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Transcript of the Testimony of Jimmy Bowyer

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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

JIMMY BOWYER

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 Wednesday, July 21, 2010, beginning at 8:00 a.m.

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

2

3 POLLY ANNA HAMPTON, 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

9

10 JOHN O'BRIEN

11 Safety Inspector

12 West Virginia Office of Miners' Health,

13 Safety and Training

14 Welch Regional Office

15 891 Stewart Street

16 Welch, WV 24801-2311

17

18 TERRY FARLEY

19 West Virginia Office of Miners' Health,

20 Safety and Training

21 1615 Washington Street East

22 Charleston, WV 25311

23

24

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

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ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

DAVID J. HARDY, ESQUIRE

Allen, Guthrie & Thomas, PLLC

500 Lee Street East

Suite 800

Charleston, WV 25301

COUNSEL FOR PERFORMANCE COAL/PERSONAL

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P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Polly Anna Hampton. Today is July 21st, 2010. I am here with the Office of the Solicitor, U.S. Department of Labor. We are here for the interview of Jimmy Bowyer. And with me is Erik Sherer, 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, and I ask that they state their name and appearance for the record right now.

MR. FARLEY:

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 HAMPTON:

There are also other members of the investigation teams here today in the room. Mr. Sherer will be conducting the initial portion of the questioning today.

All members of the Mine Safety and Health

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

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

1 your assistance in this investigation.
2 You may have a personal attorney present
3 during the taking of this statement or another
4 personal representative, if MSHA has permitted it, and
5 you may consult with this individual at any time.
6 Your statement is completely voluntary. You may
7 refuse to answer any question and you may terminate
8 your interview at any time or ask for a break at any
9 time. This is not an adversarial proceeding, meaning
10 that formal Cross Examination will not be permitted.
11 However, if you have a personal representative, that
12 person may ask clarifying questions as appropriate.
13 For the record, do you have a personal representative
14 with you here today?

15 MR. BOWYER:

16 Yes, I do.

17 ATTORNEY HAMPTON:

18 Okay. And could you please introduce
19 yourself?

20 ATTORNEY HARDY:

21 David Hardy, H-A-R-D-Y.

22 ATTORNEY HAMPTON:

23 And which firm are you with?

24 ATTORNEY HARDY:

25 Allen Guthrie & Thomas.

1 ATTORNEY HAMPTON:

2 And you are here as a personal
3 representative, not a legal representative?

4 ATTORNEY HARDY:

5 Yeah. Again, we reviewed Bob Wilson's
6 May 7th, 2010 letter about the subject of company
7 counsel being present or not present, depending on the
8 job duties of the person involved. Rather than debate
9 the ambiguity in the letter, Mr. Bowyer has asked me
10 to appear as his personal representative.

11 ATTORNEY HAMPTON:

12 Okay. And just so the record is clear,
13 you are an attorney for Performance Coal Company?

14 ATTORNEY HARDY:

15 Yes.

16 ATTORNEY HAMPTON:

17 Your identity and the content of this
18 conversation will be made public at the conclusion of
19 the interview process and may be included in the
20 public report of the accident, unless you request that
21 your identity remain confidential or your information
22 would otherwise jeopardize a potential criminal
23 investigation. If you request us to keep your
24 identity confidential, we will do so to the extent
25 permitted by the law. This means that if a judge

1 orders us to reveal your name or if another law
2 requires us to reveal your name or if we need to
3 reveal your name for other law enforcement purposes,
4 we may do so. Also, there may be a need to use the
5 information that you provide to us in the future in
6 other investigations or hearings about the explosion.

7 Do you understand?

8 MR. BOWYER:

9 Yes, ma'am.

10 ATTORNEY HAMPTON:

11 Do you have any questions?

12 MR. BOWYER:

13 No.

14 ATTORNEY HAMPTON:

15 After the investigation is complete, MSHA
16 will issue a public report detailing the nature and
17 causes of the fatalities in the hope that greater
18 awareness about the causes of accidents can reduce
19 their occurrence in the future. Information obtained
20 through witness interviews is frequently included in
21 these reports. Since we will be interviewing other
22 individuals, we do request that you not discuss your
23 testimony with any other person, aside from a personal
24 representative or an attorney.

