wide entries?

20 A. Wide entries where we've had to set timbers.

21 Q. Okay. So those have been corrected?

22 A. Yes.

23 Q. Is there draw rock in this area?

24 A. What?

25 Q. Is there draw rock in the area that you traveled?

1 A. I'd say ---.

2 Q. Is any bolts scaled out, the tops --- or the
3 immediate roof scaled out around the bolts and plates?

4 A. Actually, that area looks pretty good. It used
5 to ---.

6 Q. Any of the areas you walked or examined?

7 A. Well, there was areas where you got to pull some
8 draw rock, areas where some of the bolts has got what
9 we called kabobs on them or if you don't have them
10 with you, you got a wedge and --- get some wedges and
11 try to re-bolt an area.

12 Q. Is a kabob in your roof control plan?

13 A. I don't know if they are or not.

14 Q. Then if they are not, why would they use them?

15 They would have to be in the plan, approved.

16 A. Well, ---.

17 Q. Have you ever used them and put them on?

18 A. Yes.

19 Q. And you don't know if they're approved?

20 A. I would assume that since we've already got them,
21 that they would be approved. That might be a bad
22 thing about assuming, but yes, I've used them.

23 Q. Okay. And any time you observed a hazard, you
24 recorded it in the book; right?

25 A. Yes.

1 Q. And no one ever questioned you or gave you a hard
2 time over recording hazards?

3 A. No.

4 Q. Up on this section when you was a supervisor, was
5 that a single-unit section or a super section?

6 A. We had two miners.

7 Q. Did you run them both at the same time?

8 A. No.

9 Q. So did you have one ---?

10 A. We had split air, but I wasn't comfortable going
11 two at one time.

12 Q. Did you have one MMU or two?

13 A. Two.

14 Q. Okay. And you didn't feel comfortable being a
15 supervisor?

16 A. No.

17 Q. And I know Patrick has already asked you this, but
18 could you go into a little more detail why you felt
19 uncomfortable?

20 A. I don't have enough --- I don't have everything
21 memorized like some people do, like going down to your
22 --- what you're supposed to have --- go into your
23 recovery sled, how much air, just things you're
24 supposed to automatically just know off the top of
25 your head. I'm just not there.

1 Q. Well, that takes time for anyone.

2 A. Yes.

3 Q. How much intake air did you have available to work
4 with on the section, approximately? I know it's been
5 a while.

6 A. I believe we had something like 56,000.

7 Q. Okay. So that will give you about 20 --- 20-some
8 thousand on each side; right?

9 A. Yes.

10 Q. Okay.

11 MR. PAGE:

12 Do you have any?

13 MR. FARLEY:

14 One more.

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. I think on April 5th you indicated you had been on
18 the barrier section belt?

19 A. Yes.

20 Q. I may have missed this earlier. The weeks and
21 let's just say the month of March, what area of the
22 mine were you in at that point? Was it different than
23 the area you identified earlier, where you walked the
24 airways?

25 A. I may --- sometimes I'd help other fire bosses on

1 other belts, you know, whether it be shoveling,
2 dusting, just certain things, maybe ---.

3 Q. Okay. Did you make it on to any of the belts inby
4 the Ellis Switch area?

5 A. No.

6 Q. Now, during the last month or so preceding the
7 explosion, when you were traveling the belts or air
8 courses, did you notice any changes in the
9 ventilation, meaning in the air volume or the air
10 velocity?

11 A. Right before then, our Number Three section ---
12 well, I'm not going to say it was that week, but I
13 remember Number Three section was saying they wasn't
14 getting very much air coming in the intake. And there
15 was one day I walked the intake and found like
16 numerous man doors were left open going up the intake,
17 just trying to find out where all their air was going.

18 Q. When you say man doors, do you mean man doors in
19 the stoppings?

20 A. Correct.

21 Q. Any particular reason why those man doors were
22 open ---

23 A. Just ---

24 Q. --- that you know of?

25 A. --- not actually like the doors all the way open,

1 just not latched tightly. You know, it just loses
2 your air.

3 Q. Leaking, is that it?

4 A. Yeah.

5 Q. All right.

6 MR. FARLEY:

7 Next?

8 RE-EXAMINATION

9 BY MR. MCGINLEY:

10 Q. Just a couple more questions, Mr. Williams. You
11 said on April 5th you came --- you ordinarily came out
12 of the mine at 3:30, but you got out at 3:00; is that
13 right?

14 A. I got out about ten minutes 'til 3:00 that day.

15 Q. Ten minutes 'til 3:00?

16 A. Yeah.

17 Q. How long generally does it take you to --- did it
18 take you to leave where you were working to get
19 outside?

20 A. I caught a ride, it was 10 to 15 minutes.

21 Q. So you left about --- to go outside around 2:30?

22 A. Correct.

23 Q. With regard to the incident where you noticed
24 there was Whiteout on the pre-shift reports, was there
25 a meeting about that? You said you were told never to

1 do it again.

