SARGENT'S COURT REPORTING

Quality Work. Quality People.

Transcript of the Testimony of (b)(7)(C) & (b)(7)(D)

Date: (b)(7)(C) & (b)(7)(D)

Case:

Printed On: June 18, 2010

Sargent's Court Reporting Services, Inc.
Phone: 814-536-8908
Fax: 814-536-4968
Email: schedule@sargents.com
Internet: www.sargents.com

CONFIDENTIAL STATEMENT UNDER OATH

OF

(b)(7)(C) & (b)(7)(D)

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 Tuesday, (b)(7)(C) & (b)(7)(D) , beginning at (b)(7)(C) & (b)(7)(D)

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

A P P E A R A N C E S

DEREK J. BAXTER, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

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

J. DAVITT MCATEER, ESQUIRE
West Virginia Independent Investigation
132 West German Street
P.O. Box 1050
Shepherdstown, WV 25443

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

DAVID STEFFEY
National Mine Safety and Health Academy
1301 Airport Road
Room C-137
Beaver, WV 25813-9426

JOHN T. O'BRIEN
Safety Instructor
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
819 Stewart Street
Welch, WV 24801-2311

I N D E X

OPENING STATEMENT	
By Attorney Baxter	7 - 11
STATEMENT	
By Mr. Farley	11 - 12
WITNESS: (b)(7)(C) & (b)(7)(D)	
EXAMINATION	
By Mr. Steffey	12 - 51
EXAMINATION	
By Mr. Farley	51 - 64
EXAMINATION	
By Attorney McAteer	64 - 73
RE-EXAMINATION	
By Mr. Steffey	73 - 109
DISCUSSION AMONG PARTIES	109 - 110
RE-EXAMINATION	
By Mr. Farley	111 - 113
RE-EXAMINATION	
By Attorney McAteer	113 - 118
RE-EXAMINATION	
By Mr. Steffey	118 - 129

I N D E X (cont.)

RE-EXAMINATION
By Mr. Farley 129 - 133
CLOSING STATEMENT
By Attorney Baxter 133 - 135
CERTIFICATE 136

EXHIBIT PAGE

NUMBER	DESCRIPTION	PAGE IDENTIFIED
One	Map	26*
Two	Map	45*

*exhibits not attached

P R O C E E D I N G S

ATTORNEY BAXTER:

My name is Derek Baxter. Today is June 15th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is David Steffey, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY MCATEER:

I'm Davitt McAteer, and I'm the Governor's special investigator.

ATTORNEY BAXTER:

And Mr. Steffey, Mr. Farley and Mr. McAteer will be conducting the questioning today. All members of the Mine Safety and Health Accident Investigation Team and all members of the

State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep confidential all information that's gathered from each witness who voluntarily provides a statement until the witness statements are officially released. MSHA and the State of West Virginia shall keep this information confidential so that other ongoing enforcement activities are not prejudiced or jeopardized by a premature release of information. This confidentiality requirement shall not preclude investigation team members from sharing information with each other or with other law enforcement officials. Your participation in this interview constitutes your agreement to keep this information confidential.

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

You may have your personal attorney present during the taking of this statement or another personal representative, if MSHA has permitted it, and may consult with your attorney or the representative at any time. Do you have a personal representative here with you?

(b)(7)(C) & (b)(7)(D)

No, I do not.

ATTORNEY BAXTER:

Your statement is completely voluntary. You may refuse to answer any question and you may terminate your interview at any time or request a break at any time. Since this is not an adversarial proceeding, formal Cross Examination will not be permitted. However, your personal legal representative may ask clarifying questions as appropriate.

Your identity and the content of this conversation will be made public at the conclusion of the interview process and may be included in the public report of the accident, unless you request that your identity remain confidential or your information would otherwise jeopardize a potential criminal investigation. If you request us to keep your identity confidential, we will do so to the extent

permitted by law. That means that if a judge orders us to reveal your name or if another law requires us to reveal your name, or if we need to reveal your name for other law enforcement purposes, we may do so. We request that you refrain from discussing your statement with others who may be interviewed. Also, there may be a need to use the information you provide to us or other information we may ask you to provide in the future in other investigations into and hearings about the explosion. Do you understand?

(b)(7)(C) & (b)(7)(D)

Yes, sir.

ATTORNEY BAXTER:

Do you have any questions?

(b)(7)(C) & (b)(7)(D)

No, sir.

ATTORNEY BAXTER:

After the investigation is complete, MSHA will issue a public report detailing the nature and causes of the fatalities in the hope that greater awareness about the causes of accidents can reduce their occurrence in the future. Information obtained through witness interviews is frequently included in these reports. Since we will be interviewing other individuals we request that you not discuss your

testimony with any person aside from your personal representative or counsel.

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

I would like to thank you in advance for your appearance here. We appreciate your assistance in this investigation. Your cooperation is critical in making the nation's mines safer. After we have finished asking questions, you'll have an opportunity to make a statement and provide us with any other information that you believe to be important. If at any time after the interview you recall any additional information that you believe might be useful, please contact Norman Page at the telephone number or e-mail address provided to you.

ATTORNEY FARLEY:

(b)(7)(C) & (b)(7)(D) on behalf of the West Virginia Office of Miners' Health, Safety and Training, I want to advise you that the West Virginia Mine Health and Safety Regulations also protect coal miners against discrimination. And should you experience any such

discrimination, you have a right to file a complaint. I'm going to provide you with some contact information should that occur. We'd just caution you that in the event that that happens, you need to file a complaint within 30 days. Okay?

(b)(7)(C) & (b)(7)(D)

Yes, sir.

MR. FARLEY:

Thank you.

ATTORNEY MCATEER:

(b)(7)(C) & (b)(7)(D) I'm Davitt McAteer, as I mentioned, and the Governor has asked me and a group of people to do an independent review for the purpose of trying to keep these things from ever happening again. So thanks for coming.

(b)(7)(C) & (b)(7)(D)

You're welcome.

ATTORNEY BAXTER:

Please swear the witness in.

(b)(7)(C) & (b)(7)(D) HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

EXAMINATION

BY MR. STEFFEY:

Q. Good morning.
A. Hi.
Q. Would you please state your full name and spell your last name?
A. (b)(7)(C) & (b)(7)(D)
Q. Would you please state your address and telephone number?
A. (b)(7)(C) & (b)(7)(D)
(b)(7)(C) & (b)(7)(D)
Q. Are you appearing here today voluntarily?
A. Yes, sir.
Q. Has anyone made any promises concerning the testimony you're about to give?
A. No, sir.
Q. Has anyone given you anything in exchange for the testimony you're about to give?
A. No, sir.
Q. Has anyone made any threats concerning the testimony you're about to give?
A. No, sir.
Q. Has anyone else interviewed you concerning the accident and your knowledge of the conditions in the mine?
A. Massey company lawyers did.
Q. Do you remember when they interviewed you?

A. Let me think, please. Probably a month or so ago. I don't know an exact date.
Q. Where did this interview take place?
A. It was taken at Elk Run Coal Company, main office.
Q. Do you remember what type of questions they asked?
A. Just what I thought maybe happened, where I was at at the time it happened, things concerning the explosion, if I thought what would have caused it or things in that nature.
Q. Okay. Did they caution you about what you should say in this interview or how you should answer our questions?
A. No, sir.
Q. Did they give you any advice on this interview or any instructions?
A. No, sir.
Q. Okay.
A. Not as I remember.
Q. All right. (b)(7)(C) & (b)(7)(D) how many years of mining experience do you have?
A. A little over (b)(7)(C) & (b)(7)(D) years. (b)(7)(C) & (b)(7)(D)

Q. If you wouldn't care, give me a brief description of your coal mine employment history.
A. I started as a red hat for Performance Coal

Company, moving belt, dusting, a lot of belt work, belt splices, things in that nature. After I got my black hat, I went to a motorman, and again, moved belt. I worked on sections. And here recently I've (b)(7)(C) & (b)(7)(D)

Q. Okay. Do you have any mining certifications?

A. Yes, sir.

Q. Would you care to list them?

A. I'm an underground EMT miner. I'm a certified dust sampler, certified underground mine foreman. I think that's it.

Q. Okay. And when did you become a (b)(7)(C) & (b)(7)(D)

A. Approximately --- let me think here. For what time? I've been doing it probably for maybe eight or nine months. I've helped out since I've had my certification, which I can't remember really when I got it, the exact date, but probably for two years now I've actually been helping (b)(7)(C) & (b)(7)(D)

Q. And then for what did you say, how many months full time?

A. Probably eight, nine --- seven, eight, nine months, not a long time.

Q. Okay.

A. Just here recently.

Q. Are you presently employed?

A. Yes, sir.
Q. Where at?
A. I'm still with Massey Energy. I work down at --- it's called (b)(7)(C) & (b)(7)(D) It's down in (b)(7)(C) & (b)(7)(D)
Q. Okay. Now, is that with Performance or ---?
A. I'm still under Performance payroll, but actually Elk Run --- it's an Elk Run mine.
Q. So Elk Run runs the mines, and your payroll still comes out of Performance?
A. Yes, sir.
Q. When did you start there?
A. Let me think. I think around the 20th of April. It was probably about two, two-and-a-half weeks after the explosion.
Q. Okay. And what's your job title there?
A. I'm still classified as (b)(7)(C) & (b)(7)(D) but I'm going to the section. I'm going to (b)(7)(C) & (b)(7)(D)

Q. Okay.
A. I'm not going to use my certification right now.
Q. And I believe you said that you started with Massey as a red hat?
A. Yes, sir.
Q. So would it be safe to say that a hundred percent of your mining experience is with Massey?

A. All but for three months. I left and went to --- it was called (b)(7)(C) & (b)(7)(D)

Q. Okay.

A. I went for (b)(7)(C) & (b)(7)(D)

Then I went back to Massey --- Performance, the same mines.

Q. What was the reason for you leaving?

A. Just the condition of (b)(7)(C) & (b)(7)(D) It was ---.

Q. What was the reason you left Massey?

A. They had a realignment. And I don't really like third shift, and they put me back on third shift, moving belt and things like that. And (b)(7)(C) & (b)(7)(D) was like just maybe (b)(7)(C) & (b)(7)(D) and it was the dayshift, and that's the reason I took it.

Q. How long do you have to drive to get to work right now?

A. Now, probably (b)(7)(C) & (b)(7)(D)

Q. Have you ever done any other jobs at Massey? Ever been on light duty or anything?

A. No.

Q. Ever been injured?

A. I've been (b)(7)(C) & (b)(7)(D) but I've never taken light duty. I've (b)(7)(C) & (b)(7)(D) and things like that.

Q. Were you off?

A. No. (b)(7)(C) & (b)(7)(D)

Q. How did you (b)(7)(C) & (b)(7)(D)

A. I was trying to spread the forks on a forklift, and I had a guy helping me. (b)(7)(C) & (b)(7)(D)

Q. Was this when you were at UBB?

A. Yes, sir.

Q. When did you first go to UBB?

A. I started (b)(7)(C) & (b)(7)(D)

Q. Okay. Let's go back to this (b)(7)(C) & (b)(7)(D) So you did this on the job?

A. Yes, sir.

Q. Was there an accident report filled out?

A. Yes. I'm pretty sure there was.

Q. Did you go to the hospital?

A. I went to (b)(7)(C) & (b)(7)(D) . It's a clinic down in (b)(7)(C) & (b)(7)(D)

Q. Anybody from the company go with you?

A. No, sir.

Q. Nobody from safety met you there or anything?

A. No, sir.

Q. Was there any pressure on you to return from work --- or to return to work, that is?

A. Not really. I mean, they wanted me to come back as soon as I could, yet no. At the time I started as a red hat, if you missed work, you didn't stay at Massey long. And I was --- so I just had started as a red hat and (b)(7)(C) & (b)(7)(D) and ---.

Q. So you were fearful of losing your job over an injury?

A. At the time, yeah. I mean, just --- it's changed a lot here in the past --- since I've been with Massey. But when I started it was, you better show up or ---.

Q. So you saw a lot of red hats that got sent home?

A. Oh, yes. Very few of us made it through.

Q. So your first day of employment at Upper Big Branch was (b)(7)(C) & (b)(7)(D) Did I hear you correct?

A. Yes, sir.

Q. Did you receive the Massey initial training?

A. As in what, sir? I don't understand.

Q. In the videos that they showed.

A. Oh, yes. Yes.

Q. So they covered S1, ---

A. Yes, sir.

Q. --- P2?

A. I went to orientation for eight hours before ---

Q. Okay.
A. --- I went, yes, sir.
Q. And when did you get this?
A. That was probably two days before I started with Performance. It was down at the Performance safety building. I think George Nelson was the safety director then.
Q. What subjects did they go over?
A. S1, self-rescuer.
Q. What type of self-rescuer training did you have?
A. SCRS (sic) rescuer.
Q. How often do you do that training?
A. We do it every quarter. You know, we have fire drills and things like that. We do our trainings and things and every retraining. And every so often they'll pop up and say, no, we're doing --- now it's a big thing to transfer the two over and things like that.
Q. So they teach you how to transfer the two over and they teach you how to put one on?
A. Yes, sir.
Q. Blindfolded, I assume?
A. Yes, sir.
Q. Do they teach you when to put it on? Do they tell you when you need to put that ---?

A. If you have any doubt whatsoever, put it on.
Q. Okay. And that's what they tell you?
A. Yes, sir.
Q. Okay. What else did they cover? Did they cover any safety and regulations, requirements that had to be done, any required duties?
A. None that I can remember. It's been so long, really.
Q. What about when you became (b)(7)(C) & (b)(7)(D) what were you told then?
A. Just --- when I become (b)(7)(C) & (b)(7)(D) it was, nobody showed me the route I needed to take, I mean, like --- you know, everybody told me like you should (b)(7)(C) & (b)(7)(D) to show your route you go and things like that. When I started, they pretty much just --- well, I was there so long, I guess they thought I knew exactly where to go, which I did, and I made sure I knew where all the (b)(7)(C) & (b)(7)(D)

Q. Okay. We're going to talk about that a little more right here in a minute.
A. Okay.
Q. What was your first job assignment at Upper Big Branch? Do you remember the first thing that you did

there?

