



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of John Bickford

Date: August 23, 2010

Case:

Printed On: August 28, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

JOHN BICKFORD

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, August 23, 2010, beginning at 2:27 p.m.

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

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

2

3 ROBERT S. WILSON, ESQUIRE

4 U.S. Department of Labor

5 Office of the Regional Solicitor

6 1100 Wilson Boulevard

7 22nd Floor West

8 Arlington, VA 22209-2247

9

10 ERIK SHERER

11 Mine Safety and Health Administration

12 1100 Wilson Boulevard

13 Arlington, VA 22209-3939

14

15 CELESTE MONFORTON, MPH, DRPH

16 West Virginia Independent Investigation

17 2100 M. Street, NW

18 Suite 203

19 Washington, DC 20037

20

21 TERRY FARLEY

22 West Virginia Office of Miners' Health,

23 Safety and Training

24 1615 Washington Street East

25 Charleston, WV 25311

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

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

DAVID J. HARDY, ESQUIRE

Allen, Guthrie & Thomas, PLLC

500 Lee Street, East

Suite 800

Charleston, WV 25301

COUNSEL FOR PERFORMANCE COAL AND MR. BICKFORD

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	6 - 8
5	DISCUSSION AMONG PARTIES	8 - 11
6	CONTINUED OPENING STATEMENT	
7	By Attorney Wilson	11 - 14
8	STATEMENT	
9	By Mr. Farley	14 - 15
10	WITNESS: JOHN BICKFORD	
11	EXAMINATION	
12	By Mr. Farley	15 - 35
13	EXAMINATION	
14	By Mr. Sherer	36 - 40
15	RE-EXAMINATION	
16	By Mr. Farley	40 - 43
17	RE-EXAMINATION	
18	By Mr. Sherer	43 - 44
19	CLOSING STATEMENT	
20	By Attorney Wilson	44 - 45
21	CERTIFICATE	46
22		
23		
24		
25		

1	EXHIBIT PAGE		
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4	One	Subpoena	9*
5	Two	Return receipt	9*
6	Three	Map	21 *

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

* Exhibit not attached

P R O C E E D I N G S

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

ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I am with the Office of the Solicitor, United States Department of Labor. Today is August 23rd, 2010, and we are here to conduct the interview of John Bickford. First of all, Mr. Bickford, if you would, I'll ask that you face the court reporter, and she will swear you in.

JOHN BICKFORD, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:

ATTORNEY WILSON:

And for the record, would you state your full name?

A. John Allen Bickford, B-I-C-K-F-O-R-D.

ATTORNEY WILSON:

Would you give us your mailing address and telephone number, please?

A. Let's see. I think it's [REDACTED]

[REDACTED] And my phone number is [REDACTED]

ATTORNEY WILSON:

Mr. Bickford, with me is Erik Sherer.

1 He's an investigator with the Mine Safety and Health
2 Administration. Officials present here with the State
3 of West Virginia, I'll ask that they state their
4 appearance for the record.

5 MR. FARLEY:

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

8 MS. MONFORTON:

9 And Mr. Bickford, I'm Celeste Monforton.

10 I'm with the Governor's independent team.

11 ATTORNEY WILSON:

12 Mr. Bickford, you're entitled to have a
13 representative or attorney with you here today. Do
14 you have an attorney representing you?

15 A. Mr. Hardy.

16 ATTORNEY WILSON:

17 Mr. Hardy, would you please state your
18 name for the record?

19 ATTORNEY HARDY:

20 Yes. David J. Hardy, from Allen Guthrie
21 & Thomas.

22 ATTORNEY WILSON:

23 And Mr. Hardy, you are representing, as
24 well, Performance Coal Company; correct?

25 ATTORNEY HARDY:

1 Yes. I'm the lawyer for Performance
2 Coal, and Mr. Bickford asked me to appear today to be
3 his personal representative.

4 ATTORNEY WILSON:

5 Okay. And Mr. Bickford, just for the
6 record, knowing that Mr. Hardy represents Performance
7 Coal Company, you consent to his appearance here
8 today?

9 A. Yes, I do.

10 ATTORNEY WILSON:

11 Okay. Thank you. Terry is going to go
12 over some preliminary matters concerning the subpoena
13 that was served.

14 MR. FARLEY:

15 Mr. Bickford, you are here in response to
16 a subpoena; is that correct?

17 A. Uh-huh (yes).

18 MR. FARLEY:

19 I have a copy of the subpoena issued to
20 you. Does that look like a copy of the subpoena you
21 received?

22 A. I'm pretty sure that's it, yes.

23 MR. FARLEY:

24 Okay. I'd like to enter that.

25 ATTORNEY HARDY:

1 Speak up a little louder there, John, for
2 the court reporter.

3 A. Huh?

4 ATTORNEY HARDY:

5 Speak up a little louder because the
6 court reporter has to get your answers down.

7 A. Yes, this is it.

8 MR. FARLEY:

9 I'd like to enter that document as
10 Exhibit One.

11 (J. Bickford Exhibit One marked for
12 identification.)