25 As you can see, a court reporter is here.

1 She will be recording your interview, so please speak
2 loudly and clearly. And if you don't understand a
3 question, please ask the questioner to rephrase it,
4 and they can certainly do that for you. And please
5 answer each question as fully as you can, including
6 giving us any information that you may have learned
7 from someone else. I would like to thank you in
8 advance for your appearance here. We appreciate your
9 assistance in this investigation. Your cooperation is
10 critical in making the nation's mines safer. After we
11 have finished asking you the questions, then you will
12 have an opportunity to make a statement, if you'd
13 like, or to give us any other information that you
14 deem to be important. If at any other time after the
15 interview is complete that you think of other
16 information that you think is something that we should
17 know or that is important, please contact Norman Page
18 at the e-mail or phone number given to you in the
19 letter that was sent to your home.

20 Any statements given by miner witnesses

21 to MSHA are considered to be an exercise of statutory
22 rights and protected activity under Section 105(c) of
23 the Mine Act. If you believe any discharge,
24 discrimination or any other adverse action has been
25 taken against you as a result of your cooperation with

1 this investigation, you are encouraged to immediately
2 contact MSHA and file a complaint under Section 105(c)
3 of the Act.

4 MR. FARLEY:

5 Jimmy, on behalf of the Office of Miners'
6 Health, Safety and Training, I'd like to also advise
7 you that the West Virginia Mine Health and Safety
8 Regulations provide protection for miners against
9 potential discrimination which might result from
10 participating in these type interviews. I want to
11 pass along to you some contact information from the
12 West Virginia Board of Appeals, which hears complaints
13 regarding discrimination. Also, I will include my
14 business card and a phone number for Mr. Bill Tucker,
15 who's our lead underground investigator. Should you
16 have any problems, you can contact either of us or the
17 Board of Appeals. I would caution you that if you
18 have a problem, you would need to file a complaint
19 within 30 days of the date of the problem.

20 MR. BOWYER:

21 Okay.

22 ATTORNEY HAMPTON:

23 Okay. Do you have any questions before
24 we get started?

25 MR. BOWYER:

1 No, I don't.

2 ATTORNEY HAMPTON:

3 Okay. Could you please swear in the
4 witness?

5 -----

6 JIMMY BOWYER, HAVING FIRST BEEN DULY SWORN, TESTIFIED
7 AS FOLLOWS:

8 -----

9 EXAMINATION

10 BY MR. SHERER:

11 Q. Good morning, Mr. Bowyer. Bowyer?

12 A. Bowyer (corrects pronunciation).

13 Q. Bowyer, okay. Thank you. What we're doing today
14 is we're really trying to accomplish two things. The
15 first one is the families, the friends and the
16 coworkers of the victims of this disaster deserve some
17 closure. They need to understand what happened to
18 their friends or loved ones. The second one is we're
19 looking as an agency and the State is looking as an
20 agency and we're looking as an industry to try to
21 figure out how to prevent these sorts of things in the
22 future. So any --- any information you can help us
23 --- it will help us with any information you've got
24 with regard to this incident. What's your full name,
25 please?

1 A. Jimmy Lee Bowyer.

2 Q. Could you spell that last name, please?

3 A. B-O-W-Y-E-R.

4 Q. Okay. Thank you. What's your address?

5 A. [REDACTED], ---

6 Q. Okay.

7 A. [REDACTED].

8 Q. And what's your telephone number?

9 A. [REDACTED].

10 Q. Okay. How many years' mining experience do you
11 have?

12 A. Working on 34.

13 Q. Thirty-four (34). Been around longer than I have.
14 It's good to meet somebody that's more ancient than I
15 am.

16 ATTORNEY HARDY:

17 He is.

18 A. Maybe I should have said 33-and-a-half.

19 MR. FARLEY:

20 I might have one year on him.

21 BY MR. SHERER:

22 Q. Mr. Bowyer, where have you worked during that 34
23 years --- or 33-and-a-half?

24 A. Thirty (30) different mines.

25 Q. Thirty (30) different --- typical coal miner.

1 A. Yeah.

2 Q. When did you go to work for Massey?

3 A. On March 15th of '99.

4 Q. Okay. Have you --- did you start out at UBB?

5 A. Yes, sir.

6 Q. So you've been up there since 1999. What job do
7 you do at UBB?

8 A. I'm the belt man/fire boss.

9 Q. So you maintain the belts and you inspect the
10 belts basically?

11 A. Yes.

12 Q. Have you done any other jobs at UBB?

13 A. I help with pumps. I walk airways sometimes. I
14 clean the filters at east mains, just whatever needs
15 to be done.