A. The first thing I did was (b)(7)(C) & (b)(7)(D)

Q. Okay.

A. I was on (b)(7)(C) & (b)(7)(D)

Q. All right. Did you receive any training prior to that, any task training or anything?

A. Not that I can remember.

Q. Did they take you in the mine, on a tour of the mine, or did they just put you to work?

A. They took me to work, sir.

Q. Okay. And did you have your annual refresher?

A. Yes. Yes.

Q. How often do they do that?

A. We do it once a year.

Q. Okay.

A. Mostly ours most of the time is around the end of March or April.

Q. Okay. And who does this?

A. We had ours at Marfork.

Q. Are you qualified to take methane tests?

A. Yes, sir.

Q. And how were you qualified?

A. I was trained on a Solaris spotter.

Q. Okay. And who did you demonstrate your proficiency in its use for?

A. I think maybe --- just maybe Jim Walker maybe.
Q. And who is he?
A. He's a safety director at Massey.
Q. Okay. Were you qualified by MSHA?
A. Yes. When I took my foreman test, I had to perform a gas test for MSHA.
Q. Now, was that MSHA or was that for the State?
A. That was for the State.
Q. Okay.
A. The State. It was done at Oak Hill.
Q. You mentioned evacuation drills ---
A. Yes.
Q. --- and you traveled the escapeway?
A. Yes, sir.
Q. How often do you do this?
A. Escapeways, I think every quarter we do escapeways. I'm pretty sure. I'm in the escapeways a lot where I (b)(7)(C) & (b)(7)(D) so ---. I was always in them, so ---.
Q. Any other kind of training that the company provided you?
A. No.
Q. All right. What time does your normal shift start and end?
A. 6:00 to 3:00. 6:00 to 4:00. I'm sorry.

Q. 6:00 to 4:00.
A. 6:00 to 4:00. We work tens.
Q. Okay. And what portal did you enter traveling into the mine?
A. I traveled the South Portal. I (b)(7)(C) & (b)(7)(D) the barrier section and the portal section.
Q. Okay. What type of transportation did you have?
A. Track. A Jeep.
Q. Track?
A. Yes, sir.
Q. Okay. So was it a rubber-tired that ran on the track or was it a track-mounted ---?
A. It's a track-mounted ---.
Q. Battery power?
A. Yes, sir.
Q. Okay. How many pre-shift examiners were there for each shift in this mine?
A. Dayshift, we had several. On the south side, which where I was at, there was probably four.
Q. Four on the south side?
A. Yes, sir, on the dayshift. Evening shift I think there was 2:00, because evening shift ran 6:00 to 6:00, their shift did, so they had to pre-shift for third shift and dayshift. They had to do two runs, (b)(7)(C) & (b)(7)(D) where we just had to do (b)(7)(C) & (b)(7)(D)

dayshift.
Q. Okay. Did you ever have to conduct more than --- did you ever have to conduct more than one pre-shift exam?
A. Yes, sir. I was on the second shift also for a little while.
Q. We'll come back to that.
A. Okay.
Q. Let's talk about this multi-gas detector. You mentioned you had a Solaris?
A. Yes, sir.
Q. Did you take it home?
A. Yes, sir.
Q. So you charged it at your house?
A. Yes, sir.
Q. Who calibrated it and maintained it?
A. I did, sir. We had a calibration in a bump, calibration at the mines.
Q. How often did you calibrate it?
A. Every 30 days. I actually done mine a lot --- if I had time, just at least once a week, more like it for me.
Q. Okay.
A. I always made sure it was calibrated and up to date.

Q. Did you have a probe ---
A. No.
Q. --- when you went in the mine?
A. No.
Q. Now, you mentioned that you were responsible for
(b)(7)(C) & (b)(7)(D)

Yes, sir.
Q. --- is that right?
A. Yes, sir.
Q. Would you care to mark these areas on the map?
ATTORNEY BAXTER:
We'll mark this map as (b)(7)(C) & (b)(7)(D) Exhibit
One.
(b)(7)(C) & (b)(7)(D) Exhibit One marked for
identification.)
BY MR. STEFFEY:
Q. This being the Upper Big Branch portals.
A. How should I mark this, just the whole area that I
(b)(7)(C) & (b)(7)(D) ---?
Q. Well, yeah, circle the area that (b)(7)(C) & (b)(7)(D)
and then we'll get into some specifics.
A. Okay.
MR. FARLEY:
And for your (b)(7)(C) & (b)(7)(D) maybe

highlight the entire length of the area (b)(7)(C) & (b)(7)(D)
A. Okay. Oh, the red is the beltline? I didn't see that.
BY MR. STEFFEY:
Q. Yes, that's correct.
A. Okay. And this is the portal section.
Q. So you're marking the belt with the green highlighter?
A. Yes, sir.
Q. Okay.
A. I'm just trying to figure out where I'm at here. This would be the south --- I think this is the South belt here. Sorry I'm taking so long.
MR. FARLEY:
That's okay.
A. It's been so long since I've seen the map. Barrier section ---. That's the North belt. If I ain't mistaken, this here would be the new barrier section.
BY MR. STEFFEY:
Q. Okay.
A. Now, these up in here --- I've got these EPs also, ---
Q. Okay.
A. --- because (b)(7)(C) & (b)(7)(D) I think, on Thursdays.

(b)(7)(C) & (b)(7)(D)

Q. So you did (b)(7)(C) & (b)(7)(D) areas also?

A. Yes.

Q. Okay.

A. Should I just circle the ---?

Q. You can circle that and then write out from it made (b)(7)(C) & (b)(7)(D)

WITNESS COMPLIES

BY MR. STEFFEY:

Q. Part of the map is cut off.

A. Oh, okay. Because I (b)(7)(C) & (b)(7)(D) than ---.

Q. Yeah.

A. Okay. And also, on these --- (b)(7)(C) & (b)(7)(D) the interior on these EPs here. (b)(7)(C) & (b)(7)(D) the EPs. (b)(7)(C) & (b)(7)(D) the exterior, but (b)(7)(C) & (b)(7)(D) the interior. (b)(7)(C) & (b)(7)(D) or anything. (b)(7)(C) & (b)(7)(D) you know, and that nature.

Q. Okay. And you did that also on Thursday, I would assume?

A. Actually, (b)(7)(C) & (b)(7)(D) did that on Mondays. Let me think a second. Yes, Mondays. (b)(7)(C) & (b)(7)(D) on the old barrier section.

Q. Okay. Well, if you would just circle that area and write (b)(7)(C) & (b)(7)(D) on Mondays.

WITNESS COMPLIES

A. I think that's it.

BY MR. STEFFEY:

Q. Okay. With the blue marker, would you mark any waterholes that you remember checking?

WITNESS COMPLIES

A. I can't remember if we had a pump. This here's on the barrier. If I'm not mistaken, there's a pump in this area here. I'm not exactly for sure where, but I know it's in this area.

BY MR. STEFFEY:

Q. Okay.

A. I had a pump there.

Q. Approximately where you think it is.

A. Okay. One there.

ATTORNEY FARLEY:

And if you would just out from those locations write pump, ---

A. Okay.

ATTORNEY FARLEY:

--- please.

WITNESS COMPLIES

A. We was in the process of setting up some pumps

over here. We never had any power or anything to them. We just had the pumps going in that area, but we never --- we had some discharge ran to it, but we never had anything actually connected.

BY MR. STEFFEY:

Q. So you had some water in that area?

A. Yes, sir. The old barrier. I never was up in there much. That was (b)(7)(C) & (b)(7)(D) that took care of this area. I was helping him get his discharge ran and things like that.

ATTORNEY BAXTER:

Okay. And what area is that exactly?

A. This --- it was --- it's called old Four section, old barrier section. It's just right at Plumley Switch. We call it Plumley Switch. It's up in that area. And it was the old panel they pulled off of it before they went to the new panel.

BY MR. STEFFEY:

Q. In here. And (b)(7)(C) & (b)(7)(D) that made that area?

A. That was Jim Boyer.

Q. Okay.

A. By the way, (b)(7)(C) & (b)(7)(D) . We helped --- (b)(7)(C) & (b)(7)(D) up and things like that. (b)(7)(C) & (b)(7)(D) So I was up in there some

and he was up in there some. That's all a lot of this area was. (b)(7)(C) & (b)(7)(D) and --- it just depends where (b)(7)(C) & (b)(7)(D) time. You know, we would call and say I will get this and he would get that.

Q. Okay. So you (b)(7)(C) & (b)(7)(D) area?

A. I think (b)(7)(C) & (b)(7)(D) once. Once.

Q. You (b)(7)(C) & (b)(7)(D)

A. Yes.

Q. What do you remember about the old barrier section that --- what did you say his name was, ---

A. Jim Boyer.

Q. --- that Jim Boyer normally made?

A. He'd just say water was starting to build up in the faces. And we had some 15-horsepower pumps. We was in the process of getting up there and running, start pumping the area.

Q. How much water was there?

A. Jim --- the last I spoke to him, you had to have waders, so --- if you was going to set the pumps. Above your knees at least, so ---.

Q. Okay. Did it interfere with ventilation?

A. I'm sure it did. I mean --- I'm sure it did. Any water like that is going to ---?

Q. How long did this condition exist?

A. Just --- not very long, because when it started to add up, that's when Jim told the superintendent about we needed to get some pumps up there, and they was in the process of getting pumps and things like that.
Q. And this was during the weekly exams?
A. Yes, sir. It was in the books. It's in the books. (b)(7)(C) & (b)(7)(D) that water was going in the faces, and we was in the process of setting pumps to pump the water out.
Q. Okay.
A. Everything (b)(7)(C) & (b)(7)(D) the book.
Q. If you would write in here that water is starting to build in the faces, old barrier section.
WITNESS COMPLIES
BY MR. STEFFEY:
Q. Okay. Any high spots in there that you had to (b)(7)(C) & (b)(7)(D)
A. No, sir. It's six, six-and-a-half to seven foot.
Q. No place that you needed to probe?
A. No. No, sir.
Q. Okay. What about working sections, (b)(7)(C) & (b)(7)(D) pre-shift any working sections?
A. (b)(7)(C) & (b)(7)(D) Very seldom. If it was, it would be on like a Sunday or something, because I work a lot of Sundays and ---.

Q. If you would take the orange highlighter and circle the sections that (b)(7)(C) & (b)(7)(D)

WITNESS COMPLIES

BY MR. STEFFEY:

Q. And right out from these working sections ---. And you indicated that (b)(7)(C) & (b)(7)(D) these; correct?

A. Yes, sir, I did.

Q. Okay. Now, you mentioned that you entered the mine at what time?

A. 6:00 a.m.

Q. 6:00 a.m. All right. What was the first thing you had (b)(7)(C) & (b)(7)(D)

A. The first thing (b)(7)(C) & (b)(7)(D) the track on the way in, the roadways, the way in. Then we was --- made sure the belts would start up.

Q. And what were (b)(7)(C) & (b)(7)(D) Four? Were you (b)(7)(C) & (b)(7)(D) for the dayshift when you went in?

A. Yes. Yes, just any broke rail or any hazardous condition, a rib roll or a timber maybe falling or things, just make sure it was safe for the crews to go in.

Q. Okay. Prior to entering the mine, did you review the previous pre-shift examination?

A. Yes, sir, (b)(7)(C) & (b)(7)(D) ---

Q. Okay.
A. --- every morning.
Q. Okay. Then what did you do after (b)(7)(C) & (b)(7)(D)
rails and the belts?
A. We do a lot of belt work. We would go and clean
on the belts, pins, taking care of my belt heads,
check pumps, set pumps, everything. We --- at Massey
when you're (b)(7)(C) & (b)(7)(D) you're pretty much like a
general laborer also (b)(7)(C) & (b)(7)(D) You're
doing everything, what anybody asks you to do.
Q. So you were doing some rock dusting also?
A. I'd rock dust, yes, sir.
Q. Okay. How long did it take you to complete your
(b)(7)(C) & (b)(7)(D)
A. Approximately two, two-and-a-half hours. That was
the --- (b)(7)(C) & (b)(7)(D) you
know, in case I would come across something, a
condition, you know, a drop or roll or something like
that, if it was hot or ---.
Q. Now, you were walking or were you riding?
A. Walking, sir. The beltlines we had, we had to
walk. You couldn't ride our beltlines.
Q. Okay. So you would take your ride in and park it
somewhere?
A. Yes, sir.

Q. Okay. And did you do (b)(7)(C) & (b)(7)(D) prior to the oncoming second shift also or ---?

A. Yes. We (b)(7)(C) & (b)(7)(D), yes.

Q. Okay. Did you ever find any hazards?

A. Occasionally, just maybe a rib roll or water on the track, water building. I don't know if a bad belt splice would be a hazard, things like that. I'm trying to think. A lot of times, you know, if you see where some rock is falling, had to go set a timber or a roof bolt or things like that.

Q. Then what did you do?

A. It would be (b)(7)(C) & (b)(7)(D) outside, and the evening shift fire boss would take care of it or the outby crew would go and take care of it.

Q. Okay. Did you ever see the section foreman outside at any point between shifts?

A. Yes, sir.

Q. Did you ever talk to him?

A. Yes, sir.

Q. What did you talk to him about?

A. Just how good they ran that day, just things in that nature.

Q. Did you ever convey to him any hazards that you found?

A. Yes, sir. Yes. If I found something like some water starting to add up on our beltline or water on the belt, dust or things like that, in that nature, yes.

Q. Did the section bosses talk to each other?

A. Yes. Yes, sir.

Q. Okay. What did they talk about?

A. Just the condition of the ribs and the roof, how they ran that day, you know, just help each other out.

Q. During (b)(7)(C) & (b)(7)(D) you mentioned that you'd find some hazards.

A. Yes, sir.

Q. What would you classify as a hazard? Can you go through how --- or what you would call a hazard?

A. I think a hazard is anything that has the potential of hurting somebody or injuring somebody or endangering somebody. That's a hazard to me. And if it it's a big enough hazard that I think should be took care of it, (b)(7)(C) & (b)(7)(D)

Q. All right.

A. I was never --- I have a conscience, and ---.

Q. Let's go back and talk about your training for (b)(7)(C) & (b)(7)(D)

A. Yes, sir.

Q. Now, you mentioned that they basically just, more or less, said to you (b)(7)(C) & (b)(7)(D)

A. Yes, sir. They was real good at Performance. These guys who --- we made our papers. We was so shorthanded (b)(7)(C) & (b)(7)(D) they would put anybody (b)(7)(C) & (b)(7)(D) . That always bothered me. It made me mad because we was shorthanded all the time, all the time.