2 A. No, it wasn't a meeting. It was just --- they
3 made sure --- they called all of us and said no more
4 Whiteout in the books.

5 Q. How did they catch you?

6 A. Just individually, just --- you know, just --- we
7 had like a fire boss room, and we were all told just
8 not to use no Whiteout.

9 Q. That fire boss room, was that at the office,
10 upstairs?

11 A. Yeah, it was upstairs.

12 Q. And who told you that?

13 A. I would say Gary May and Rick Foster.

14 Q. Two different times?

15 A. Basically the same day. We were --- one of them
16 made sure that --- between the two of them they wanted
17 to make sure everybody was told.

18 Q. Was this at the time when you were bossing at the
19 Number Three section or later than that?

20 A. I don't recall at which time it was, exactly when
21 that --- what date that was.

22 Q. But it was before you became a fire boss?

23 A. I don't recall. I just know I was told.

24 Q. It wasn't in March of 2010? You would recall
25 that; right?

1 A. Yes. It was earlier than that.

2 Q. Before the first of the year?

3 A. Probably.

4 Q. I read a statement on the Massey website by one of
5 the directors talking about the number of (d) orders
6 UBB Mine got, 2009, 2010, more than 40 of them. Was
7 that ever discussed with you either when you were
8 acting as the boss on the section or otherwise?

9 A. First off, what do you mean by discussed? Did we
10 have a meeting about it? I mean, yeah, it's been
11 discussed.

12 Q. However. Discussed ---

13 A. It's been discussed, yes.

14 Q. --- in the bath house, discussed anywhere ---

15 A. Yeah.

16 Q. --- by management with you or a group?

17 A. I know it's been mentioned. I mean, I can't
18 recall if it's been like a --- I know it wasn't
19 sitting down in a group, but I know we was having
20 problems with it. We needed to do what we could to
21 stop it.

22 Q. So how did management deal with that, communicate
23 to people who worked in the mine that you have a lot
24 of problems and you got to fix them? I mean, they
25 didn't catch you in the bath house and say ---?

1 A. No. I think it just would be like a conversation
2 you have in the fire boss room that, you know, we're
3 having a lot of them and we need to --- everybody do
4 what we can to, you know, make sure it don't happen no
5 more.

6 Q. Just a casual conversation?

7 A. I'm pretty sure we never had no like meetings
8 about it.

9 Q. Did it strike you as odd?

10 A. No, because I guess what to them would be meetings
11 would be with --- meetings they had with section
12 bosses I think once a week. That might be where
13 they'd discuss that at.

14 Q. So you wouldn't think that management would be
15 talking to hourly workers in the mine about all the
16 violations they were getting?

17 A. We may have had that with like our weekly safety
18 meetings. They may have mentioned it, but I just
19 can't honestly recall, you know, when we discussed it
20 and how we discussed it.

21 Q. Now, it sounds like what you're saying is it
22 wasn't treated very seriously if you didn't have
23 meetings and you may have had discussions in your
24 weekly meetings.

25 A. Well, ---.

1 Q. What was your impression? You knew that there
2 were certainly many more violations and (d) orders
3 than should have been issued in a mine. Was it being
4 treated seriously by management or not?

5 A. I believe it was. But you're asking me if I
6 recall a meeting. I mean, I want to say that we may
7 have discussed it with our weekly safety meetings or
8 we may have discussed it in the fire boss room, but I
9 know that, you know, I've been told about our (d)
10 orders.

11 Q. By whom?

12 A. I want to say it had to have been Rick Foster or
13 Gary May.

14 Q. When you say may have been told, well, that means
15 you may or may not have, so ---.

16 A. Well, what are you calling by a meeting or a
17 conversation?

18 Q. Either one. It's a discussion.

19 A. We've had discussions about it then.

20 Q. And what --- let me ask you this. Were there a
21 couple of people come from outside the end of 2009
22 that were brought in by management to deal with the
23 increased numbers of MSHA violations the mine was
24 receiving? Do you know anything about that?

25 A. I believe they brought in Jim Walker, the

1 assistant safety director.

2 Q. Anybody else? According to the statement on the
3 Massey website, there were two people brought in from
4 outside to deal with these 40-some violations, (d)
5 orders that have been issued in 2009.

6 A. Well, I haven't looked at no website.

7 Q. Oh, I understand that. I'm just asking, you know,
8 just your own knowledge. And if you don't know,
9 that's fine. Just say you don't know. Do you know of
10 another person other than the gentleman you named?