13 MR. FARLEY:

14 I also have a return of service certified
15 mail receipt here signed by [REDACTED] . Is that
16 person related to you?

17 A. Yes. That's my wife, [REDACTED] .

18 MR. FARLEY:

19 Does that document appear to be an
20 accurate copy?

21 A. Yeah, that's her writing.

22 MR. FARLEY:

23 I'd like to enter that document as
24 Exhibit Two.

25 (J. Bickford Exhibit Two marked for

1 identification.)

2 ATTORNEY WILSON:

3 Okay. And these will be made part of the

4 transcript that will be produced as Exhibits One and

5 --- Bickford One and Bickford Two. Did you want to go

6 over the ---

7 MR. FARLEY:

8 Sure.

9 ATTORNEY WILSON:

10 --- reimbursement matters?

11 MR. FARLEY:

12 Mr. Bickford, the State of West Virginia,

13 in accordance with the West Virginia Code, is

14 obligated to offer you a \$40-per-day witness fee for

15 appearing here. Also we're obligated to offer you 15

16 cents per mile traveled in reimbursement for your

17 travel expenses. Now, if you wish to receive this

18 witness fee and mileage fee, I will need for you to

19 complete a couple of forms for me at the conclusion of

20 this interview. Now, in doing so you would be

21 required to submit your Social Security number in

22 order for the State to pay you. Now, also, at the end

23 of the year the \$0 would be reported to the IRS as

24 income and you would receive whatever notification

25 there is from the IRS. Do you wish to accept this

1 fee?

2 A. No, sir.

3 MR. FARLEY:

4 Very well. That's fine. Thank you.

5 ATTORNEY WILSON:

6 Mr. Bickford, government investigators

7 and specialists have been assigned to conduct an

8 investigation into the events and the circumstances

9 surrounding the fatalities that occurred on April 5th,

10 2010 at the Upper Big Branch Mine-South. The

11 investigation is being conducted by MSHA pursuant to

12 Section 103(a) of the Federal Mine Safety and Health

13 Act and by the Office of Miners' Health, Safety and

14 Training of the State of West Virginia. As part of

15 that investigation, we are interviewing witnesses and

16 we appreciate your appearing here today and helping us

17 with that investigation.

18 Also present in the room are a couple

19 individuals who are also with the Mine Safety and

20 Health Administration Accident Investigation Team.

21 The gentleman up front is Norman Page. He is the lead

22 investigator for MSHA. And also Sandin Phillipson

23 there, he's our resident geologist.

24 I do want to give to you a letter from

25 MSHA. And this is just documenting that you've been

1 requested to be here today. There's also information
2 contained in that letter concerning your rights as a
3 miner under the Mine Act. Also that letter has our
4 contact information, and so if at any time you need to
5 contact us, you may do so either directly or through
6 Mr. Hardy at the information provided there.

7 All members of the Mine Safety and Health

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

23 Now, your identity and the content of

24 this conversation will eventually be made public at
25 the conclusion of the interview process, and that

1 information may be included in a public report of the
2 accident, unless you request that your identity remain
3 confidential or if release of your identity would
4 otherwise jeopardize other investigations. If you
5 request us to keep your identity confidential, we will
6 do so to the extent permitted by law. In other words,
7 if a law, such as the Freedom of Information Act or if
8 a judge orders us to reveal your identity, we may need
9 to do so. Also, there may be a need to use the
10 information that you provide to us today in other
11 investigations into or hearings concerning the
12 explosion. Do you understand your right to request
13 confidentiality?

14 A. Yes, I do.

15 ATTORNEY WILSON:

16 And do you have any questions concerning
17 that?

18 A. No.

19 ATTORNEY WILSON:

20 As I said, MSHA will be issuing a public
21 report detailing the nature and the causes of the
22 fatalities in the hope that greater awareness about
23 the cause of accidents can reduce their occurrence in
24 the future. Information obtained through these
25 witness interviews is frequently included in those

1 reports, and we appreciate you assisting us in that
2 endeavor.

3 We will be interviewing additional
4 witnesses, so we request that you not discuss your
5 testimony with anyone outside of this room other than
6 Mr. Hardy. A court reporter will be recording the
7 interview, so please speak loudly and clearly so that
8 she can take everything down. If you do not
9 understand a question asked, please ask us to rephrase
10 the question.

11 A. Okay.

12 ATTORNEY WILSON:

13 If you need to take a break at any time,
14 please let me know. After we have finished asking
15 questions, we will provide you with an opportunity if
16 there's anything else that you want to add to the
17 record that you think may assist us in this
18 investigation. And if you think of any additional
19 information after the interview is complete, please do
20 not hesitate to contact us. Terry, is there anything
21 else that you wanted to add?

22 MR. FARLEY:

23 Yes. Mr. Bickford, I'd like to inform
24 you that the West Virginia State Mining Regulations
25 also provide protection against potential

1 discrimination resulting from participation in these
2 type interviews. I'd like to pass along to you some
3 contact information for the West Virginia Board of
4 Appeals. They hear complaints from miners regarding
5 discrimination. And should you experience any
6 problems, you should contact the Board immediately.