16 Q. Okay. Had you done those same --- have you done
17 those same jobs since you went to work for UBB?

18 A. Well, when I first started I was on the evening
19 shift. And then we just --- we set belt heads,
20 general labor, anything that needed to be done.

21 Q. Okay.

22 A. And then in 2000 I started --- they brought me to
23 dayshift, and I've been fire bossing belts ever since.

24 Q. Did you have any papers when you went to work at
25 UBB?

1 A. Yes, sir.

2 Q. Okay. Have you been a boss, section boss?

3 A. Yes, sir.

4 Q. Where did you do that at?

5 A. Everywhere.

6 Q. Okay.

7 A. I probably have 18 to 20 years bossing.

8 Q. Okay. So you're a very experienced miner?

9 A. I've been there a lot.

10 Q. That's good. What part of the mine did you boss
11 prior to the explosion?

12 A. I didn't. It's probably been ten years or so
13 since I section bossed.

14 Q. Oh, okay.

15 A. I have bossed, you know, per se.

16 Q. Oh, okay. Excuse me. What part of the mine did
17 you do the fire bossing?

18 A. I've been on the south side for just about a year.

19 Q. About a year. And when you say the south side, is
20 there any specific limits to that area?

21 A. There is a distinction. Right here is the south
22 portal. This is where we would go in. Now, if you
23 went up to --- it's about 129 Break towards the north.
24 We had two superintendents. One superintendent would
25 take care of the north side, which started at the

1 Ellis Portal and went inby that way.

2 Q. Sure.

3 A. And ours, basically all we did from this part up
4 to about 129, where there's a set of airlock doors, we
5 would check the pumps and keep it rock dusted and that
6 type of stuff.

7 Q. So the south side includes the UBB Portals, or the
8 Montcoal Portals, as they're sometimes referred to,
9 the barrier section ---

10 A. Uh-huh (yes).

11 Q. --- and the north --- these are the north mains
12 going up to that Ellis Switch?

13 A. Yes, sir.

14 Q. And the north mains up to Break 129?

15 A. I think that's where the airlock doors were.

16 Q. Okay.

17 A. I didn't usually have to go up that far.

18 Q. Okay.

19 A. I usually stayed in this area right here from like
20 the Plumley Switch outby. Sometimes I would go to the
21 barrier section. I don't think I ever fire bossed the
22 barrier section. I just had been up there maybe
23 checking a pump or something like that.

24 Q. Okay. Can I ask you to take a marker and
25 highlight the belts that you normally maintained and

1 examined?

2 A. Okay.

3 ATTORNEY HAMPTON:

4 I'm handing the witness a blue
5 highlighter.

6 A. Okay. Now, I did not necessarily fire boss this
7 belt right here. This section was idle. Now, this
8 was the portal section. We called it Three section.

9 BY MR. SHERER:

10 Q. Okay. Don't mark it then.

11 A. Okay. Now, this was the Number One North ---
12 Number One South belt. And I usually fire bossed it,
13 and it would run from here to the tail. And then I
14 would go up to the Plumley Switch, which would be
15 about right here.

16 ATTORNEY HAMPTON:

17 Okay. The witness has marked the belts
18 with a blue marker. And I am going to mark this map
19 as Exhibit Number One Bowyer, 7/21/10.

20 (Bowyer Exhibit One marked for
21 identification.)

22 BY MR. SHERER:

23 Q. What precisely do you call those two belts?

24 A. This is One South and this was One North. And
25 there would be another fire boss, Lacey Stewart was

1 his name, usually and he would fire boss this area,
2 and sometimes he would get this other belt here. But
3 we just finished this section, so that's why ---.