11 A. I believe Berman Cornett was there. But he was
12 already there, wasn't he?

13 Q. Okay. Well, I'm just asking is there somebody ---
14 were there two people that you know of? You named one
15 person. What did you say his name was?

16 A. Jim Walker.

17 Q. Do you know of a second person?

18 A. I don't recall one, no.

19 Q. What did Jim Walker do when he came in there to
20 deal with the increased violations?

21 A. Jim Walker would go to certain areas and make up
22 lists of violations that he would find, and we would
23 --- wherever it was at, people would work on
24 correcting them violations.

25 Q. And did you get a list of violations that you

1 worked on to correct?

2 A. Yeah. Yes. I didn't get a list. I worked with
3 Rick Foster. Me and him would go with maybe two or
4 three other people and take care of things he had on
5 his list.

6 Q. So Rick Foster had a list?

7 A. Yes.

8 Q. And he got it from Mr. Walker?

9 A. Right.

10 Q. Was it typed out in memo form or handwritten, if
11 you recall?

12 A. I want to say I've seen them both ways,
13 handwritten and typed out.

14 Q. And would Rick Foster check them out or draw
15 through it when you were completed?

16 A. He kept the list. I don't know what he did with
17 the list. We just worked off whatever list he had.

18 Q. Now, over what period of time? I mean, did this
19 go on for a week or several months?

20 A. It seemed like we'd get a list maybe every three
21 to four weeks.

22 Q. And how long was Mr. Walker there? I'm just
23 looking for a rough estimate. I'm not trying to hold
24 you to some week or --- I'm just trying to get a
25 general notion about --- was it from Thanksgiving on

1 to the spring?

2 A. I don't know exactly when he did start there.

3 Q. I don't want exactly.

4 A. He worked evening shift for a long time, and I
5 believe he was there before Thanksgiving.

6 Q. Was he still there at the time of the explosion?

7 A. Yes.

8 Q. So it might have been another gentleman working
9 dayshift, doing the same thing?

10 A. There may have been.

11 Q. When you say he had a list of violations, what do
12 you mean by that?

13 A. It would be things like wide entries, places that
14 needed to be timbered, places that needed to be
15 dusted, walkways on the beltways needed to be cleaned
16 up, mats not in front of --- rubber mats in front of
17 kVAs, just fire extinguishers not dated up or not
18 present.

19 Q. What are the most serious violations you recall
20 were on those lists?

21 A. Bad top in the intakes. We had to go in there and
22 set a bunch of timbers and sand jacks, danger the area
23 off.

24 Q. Were these --- can I assume that these lists were
25 given to Mr. Foster and your group because you could

1 correct them?

2 A. Yes.

3 Q. And there may have been others who were given
4 different lists because they had different skills ---

5 A. Yes.

6 Q. --- to correct them? Yes? Do you know that as a
7 fact?

8 A. I don't know that as a fact, but there were lists
9 like up in the section area, ---

10 Q. I see.

11 A. --- that the section would danger off and we took
12 care of the outby stuff.

13 Q. Did you ever have meetings with Mr. Walker?

14 A. Not that I'm aware of. I mean, I talked to him a
15 lot, but I never had an actual meeting with him.

16 Q. But you had discussions with him?

17 A. Yes.

18 Q. Would he go with you at any point when you were
19 correcting these violations that were found?

20 A. No.

21 Q. Did correcting violations ever include building
22 stoppings or overcasts?

23 A. No.

24 Q. Ever involve removing stoppings?

25 A. No.

1 Q. Did they ever involve anything relating to
2 ventilation?

3 A. We may have had, yeah, some stoppings that had
4 some holes in them that needed to be sealed.

5 Q. What about doors, doors being --- replacement of
6 doors or repairing airlock doors on the list?

7 A. I don't recall any.

8 Q. What about water?

9 A. Water?

10 Q. What problems, pumps not working, anything related
11 to water?

12 A. There was one where water was on the track and it
13 was just a matter of going and getting the pump
14 running again.

15 Q. In your group, who was with this Mr. Foster?
16 Yourself? Who else would go to correct those
17 violations?

18 A. We had one black hat. His name is Dave Popae.
19 Had a red hat. You need his name?

20 Q. If you recall.

21 A. Nick Todd, T-O-D-D. Sometimes we might get Lacey
22 Stewart to come help us. That's about all the names I
23 remember.

24 Q. So this was something new? At some point it was
25 explained to you that there was going to be a list of

1 violations that Mr. Walker had identified and you
2 would be periodically getting that list and going out
3 and taking care of those; is that correct?