7 A. Okay.

8 MR. FARLEY:

9 Also, my business card and also see a
10 phone number there for Mr. Bill Tucker, our lead
11 underground investigator. Should you experience a
12 problem, I would caution you that you need to file a
13 complaint within 30 days.

14 A. Okay.

15 ATTORNEY WILSON:

16 Celeste, anything before we get started?

17 No? Okay. Mr. Bickford, you've been sworn in, so I'm
18 going to turn it over to Erik Sherer, who's going to
19 start with the questioning. I'm sorry. Terry is
20 going to start the questioning today.

21 EXAMINATION

22 BY MR. FARLEY:

23 Q. Mr. Bickford, how long have you been a coal miner?

24 A. Started in '70. I was out of work approximately
25 three years.

1 Q. That's about like 40 years.

2 A. Yeah, close to 40 years.

3 Q. How long have you worked for Massey?

4 A. I've been on their property since December of '89,
5 but some of that time was contractor work. But I've
6 still been on their property that long.

7 Q. So you're looking at 20 years ---

8 A. Right at 20 years on their property.

9 Q. --- on Massey property; right?

10 A. Yes, sir.

11 Q. When did you actually become a member?

12 A. I got hired on at UBB at 2000.

13 Q. In 2000?

14 A. Yeah, but I was there two years prior to that as a
15 contractor. And then down Elk Run, I was down there
16 about six years at another mine they had for six
17 years.

18 Q. As a contractor?

19 A. No, I wasn't a contractor then. They laid me off
20 and then they would hire me as a contractor, and then
21 they'd hire me, and then I'd get laid, you know, I'd
22 get transferred.

23 Q. What was the name of the contracting firm you
24 worked for?

25 A. Phillip Farley had it. It was Oasis, I believe is

1 the name of it.

2 Q. Okay.

3 A. Have you heard of that?

4 Q. Yes.

5 A. Okay.

6 Q. Is Oasis still in business?

7 A. No, sir.

8 Q. What West Virginia coal miner certifications do
9 you have?

10 A. I've got the mine foreman and the shop foreman. I
11 believe that's all I've got.

12 Q. How long have you had your mine foreman/fire boss
13 certification?

14 A. I got it in '74.

15 Q. Okay. Now, were you working at UBB as of April
16 5th of this year?

17 A. I finished up that morning, six o'clock, yes, sir.

18 Q. What was your normal shift at UBB as of April 5th?

19 A. I had just changed shifts and I was on dayshift
20 the week before. That week we started out on the
21 evening shift.

22 Q. Okay. Now, what was your actual job at that time
23 at UBB?

24 A. Fire boss and belt man.

25 Q. Okay. Now, were you an hourly employee or a

1 salaried employee?

2 A. Hourly.

3 Q. Okay. Who did you report to? Who was your boss?

4 A. Everett Hager.

5 Q. Okay. Did you portal at Ellis or ---?

6 A. Ellis.

7 Q. Okay. Now, did you supervise anybody?

8 A. No, sir.

9 Q. Okay.

10 A. But I did take other fire bosses and show them the
11 territory when they was new.

12 Q. Okay.

13 A. You know what I mean?

14 Q. Sure. Now, the last shift you worked on would
15 have ended at 6:00 a.m. on April 5th?

16 A. Yes, sir.

17 Q. And it started at 6:00 p.m. the evening before?

18 A. Yeah, Easter Sunday, that evening, yes.

19 Q. Okay. So you came to the mine at 6:00 p.m. on
20 Easter Sunday?

21 A. Yeah.

22 Q. Now, prior to Easter Sunday, when was the last
23 shift you worked at UBB?

24 A. I think it was Friday dayshift.

25 Q. Okay. Now, would that have been from 6:00 a.m. to

1 6:00 p.m. or what?

2 A. Yes, sir.

3 Q. What was your schedule like, so many days on and
4 so many off? How did that play?

5 A. It had just started, the new schedule, where I
6 went on the evening shift. And I can't remember
7 whether it was six and three or five and three, but he
8 was changing our schedule so we would get a weekend
9 off. I'd worked almost a year with working every
10 weekend, and my days off was Monday and Tuesday.

11 Q. Okay.

12 A. And I asked him prior --- a month or so prior to
13 that if he could give me a change, you know, so I
14 could get a weekend off.

15 Q. Okay. So what did you average per week in terms
16 of hours, about 60?

17 A. Sixty (60).

18 Q. All right.

19 A. At that time, 60, yes, sir. 120 hours a payday
20 usually every two weeks.

21 Q. If I were to give you a colored marker, could you
22 mark the belt conveyor entries that you examined at
23 UBB on your last shift? Now, before you do that, let
24 me ask you this. Did you walk --- had you been walking
25 the same belts for more than several weeks? Did you

1 have pretty much the same area of assignment for the
2 past couple of months?

3 A. Yes, sir. My territory was from here to the end
4 up at Seven North, and that was mostly them belts.
5 But some night I'd have like these two belts or these
6 two night --- these two belts, you know, but it was
7 all the same territory. It was from Ellis all the way
8 up was my territory.