Q. Now, when you say you were shorthanded and they would (b)(7)(C) & (b)(7)(D)

A. I mean, a certified man, (b)(7)(C) & (b)(7)(D) And like I said, a lot of the guys, just turn them loose. They tell them --- they show them on a map. You need to get this area tonight or up. You need to come out and fire boss tonight and ask the fire boss who's going to be there to help you out and show you where to go and things in that nature.

Q. Even though that previous fire boss was already maxed out on his job responsibilities?

A. Yes, sir.

Q. So they didn't conduct a lot of training with the fire bosses?

A. I don't think like they should. No, I do not.
Q. Now, you said that (b)(7)(C) & (b)(7)(D)
A. Yes, sir.
Q. So when you say you were shorthanded, did you have enough people to get it done?
A. We had enough. But you was so worn out, I mean, you just at a constant, super fast pace and ---. And sometimes if you was running behind, you'd have to call to maybe another certified man up on the section, you know, could you help --- could you get your section belt or me or could you check these pumps for me up in this area because I'm running behind, things like that. Because if you done your examination, you come across a hazard or something, you want to take care of it on the spot. You know, it could throw you behind because three hours prior to the next shift, (b)(7)(C) & (b)(7)(D)
Q. So if you had --- so I guess what you're telling me is that you had enough people to do the job, providing you didn't run into anything?
A. Yes, sir. If you'd come across something, you ran into something, you'd have to call and try to get another certified man to help you (b)(7)(C) & (b)(7)(D)

Q. And why was that? Why ---?

A. Just such a big area we had to take care of, the (b)(7)(C) & (b)(7)(D) And it was so --- just --- the pace you (b)(7)(C) & (b)(7)(D) if you come across any hazard or got held up, it was very, very hard to (b)(7)(C) & (b)(7)(D)

Q. When you came across a hazard that may delay production, were you still encouraged to put this in the book?

A. Yes. I put --- anything that I found, it was down (b)(7)(C) & (b)(7)(D)

Q. Did anybody ever say anything to you about that?

A. No, sir. No, sir.

Q. How do you feel --- what do you feel about the --- how the company looked at (b)(7)(C) & (b)(7)(D) Was it something that they viewed as a necessity or a formality to production? What --- you know, or maybe you have another thought on it. What's your thoughts on this?

A. I think, you know, it had to be done. By law, it had to be done. But like I said, they consider us (b)(7)(C) & (b)(7)(D) Massey does. And we would tell, you know, this needs to be taken care of. They would take care of it, but they felt like, you know, it's no big deal.

Q. Ever grumble about the cost of taking care of

something? Anybody ever talk about that?
A. No. That's one thing they never cared about. But we --- but pump-wise, for some of these areas here, it takes so long to get pumps because Mr. Blanchard is the one that signs off on them.
Q. Why wouldn't he sign off on them?
A. I have no idea. I don't know. He was ---.
Q. I mean, water impeding ventilation sounds to me like something that you would want to take care of.
A. Yes, sir. I agree. I agree, sir.
Q. Is there anywhere else in this mine that you traveled?
A. No, sir. No.
Q. Okay.
A. (b)(7)(C) & (b)(7)(D) .
Q. Okay.
A. When I was a (b)(7)(C) & (b)(7)(D) I traveled everywhere.
Q. How long ago were you a (b)(7)(C) & (b)(7)(D) ?
A. I was a (b)(7)(C) & (b)(7)(D)

Q. Okay.
A. I was everywhere then in the mines.
Q. Okay. When you were a (b)(7)(C) & (b)(7)(D) , how many typical

A. Just one.
Q. Just one?
A. Just one, yes, sir.
Q. Did you ever travel through any equipment doors?
A. Yes, sir.
Q. Were those equipment doors automatic or were they manual?
A. Both.
Q. Both?
A. Both. We had some automatic and some manual, but the automatic wouldn't work half the time.
Q. And why was that?
A. They wasn't being repaired. If they would go down --- it used to be when I first started with Massey, if the doors or something like that would go down, they was taken care of, but ---.
Q. Why did that attitude change?
A. I think when Chris Blanchard become our president, a lot of things changed at Upper Big Branch.
Q. Now, these doors, you said some of them were manual?
A. Yes, sir.
Q. Now, you mentioned in your Massey initial training that they went over S1 and P2 with you; is that correct?

A. Yes, sir.
Q. Are you aware of a company policy addressing manual doors, ---
A. Yes, sir.
Q. --- how they are to be secured?
A. Yes, sir.
Q. What is that policy?
A. You're talking about security, meaning how they're blocked and ventilated?
Q. How you secure them against opening, against sudden unintended movement.
A. You put the doors facing the --- the air against the door is how you're wanting the door because you don't want your air in behind your doors, you know, taking a chance of opening --- the air blowing the doors open.
Q. And nobody ever covered installing a chain on the door ---
A. Up under ---?
Q. --- or a stick and jack?
A. Yes, sir. Yes. Bolting to the top the door frames, yes, sir.
Q. Okay. Or a latching mechanism that automatically latches when the door (sic) passes through, they've talked about that also?

A. Yes. We never had that, but ---.
Q. You never had that?
A. Yes.
Q. So this was --- was this an S1 standard?
A. I don't think it was.
Q. You don't think it was?
A. No. I mean, the doors was --- I don't like doors. Doors are okay for temporary, you know, moving a section or supply doors, but when you go and put doors in place of overcasts and things in that nature to ventilate, that's just ---.
Q. So this was a common practice?
A. Yes, sir. We have more doors in that place, you couldn't even imagine.
Q. And that interfered --- did that interfere with your ventilation?
A. Yes, sir. There's no doubt in my mind.
Q. When you would approach these doors, and you mentioned some of them were --- they opened by --- opened manually, ---
A. Yes, sir.
Q. --- what type of shape were they in?
A. Some was in really good shape and some of them was just very poor shape.
Q. So there was --- was there leakage around these

doors?
A. Yes, sir.
Q. How did you know there was leakage?
A. You could feel the air. You could hear it. I mean, you could hear it. And if you go open a door --- and they should have some pressure on it, you know what I'm saying?
Q. Uh-huh (yes).
A. But when you go to a door and just open it --- where you come to the doors and they're standing open ---.
Q. So you came to doors that were standing open?
A. Yes, sir.
Q. How often did that occur?
A Now, when I was (b)(7)(C) & (b)(7)(D) I was up in the northern part, which ---.
MR. STEFFEY:
Let's get him another map. Let's put this map ---.
BY MR. STEFFEY:
Q. Now, is this the section map that has the doors on it?
A. Glory Hole. Right here. These doors right here, sir.
Q. Okay. If you would, highlight those with a yellow

marker.
ATTORNEY BAXTER:
And we'll mark this as (b)(7)(C) & (b)(7)(D) Exhibit Two.
(b)(7)(C) & (b)(7)(D) Exhibit Two marked for identification.)
BY MR. STEFFEY:
Q. Now, color them in. It's kind of a little bit harder to see.
WITNESS COMPLIES
BY MR. STEFFEY:
Q. That's good. And just make a line out from them and write door.
ATTORNEY MCATEER:
And your initials.
WITNESS COMPLIES
BY MR. STEFFEY:
Q. Okay. Now, are these the doors that you're talking about that you would find open?
A. Every now and then. They sat right here. You would find them --- these are the red automatic doors, but they wasn't working.
Q. Okay.
A. They was --- just the jacks was broke on them. You had to open them manually.

Q. Were they bent or anything? Was anything wrong with the doors?
A. Yes, sir. They was damaged.
Q. Okay.
A. They were damaged.
Q. Which set would you find open quite a bit?
A. This set right here, sir.
Q. Okay.
ATTORNEY BAXTER:
And which one are you ---?
BY MR. STEFFEY:
Q. And this is the inby ---?
A. Inby set, yes, sir.
Q. Okay.
A. I think would probably be 78. What break would that be? Around the 80s right through there. Yeah, that's them.
Q. What'd your --- did you notice a change in airflow right there at that point with the doors open?
A. Yes. You'd lose air.
Q. And you'd lose air from your intake or ---
A. Yeah.
Q. --- beltline?
A. Yes. Here's a --- your beltline here. Here's your intake running.

Q. Uh-huh (yes).
A. And your beltline is through here. So when these doors are open, this air just ---.
Q. So do you lose it off your intake?
A. Yes. Yes.
Q. And you could noticeably feel that?
A. Yeah. You could tell when --- like after you'd come upon the doors open, you know, you would close them, you could feel the air pick back up through there.
Q. And where did this intake air go to?
A. This went to the section.
Q. So this went to the headgate section, ---
A. Yes, sir.
Q. --- the tailgate sections ---?
A. And this is --- the main intake crosses right through here, as I remember. It's been a while since I've been up in there, because I've been on the south side so long. But the last time I was up in that area, the main intake ran right up between these doors here, up to the headgate, you know, the longwall and One and Two sections.
Q. Did you ever report that these doors were damaged to anybody in management outside?
A. Oh, yes. They ---.

Q. And what did they do?
A. They said they put an order in to get them fixed.
Q. And then what happened?
A. As far as I can remember, they was the same. Last saw I them before, they never was fixed.
Q. So they put an order in, and that was as far as it went?
A. I think they had a contract, I'm not sure which company it was, would come in and install our doors. But there at the end, we was installing the doors ourselves. I don't know if they lost the contract or what.
Q. Do you know if they had a procedure for installing those doors, that the company --- Massey had a procedure for installation of doors?
A. Yes. Yes. Like I said, the doors, you had to be --- you know, bolted to the top, secured, blocked, sealed and aerated.
Q. So they adhered to that procedure when they installed those doors?
A. When the doors was put up, they was put up correctly, yes.
Q. Did they do it during a production shift? Were the men working inby?
A. Let me think. They had fixed doors with men

working inby, yes, they have.
Q. Okay. So you said these doors, they didn't have a latching mechanism or anything on them?
A. No. I guess if they was automatic, the jacks would keep them closed. But where the jacks was --- we call it pull the pins on the jacks, where you can manually open the doors ---.
Q. And you're not aware of any Massey policy that states that they need to have that door latched in any way, shape or form or have a way to latch it if it doesn't close ---
A. No, sir.
Q. --- automatically?
A. No.
Q. Okay. I just have a couple more questions here, and then we're going to --- I'm going to let these other guys here talk to you for a couple minutes.
A. Yes, sir.
Q. Oh, let's see here. So you mentioned that you found one set of these doors open. Did you ever find both sets open?
A. No, sir.
Q. No?
A. No.
Q. So it was primarily ---?

A. It was mostly that one set. They always had trouble ---.
Q. So they had trouble keeping the inby set open?
A. Closed?
Q. Closed.
A. Yeah. One door was always --- even --- somebody wrote even on the door, make sure door stays shut. But how can you make sure it stays shut when you go through it and close it, then when somebody comes through the other door, that door is going to open right back up, you know, because the air changing in between.
Q. Do you know how these doors got damaged?
A. I'd say probably from mantrips or Jeeps hitting them or motors, the flatcars running into them, because these two doors right here, sir, are very close together. And when I was (b)(7)(C) & (b)(7)(D) , you just had maybe, maybe four or five foot to get (b)(7)(C) & (b)(7)(D) in there.
Q. So it was tight in order to get it in there and close both doors?
A. Yes, sir. Yes, sir.
Q. Did anybody ever just open both doors and go on through?
A. Yes, sir.

Q. How often does that happen?
A. If there was trips going in together, probably regularly. Regularly, I would say.
Q. All right. I'll come back to you on that. I'm going to give these guys a chance ---
A. Yes, sir.
Q. --- to ask any questions they have.
EXAMINATION
BY MR. FARLEY:
Q. Okay. I think you just told us how you think the doors would be damaged.
A. Yes, sir.
Q. Okay. The doors you marked at 78, when is the last time you saw those doors?
A. Actually, one Sunday, before I done (b)(7)(C) & (b)(7)(D) run --- I'm a an (b)(7)(C) & (b)(7)(D) . They had me take some doors up there because they had some guys to come in who was going to install the doors, but it was the wrong size doors. I think --- let me think now. The doors up there might have been --- yeah, they was six-foot doors, but the ones up there was like 12 foot. An the new ones, I helped them up, was 14. And they had to move highline and everything over to get the doors to fit directly. But at that time, the doors --- that's the reason they was bringing new

doors in, because they were damaged.
Q. Okay.
A. And I think they actually maybe had a violation on it also. That's why they was fixing them.
Q. Okay. Again, when was the last time you saw those doors at 78?
A. Let me think.
Q. When was the last time you passed through there?
A. Probably in February or March. February or March. I'm not --- I can't tell you an exact date or month, it's been so long.
Q. 2010?
A. Yes, sir. Yes, sir.
Q. Okay.
A. It was this year.
Q. All right.
A. Because the last time I was up in that area I was taking the new doors up. I was (b)(7)(C) & (b)(7)(D) where the guys come in who was going to install the doors.
Q. So the last time you saw these doors in 78 they needed to be repaired?
A. Yes, sir.
Q. But the doors that you brought in were the wrong size?
A. Wrong size, yes, sir.