4 Q. Okay. So you fire bossed those two belts. What
5 did that job normally entail?

6 A. I had set a tailpiece right here. These were the
7 main filters at east mains and they took care of this
8 like ten filters. And when I say filters, I mean big
9 filters like this. And I would clean those filters.
10 I would clean on the belt or whatever. Sometimes we
11 would check these seals. These seals were checked
12 every day on the south side here. There were four
13 that we had to check, and they would be weekly
14 checked. And then that Monday I think I had walked
15 these airways right here. And my buddy Lacey that I
16 was telling you about, he got this side.

17 Q. Okay.

18 A. And that was basically about what we did.

19 Q. Okay. Those airways that you walked, could you
20 take a different-colored marker and circle those,
21 please?

22 ATTORNEY HAMPTON:

23 I'm handing the witness a green marker.

24 A. Okay. I would usually walk the interiors of Four
25 --- it was old Four section. And I might be off some,

1 but I usually tried to walk the one side. That way I
2 could check the stopping line and then go up to the
3 faces. Sometimes there would be water, and naturally
4 I would have to come in some and go this way.

5 MR. SHERER:

6 Okay. And the witness is taking a green
7 marker and traced a weekly examination route of the
8 old Four section on the southern portion of the mine.

9 BY MR. SHERER:

10 Q. You say you picked up some seals. Could I ask you
11 to take that same green marker and just circle where
12 those seals were at?

13 A. Okay. We had four over here on the south side,
14 and I'd have to --- let me find it here.

15 Q. Just a big circle around all it.

16 A. All right.

17 Q. There you go.

18 A. I don't see them. Maybe you can point to it. I
19 know there were four sections.

20 Q. They're right here.

21 A. Okay.

22 Q. There's three sets. How about these?

23 A. Okay. That's the other one.

24 MR. SHERER:

25 Okay. So the witness has circled three

1 sets of seals in the southern portion of the mine with
2 a green marker.

3 BY MR. SHERER:

4 Q. I assume those are 20 psi seals?

5 A. I think so. They've been built a pretty good
6 while. Now, we had redone a couple seals down here in
7 this area and then really just completed on --- within
8 a couple weeks, I would say.

9 Q. Was it the entire set of seals or was it just ---

10 A. Just a couple of them.

11 Q. --- a few of them?

12 A. I think Number 17 --- now, I didn't check these
13 things on a daily basis. I may do it once a week or
14 something like that, maybe not even that. Like I say,
15 my buddy usually checked the seals while I would do
16 the filters.

17 Q. Oh, okay. Now, tell me about those filters. What
18 sort of filters are they?

19 A. They're just metallic filters.

20 Q. Dust filters?

21 A. Water filters.

22 Q. Water filters, okay. What water were you
23 filtering?

24 A. All the water that came into the mine. It
25 supplied the water supply for the whole mine.

1 Q. Oh, okay. Okay. So the mine water supply was
2 filtered?

3 A. Uh-huh (yes).

4 Q. Okay. Now, the two belts that you outlined --- or
5 highlighted, are those the main belts out of the mine?

6 A. Yes. These are six-foot belts?

7 Q. Okay. Which production sections did those serve;
8 do you know?

9 A. The barrier section went on this one, on One
10 North. Of course, naturally, it dumped on One South.
11 Then the portal section dumped on this one. But they
12 had just finished up the portal section and moved on
13 to this one.

14 ATTORNEY HAMPTON:

15 You just pointed to this one. Can
16 you ---?

17 A. To One South and One North.

18 BY MR. SHERER:

19 Q. So you basically had the barrier section ---

20 A. Uh-huh (yes).

21 Q. --- that's currently producing on those belts?

22 A. Right.

23 Q. Those belts gob out often?

24 A. Not too often. These didn't.

25 Q. Okay. Six-foot belt is a big belt to carry to a

1 continuous miner section?

2 A. Yes, it is. Now, it used to be the longwall ---
3 everything dumped on these belts. They were the main
4 belts. But it hadn't been like that for a pretty good
5 while.