9 Q. Why don't you mark the belts that you examined on
10 April 5th, ---

11 A. Okay.

12 Q. --- on April 4th and April 5th.

13 A. Okay. Well, the ones that --- we pre-shifted the
14 power boxes and stuff that evening, but that was just
15 getting the boxes and the pumps.

16 Q. All right.

17 A. Now, when you came out Easter Sunday there, would
18 it be correct --- did you do a pre-shift exam before
19 the midnight shift showed up?

20 A. We done all the boxes and the pumps and the track.

21 Q. Okay. Who would have examined the belts?

22 A. Well, the belts wasn't turned on. We didn't ---
23 we pre-shift them in the morning at three o'clock for
24 the dayshift. We walked them.

25 Q. Okay. So nobody examined the belts prior to the

1 midnight shift on April 4th?

2 A. No. They don't run them on midnight.

3 Q. But did anybody examine the belts Sunday evening,
4 prior to midnight shift?

5 A. Just the power boxes and the pumps and the D
6 boxes, everything that was energized.

7 Q. Okay. But they didn't walk the belts?

8 A. No. No, we didn't, sir.

9 Q. Okay. Well, I guess you then examined the belts
10 on the morning prior to the dayshift?

11 A. On the morning --- yeah. Yes, sir. On the
12 morning I walked Five and Six North. The other guys
13 got the rest of them.

14 Q. Okay. Why don't you, if you would, mark on the
15 map the belts you examined ---

16 A. That morning.

17 Q. --- that morning.

18 ATTORNEY WILSON:

19 And I've marked this map as Bickford
20 Exhibit Three. And you can highlight that with the
21 blue highlighter.

22 (J. Bickford Exhibit Three marked for
23 identification.)

24 A. This is 42 right here?

25 BY MR. FARLEY:

1 Q. Uh-huh (yes).

2 MR. SHERER:

3 Forty-three (43) actually.

4 A. Okay. Well, let's mark here for the belt head. I
5 walked Five North. I can hardly see this. Am I doing
6 it right?

7 MR. SHERER:

8 Yes.

9 BY MR. FARLEY:

10 Q. Yeah, that's fine.

11 A. I'm colorblind. I'm going to have a little
12 trouble. I walked Five North and Six North. There
13 should have been a tailpiece --- let's see. The
14 section coming out of the section right here.

15 Q. Now, were there any other belts that you examined
16 on April 5th?

17 A. No, sir. They was the only two I got. And there
18 was three of us getting the belts.

19 Q. Okay. Now, the week before, would your area of
20 assignment have included these two belts?

21 A. It changed from night to night.

22 Q. Okay. Sometimes I'd get the north area pumps,
23 which you don't show it on here, but they've got the
24 glory Hole up there, and they've got the north pumps.
25 Sometimes I'd get them and come down and leave them in

1 the Jeep, and then walk maybe down to here or
2 sometimes I'd start here and walk down and somebody
3 else would get it up here and walk down and get my
4 Jeep. It all changed.

5 Q. Now, ---.

6 A. But it was all covered, you know.

7 Q. Let's go back to the last shift you worked before
8 April 5th. And that would have been I think Friday?

9 A. Yes, sir.

10 Q. Okay. What belts would you have examined on
11 Friday?

12 A. I don't --- I can't recall.

13 Q. Would it refresh your memory to look at the book?

14 A. I can do that.

15 Q. Okay. Take your time and just look at the book
16 there. We'll go off the record while you're looking
17 at the book.

18 WITNESS REVIEWS BOOK

19 OFF RECORD DISCUSSION

20 ATTORNEY WILSON:

21 Okay. We're going to go back on. Terry?

22 BY MR. FARLEY:

23 Q. Okay. I think, Mr. Bickford, you've been looking
24 at the examination book, and I think you can tell me
25 now what your last shift worked was prior to April

1 5th?

2 A. 4/1.

3 Q. That would be April 1st. Okay. Now, what belts
4 did you examine on April 1st?

5 A. The tailgate of 22, One and Two belt, and the
6 headgate of Number One belt.

7 Q. Okay. All right. Now, what did the rock dust
8 look like on those belts on April 1st? Did those
9 belts appear to be well rock dusted?

10 A. Yes, sir. Yeah, they was --- they had had a
11 violation prior that week, and they was dusted. I
12 don't remember if it was on that day, but they was
13 dusted. Headgate 22 was dusted.