Q. So you don't know if the doors were actually repaired?
A. No, sir, I do not.
Q. Okay.
A. I do not.
Q. All right. Because it would be hard to repair the door if you had the wrong size door; right?
A. At the time they wasn't repaired because they was going to talk to their boss and talk to our super and see, you know, ---
Q. Yes.
A. --- get the right door or get the highline moved over. Where it was hanging, it wasn't giving enough room for the doors to actually open. They would have had to hang the highline further over to install the 14-foot doors instead of the 12s.
Q. Okay. All right. But to your knowledge at least, it was not repaired?
A. No, sir. The last time I went through there, the doors was not repaired.
Q. Okay. Very good. Do you know who had the --- who the contractor was that was used to install a door?
A. No, sir. I'm sorry.
Q. That's okay.
A. I think the only reason they was there --- because

I don't think they do contracts with them anymore. But at the time they bought the doors, they was under contract to put the doors in.
Q. Okay.
A. And they was just coming back to finish the job, I think. I'm not for sure which contractor it was.
Q. Okay. All right. Let me back up on some things. You said as a (b)(7)(C) & (b)(7)(D) you felt like you were considered as an (b)(7)(C) & (b)(7)(D)
A. Yes, sir.
Q. Okay. Are you considered a member, what the company --- what Massey refers to as a member?
A. I think Massey just calls us members to keep us happy and make us feel like we're part of something.
Q. Okay.
A. That's a joke.
Q. So you're not a contractor. You work directly for ---
A. Yes, I worked ---.
Q. --- worked directly for Performance, UBB?
A. Yes, sir. Yes, sir. We're called members. The guys who work for Massey, we're members, employees.
Q. When you started with Massey, did you start as a contractor?
A. No, sir. I was hired straight in as a red hat for

Massey Energy.
Q. Is that unusual?
A. At the time I started, no, because they was --- I guess that's when the big boom was happening with coal and there was several of us hired in, just straight in like that. Now, you have to go through like the contractors and work three, four, six months and still not get hired. I was lucky.
Q. Now, when you're hired by a contractor and you work at the mine, is that something like a try-out period, a probation period?
A. Yes, sir. Yes, sir.
Q. Okay. So if I understood you correctly, during economic times when miners were difficult to find, you were hired directly by the company as a member?
A. Yes, sir. Yes, sir.
Q. Okay.
A. It was in like (b)(7)(C) & (b)(7)(D) I was hired. At the time I don't think there was very --- any contractors. You was hired straight in, no trial or anything, just you was hired straight in.
Q. Okay. At the time --- let's just say the last couple of months at UBB, who was your immediate supervisor? Who did you report to?
A. My supervisor on the south side was Gary May.

Q. Gary May?
A. Gary May.
Q. Was he the general mine foreman?
A. General mine foreman is Rick Foster.
Q. Okay. What was Gary May's position?
A. Super.
Q. Superintendent?
A. Super, yes, sir, on the south side.
Q. You were talking about the time you broke your finger. How many (b)(7)(C) & (b)(7)(D)
A. Just (b)(7)(C) & (b)(7)(D) here, sir.
Q. Just your (b)(7)(C) & (b)(7)(D)
A. Yes, sir.
Q. Was it splinted or how ---?
A. How it was, the (b)(7)(C) & (b)(7)(D) split. They couldn't do anything to it pretty much, just let it heal on its own.
Q. Okay.
A. I think I (b)(7)(C) & (b)(7)(D) for like a day, but I couldn't do anything with it. It was in the way, you know. They told me if I had light duty I could just (b)(7)(C) & (b)(7)(D), and I did that for (b)(7)(C) & (b)(7)(D) then I went right back to the section (b)(7)(C) & (b)(7)(D)
Q. Okay. Earlier when Mr. Steffey asked you a question your response was when you were a red hat you

were concerned about the loss of your job for missing work.
A. Yes, sir.
Q. And you said, very few of us made it through.
A. Yes, sir.
Q. Now, does that mean that red hats were frequently fired for missing work?
A. Just that and just quit and things of that nature, because most of the time, as red hats, they put us on belt moves and things like that, which is very hard, strenuous work. And I guess that's how they like sorted us out, if you're going to make it or not, things of that nature.
Q. Okay.
A. As a red hat, you know, you got the jobs nobody else wanted, you know, which is understandable, but a lot of them didn't make it.
Q. Okay. Now, the (b)(7)(C) & (b)(7)(D) --- you indicated --- as you indicated, on the map in the south area for the conveyor belts, you were (b)(7)(C) & (b)(7)(D) What time did you (b)(7)(C) & (b)(7)(D)
A. On the south side we started at 1:00.
Q. 1:00. What time ---? Go ahead. I'm sorry.
A. I'm sorry. Four o'clock is when the evening shift

started.
Q. So you would start at 1:00 p.m.?
A. Yes, sir, three hours prior.
Q. All right. Now, you indicated that you, on occasion, did (b)(7)(C) & (b)(7)(D) on the barrier and portal section.
A. Yes, sir.
Q. About how frequently was that? Can you give me ---?
A. Like on a Sunday. I had to work a lot of Sundays, and (b)(7)(C) & (b)(7)(D) then.
Q. Okay. So did (b)(7)(C) & (b)(7)(D) the faces at the time?
A. Yes, sir.
Q. Did you find any methane in the faces?
A. No, sir.
Q. Any in the Two section?
A. No, sir.
Q. I think you indicated you didn't have an extendable probe for your detector. Any high places along your conveyor belts that you couldn't reach?
A. Yes, sir, there was some high places.
Q. That you couldn't --- where?
A. Probably the One North belt. It was high in places, probably maybe at the face eight or nine feet you would come across.

Q. Did that create a situation where you couldn't get within a foot of the top?
A. Yes, sir. You'd just hold it as high as you can as you was walking in the area.
Q. Okay. Did you ever report that to anybody?
A. No, sir.
Q. Okay. I'm trying to get a sense of the attention given to outby work.
A. Yes, sir.
Q. Now, the belts that you examined prior to this explosion are at the south area of the mine.
A. Yes, sir.
Q. Are you aware of any particular plan to see that they were routinely rock dusted?
A. Yes, sir. They --- we rock dusted --- the fire bosses when we say we. A (b)(7)(C) & (b)(7)(D) regularly --- we had trickle dusters down the beltline, who would be on one and --- like I was always throwing dust out in that area until they could get track duster up in there to dust the beltlines.
Q. Okay. Now, where were the trickle dusters located?
A. Just certain areas down the beltlines.
Q. Would that usually be tails and drive installations?

A. Yeah, down the belt heads and the belt drives and down the tails and mostly --- we tried to have one fairly in the middle kind of to help. And we had hoses coming out where we could --- had shutoff valves where you could turn them off and just shoot the dust in different directions, ---

Q. Okay.

A. --- things like that. And if there was places like in between the overcasts, where you couldn't get much of it, they'll hand dust that area.

Q. Okay. Now, how often would the belts have been machine dusted in your area?

A. Machine dusted at least once every two weeks, I would think. I mean, one thing I'll say about the South side, it stayed dusted. They take --- they done their best to keep it dusted. They did pretty well.

Q. Okay. Did you --- how often was it necessary for you to make an entry in (b)(7)(C) & (b)(7)(D) when a particular area needed to be cleaned and dusted?

A. Every day. Pretty much every day, at least spot cleaned and dusted in certain areas.

Q. Did you usually specify the particular area?

A. Yes, sir, what break it was at or things in that nature, yes, sir.

Q. Okay. Did you ever have to make entries in an entire belt, where its entire length needed to be cleaned and dusted?
A. I don't think I have. I don't think I have.
Q. Okay. Now, did you ever (b)(7)(C) & (b)(7)(D) belts other than those you identified on the map earlier?
A. Yes. I'm trying to think when --- before --- when I was at UBB, they split the mines up to north side and south side, and it used to be just one big mine, one open mines. But a lot of times they would say --- they would call and say we had a fire boss not show up or something, and your side is covered, will you come --- which is called the north now, would you come up like --- I guess it would be Five, Six and Seven North belts or (b)(7)(C) & (b)(7)(D) these bolts. And I would go up there and help do them belts. That's been a long, long time ago.
Q. How long?
A. Probably eight or nine months. I can't remember exactly when they split the mines. They made the south Ellis Portal and UBB portal. I'm saying split the mines.
Q. Was the longwall in operation at that time?
A. Yes. They just had got in operation.
Q. Sometime last year?

A. Yes, sir. Yes.
Q. Okay. Also, as you were showing us the area of your examinations in the south side of the mine, ---
A. Yes, sir.
Q. --- there was something I missed. I understood you to say that there were some areas where water had accumulated ---
A. Yes, sir.
Q. --- and you felt that needed to be pumped, ---
A. Yes, sir.
Q. --- but Blanchard wouldn't sign off on the use of pumps; is that correct? Is that what you said?
A. It took us a while to get the pumps, yes. I mean, ---.
Q. I'm sorry. Go ahead.
A. They said they was on order, which I don't know if they was on back order or what, but it took us a while to get the pumps. But we had a discharge ram just waiting on pumping.
Q. Okay. Any explanation other than they were just on order?
A. No, sir.
Q. Now, what made you feel like that Blanchard wouldn't sign off on the use of pumps?
A. He was a funny person. A lot of times --- you had

to sign off on everything. He had to sign off on everything. It seemed like he cared more about the longwall and the headgate and tailgates being --- taken care of than the other sections. That's how it seemed to me, because the longwall, if they needed a pump, it was there within the hour, you know. I mean, the longwall was --- he took --- the longwall was his baby, and he just took care of the longwall. No matter what they needed, you know, make sure the longwall had it. And I think the other sections maybe suffered from it. That's how I feel.

Q. Now, you indicated that pumps were hard to come by in your area. Now, were there any other areas where you think sections, other than the longwall, the gate and development sections, might have suffered for lack of equipment or supplies?

A. No. No. I mean, ---

Q. Okay.

A. --- we always ---. Like for the south side, we took care of everything the best of our knowledge and ability.

Q. Okay. Now, I think I asked you earlier if you're considered a member, and I think you said yes. Are you considered a supervisor?

A. No. No, I'm just a ---

Q. Are you ---
A. --- (b)(7)(C) & (b)(7)(D)
Q. --- a salary ---?
A. (b)(7)(C) & (b)(7)(D)
Q. An (b)(7)(C) & (b)(7)(D)
A. Yeah.
Q. Okay. So no one reports to you?
A. No, sir.
Q. Okay.
A. No.
EXAMINATION
BY ATTORNEY MCATEER:
Q. (b)(7)(C) & (b)(7)(D) you support the Boston baseball team?
A. Yeah. I like the Sox.
Q. Thanks for your testimony.
A. You're welcome.
Q. Good memory. When you were at the interview with the Massey lawyers, did either lawyer or both lawyers say to you anything about coming with you here?
A. No. No.
Q. They didn't suggest that they could make arrangements to be with you and accompany you?
A. No. Well, let me think. Let me think now. Well, I kind of think they did. They might have offered to --- if we needed somebody to come with --- they

wouldn't represent us individually, I don't think, but they could maybe come and ---.

Q. Okay.

A. I think so. I'm sorry. I should have been --- it's hard to remember, sir.

Q. That's quite all right.

A. But they told me when I interviewed with the Massey lawyers this wasn't no --- for me, it was just for the company.

Q. Okay.

A. They're not going to represent us, just they're representing the company. They just wanted to know what we thought happened and things of that nature.

Q. Now, you said that you had pre-shifted the working sections on Sundays as a fill-in matter. You worked some Sundays.

A. Yes, sir.

Q. Did you work the 4th of April, the day before the explosion?

A. No. It would have been Easter Sunday.

Q. That's right.

A. That was Easter. No, I did not.

Q. Okay.

A. No, I did not.

Q. I think the evening shift come in to pre-shift for

third shift that night, because we was idle that day. That's very, very rare for us to be idle, because we work seven days a week.

Q. You said on occasion (b)(7)(C) & (b)(7)(D) sections or parts of sections because of hazardous conditions. How many times? Do you have a rough number or ---?

A. Maybe three or four times.

Q. Okay.

A. Five at the most.

Q. Anybody in a supervisory capacity ever speak to you about that?

A. No. My super, which was Gary May, told me any time I need to shut the belt off, shut it off. Don't hesitate. He doesn't care, you know, how long production is down, if I found a hazard, shut the belt off and call for help if I needed help to correct the hazard.

Q. Now, you testified that Mr. Blanchard would order --- would have to sign off --- first you said pumps and then you said in answer to Mr. Farley's question, sign off on everything?

A. About supplies, yes, sir.

Q. Can you tell me sort of anything that you're aware of that he would have to sign off, like what kind of

supplies?
A. Bolts, roof bolts, plates, straps, timbers, basically I think almost everything he had to sign off to --- for them to order it.
Q. You spoke for a couple of minutes about the doors and you said that the --- these are red automatic doors?
A. Yes, sir.
Q. Were both sets red and automatic?
A. These two was, yes, sir.
Q. Okay. By red you mean color red?
A. Yeah, red. They're red. They're just a heavier built, stronger door.
Q. Okay. But then you said that the --- that there was a piston --- I'm sorry, jack ---
A. Yes, sir.
Q. --- that would operate the doors?
A. Yes. They would open and close the door, a jack would.
Q. You testified that sometimes they would pull the pins?
A. That's when the jacks wasn't working, sir. You would have to knock the pins out to make the doors open freely, you know, manual --- you'd go to manual then.

Q. Right. But by knocking the pins out you would, in effect, be --- the doors would have no automatic function?
A. Yes, sir.
Q. So then from that point forward they would be what?
A. Just manually. There's no way to latch them. No way to keep them closed.
Q. And then you testified that there was a marking on the door, make sure the door stays shut.
A. Yes, sir.
Q. Shouldn't the air pressure have kept the door shut?
A. Yes, sir.
Q. Does that suggest to you there was not enough air pressure?
A. Yes, sir. There's no other explanation.
Q. One Sunday when you were acting as a motorman in order to bring the replacement doors up, that's the doors at 78 as well?
A. Yes, sir.
Q. Okay.
A. Yes, sir. It was --- actually, it would have been this set right here, the ones they was having trouble with.