4 A. Yeah.

5 Q. Did Mr. Walker meet with you and explain that?
6 And I've been using the word meeting. Did he have a
7 discussion with you? I'm not talking about
8 necessarily a formal meeting, but was this explained
9 to you and the other employees you were working with?

10 A. Yeah. I've talked to Mr. Walker. I talked to
11 Walker. If I would see him, we would have a
12 discussion, yes.

13 Q. Okay. I'm just thinking about at the beginning of
14 this process. I mean, this is something new. You
15 hadn't done it before; right?

16 A. Right.

17 Q. So did somebody say to you, we're going to be
18 doing this, getting this list and going out and
19 correcting violations?

20 A. Yes.

21 Q. And who told you that?

22 A. Rick Foster.

23 Q. Okay.

24 MR. MCGINLEY:

25 I don't have any other questions. Thank

1 you.

2 RE-EXAMINATION

3 BY MR. STEFFEY:

4 Q. Okay. I've just got a couple more questions, Mr.
5 Williams. If I understand you correctly, earlier when
6 you told me that you had your annual retraining at the
7 old Marsh Fork Elementary ---?

8 A. I believe that's the name of the school.

9 Q. And you told me that they went over the approved
10 roof control plan?

11 A. Yes.

12 Q. But a few minutes ago you couldn't tell Mr. Page
13 whether a kabob was used in the roof control plan.

14 A. I do not know if it's in there.

15 Q. When did this annual training take place, this
16 annual retraining? Do you remember when you had that?

17 A. It usually takes place in March.

18 Q. In March. So you've had it March this past year?

19 A. Yes.

20 Q. Okay. How would you describe the training you
21 received on the roof control plan? Would you describe
22 that as adequate?

23 A. I would like to see them get more training in it,
24 more time spent on it, yes.

25 Q. Do you think that would be helpful for your job?

1 A. Yeah.

2 MR. STEFFEY:

3 I don't have any more questions.

4 RE-EXAMINATION

5 BY MR. PAGE:

6 Q. Let me ask, who do you take your orders from? Who
7 is your immediate supervisor?

8 A. At UBB?

9 Q. Yeah. Yeah, that's what I meant.

10 A. Rick Foster.

11 Q. Okay. I know you keep talking about May and
12 Foster. I didn't know who was your ---.

13 A. Well, Rick Foster is mine foreman and he worked
14 for Gary May.

15 Q. Okay. You mentioned that the foremans have a
16 weekly meeting.

17 A. Well, you mean with the section?

18 Q. The section foremans.

19 A. Yeah, every Monday you would have a --- would have
20 a safety meeting every Monday morning. But also every
21 day you would stop at the end of the track and up on
22 the section and have 15-minute safety meetings.

23 Q. I'm talking about, did the mine foreman or the
24 superintendent have a meeting with the section foreman
25 weekly?

1 A. Oh, that? They all go down to Chris Blanchard's
2 office, I think it's every Wednesday, ---

3 Q. Okay.

4 A. --- and have meetings. He has meetings with all
5 the section bosses at one time.

6 Q. When you was a foreman, could you explain to me
7 what took place in those meetings?

8 A. I never went to one.

9 Q. They didn't have them then?

10 A. I was never --- I never went to one I guess
11 because it was such a short period of time that I was
12 doing it.

13 Q. Okay.

14 MR. PAGE:

15 That's all I wanted to know. If at any
16 time you think of anything else that you think would
17 be helpful, we'd appreciate any information. And we
18 have a lot of families out there that's wanting
19 closure, and I can understand that. And we need ---
20 we don't want something like this to ever happen
21 again.

22 A. I hear you.

23 MR. PAGE:

24 And we appreciate you coming in today,
25 and I want to thank you for that. And it's never easy

1 to --- appreciate it.

2 A. All right. Is this it?

3 MR. MCGINLEY:

4 I think one of the things we've typically

5 done is if there's anything else that you would like

6 to say ---.

7 A. I'd just love for it to be found out what exactly

8 happened so it never happens again, because I lost

9 some good friends there.

10 MR. MCGINLEY:

11 All right, sir. We appreciate it. Thank

12 you. Go off the record.

13 ATTORNEY MCCUSKEY:

14 Patrick, may I say on the record just to

15 ask ---?

16 MR. MCGINLEY:

17 Mr. Page is the chief, so --- I'm sure it

18 would be all right.

19 MR. PAGE:

20 Okay.

21 ATTORNEY MCCUSKEY:

22 Yes, just that my client would like to

23 read and have the opportunity to review his transcript

24 as soon as possible.

25 MR. PAGE:

1 Okay. We understand. Go off the record.

2 * * * * *

3 STATEMENT UNDER OATH CONCLUDED AT 3:18 P.M.

4 * * * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF WEST VIRGINIA)

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

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