14 Q. And that was on April 1st?

15 A. Yeah. They was dusting on it. And all of it
16 wasn't dusted, but that belt was wet some, you know.

17 Q. Okay.

18 A. They hadn't finished dusting it and the others
19 needed dusted.

20 Q. Now, the Headgate 22 belt on April 1st, had it
21 been machine dusted or hand dusted?

22 A. They was hand dusting it.

23 Q. Now, when you say they, who is they?

24 A. Everett Hager and some men, they was in there hand
25 dusting it.

1 Q. Okay. Everett Hager was hand dusting?

2 A. Well, he had a crew.

3 Q. He had a crew?

4 A. Yes, sir.

5 Q. Was he with the crew?

6 A. Huh?

7 Q. Was he with the crew at the time?

8 A. Yes, sir, I seen him that week.

9 Q. And that's on April 1st?

10 A. I'm not for sure it was on April 1st. It was that
11 week, though. It was before it happened.

12 Q. You saw Mr. Hager and the crew hand dusting the 22
13 Headgate belt, is that what you're saying?

14 A. Yes, sir. They was dusting on it.

15 Q. Now, did you walk the other miner section belt
16 that day, too, Tailgate 22?

17 A. Yeah. They needed some dusting.

18 Q. Okay. It needed to be dusted?

19 A. Yeah. It wasn't bad, but it could use additional
20 dust on it.

21 Q. Did it appear that it had ever been machine dusted
22 at any time?

23 A. Yes, sir, it had been dusted. I don't know if it
24 was a machine or not.

25 Q. Okay. So on April 1st you walked Headgate 22 belt

1 and Tailgate 22 belt. What other belts did you
2 examine on April 1st?

3 A. That's all I got to that day.

4 Q. Did you ever examine the longwall belt prior
5 to April 5th?

6 A. Every once in a while, but I don't remember what
7 day it was. It was very seldom I get that belt.

8 Q. You don't recall the last time you examined the
9 longwall belt ---

10 A. No, sir.

11 Q. --- prior to April 5th? Okay. Were there trickle
12 dusters on the Headgate 22 belt?

13 A. I'm trying to think. I don't remember one. I
14 can't say for sure, ---

15 Q. Okay.

16 A. --- but I can't remember one.

17 Q. What about the Tailgate 22 belt, any trickle
18 dusters there?

19 A. No.

20 Q. Okay. Were there trickle dusters on the Five
21 North and Six North belts?

22 A. Yes, sir.

23 Q. Where were they located?

24 A. One was at the head, approximately 77 Break,
25 somewhere --- can you see the break number?

1 Q. When you say at the head, do you mean the Six
2 North belt head?

3 A. Six North Head was one. And there was one at Four
4 North, at 41 Break, there was one down there.

5 Q. Okay.

6 A. And that was going inby.

7 Q. Okay. Now, what type of methane detector did you
8 carry when you examined the belts?

9 A. A Solaris.

10 Q. Did you take it home with you?

11 A. Yes, sir. I brought it with me every day and
12 charged it at home.

13 Q. Okay. Did you also calibrate it or did someone
14 else?

15 A. I calibrated it once a month, yes, sir.

16 Q. Now, on April 1st, when you examined the Headgate
17 22 belt and the Tailgate 22 belt, did you detect any
18 methane at any location?

19 A. No, sir.

20 Q. Okay. Now, what about April 5th, when you
21 examined Four North and Five North --- Five North and
22 Six North belts?

23 A. No, sir.

24 Q. Did you ever detect any methane on any of the
25 belts you examined during 2010?

1 A. Not on the belts.

2 Q. Okay. Did you detect any methane anywhere else?

3 A. On Headgate 22, on that section, that night ---.

4 Q. When you say that night ---?

5 A. Sunday night.

6 Q. Sunday night.

7 A. It would be the 4th.

8 Q. Okay.

9 A. I was with a fire boss. We went across the faces
10 and we found .2 and .3.

11 Q. .2 and .3?

12 A. Uh-huh (yes).

13 Q. Now, what time was that exam?

14 A. I think we started at 8:00 or 8:30.

15 Q. Who was the fire boss you were with?

16 A. John Neely.

17 Q. John Neely?

18 A. Yes, sir.

19 Q. Okay.

20 A. It would be in the section book.

21 Q. Okay. Were you traveling with Mr. Neely on
22 Headgate 22?

23 A. I just walked with him, you know, just --- I don't
24 very often get to go on the sections, and I had time.

25 What it was, we was pre-shifting and we was getting

1 the section and the power boxes. So I took him up and
2 he got the faces and I walked with him, but he was
3 actually doing the fire bossing. But I did check my
4 spotter to coincide with him.

5 Q. All right. Now, the .2 and the .3 percent
6 methane, where on the Headgate 22 section? Which
7 entry? Which face?

8 A. I don't know for sure. We just have three
9 entries.

10 Q. Right.

11 A. I can't remember if we picked it up in all three
12 or not, but I noticed .2 and .3

13 Q. Okay.

14 A. But it would be in the section book.

15 Q. Okay. Now, again, let's start with 2010. Did you
16 ever detect any methane in the UBB Mine at any
17 location other than this one instance on April 4th?

18 A. Yes, sir, on the head end up there.

19 Q. When you say the head end ---?

20 A. On the north mains, the very end of ---.

21 Q. Are you talking about the area that some people
22 call Eight North?

23 A. Yes, sir, Eight North.

24 Q. Okay.

25 A. In the faces there I would sometimes find two and

1 three-tenths up in there, as high as .5 every once in
2 a while.