Q. The inby doors?
A. Yes, sir.
Q. Do you remember when that was roughly?
A. I'm thinking around February or March. I can't remember exactly when, but I ---.
Q. That's this year?
A. Yes, sir. Yes, sir. I was only an experienced motorman. Before fire boss time, they wanted me to run the doors. The men up there ---
Q. Sure.
A. --- did that.
Q. And this crew of people who were going to replace it, they weren't from the company?
A. No, sir. They was contractors.
Q. Were they out of Kentucky or West Virginia or ---?
A. I'm not for sure. I'm not for sure, sir.
Q. Do you remember anything about them or ---?
A. There was two of them. There was two.
Q. Okay. Two of them?
A. Yes, sir.
Q. Did you have any conversations with them?
A. Yes. I was with them for a couple hours up there, trying to figure out how we was going to get the doors in and things like that. That's when we both decided, you know, the right size doors had to be put up or the

highline needed to be moved over to have the doors installed correctly.
Q. So who was informed that the doors were the wrong size?
A. Our super would have been informed.
Q. Who was that?
A. That was Gary May.
Q. Who called him?
A. The dispatcher. Let me think who the dispatcher was at the time. I can't remember who the dispatcher was.
Q. That's all right.
A. I might here in a few minutes, but ---.
Q. That's all right. You're doing very well. Did the contractor take the doors back then?
A. No. They was left there.
Q. At that 78 ---?
A. Yes, sir. We gone and we laid them on the rib, that and the jacks. well, no, I take that back. The jacks wasn't with the doors.
Q. Okay.
A. Because that was another problem. They had --- the doors --- when I went and got the doors, they was down in the old supply yard. And I guess they had been ordered for a long time because they --- and a

lot of parts was missing from the original doors. I guess they needed them to fix the other doors that was --- needed repaired. Because that's another problem, because they guy didn't want to put the doors up and not have the jacks there to fit. And they just wanted to make sure for their boss everything was there and things of that nature.

Q. Who was their boss; do you remember?

A. I don't know who the contractor was, no, sir.

Q. Did they then leave or did they stick around or ---?

A. They left.

Q. Okay.

A. But once I seen my super, that's --- I had the dispatcher call --- the super out of the north side was actually a guy named Everett Hager. He was the super for that side. But the only reason I called my super, that's who I worked for, because I didn't know much about Everett or anything like that, and I was just calling Gary to let him know ---

Q. Sure.

A. --- about the doors, because all the hardware wasn't there with the doors to install them. They was the wrong size. I was just covering myself from getting in trouble ---

Q. Sure.
A. --- and the contractor was covering theirselves for getting in trouble, you know, so ---.
Q. Did they call somebody?
A. I guess they called, when they got out there, their boss. And Gary said he would tell Everett about, you know, the wrong doors and needed to have everything to put the doors up with.
Q. In your experience, did this problem of people taking stuff from the doors or taking equipment from one place to the other, did that occur on a regular basis or did you have to kind of scab what you could get?
A. Yeah. Yeah. Yes, sir.
Q. You testified that the highline was coming through there?
A. Yes. When you put your doors up, you block around your door with solid block.
Q. Right.
A. And you would run your highline through the block and you would like plaster and seal it around the highline to keep it ventilated, you know, keep it airtight, supposed to.
Q. Sure.
A. And what it was, the --- where --- these doors

that was up there, if I'm not mistaken, they was 12-foot doors. And the ones that I had taken in was 14 foot.

Q. Right.

A. The highline had to be moved over to give enough width for the doors to fit in properly.

Q. But what is the highline?

A. That high voltage. The high-voltage line. I'm sorry. I should have specified.

Q. That's okay. And that's the voltage line that runs from ---?

A. Outside to all the way in the mines, the high-voltage line, the power, our power.

ATTORNEY MCATEER:

That's all the questions I have right now.

ATTORNEY MCATEER:

Would you like a break, (b)(7)(C) & (b)(7)(D)

A. I'm fine, unless you all ---. I'm fine.

RE-EXAMINATION

BY MR. STEFFEY:

Q. When you (b)(7)(C) & (b)(7)(D) ---

A. Yes, sir.

Q. --- I think you said you were on light duty, (b)(7)(C) & (b)(7)(D) for a couple of days, ---

A. Yes, sir.
Q. --- and you went back to the section, ---
A. Yes, sir.
Q. --- (b)(7)(C) & (b)(7)(D)
A. Yes, sir.
Q. Why did you go back to the section, (b)(7)(C) & (b)(7)(D)
A. It's been so long. I figured they'd send me back to ---.
Q. So you didn't ask for that. They just told you to go?
A. Probably. There wasn't nothing to do (b)(7)(C) & (b)(7)(D) that night, and they probably just sent me up there to help out.
Q. Okay.
A. If I'm not mistaken, they told me just to watch myself, you know, don't hurt myself anymore, my (b)(7)(C) & (b)(7)(D) any more than I had to. They tried to --- light duty --- they tried to keep me on light duty, I guess, what they considered light duty, but there's nothing light duty underground. But I did go back. I (b)(7)(C) & (b)(7)(D) probably the beginning of the shift that night, and I finished the shift out, went to the doctor that morning and I got it taken care of, and the next night I was back out. I didn't miss any time, no lost time.

Q. Okay. What's the company's attitude toward lost time accidents?
A. They don't like it at all.
Q. They don't like it.
A. If you can walk and breathe, they want you there.
Q. Ever know of anybody that was hurt that probably shouldn't have been there, but they had them out there doing light --- what they called light duty?
A. I'm sure I have. I'm trying to think of names and faces. I'm sure that I have, I mean, --- especially the salary guys. If they're hurt or something, they want them there because they don't want things sitting at the house.
Q. What's the reason for that attitude?
A. I guess they don't want you getting over for a ---.
Q. Okay.
A. Massey is a hard company to work for, but financially-wise, it's about the best you can work for. And you put up with a lot of things to keep your job with them, a lot of hours, a lot of holidays. And I've worked --- I couldn't tell you how many holidays I've worked, vacations I've had to work through, because --- we work seven days a week at UBB because of the longwall, no exceptions. I mean, you --- seven

days a week.
Q. Now, did they tell you a lot of times you was going to have to work through vacation?
A. Oh, yeah.
Q. What was their reason?
A. Can't stop production. Got to stay ahead of the longwall they'd say. Got to keep the headgates drove up. Got to stay ahead of the longwall. Because when the wall pulled out, nowhere to go, we all wouldn't have no jobs. Basically that was it.
Q. Do you think other companies do that?
A. No. No. I'm sure they don't.
Q. These other companies, do you think they're still in business?
A. Yes. I have (b)(7)(C) & (b)(7)(D) that work at union mines.
Q. So this ain't the only way to do this?
A. No, sir. Even --- I mean, like when the longwall moves, I used to help move the longwall. It was, you know, six, seven days a week. I mean, just --- you didn't get any days off until the longwall was moved, and you was working 12, 14-hour days.
Q. So basically your job was the focal point of your life?
A. Your job is your life. It hurts your family life

tremendously. I regret a lot. I regret doing to that mine because it's hurt my family a lot.

Q. The area that (b)(7)(C) & (b)(7)(D) how would you describe the roof, rib and the floor in the areas of this mine ---?

A. The One section was sandstone top. Bottom, it was hard. I mean, it was hard and I mean it was --- really good everything. I mean, it was --- now, the barrier section, the ribs was real soft, the top was scaly. It was never just shale, it was ---.

Q. Now, when you said the barrier section, you mean the new barrier section ---

A. Yes.

Q. --- or the ---?

A. Yes, the new barrier section.

Q. Why was the top scaly?

A. It was in between two longwall panels. It was taking a lot of weight, I think. I mean, they --- you had it right in between --- this is what --- this panel, it would have been, probably 16 and ---. It was in between two longwall panels. It was just --- that's not a smart way to mine, going between two big panels like that. I mean, it squeezes and takes weight.

Q. Anybody ever come and look at it up there?

Anybody from engineering ever come in the mine? Have you ever seen them?
A. Oh, yeah, they --- putting spads and things up.
Q. I'm not talking about surveyors. I'm talking about any engineers coming and checking ventilation.
A. Not that I know of.
Q. Okay.
A. Not that I know of.
Q. Do you know who your engineers were?
A. No, sir.
Q. Did any of the sections in this mine, miner section, longwall --- or the longwall ever mine through a gas well, known or unknown?
A. Let me think here. If I'm not mistaken, I thought people had been on the north side, they actually did cut into a well, an old --- what's it called, casing?
Q. Uh-huh (yes).
A. A ramp-down, one time.
Q. Was it a miner section or ---?
A. Yes, it was a miner section.
Q. Did they intend to cut into it?
A. No. I'm sure they didn't. I'm sure they didn't.
Q. What happened after that?
A. I'm not sure. That's been several years ago.
Q. Do you know approximately where at in the mine

they were at?
A. Let me see here. It would have been closer up this way, towards the --- let me just grab that map right here.
Q. If this ain't it, we've got another map here.
ATTORNEY BAXTER:
So we're now looking at (b)(7)(C) & (b)(7)(D) Exhibit One again.
A. I'm trying to think where ---. No, I'm mistaken. I think it was up on the old LBB section, Lower Branch. That's where they cut into it at.
BY MR. STEFFEY:
Q. Where is that?
A. This is called LBB, Lower Branch.
Q. Uh-huh (yes).
A. Old LBB. If I'm not mistaken, it was up in there somewhere.
Q. Can you mark with the highlighter or circle the area that you believe this gas well to be in?
A. I have no idea what area, but I know --- I'm pretty sure it ---.
Q. Is this the LBB area right here?
A. Yes. I can mark this ---.
Q. Circle the area if you wouldn't care, just the whole general area, and then label this out here LBB

area.
WITNESS COMPLIES
BY MR. STEFFEY:
Q. You believe that this is the area that they cut into an unknown gas well?
A. Yes, sir.
Q. Did anybody ever call MSHA?
A. To tell you the truth, I don't know. I don't know. I can't remember a lot. I probably was a supply man at that time. I was on a motor. I don't really --- I just remember they cut into the casing.
Q. Do you remember about when this happened?
A. I'd say at least four years, if not more.
Q. Now, how do you know all this?
A. I heard about it.
Q. You heard about it from whom?
A. Just the men.
Q. Just the men talking?
A. Yeah.
Q. And what were they saying about it?
A. Just that they cut through a well.
Q. Any methane?
A. No.
Q. Did they have to section off?
A. No. It was --- luckily, it was I guess what we

call a dead well.
Q. Plugged?
A. Plugged.
ATTORNEY BAXTER:
Do you remember the names of any of the men who told you that?
A. Yes.
ATTORNEY BAXTER:
Care to share them?
A. The miner man, his name is James Griffin. He was a miner man.
ATTORNEY BAXTER:
Anyone else?
A. I'm trying to think of who was on that crew. I can't remember who was on that crew, but I know who the miner man was.
BY MR. STEFFEY:
Q. Do you remember who the section boss was?
A. It's been so long. I don't for sure know.
Q. Who was the superintendent at that time?
A. At that time, probably --- either Bill Potter or Rick Hodge. I'd say it was probably --- no, at that time, probably Wendell Wills I think was president. Probably Wendell Wills.
Q. So Chris Blanchard wasn't president then?

A. No. If I'm not mistaken, probably Bill Potter had been or Rick Hodge. It's been years, years ago.
Q. That's still a serious matter.
A. Oh, yeah. I mean, why --- it should have been marked. I mean, something like that, that's just huge.
Q. Yes.
A. I mean, that's just --- something like that is uncalled for with the technology.
Q. I agree.
A. I mean, ---.
Q. Any other incidents where they cut into a gas well?
A. That's the only time I've ever heard.
Q. Did the mine have any other problems with undermining gas wells that you know of?
A. Not that I know of, sir.
Q. Okay. Did anyone ever discuss the lower Eagle seam below the Eagle seam?
A. No. No.
Q. Did you know that seam was down there?
A. I'm sure there was something below us and above us. I don't know exactly what.
Q. Okay. Did you ever encounter any methane outbursts anywhere in the mine?

A. I haven't.
Q. Did you ever hear of anybody encountering them?
A. Actually, after the explosion I have heard --- I stayed on the South side. I didn't even get to --- I rarely talked to anybody on the north side. And after the explosion I've talked to several people who said they was getting a lot of gas up on the wall and the headgate. They knew what they was driving.
Q. Were they finding this here in the pre-shift exam?
A. I don't know, sir. I mean, I'm talking about the section, them telling me what they was hitting up there.
Q. Do you know who the pre-shift examiner was on the wall at the time?
A. No, I really don't. I don't know how they --- I know the fire bosses. I don't know what area, though.
Q. Do you remember them telling you they were encountering ---?
A. The section men, actually who was up there on the section mining.
Q. Now, this was the section or the longwall?
A. The section. I guess it would have been the ---
Q. The headgate?
A. --- the headgate.
Q. Okay.

A. And they told me they was hitting, there at the end, a lot of gas. And this is what they told me. I at least talked to some of the men on the longwall.
Q. Was it coming from the floor or through the roof or ---?
A. The face.
Q. Coming out the face?
A. The face. Because they said they was picking --- they said a lot --- picking up gas up on the tail end of the wall.
Q. Okay. Did they say --- did they complain of an odor? Did they smell anything? Was there an odor associated with it when they would find methane?
A. Nobody said anything.
Q. Nobody said anything about a distinct odor?
A. No, sir. They was just picking up a lot of scary volumes of methane.
Q. Now, when you say scary, what do you mean? How high?
A. About 1.8. And I heard --- I have heard it went to four or five percent.
ATTORNEY BAXTER:
Do you remember the names of any of the people who ---?
A. Yes. James Griffin, again, the miner man, he was

--- they picked up 1.8, and he sent word to the section boss, you need to come, you know, look at this, you know. We're hitting gas. It's just hearsay now. I don't know this for a fact. And they said the section boss just dragged his feet coming over there and checking on it. And I believe that. I really do.

BY MR. STEFFEY:

Q. Now, did anybody outside know about this, anybody, the superintendent, mine foreman?

A. I'm sure they had to. I'm sure they had to.

Q. Did they ever say anything?

A. Not that I --- like I said, on my side, the South side, we never encountered gas or nothing like that. But the north side --- this was after the explosion. I was starting to find out all this stuff. I had no idea the conditions those guys was working under. They shouldn't have been --- this should never have happened.

Q. I agree.

A. And I mean, ---.

Q. You know, you've got a sign going up to the mine that I noticed the first day I was on the property that says accidents are caused. We're going to find out what caused this.