6 Q. Sure. The One south belt, that actually goes out
7 of the mine?

8 A. That goes into that silo that you see when you're
9 driving by.

10 Q. Okay. When you fire boss these belts --- tell me
11 what you do first thing when you go to the mine.

12 A. I usually go check the pumps.

13 Q. Check the pumps. Do you check the previous
14 shift's belt book?

15 A. Uh-huh (yes). I have to countersign.

16 Q. Okay. So does the --- do you carry the belt
17 examinations out with you or do you recall them out?

18 A. We brought ours out.

19 Q. Okay.

20 A. No, it wouldn't be --- but if something was wrong
21 and I'd have to stay a little late, I'd call it out.

22 Q. Sure. So you checked the previous shift's belt
23 book. What do you check it for?

24 A. To see if there's anything that needed to be done
25 or if there was --- whatever the problem was or

1 whatever needed to be done.

2 Q. So if there was a hazard in that book, you'd take
3 care of it?

4 A. I would do my best to take care of it, yes, sir.

5 Q. Sure. What would you do then? You checked the
6 pumps, and then which pumps were you referring to?

7 A. Well, we had pumps down through here. I think
8 there were like four different pumps at different
9 areas.

10 Q. Water pumps?

11 A. Yes, sir.

12 Q. Okay. So that would --- the first thing you would
13 do would be to check the books and then you would go
14 underground?

15 A. Uh-huh (yes).

16 Q. Okay. How did you go underground?

17 A. I usually had --- Jeep Six is usually what I used.

18 Q. Okay. So you'd ride into this area. And this
19 entire area is fairly close to the South Portals?

20 A. Yes, sir.

21 Q. Okay. So you would ride in to check the pumps?

22 A. Well, usually I would make sure --- I would ride
23 up the east mains, which is here, and I would make
24 sure that my belts all started ---

25 Q. Okay.

1 A. --- and then go check the belts or whatever needed
2 --- or the pumps, whatever needed to be done.

3 Q. Okay. So you'd check the pumps. What would you
4 do then, typically?

5 A. Maybe grease the head or just whatever needed to
6 be done, sometimes clean on the belt or sometimes
7 there would be timbers that needed to be set or sand
8 jacks or ---.

9 Q. Sure. So do some maintenance work on the belt?

10 A. Uh-huh (yes).

11 Q. What else would you do?

12 A. That would pretty well take you up to fire boss
13 time.

14 Q. So about what time would you do your fire bossing?

15 A. We started at 1:00 ---

16 Q. Okay.

17 A. --- or I started at 1:00.

18 Q. Okay. So you'd basically walked your belt and
19 checked for hazards?

20 A. Yes, sir.

21 Q. What sort of methane detector did you carry?

22 A. A Solaris.

23 Q. A Solaris. Did you take that home and charge it
24 or ---?

25 A. Yes, sir.

1 Q. Okay. How did you calibrate that thing?

2 A. There at the mine we have the calibration kit and
3 everything. You just plug it in and that takes care
4 of it.

5 Q. What do they call it, a Galaxy?

6 A. Uh-huh (yes). Yes, sir.

7 Q. How often would you do that?

8 A. Once a month.

9 Q. Once a month, okay. Would you bump test it in
10 between?

11 A. Yes, sir, sometimes.

12 Q. On an average, how often would you do that?

13 A. I took pretty good care of my detector. I kept
14 it ---

15 Q. Sure.

16 A. --- up to snuff.

17 Q. Would you bump test it once a week?

18 A. Yes, sir, probably so.

19 Q. Would you bump test it twice a week?

20 A. I wouldn't think that I did bump it twice a week.

21 Q. About once a week. So you carry that Solaris
22 around. What sort of readings would you typically
23 have on that?

24 A. Usually it was zero percent methane, zero CO, and
25 usually 28 --- or 20.8 percent oxygen.

1 Q. Okay. So pretty much fresh air?

2 A. Yes, sir.

3 Q. Did you ever see any methane show up on that
4 detector?

5 A. Occasionally, maybe one-tenth or something like
6 that.

7 Q. Just the bare minimum?

8 A. Yeah.

9 Q. What about up around those seals, did you pick up
10 any down there?

11 A. We would --- sometimes. We would pump those seals
12 with --- detector with a hybrid, and we'd find some in
13 behind it sometimes. But it wasn't bad, you know, not
14 very much at all.