3 ATTORNEY WILSON:

4 So you're referring to the very top of
5 the mine map?

6 A. Yes, sir.

7 BY MR. FARLEY:

8 Q. When was the last time you were up there in Eight
9 North?

10 A. I don't know.

11 Q. Now, as I understand it, you had some faces up
12 there that weren't exactly abutted off; is that
13 correct?

14 A. Yes, sir, they all went in

15 Q. About how far were they driven in?

16 A. It varied from 15 to 40 feet maybe.

17 Q. Fifteen (15) to 40 feet?

18 A. I'd say. It could be a little more.

19 Q. Okay. How were they ventilated? Or were they
20 ventilated?

21 A. They had curtain in them, but we was in the
22 process then of putting up the Kennedy stoppings.

23 Q. Do you know if the Kennedy stoppings were actually
24 installed in those places?

25 A. There was one installed in Number One entry. I'm

1 not for sure if they was finishing the rest of them or
2 not. We was starting on them.

3 Q. Okay. And again, do you recall the last time you
4 were in Eight North?

5 A. No, sir. I don't know if I went there that night
6 or not.

7 Q. Maybe we can look it up in the books and determine
8 the last time you were there. So you found as much as
9 a half a percent in one of the Eight North faces?

10 A. Sometimes, you know, not every night.

11 Q. Okay. But occasionally; is that correct?

12 A. Occasionally.

13 Q. Okay. Also in Eight North there's a gas well
14 indicated on the map up there. It appears to be
15 surrounded by a block of goal with a 100-foot radius
16 on all sides. Were you ever in the vicinity of that
17 gas well?

18 A. I don't think I was in it before it happened, no.

19 Q. All right. Do you think you might --- if you
20 remember the last time you were in Eight North, I
21 would appreciate it if you would give us a call back
22 and let us know.

23 A. Okay.

24 Q. Now, if you examined the --- if you were on the 22
25 Headgate section on the evening of April 4th, did you

1 happen to travel through the crossover down towards
2 the Tailgate 22 section?

3 A. No, sir.

4 Q. Okay. When was the last time you would have
5 traveled through that crossover, if you ever did?

6 A. Are you talking about on the beltline?

7 Q. No. I'll show it to you on this map.

8 ATTORNEY WILSON:

9 We've got the map underneath here, Terry.

10 MS. MONFORTON:

11 It might be easier to see.

12 BY MR. FARLEY:

13 Q. You indicated you traveled on 22 Headgate on April
14 4th. Now, the crossover I'm referring to at this area
15 is connected between Headgate 22 towards the longwall
16 headgate entries. When's the last time you would have
17 traveled through the crossover?

18 A. I traveled this on the 1st. I traveled this over,
19 traveled the belt up and I come back and hit the track
20 and went back this way and finished my belt up.

21 Q. Did you ever notice any explosives stored in any
22 of those crossover entries?

23 A. No. No, sir, I didn't. I helped retrieve that,
24 that they found, but I didn't know it was there. I
25 never did see it.

1 Q. Did you ever visit the area known as the Glory
2 Hole?

3 A. Yes, sir.

4 Q. When was the last time you visited that area?

5 A. I may have got it that night. I don't know.

6 Q. That night?

7 A. Well, on the 4th.

8 Q. Okay. All right.

9 A. We had a pump. A pump was set over one break in by
10 the beltline, the old beltline, and we always checked
11 that pump.

12 Q. Okay.

13 A. I can't remember whether I done the pump that
14 night or whether my buddy did. You know what I mean?

15 Q. Who was your buddy that traveled with you?

16 A. Well, they had John Neely and John Skaggs.

17 Q. John Skaggs. Okay. Did any of you examine the
18 longwall face on the evening of April 4th?

19 A. I can't remember if John Skaggs got it or Larry
20 Bragg come in --- I mean, Larry Brown come in and got
21 it.

22 Q. Okay.

23 A. It all would be in the book.

24 Q. When you made your examinations on the belts at
25 UBB, did you usually call out your report or carry it

1 out?

2 A. Most of the time I called it out ---

3 Q. All right.

4 A. --- or --- it all varied.

5 Q. Okay.

6 A. Sometimes a man would walk some belts, and I'd
7 leave a trip and I'd go down a couple belt heads, and
8 he'd come pick me up and we'd go out. On the evening
9 shift, mostly we went outside and put them in the
10 book.

11 Q. Okay.

12 A. And usually on the hoot owl we did, too. Most of
13 the time we did. When I was on the dayshift, I
14 usually called them out.

15 Q. When you called out your report, by the time you
16 got outside to sign the book, was it entered
17 accurately, as you had described it on the phone ---

18 A. Yes.

19 Q. --- usually?

20 A. Yes.

21 Q. Did you ever notice a change anywhere?

22 A. No.

23 Q. Did anyone ever try to influence you to not report
24 violations or hazardous conditions in the examination
25 books?

1 A. I can't remember, no.

2 Q. Now, did you ever examine Seven North belt? When
3 was the last time you went up that way?

4 A. I don't know.

5 Q. Do you recall being in the area known as the
6 Mother Drive construction area, where the 22 Headgate
7 belt dumps onto Seven North? Do you recall being in
8 that area?