A. I hope so. I hope so. I worked for them guys

when I was a red hat for many years.
Q. I notice a tattoo on your arm commemorating the 29.
A. I'll never forget them. It changed the way I --- It's going to change the way I mine forever, too.
Q. It's going to change everyone.
A. I hope so.
Q. Now, let's go back to this methane on the gate roads. They said it was coming out of the face?
A. Yes, sir.
Q. Any water coming with it?
A. Yes. I think they was in some water up there. It was wet. They said it was wet in there.
Q. Okay. And you heard this after the explosion, after it happened?
A. All the stuff I'm hearing now come after the explosion. I had no idea the conditions those guys was working under.
Q. So did anybody outside ever talk --- did you ever hear of them having any discussions outside, any safety meetings, that guys were starting to pick up a lot of methane?
A. Not on my side, where we --- like the split, I mean, it's hard to believe it's one mines it would have been split. We never ---

Q. Okay.
A. --- talked. I mean, it was ---.
Q. What about excessive water? Did you ever encounter any excessive water?
A. The longwall had a lot of water behind it.
Q. The longwall had a lot of --- the active longwall panel?
A. Yes.
Q. Okay.
A. I think they had I don't know how many air pumps set up in there. Just constantly had to pump water up in there.
Q. And how do you know this?
A. Just hearsay. And I seen the pumps come in by truckloads. I mean, truckloads of pumps.
Q. That were headed for the longwall?
A. Yes, sir. Yes, sir.
Q. They run a discharge line up there or what did they ---?
A. Yes, sir.
Q. Did this ever interfere with ventilation? Did you hear anything about that?
A. I haven't heard anything, but I'm sure it had to.
Q. Did you ever hear of it roofing out?
A. I've heard on occasions it's very close to roofing

out. And that right there stops the air. I mean, that's a solid --- you don't get more solid than water, you know. I mean, ---. But they done whatever they had to do to keep the wall running.

Q. So the wall took priority above everything?

A. Anything and everything.

Q. Was production on the longwall put above safety, in your opinion?

A. Yes, sir.

Q. Do you care to go into that?

A. I think all they worried about was production. I mean, like I said, this is all just hearsay because I never was up there, but ---.

Q. Did you talk to any of the men that were up there that --- what would they say that would give you that impression?

A. Just Blanchard wanted a report every 30 minutes on the wall, every --- I mean, 30 minutes, 24 hours, what's going on up on the wall. And if it was down, he'd say get into coal as soon as possible, as fast as you can. And I don't think he cared what it took to get in the coal, just make sure that shearer was running. Make sure you had call on the belt.

Q. Did you ever see Blanchard at the mines?

A. I've seen Blanchard maybe three or four times.

And if he walked in this room right now, he probably wouldn't know who I was. He's a numbers person and he's not a people person.

Q. Did he ever talk to you or any of your men or any of the other men?

A. Annual retraining he would come in and make his appearance, do a little speech about how we need to pick up production and we need to do better to keep everybody working and things of that nature. But actually just to come and talk to you like, how are you doing, is everything okay, you need anything, never, never.

Q. During (b)(7)(C) & (b)(7)(D) mentioned scaling up here. We'll jump back to this and come back to Mr. Blanchard.

A. Okay.

Q. Up here on the --- what you call the ---

A. Barrier section.

Q. --- barrier section, ---

A. The new barrier section.

Q. --- new barrier section, you mentioned there were problems with the roof up there and you believe it was due to being between two longwall panels.

A. Right.

Q. Were there any other areas that you found these

problems?
A. No. Everything else, it was pretty good. I mean, the ribs, you're always going to have concerns. But it was taken care of. I know up on the barrier they was driving and timbering and just trying to --- like on a Sunday, like doing my work, everything's idle. And all the way down the belt head --- when I'd go down and rock dust my belt head, it would sound like World War III up in the barrier section, just bumping and just --- when I fire bossed it, you know, it was just --- you made sure you looked everywhere you went and it was --- it was hectic. It was scary to go up in there.
Q. Okay. Let's talk about an exam book here when you was on the barrier section. Do you remember where the barrier section was at on 11/29 of 2009? Were they here or were they on the old section?
A. They probably was up in here, 11. It would have been real close. Because they haven't been down here very long. I would say they was right here where they could --- yeah, right here is where they would have been because --- let's see. Should be some double doors here somewhere. Right here, that's where we moved equipment out and took it up to there. So this is the last panel on the old barrier section that was

bad.
Q. Okay.
A. They probably was up in here.
Q. Okay.
A. More than likely.
Q. Now, there was a (k) order issued at this mine on 11/24/2009 at the longwall for a roof fall. But when I go through the pre-shift examination book for the barrier section, ---
A. Uh-huh (yes).
Q. --- I find a note that says from 11/21 to 11/29 that this section was down, no power, belts off, no examinations done, ---
A. Yes. That's correct.
Q. --- dangered off at the mouth.
A. Yes. I remember that.
Q. Can you explain what happened?
A. That's when, I think, they was done mining and everything was just setting up there. They hadn't moved to this new area yet. And the power was knocked at the mouth.
Q. Why did we have it dangered off?
A. To keep somebody from going up in there. That's by Plumley --- where the switch was to get up into the barrier section, it was dangered off there to keep ---

where it wasn't pre-shifted. That's why it was dangered off. There was no power or anything up in there. It was just to keep people from going up in there. That's why it was dangered off, sir.

Q. Okay. That always makes me curious when I see ---.

A. I think they actually set this place --- it could have set for probably about two weeks before it was actually moved down to the new setup.

Q. No roof falls or anything?

A. No, sir.

Q. Okay.

A. Just idle. They was done.

Q. When (b)(7)(C) & (b)(7)(D) for hazardous conditions and you conducted tests, methane, oxygen deficiency, ---

A. Yes, sir.

Q. --- did you determine air was moving in its proper direction?

A. Yes.

Q. How did you do that?

A. I could just feel it and I would --- we had smoke tubes we'd get to take and, you know, you'd just have to answer which way the dust is going and things of that nature.

Q. How did you determine the air volume?
A. Well, we had anemometers, but --- on the beltline, but I never took any readings or anything like that.
Q. Where would you take a reading like that?
A. Like, occasionally if I had to go to the section, I would go to the last open break and take my air readings and things like that, and I would put it in the book. Like the last open break would have them.
Q. Okay.
A. And also (b)(7)(C) & (b)(7)(D) readings, and that was (b)(7)(C) & (b)(7)(D) sir.
Q. And that was (b)(7)(C) & (b)(7)(D)
A. Yes, sir.
Q. All right. Did (b)(7)(C) & (b)(7)(D) refuge alternatives?
A. Yes, sir. Every --- you talking about outby or the one on the section?
Q. The one on the section.
A. Yes, sir. (b)(7)(C) & (b)(7)(D) for the spot -- (b)(7)(C) & (b)(7)(D) to make sure it had a spotter in it, the spotter was up to charge and calibrated, and all the air gauges were showing regardless of any physical damage around it.
Q. And when did you do that?
A. Every time I (b)(7)(C) & (b)(7)(D) Like on a Sunday, if I (b)(7)(C) & (b)(7)(D) , I would make sure the fresh air base was (b)(7)(C) & (b)(7)(D) , sir.

Q. Okay. The continuous miners on the sections, they were equipped with a methane sensor; is that correct?
A. Yes, sir.
Q. Have you ever seen or heard of anybody bridging out a methane sensor in this mine?
A. No, sir.
Q. Anybody ever discuss the approved methane and dust control plan with you?
A. Not with me personally.
Q. Not with you?
A. No, sir.
Q. So when you went to the section and you took a last open crosscut air reading, how did you know that quantity was adequate?
A. The air?
Q. Yes.
A. Massey didn't want less than 20,000 in the last open break. That's what --- anything over that I knew I was okay in that last open break.
Q. Now, are you aware of the law that --- 30 cfr, part 75.300 ---?
A. No, sir.
Q. 370 requires that all persons affected by ventilation changes be trained in those ventilation changes. Now, Massey requires 20,000.

A. Yes, sir.
Q. You said no one ever went over the approved methane and dust control plan with you.
A. I was thinking of the memo.
Q. You saw it?
A. Yes, sir.
Q. You saw the memo saying 20,000?
A. Yes, sir. If you had 20,000, don't ---.
Q. Would you consider a section pre-shift examiner someone that would be affected by a methane and dust control plan?
A. Yes.
Q. Wouldn't you think they'd probably need to know what was in that plan?
A. Yes, sir.
Q. Did you have to have curtains up on your section?
A. Yes.
Q. In all places?
A. Anyplace that was --- to run the bolts in, yes, sir. Ten feet in, yes, sir, we hung curtain.
Q. How much air did you have to have at the end of that curtain?
A. I'm not for sure. I never was the section boss that actually had to do that. I was told when I done the pre-shift just get air in the last open break.

Q. But when (b)(7)(C) & (b)(7)(D) the section, you also had to (b)(7)(C) & (b)(7)(D) hazards; correct?
A. Yes, sir. Like the faces and stuff.
Q. Okay.
A. But (b)(7)(C) & (b)(7)(D) reading behind the curtain or anything because they never was in production, unless the section boss did that. I never had to section boss or anything.
Q. Did anybody ever cover the methane dust control plan with a miner crew? Did you ever see that take place?
A. No, sir.
Q. Nobody ever talked about that? They just talked about what the company policy was?
A. That I heard of. But I never --- I'm sure they have, but --- I don't know. That was a long section, and we had safety meetings and stuff, and I know you go over with the miner men things like that, but never me.
Q. Okay. So you (b)(7)(C) & (b)(7)(D) on the section ---
A. Yes, sir.
Q. --- for a little while?
A. Yes, sir.
Q. Did you ever take a cut --- did you ever see the miner man take a cut without a curtain?

A. No, sir.
Q. Always hung a curtain?
A. Always hung a curtain.
Q. Was it exhausting or blowing ventilation?
A. Blowing.
Q. Blowing.
A. I've seen curtain with holes and stuff in it. I mean, no ribs, but always the men --- the miner men I've always worked with, they tried to keep on cutting, and the bolt crew did, too. They really tried.
Q. Could you use a scrubber on the section you were on?
A. No. I think anything under 20 foot you can't use a scrubber.
Q. You ever see them turn it on?
A. No, I haven't.
Q. Okay.
A. I haven't.
Q. How many production shifts were on the miner sections?
A. Two, day and evening. And third shift, just a dead shift, moving belt and things like that.
Q. Did you have a maintenance shift?
A. Yes, third shift.

Q. Did you ever run coal on that maintenance shift?
A. Not that I know of they ever ran coal on third shift.
Q. Okay.
A. I know on the wall they ran every now and then on third shift, but I don't think the actual miner sections did, no, that I can recall any time.
Q. So the wall, they would run whenever they could?
A. I heard --- a lot of times like I guess if they'd been down, to get a lot of cuts or whatever they would have to run on a third shift.
Q. Okay.
A. There's something I don't understand. I mean, I don't know if this is true or not, but I heard they passed the actual spot where they was supposed to pull out on the wall, like the longwall stop that they're saying, they mined past that.
Q. They mined past that?
A. That's what I've heard.
Q. Who did you hear that from?
A. Just --- names I don't know. Just people talking, that they actually mined past where they originally was supposed to pull it out.
Q. What was their reason for doing that?
A. Just to stay in the coal until a new headgate was

established. Because I heard --- I can't think of names, but they passed the original stop where they was supposed to pull out of. They kept on mining.
Q. Are you aware of any fault lines or roof problems that they had up around the longwall, in the area where they had the ignition? Nobody ever mention that?
A. No. I haven't heard anything like that.
Q. Okay. Now, you mentioned that they put doors in while men were working inby.
A. No, repaired doors.
Q. Repaired doors?
A. Yes, sir.
Q. Did they ever make any major ventilation changes while men were working in the mine?
A. I heard they had.
Q. You heard that they have?
A. I heard they have.
Q. Who did you hear that from?
A. Just some of the men on the section.
Q. That they actually made the changes while they were working?
A. Yeah.
Q. And who would make these changes?
A. That I don't know. I probably --- I'm sure

Blanchard and the supers would have to know about it. I mean, ---.

Q. Did you hear Blanchard and Whitehead were there when these changes were made?

A. Yeah. Yeah, I did.

Q. Did they supervise these changes?

A. I'm sure they did. I heard they had.

Q. Do you ever remember any air reversals in any of the air courses while you were working underground?

A. I don't, sir. Like I say, I'm always up on the south. I had no idea what's going up in there in the north. If I knew what was going on up there like that, it ---.

Q. What about on the day of the explosion, have you heard about any air reversals that day?

A. No.

Q. Okay.

A. No.

Q. Did anybody ever call you while you were in the mine and tell you an inspector was on his way to your area of the mine?

A. Not actually call me personally, but in the mornings you'd be on the phone and the section bosses would get there, it was always, do we have any company. That's just every day. Every time you

called the production report out, do we got any company, every time.

Q. And who would tell them if they had company?

A. The dispatcher.

Q. The dispatcher?

A. Yes, sir.

Q. Was this encouraged by management outside, the company?

A. I'm sure it was. Ever since I started, it's been like that there. I mean, ---.

Q. Are you aware that the Mine Act expressly forbids prior notification that an inspector is in the mine?

A. Yes, sir.

Q. Do you think these people were aware of that?

A. Yes, sir.

Q. What would they tell them if they had company?

A. Where they was going, if they knew, if they knew where he was going, things of that nature.

Q. Do you think production ceased?

A. Oh, yeah.

Q. Did production cease? Did you hear if it did?

A. Oh, yeah. I'm sure it did.

Q. Why?

A. You had to make it right. You know, you had to make sure you had your air to run, you had no

hazardous conditions on the sections, I mean, make sure your equipment was up to par.

Q. Weren't they supposed to be doing that the whole time?

A. Yeah, should have. Should have.

ATTORNEY BAXTER:

Do you remember which section bosses said that over the phone or said that in general?

A. It probably just wasn't the section bosses. It probably was everybody. It was --- it's awful to say this, but it was a common thing, I mean, just we got company.