15 Q. Typically, what would that run?

16 A. Usually it was around zero and sometimes a tenth
17 or something. Now, that's the south seals. Now, I do
18 believe up towards the north that they had one or two
19 that they did find methane behind ---.

20 Q. But it's still pretty close ---?

21 A. Pretty close, yes, sir.

22 Q. What about rock dust? Would you rock dust these
23 belts?

24 A. Yes, sir.

25 Q. How would you do the rock dusting?

1 A. Well, sometimes we'd do it by machine. Sometimes
2 we'd do it by hand.

3 Q. Now, what ---?

4 A. And then I had trickle dusters set like at Three
5 section, Number One Head, and I had a trickle duster
6 down here at One South Tail. And then we had some set
7 up toward the barrier section right here. I don't
8 remember exactly which break because I didn't ---
9 wasn't up there very much. But we ran them pretty
10 good a bit of the time.

11 Q. Okay. Can I get you to take another marker and
12 circle those trickle dusters, please?

13 A. Okay.

14 ATTORNEY HAMPTON:

15 I'm handing you the pink marker.

16 A. Okay. This would be Three section and Number One
17 Head and One South Tail, which was about a break
18 outby.

19 ATTORNEY HAMPTON:

20 Could you draw a line out into this blank
21 area?

22 A. Put trickle duster?

23 ATTORNEY HAMPTON:

24 Yeah, write a label.

25 BY MR. SHERER:

1 Q. You're a pro at this.

2 A. No.

3 ATTORNEY HAMPTON:

4 Thank you.

5 BY MR. SHERER:

6 Q. And you said there was one more trickle

7 duster ---?

8 A. It was inby the barrier section. I think it was

9 at ---.

10 Q. Here's the barrier section, the last one they were
11 working at.

12 A. Okay. It's in this area right here. I'm not
13 positive.

14 Q. Yeah. That's good enough. So just at the mouth
15 of the trickle --- or mouth of the barrier section?

16 So you had three trickle dusters in the south end of
17 the mine, and you had one continuous miner section
18 using these belts. Ever make it up in the north end
19 of the mine?

20 I have been up to the last set of seals up there
21 at 75 Break once within about a year. And what had
22 happened there was we needed to change some ends so we
23 could get our hose for that hybrid detector, and
24 that's why I was up there.

25 Q. Okay. Would it surprise you to know that there

1 weren't many more trickle dusters than this in the
2 entire north end of the mine?

3 A. No, not really. Now, there may have been another
4 one. There may have been four.

5 Q. Okay.

6 A. About three that I know of right off --- like I
7 say, the Plumley Switch is about as far as I went.

8 Q. Okay. You said you run those trickle dusters
9 fairly often. Typically how many bags of rock dust
10 would you put in each one?

11 A. Usually five. Five would do it. And this one
12 back here at the tail would usually take seven. It's
13 a different type --- well, it was a different type.
14 And then they bought some new ones, and then ---.

15 Q. Okay. Okay. So you put --- just filled the
16 trickle dusters up and they take, on average, about
17 five bags each?

18 A. Uh-huh (yes).

19 Q. Did you normally run them all shift or how did
20 that work?

21 A. I would usually run some during the morning, and
22 I'd turn it off when I was going to walk the belt, and
23 then when I'd come back I would turn it back on.

24 Q. Sure. Okay. That makes sense. What if the belts
25 weren't running, I guess you wouldn't run the trickle

1 duster?

2 A. Well, sometimes because there was really good air
3 on this belt and it would --- and sometimes, depending
4 on where I had to go, I may not make it to that area.
5 I don't mean to tell you I religiously did, but I was
6 pretty good.