9 A. That night I traveled through there, but I don't
10 remember if I was going --- I didn't fire boss that
11 part that night.

12 Q. Okay. Now, when you say you traveled through
13 there, would you have been in the vicinity where the
14 Mother Drive installation is?

15 A. Yes, sir.

16 Q. Did you notice any stoppings knocked out, any
17 doors opened that shouldn't have been open?

18 A. No, sir. I can remember shutting the doors on 22
19 that night when I come out.

20 Q. When you say you shut them before you came out,
21 does that mean they were open when you came in?

22 A. No. I opened and shut them.

23 Q. Okay.

24 MR. FARLEY:

25 Erik?

1 MR. SHERER:

2 Sure.

3 EXAMINATION

4 BY MR. SHERER:

5 Q. I've got a few questions, Mr. Bickford. Were you
6 a fire boss and a belt man?

7 A. Yes, sir.

8 Q. What all duties did you have besides being a fire
9 boss?

10 A. You've got certain heads you grease, and I'd
11 grease them. And then if they have spillage, excess
12 spillage somewhere, I clean on it between fire bossing
13 on it.

14 Q. And you mentioned you would spread some rock dust?

15 A. Yes, sir, spread dust around the heads usually.

16 Q. And you mentioned that you kept up with some
17 pumps?

18 A. Yes, sir.

19 Q. Did you ever have to drop a roller or anything
20 like that?

21 A. Yes, sir, sometimes.

22 Q. Did you ever have to set a timber or some sort of
23 roof control?

24 A. No, sir. Usually I reported it and it was taken
25 care of.

1 Q. Okay. Did you ever have any big spills or
2 gob-outs where you had to clean those up?

3 A. Sometimes.

4 Q. Well, what if it was too big to get leaned up by
5 the end of your shift?

6 A. I have called for help, and they usually send me
7 some people outby to help me.

8 Q. Okay.

9 A. See, most of the time the fire bosses get together
10 when they have a problem and we gang in on it.

11 Q. Do you feel like you had adequate time to do all
12 this work and your examinations?

13 A. Yes, sir.

14 Q. Okay. Now, which shift did you work?

15 A. I just changed from --- the prior week I was on
16 dayshift, and this --- starting on the 4th I was on
17 the evening shift, from 6:00 in the evening until 6:00
18 in the morning.

19 Q. Now, on that evening shift you had to do two fire
20 boss runs, didn't you?

21 A. Yes, sir.

22 Q. Had you worked that evening shift prior to that
23 changeover? Did you ever work the evening shift prior
24 to ---?

25 A. Yes, sir. Yeah, we was on rotation, but I can't

1 remember when.

2 Q. Okay.

3 A. We used to rotate every two weeks.

4 Q. Okay. Which was the harder shift, the dayshift or
5 the evening shift?

6 A. The evening shift.

7 Q. Do you feel like you had enough time to do
8 everything you needed to do on the evening shift when
9 you had the two examinations that you had to do?

10 A. Yeah.

11 Q. Okay. Now, Mr. Farley asked you did you ever get
12 any pressure to not put hazards in the books. Let me
13 ask you a different question. Do you think there was
14 some convention, I guess I'd call it, where if you put
15 anything in the books you had to fix it yourself?

16 A. That did happen sometimes.

17 Q. Okay. Thank you. That last shift you worked, did
18 you notice anything unusual?

19 A. No, sir.

20 Q. Did you smell anything unusual?

21 A. No, sir.

22 Q. Did you ever smell any gasoline-like or
23 kerosene-like smells in the belt entries?

24 A. No, sir.

25 Q. Did your eyes ever burn?

1 A. Not from there, no.

2 Q. Okay. You kept up with the CO monitoring system
3 on the belts?

4 A. Yes, sir.

5 Q. What did you have to do with that?

6 A. Well usually I checked them every night, and
7 usually initialed them.

8 Q. Did you have to calibrate the sensors?

9 A. No, sir, I didn't calibrate.

10 Q. Okay. Who did that?

11 A. There was two electricians that worked together.
12 Usually Tom Sheets and he had a helper, which he just
13 passed away, Virgil Bowman.

14 Q. Sorry about that. Did you ever have to check on
15 an alarm on the CO monitors?

16 A. Yes, sir.

17 Q. How often would you have to do that?

18 A. Well, if one went off, the dispatcher would
19 contact me and I'd go to it and check it.

20 Q. Would you do that once a week, twice a week?

21 A. Well, sometimes it would be twice a week.
22 Sometimes it might not be but once a month, you know.

23 Q. It was just kind of random?

24 A. Whenever one messed up or something. I never did
25 find anything at them when I went to them, except if

1 they'd be welding, you know what I mean, ---

2 Q. Uh-huh (yes). Sure.

3 A. --- and there was smoke from them.

4 Q. Sure. You guys didn't have any diesel equipment
5 in this mine, did you?

6 A. No, sir.

7 MR. SHERER:

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

9 MS. MONFORTON:

10 No, sir. No questions.

11 MR. FARLEY:

12 Maybe one or two.

13 RE-EXAMINATION

14 BY MR. FARLEY:

15 Q. I think Erik asked you if you had seen anything or
16 smelled anything unusual on your last shift at UBB.
17 When you came out Sunday evening, did you see any
18 unusual persons? What I mean by that is any persons
19 you would not expect to see?