BY MR. STEFFEY:

Q. So what was the attitude toward mine inspections?

A. The company didn't like it. I mean, but I was really glad to see inspectors. Thank God for inspectors. I mean, ---.

Q. Why didn't the company like inspectors?

A. Because they would cost them money. It was going to cost them money. It was going to cost them downtime.

Q. But if they're keeping it right all along, they're not going to get a citation.

A. No. No.

Q. So why did they have to stop then to fix this if

all Massey mines are safe?
A. Because they're not all safe.
Q. So is the attitude catch me if you can?
A. Catch me and I'll pay the fine because I got the money to pay it, really. I mean, this is my job. I work for Massey, but I'm --- I don't care much for Massey. The only reason I work for Massey is to take care of my family, and it's just --- it's not a good --- Massey is not a good company. It's not.
Q. Did anybody ever tell you to be careful what you say to an inspector? Anybody above you in management caution you about what you say to inspectors?
A. Yeah.
Q. What did they say?
A. Don't tell them no more than they ask --- need to know. If you don't know something, just tell them no or things of that nature.
Q. Who would tell you that?
A. Like a super sometimes, you know, watch what you say, things like that. But if I ---.
Q. Something to the effect they're not here to help us?
A. Yeah. Massey --- how do I say it? They'd breed it into you from young. Like when I was --- when I was a red hat there, that's one thing I'd never do, if

it's not right, I don't do it because I can't sleep now any night because of this right here. I'm a different person.
Q. I believe so.
A. And when you first start with Massey, they'd mold you into Massey. You understand what I'm trying to say? They'd just ---
Q. All too well.
A. --- do their this is how we're going to do it. We're going to show you how to do this our way. They say do the right thing. That's a joke with Massey. It really is. I mean, they show you the way they want you to do it. We --- I guess you can get by with it. That's how I feel. I mean, I'm --- if this ever gets out, I'll probably lose my job or something, but ---. I'm just very disappointed in Massey, especially Upper Big Branch. It's something I'm not proud of.
Q. Did they --- do you know if anybody ever made a complaint about an unsafe condition in this mine either to MSHA or to the company, using the company hotline?
A. No. No, sir.
Q. Were you ever cautioned --- was anybody --- did you ever know --- was anybody ever cautioned about making complaints to MSHA?

A. Not that I know of, sir.
Q. What do you think would have happened to somebody if they'd had made a complaint to MSHA and management would have found out?
A. They probably would have fired you on the spot because of a lawsuit, but you would have quit or you'd been transferred to somewhere about as high as this table, and you would have quit anyway because you couldn't handle working in there.
Q. So you'd characterize the environment as threatening?
A. Yes. And I have heard --- I talked to several people who went in behind the wall, had to go in behind the wall and check pumps and set pumps, and a couple of them refused, and I heard Blanchard saying, well, if they don't want to do it, we got a stack of resumes. Somebody will do it. And I can give you some ---.
Q. Did Blanchard ever go do it?
A. No. Blanchard didn't do nothing. He was all mouth.
Q. Now, these people that went behind the wall, do you know any of them personally?
A. Yes, sir.
Q. Would you care to give some of their names?

A. Grant Racey, he refused. And I think Blanchard didn't like that very much. I don't know if he got in trouble for it, but he refused. And I'm trying to think who else went in behind a wall. Probably Rick --- one of them that passed away, Rick probably had to go behind a wall. Kenny Chapman probably had to go behind a wall. I'm saying probably everybody on the miner section crews up there on that headgate and tailgate had to go do something behind the wall.

Q. Had to go set pumps?

A. Set pumps or ---. Like when the wall first started running, in behind there, there was some power centers and belt heads that was dead and there was no power to them, and they went and got them. They went and got them.

Q. Through the water?

A. This wasn't through the water.

Q. Okay.

A. This is stuff like a belt --- I think a belt head was up there and maybe a kVA box or a splitter box or something, and they went and got them even after the wall was running. They was behind the wall.

Q. Were they behind there while it was running?

A. Yes, sir. Blanchard wanted them to get it.

Q. Were you ever around in this mine when a citation

was issued?
A. Yes, sir.
Q. What was management's response to getting a citation?
A. They didn't like it. They wanted to know why, what you could do to prevent it. They didn't like ---.
Q. Did they argue the citation?
A. Oh, yeah.
Q. What was their basis of argument?
A. Just --- a lot of times they thought MSHA was just picking on them, UBB, you know.
Q. Did you ever discuss any mine plans with any inspectors? Did you ever talk to any inspectors?
A. No, sir.
Q. Ventilation problems in this mine, do you know about when they started?
A. I think most of it went into the wall, the new setup that was running.
Q. Anybody have any ideas why?
A. No. Like I said, I was the --- (b)(7)(C) & (b)(7)(D) that big drill bit in for when they, I guess --- what's that called? The new fan they put in, the borehole they did. And we figured, you know, when they first turned that fan on, it was just --- I think it's an

exhausting fan, ---
Q. Yes.
A. --- if I'm not mistaken. It would just --- if you had water, you had to find the motor and pull them off. I mean, it was tremendous air. I don't know why they --- I mean, being that close to this fan, why didn't they have any air up on their sections? And I heard the men complaining they rarely have air to run right. But at the time I didn't know this. I mean, I didn't find any of this out until ---
Q. After.
A. --- after the explosion. Because I worked a lot of --- (b)(7)(C) & (b)(7)(D) I worked for a lot of men who was up on these sections, working. That's how I'm finding this stuff out.
Q. Have you heard of anything being called out just prior to the explosion from the longwall or from any of the sections that they had some running --- some sort of problem?
A. I haven't heard anything.
Q. Haven't heard anything?
A. No.
Q. Have you ever had a work shift that's been delayed or cancelled due to an unsafe condition?
A. Yes, sir. I guess a couple months ago it was down

over ventilation on the wall. Just probably three or four days we didn't work. And I'm trying to think ---. That's the only time I can remember us not working.

Q. Did you ever express any concerns about the ventilation prior to the explosion?

A. No. But like I said, when I was on the south side, we always have plenty air. I mean, it was just cold, we had so much air over there. And I had no idea what was going on up on the north side. And I wish I did.

Q. Do you want to take a break for a few minutes, and then we'll let these guys talk to you?

A. Yeah.

SHORT BREAK TAKEN

ATTORNEY BAXTER:

Let's go on the record. (b)(7)(C) & (b)(7)(D) on the break you came up to discuss with MSHA that you wanted to --- you requested that your identity be kept confidential ---

A. Yes, sir.

ATTORNEY BAXTER:

--- for this interview?

A. Yes, sir.

ATTORNEY BAXTER:

Okay. And what are the reasons for that?
A. For fear of my job, sir.
ATTORNEY BAXTER:
Okay. And you're presently employed by Massey?
A. Yes, sir.
ATTORNEY BAXTER:
Okay. Now, as I said at the beginning of the interview, if you request us to keep your identity confidential, we will do so to the extent permitted by law. That means if a judge orders us to reveal your name or if another law requires us to reveal your name or if we need to reveal your name for other law enforcement purposes, we may do so. Do you understand?
A. I understand.
ATTORNEY BAXTER:
Okay. And hearing that, you do want your identity kept confidential at this time?
A. Yes, sir, as long as possible, please.
MR. FARLEY:
I need to see the map that would reflect the existing longwall, please.
ATTORNEY BAXTER:
This is (b)(7)(C) & (b)(7)(D) Exhibit Two.

RE-EXAMINATION

BY MR. FARLEY:

Q. (b)(7)(C) & (b)(7)(D) a little while ago you were talking about concentrations and scary volumes of methane.

A. Yes, sir.

Q. And you mentioned the longwall, the tail end of the longwall and so forth, and you mentioned a conversation with a guy named James Griffin?

A. Yes, sir.

Q. Now, you said James Griffin was a continuous miner operator; correct?

A. Yes, sir.

Q. Now, on April 5th and before, on what section did James Griffin work?

A. If I'm not mistaken, he was on the headgate section.

Q. Now, when you say headgate, you mean Headgate 22 section?

A. Yes, sir.

Q. Was he the continuous miner operator?

A. He was the operator, the miner operator.

Q. Do you know how long he was working on that section prior to the explosion?

A. He's been a miner man from the beginning, from all this. He's mined all of it.

Q. Okay. Now, the methane concentrations that he was telling you about, were those on Headgate 22 section only or were there other areas?
A. Just on his section, on the headgate.
Q. Headgate 22 section?
A. Yes.
Q. Okay. And did he say how recently he had encountered it?
A. A few days before the explosion.
Q. Okay. Now, you mentioned one number of 1.8 percent and then possibly up to four to five.
A. Not four or five, but I know for a fact he told me he got 1.8 and he sent the buggy --- it was a lady. Her name was Bobbie Pauley. She was his buggy woman. He sent her to tell the section foreman you need to come. We was hitting some methane up there. And so he dragged his feet getting over there.
Q. And that's a few days prior to the explosion?
A. How I understood it, yes, sir.
Q. Okay. Now, did James Griffin ever work on the longwall, the existing longwall panel, as far as you know?
A. He probably drove it up, yes, sir, with the miner.
Q. Well, do you mean he would have been involved in mining the headgate and tailgate entries in

preparation for it?
A. Yes, sir.
Q. Okay.
A. Now, he never mentioned hitting gas when he was mining through it with the continuous miner.
Q. Okay.
A. The only thing I heard about gas is where they're at now, that headgate.
Q. Headgate 22?
A. Yes, sir.
Q. Okay. All right.

MR. FARLEY:

Davitt?

EXAMINATION

BY ATTORNEY MCATEER:

Q. (b)(7)(C) & (b)(7)(D) if I could ask you a couple questions about the incident that you just talked about, the conversation with Mr. Griffin. He encountered 1.8 percent methane. He sent Bobbie Pauley to get the foreman. And this was two days before the explosion?
A. How I understood it, yes, sir.
Q. And do you know who the foreman was?
A. Brandon Bowling I think that night moved the section. I think Brandon Bowling.
Q. And I'm looking at the pre-shift and on-shift

examinations for Headgate 22.
A. Uh-huh (yes).
Q. Are you familiar with any of the examiners?
A. I know fire bosses, yes. I don't know who actually was up there doing the exams, but I'm sure I'd know who it was if I knew the name of them.
Q. Could you just examine --- I'm at 3/20 and it goes to --- it's supposed to go to 4 --- the date of the accident. It starts at --- I'm sorry. It starts on 3/2 and goes to 3/19. Apparently the --- so it doesn't quite get to the accident.
A. Uh-huh (yes).
Q. Could you look at some of these and just see if you know ---. It's very hard to read the names of the pre-shift persons because they use --- the exact scribble.
A. What do I need to look at, just ---?
Q. Yeah, right there. Uh-huh (yes).
A. Let's see here.
WITNESS REVIEWS DOCUMENT
A. This is Kyle Anderson.
BY ATTORNEY MCATEER:
Q. Right.
A. I think Kyle, he's probably like a third shift, maybe a move boss or something in that area. I have

no idea who this is. Terry Moore, Terry probably would have been the mine foreman I think on the north side. I don't know who this is here, but ---. There's Terry Moore again. I can't make that out there. John Bickford, he's a fire boss. I can't make that out. Patrick Holbert, he's a section boss I think for, yeah, the headgate.

Q. Does this refresh your memory as to who might have been the fire boss at the time?

A. So far the only fire boss name I've seen has been John Bickford, ---

Q. Okay.

A. --- the actual fire boss. Everybody else has been a section boss or the mine foreman, which would have been Terry Moore.

Q. Right. Okay.

A. But John Bickford is the only fire boss I've seen.

Q. That's fine. You don't need to go through the whole --- I just was hoping that that would refresh your memory.

A. So far as I saw, John Bickford.

Q. Now, you said you never saw engineers? Do you know who does the engineering, the ventilation engineering?

A. Excuse me?

Q. Do you know who does the ventilation engineering?
A. No, sir.
Q. Have you ever heard the name Route 3 Engineering?
A. Oh, yeah. Yes, sir. Yeah. Okay.
Q. Okay. Do you know any of those guys?
A. Alan Stiltner, I think he works for them. I went to actual vocational school with him and drafting, and I think he works for them.
Q. Right.
A. That's the only person I know, I think.
Q. Since you've been at UBB you've not seen Alan?
A. Maybe once or twice, yes, just to, you know, throw my hand up at him ---
Q. Sure.
A. --- to acknowledge him, you know.
Q. Have you ever seen them in there taking readings or taking samples or looking at the ventilation system in any way while you're --- whether he's the north side or south side, these guys in the mine?
A. I haven't. I haven't personally.
Q. Okay.
A. If I did, I don't remember, but I ---.
Q. And you say you saw pumps going to the --- many going to the wall?
A. Yes, sir.

Q. Many can be one or a hundred. Just give it a guesstimate.
A. Twenty (20) to 30.
Q. Okay. I recognize that's a guesstimate.
A. Yeah, just a guess.
Q. The annual meeting that Mr. Blanchard attended, what's the purpose of that annual ---?
A. Eight-hour retraining on your SCRS rescuers and your fresh air base and your refuge chambers and first aid and things of that nature.
Q. What's the subject area of that annual training?
A. Just to bring us up on the new ---.
Q. But it's safety?
A. Yeah, safety. Safety, yes, sir.
Q. Did Mr. Blanchard ever speak to you about safety?
A. No, not personally.
Q. What did he speak to you about?
A. Just how --- the rough conditions we're in, and we're going to have to bear with it and get through it and got to make sure we stay, you know, on schedule. That's why we end up working all these holidays and vacations.
Q. You testified earlier that he said pick up production.
A. We need --- yeah, pick --- we need to add to our

footage, you know, run more coal.
Q. Okay.
A. Run more coal.
ATTORNEY MCATEER:
That's all the questions I have. Thank you.
A. You're welcome.
RE-EXAMINATION
BY MR. STEFFEY:
Q. (b)(7)(C) & (b)(7)(D) would you say there's a lot of pressure to run coal at this mine?
A. Yes, sir.
Q. Do you think anybody took shortcuts due to that pressure?
A. Probably. I'm sure they did.
Q. Where did that pressure come from?
A. Chris Blanchard, the president. That's who it all starts with.
Q. You mentioned that --- did you ever mention that you saw him in the mine? I believe you did.
A. Maybe two or three times I've seen Mr. --- in case like something --- like a section was down or something --- like a longwall would be down or something in that nature, he would come in and want to know what's going on and ---. On the day that the

explosion happened, I know him and Jason Whitehead went in.

Q. After the explosion or before?

A. After the explosion.

Q. Okay. What else do you know about when they were there?

ATTORNEY MCATEER:

How do you --- I'm sorry, David. How do you know that?

A. I listened on the mine phone.

ATTORNEY MCATEER:

Okay.

A. They unhooked most of the phones, but where I stayed outside, I was double backed that evening to do air readings at the portals. And they left a phone hooked up in one of the portals, and I listened to everything.

BY MR. STEFFEY:

Q. So you were there the day of the explosion?

A. I got out maybe five or six minutes before it happened.

Q. Okay. Let's talk about that day. Where were you at when the explosion occurred?

A. I just had got outside.

Q. Just got outside.

A. Just had enough time to put my light up.
Q. You were performing your regular job responsibilities?
A. Yes. I was starting upstairs (b)(7)(C) & (b)(7)(D)

Q. Okay. How did you know something had happened?
A. As soon as I come out of the white house, the fan sits maybe 75 yards from the office, and it started making a noise I've never heard the fan do. It's just like it was slowly slowing down, and it stopped, and the blades turned backwards, because I --- there was stuff flying outside the back of the fan, like through the blades. And that's when we started getting a lot of dust and stuff coming out the portals.
Q. So you saw material actually coming out of the portals?
A. Yes, sir. Yes, sir. And at the time we thought it was a roof fall, because I --- a couple guys there said it must have been a big fall, because it wasn't smoke that was coming out our side. It was just dust and things of that nature, you know, and we thought we had a big, big, big fall. And I went upstairs and proceeded to do my book, and that's when the COs --- our computers, you know, have the CO, the CO monitors started crashing.

Q. When you say they started crashing ---?
A. Started going --- showing red, which means fire, and started going inby, down the line, each ---. That's when --- you're trained when you see something like that, it means one thing, it's a fire. You're going to have COs every now and then that go red. They're going to be around like a charging station or somebody will be welding in that area and smoke will go down on it and he will call --- the dispatcher will call and say, would you go check this area out and maybe see what's wrong with the CO? You would go check it and confirm back that they're welding down here or something of that nature. But that day it started crashing.
Q. So you've been in a mine when you've had CO sensors either go into alert or alarm status ---
A. Yes, sir.
Q. --- before, but never this many?
A. Never. Never.
Q. Okay.
A. You know then it's bad, and we started hollering for our head men to do a shift change. They was coming out and we started hollering, making sure everybody is all right, you know, just see what's going on in there. There wasn't no answer.

Q. Okay.
A. I thought maybe just communication, you know, the fall had took communications out.
Q. Okay. And when did you find out it was something ---?
A. Probably about --- I'm just guessing like the time, an hour after all this happened. It was --- a call come out that somebody heard that you need to get at least ten ambulances up here. We got bodies outside the mantrip everywhere.
Q. Now, who called out and said that?
A. I'm not for sure who called out and said that, but there was another guy there who come out and told me what just come over the mine phone. And that's when a couple vehicles pulled up at our portal, which was UBB, and got all the first aid boxes they could and defibrillators we had and just rushed over to Ellis Portal. That's when we knew it was an explosion.
Q. When did you start listening to the mine phone?
A. As soon as it happened.
Q. As soon as it happened?
A. After that happened, then --- because like I said, I was upstairs at this time doing (b)(7)(C) & (b)(7)(D) (b)(7)(C) & (b)(7)(D) making sure it was taken care of. And that's why I remember them hollering for Head and

them and we --- I was thinking, well, the fall has taken communications out. After I noted it in (b)(7)(C) & (b)(7)(D) and things, that's when I found about ---.

Q. When did Whitehead and Blanchard go into the mine; do you know?

A. I guess right after they got the call something's happened, because I heard they went --- Jason Whitehead and Chris went in. I don't even know if they --- I don't even think they was under any apparatus or anything. I mean, I don't even see how they survived going in that. I mean, ---.

Q. And you listened to their conversations on the phone?

A. Some of it. I heard some --- I heard a few things.

Q. Did you see how far they --- did you hear how far they made it?

A. I know they made it to the wall.

Q. Did they make it across the wall?

A. I don't know that. I know they made it up to the wall.

Q. Up to the longwall?

A. Yes.

Q. What about on the headgate?

A. I don't know.

Q. You don't know?
A. I don't know.
Q. Okay. What happened after that?
A. That's just when it just went crazy. I mean, you can't describe it. It's just like ---. Helicopters started coming in. Like Chris Adkins was flown in. He was one of the first ones there. They called --- the mine rescue teams did real well. I mean, they was there as soon as they could. They just went --- on our side, UBB side, is where all the rescue teams was coming to. There was I don't know how many. I mean, it was just chaos, I mean, just chaos coming in. There was helicopters flying over and just the rescue teams trying to get the word to go in to start searching. And I know there was six confirmed pretty early. And later on in the shift, as they was advancing, I know I heard Jason Whitehead on the phone. That's when we was coming across more people, you know.
Q. Did they ever indicate if they felt there were any survivors?
A. Never, just --- what really --- I knew it was bad whenever they got to 78 Break up here, at these doors. The doors was, how I took it by the phone, was gone and the intake was unestablished. It was destroyed.

And that's when you know. And an explosion of that magnitude, they never had a chance to go nowhere. I mean, if you're a miner, you know. You know what I'm saying? You know. You just get hope for the families and things of that nature, but you know.

Q. Yeah.

A. You know.

Q. Did anybody give you any instructions?

A. No, just we done air readings every 15 minutes at our portals outside, and I recorded all them. And all them was given to Gary May, my superintendent.

Q. Okay. So you continued taking air readings?

A. Every 15 minutes, yes, at every portal.

Q. How long did you do that for?

A. I done that for I think 19 hours.

Q. Nineteen (19) hours.

A. I done an air reading for nine of them. I double backed.

Q. Anybody take any statements from you?

A. No, sir.

Q. Okay. Did you go underground after that at all?

A. No. Never went back there.

Q. Do you know how people were accounted for when they were entering and exiting the mine?

A. Our check-in and check-out boards. We had tags

also. We had now the leaky feeder systems. We carried tags.

Q. So this is the tracking system?

A. Yes, sir.

Q. Do you know of any problems with that tracking system? Have you heard of any?

A. At first it worked great. I mean, it --- anywhere in the mines you could talk and --- there at the end, like everything, it started having problems. But they --- I think Derrick Kiblinger and Patrick Romus was the guys over the leaky feeder. They worked really hard on it to keep it up and working. So it wasn't really no major --- we had communication pretty much.

Q. Did the air readings that you took ever 15 minutes at the portals for 19 hours, did they ever change any?

A. Stayed pretty consistent. No methane whatsoever on our side, no CO, and the air --- our side stayed pretty safe, safe condition.

Q. Okay. Did you ever travel toward the old Glory Hole?

A. Yes, many times.

Q. Many times?

A. When I was (b)(7)(C) & (b)(7)(D) and stuff. When I was a (b)(7)(C) & (b)(7)(D) all the --- this whole beltline. I

all this stuff in. I was --- I and then I was a to help install the beltline up to here.

Q. Okay.

A. So I spent probably six months to a year in that area.

Q. Were there any problems around that Glory Hole?

A. The top was bad.

Q. Top was bad?

A. Top was bad.

Q. What about methane and water?

A. When I was there, no.

Q. Okay.

A. When I was there, no.

Q. What about the pump into Eight North up here around the gas well at the very north end of the mine? Were you ever up there?

A. I was, but I didn't know there was a well up there.

Q. Do you ever remember picking up any methane there?

A. No. No. I have fire bossed up there, too, and I never picked anything up. That's been a long time ago.

Q. Does Massey have any incentive programs for safety?

A. Yes. They have installed a Raymond Safety --- don't get hurt, no lost times. If nobody in the mine gets hurt you get points which you can turn in for like gifts and things.
Q. Everybody share equally in that, salary and hourly people?
A. I think so. I think so.
Q. What about production incentive?
A. They have bonuses.
Q. They have bonuses?
A. Yes.
Q. How often did you get a bonus?
A. Never.
Q. Never?
A. They set it too high. They set it too high for the conditions. I couldn't even come close to bonusing.
Q. So they just kept raising the bar?
A. Yes.
Q. Okay. Did you know Josh Napper?
A. Never knew him. Never. He just I guess recently hired in. I knew like the older men, but not him.
Q. Are you aware of the letter that he wrote to his family?
A. I heard about that.

Q. Why do you think he'd write a letter like that? That's the kind of letter that somebody writes when they're going off to war.
A. I think somebody that's been in the mines as long as he has, the boy's heard something. He's probably talked to some men, older men, who was concerned.
Q. Do you have any notes that you kept while you were underground as tow hat you found, who you talked to, what you heard, anything?
A. No. No, I sure don't. Anything I found like that I just put in the pre-shift, the fire boss books.
Q. Do you have anything that you'd like to add, anything that might help us, anything that you can think of at all?
A. No, really not. I hope it don't happen again.
RE-EXAMINATION
BY MR. FARLEY:
Q. I need to clarify a couple things.
A. Okay.
Q. After the explosion occurred, you indicated that you listened on the mine phone to some conversations ---
A. Yes, sir.
Q. --- from underground.
A. Uh-huh (yes).

Q. Now, you indicated that Blanchard and Whitehead went underground.
A. Yes, sir.
Q. Where did they go underground?
A. I think they went into Ellis Portal and worked their way up to the longwall.
Q. Okay. Do you know what time they entered the mine? Can you estimate that?
A. I'm saying probably four o'clock because the explosion --- they're saying 3:30. I know exactly what time it happened. It was 3:01. Because my watch beeped. That's when I said, I got 30 minutes to get upstairs to fill my book out.
Q. Okay.
A. And the explosion happened around three o'clock.
Q. According to your watch?
A. To my watch.
Q. Okay.
A. That's when we got the effect of it.
Q. Now, you indicated that you knew that they made it up to the wall?
A. Yes, sir.
Q. Now, what does that mean? Does that mean that they made it to the longwall face, the outby end of the mouth of the longwall or what?

A. The mouth of the longwall is what I think. That's how I took it, meant the mouth of the longwall. Because like we didn't know they was in there.
Q. Okay. Did you hear what he said as to where he was located?
A. No.
Q. Okay. Now, what time did you stop listening?
A. I listened all through the night. When I wasn't taking my air readings, when I had a few minutes in between the readings, if I heard somebody on the phone, I would go and listen, see what was going on.
Q. All right.
A. So just off and on through the night, the evening.
Q. All right. Now, did you --- you also indicated that there was six confirmed fatalities early.
A. Yes, sir.
Q. Who did you recall hearing report that to the surface from underground?
A. Well, there's a guy named David Taraczkozy. We call him Doughnut. He's an electrician. He was over there. And he come back to --- when I say over there, I mean Ellis side. And when he come back to UBB side, he said he saw them bringing --- he saw the bodies bringing outside of the drift mouth.
Q. Okay.

A. That's when we knew ---.
Q. Now, after that, did you hear anyone report from underground of finding more bodies?
A. Yes, sir. I heard Jason Whitehead say at one time, I can't say what time it was, saying we've accounted for three more bodies.
Q. Did he specify the location?
A. I think the longwall. I'm not a hundred percent sure. I think --- it had to be the longwall because he wouldn't have been up in the headgate yet.
Q. Okay. That's fine. All right. But you just heard three bodies?
A. Yes.
Q. Any more?
A. No, not --- I never heard any more on the phone.
Q. Okay.
A. Like I said, when I left there, there was like six or seven confirmed, and when I got home there was already like 25. I don't even know how they found that number that quick. I mean, it was just ---.
Q. Now, did Blanchard --- did you hear Blanchard reply and say at any time that they made it to the longwall face?
A. No, not the face.
Q. Okay.

A. No, sir.
Q. All right. Now, during the evening of April 5th and the morning of April 6th, did you take any notes on anything you heard, anything you did, anything you saw?
A. No, just the air readings. When I got all my readings, I recorded.
Q. Okay.
A. That's the only notes I took.
Q. Okay. Now, if I understood you correctly, you don't know the time that it was reported that an additional three bodies were found?
A. No, sir. I'm sorry.
Q. Okay. That's all right. I just want you to be accurate, that's all.

MR. FARLEY:
That ought to do it for me.

MR. STEFFEY:
I'm done.

ATTORNEY BAXTER:
On behalf of MSHA and the Office of Miners' Health, Safety and Training, I want to thank you for appearing and answering questions today. Your cooperation is very important to the investigation as we work to determine the cause of the accident. We

request that you not discuss your testimony with any person aside from your personal representative. After questioning other witnesses, we may call you if we have any follow-up questions that we feel that we need to ask you. If at any time you have additional information regarding the accident that you would like to provide to us, please contact us at the contact information that was previously provided to you. Any statements given by miner witnesses to MSHA are considered to be an exercise of statutory rights and protected activity under Section 105(c) of the Mine Act. If you believe any discharge, discrimination or other adverse action is taken against you as a result of your cooperation with this investigation, you are encouraged to immediately contact MSHA and file a complaint under Section 105(c) of the Act. Remedies under the Mine Act include back wages and immediate temporary reinstatement to your most recent position with the company, pending a complete investigation of your complaint. In order to file such a complaint, you should contact the MSHA district office in Mount Hope, West Virginia. For more information concerning your rights as a miner under the Mine Act, please visit MSHA's website at www.msha.gov.

If you wish, you may now go back over any answer you've given during this interview. You may also make any statement you would like to make at this time.

A. No, sir. I'm fine.

ATTORNEY BAXTER:

Davitt, did you have any additional questions?

ATTORNEY MCATEER:

I did not. No. Thank you.

ATTORNEY BAXTER:

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

A. You're welcome.

* * * * * * *

STATEMENT UNDER OATH CONCLUDED AT 12:31 P.M.

* * * * * * *

STATE OF WEST VIRGINIA)
)

CERTIFICATE

I, Alicia R. Brant, 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.

Alicia R. Brant