20 A. I can't remember seeing nobody.

21 Q. Any upper management people who would not
22 ordinarily be there?

23 A. I can't remember seeing nobody, no.

24 Q. Were you always a belt man/fire boss at UBB?

25 A. Yes, sir. Well, no, sir. I bossed for two years

1 there.

2 Q. Okay.

3 A. And I was construction boss, putting belts in on
4 the section, but I still fire bossed the faces.

5 Q. Okay.

6 A. So I ---.

7 Q. When was that? When were you a construction
8 foreman?

9 A. That was between 2002 and 2004?

10 Q. What area of the mine did you work in?

11 A. Sir?

12 Q. What area of the mine did you work in?

13 A. It was in the faces, but I can't remember which
14 headgate.

15 Q. Okay.

16 A. I don't remember where it was --- I think it was
17 this one, but I can't remember.

18 Q. After the explosion on April 5th, have you been
19 interviewed by any other --- anyone else concerning
20 this accident?

21 A. Some of the company people asked me about it.

22 Q. When did you talk to them?

23 A. That was the first week it happened.

24 Q. Okay.

25 A. And I can't remember their names, though.

1 Q. Okay.

2 A. It might have been a lawyer. Do you know him? It
3 was in the office.

4 ATTORNEY HARDY:

5 In the office?

6 A. Yeah, like a young guy.

7 ATTORNEY HARDY:

8 I could give you several names ---

9 A. I don't know if I could remember.

10 ATTORNEY HARDY:

11 --- of guys that are in and around the
12 area.

13 A. But I was off for that --- you know, that week and
14 I went to pick up my check and they seen me and I
15 talked to them.

16 BY MR. FARLEY:

17 Q. Was the nature of that interview somewhat like
18 this one or ---?

19 A. Yeah. They just asked me what I traveled, and it
20 was fresh in my mind then. I didn't have no trouble
21 then.

22 Q. Okay. Can you think of anything that we haven't
23 asked about that you might consider important for us
24 to look into?

25 A. No.

1 MR. FARLEY:

2 Thank you. Erik?

3 RE-EXAMINATION

4 BY MR. SHERER:

5 Q. I got one more question, Mr. Bickford. When you
6 were checking your belts and taking your air readings,
7 determining what air directions --- what direction the
8 air was moving in, did you ever notice that it varied
9 greatly from night to night or day to day, shift to
10 shift?

11 A. (Indicates no).

12 Q. It was all about the same?

13 A. About the same, yeah.

14 Q. Did you ever have to hunt down any doors that were
15 open or doors that were closed that should have been
16 open to get the air right?

17 A. I can't remember, no.

18 Q. Okay. Thank you.

19 ATTORNEY WILSON:

20 All right. Let's take a very short break
21 and then we'll finish up. Go off the record.

22 SHORT BREAK TAKEN

23 ATTORNEY WILSON:

24 We'll go back on the record. Were there
25 any follow-up questions?

1 MR. SHERER:

2 I got one follow-up.

3 BY MR. SHERER:

4 Q. Mr. Bickford, you mentioned you were maybe doing
5 some production bossing in 2004?

6 A. I was construction bossing.

7 Q. Construction bossing. Do you recall the methane
8 outbursts this mine had in 2003 and 2004?

9 A. I remember them talking about it, but I can't
10 remember it being on my shift.

11 Q. Okay. Did you have any involvement with those
12 methane outburst events?

13 A. No, sir.

14 Q. Okay. Thank you.

15 ATTORNEY WILSON:

16 Celeste, anything?

17 MS. MONFORTON:

18 No, sir.

19 ATTORNEY WILSON:

20 All right. Mr. Bickford, on behalf of
21 MSHA and the Office of Miners' Health, Safety and
22 Training, I want to thank you for appearing and
23 answering questions today. Your cooperation is
24 important to the investigation as we work to determine
25 the cause of the accident. We request that you not

1 discuss your testimony with anyone aside from Mr.
2 Hardy. After questioning other witnesses, we may call
3 you if we have any follow-up questions. If at any
4 time you have additional information that you think
5 would be helpful to the investigation, please contact
6 us at the contact information that's been provided to
7 you today. Before we finish and go off the record, I
8 told you I would provide you an opportunity to add
9 anything to the record that you think might be helpful
10 or you may also make a statement. If you would like
11 to do that, you can do that at this time.

12 A. I can't think of anything at this time.

13 ATTORNEY WILSON:

14 All right. Well, if you do think of
15 anything, please contact us and let us know. And
16 again, I want to thank you for your cooperation in
17 this matter. If there's nothing further, we'll go off
18 the record.

19 * * * * *

20 STATEMENT UNDER OATH CONCLUDED AT 3:20 P.M.

21 * * * * *

22

23

24

25

1 STATE OF WEST VIRGINIA)

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

CERTIFICATE

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



Alison Salyards