7 Q. And you said you also did some hand dusting along
8 the belts?

9 A. Uh-huh (yes).

10 Q. When would you primarily do that?

11 A. It would just vary.

12 Q. If you had to shovel up some stuff, would you hand
13 dust that?

14 A. Sometimes.

15 Q. Okay.

16 A. Usually the main thing that we would dust would be
17 around the head and the tail area, ---

18 Q. Sure.

19 A. --- the take-up.

20 Q. Sure.

21 A. And usually the machine dust would do most of it.

22 Q. Okay. Now, ---.

23 A. That's not to say that we didn't hand dust some.

24 Q. Okay. Sure. And what sort of machine duster did
25 you use?

1 A. They had the pod dusters. I didn't usually use
2 those. That would be someone that would run the
3 motor ---.

4 Q. Okay. That was the crew on the hoot owl shift?

5 A. Sometime.

6 Q. Oh, okay.

7 A. Sometimes they'd do it on dayshift, too, just
8 depending, you know.

9 Q. Okay. Did that do a pretty good job?

10 A. The machines do.

11 Q. Okay. Now, this is an older area of the mine.
12 There's an active belt entry that you took care of.
13 Do you ever get often the side entries or the intakes
14 or the returns?

15 A. No, not usually.

16 Q. Okay. Who would check those out, the weekly
17 examiner?

18 A. Uh-huh (yes).

19 Q. When you got over there, what did they look like?

20 A. As best as I can remember, they looked pretty
21 good.

22 Q. Okay. What about the dust in those entries?

23 A. Usually the dust looked pretty good to me.

24 Q. Did you ever notice any float dust down in this
25 area?

1 A. In the intakes or ---?

2 Q. Anywhere.

3 A. Well, certainly sometimes there'd be some float
4 dust, yeah.

5 Q. Okay. Anyplace in particular that you'd find
6 that?

7 A. Usually just around the head and the tail area,
8 you know, where it would come through.

9 Q. Sure. What did you do when you found it?

10 A. Well, we'd report it and try to get it dusted ---

11 Q. Okay.

12 A. --- if we couldn't dust it ourselves or something
13 like that.

14 Q. What about water down in the southern part of the
15 mine. Was there much water?

16 A. Yes, sir. These were building up pretty good.

17 And I had taken some pumps in here. I think one was
18 going to be like right here.

19 ATTORNEY HAMPTON:

20 Can you explain what you mean when you

21 say here? It's easier on the transcript when we go
22 back and try to figure out where you're talking about
23 on the map.

24 BY MR. SHERER:

25 Q. That's that old Four section?

1 A. Right. And we had pumps on the barrier section to
2 the right and to the left. We had some pumps up in
3 here.

4 Q. Okay. And then what's this area? What do you
5 call this area here?

6 A. This was the first old works for the barrier
7 section, for Four section.

8 Q. Okay. This is some old rooms off to the ---

9 A. Uh-huh (yes).

10 Q. --- east of the --- what's this, the Number One
11 North belt?

12 A. Off of One North, I just call it to the right and
13 to the left.

14 Q. Oh, okay.

15 A. And we had two pumps up in --- no, three pumps up
16 in here. I think --- like I say, it's been a while
17 now.

18 Q. Sure.

19 A. I think one was in this area. I think one was in
20 here. I'm not for sure.

21 Q. No problem.

22 A. There were three pumps there.

23 Q. Sure.

24 ATTORNEY HAMPTON:

25 The witness has just circled three areas

1 in this old area off to the right of the ---

2 A. One North belt.

3 ATTORNEY HAMPTON:

4 --- One North belt, and he has circled

5 the three areas in pink, indicating where he believed

6 the pumps are.

7 BY MR. SHERER:

8 Q. So you had a good bit of water collecting down

9 there?

10 A. Uh-huh (yes).

11 Q. How deep did that water get; do you know?

12 A. Sometimes it was over my boots.

13 Q. Okay.

14 A. I tried to stop it before it went over my boots.

15 Q. Did you ever notice it roofing out back in there?

16 A. No, I don't think I ever saw it roof out in there.

17 Q. Okay. So ---.

18 A. But we pretty much had this water under control.

19 Q. Sure.

20 A. We would pump these usually like once a week and

21 this sometimes more than once a week.

22 Q. Okay. But you did keep the water ---?

23 A. It was pretty much under control.

24 Q. Sure. What about this old Number Four section,

25 you said you took a couple pumps down into that?

1 A. Well, this water was starting to build up in the
2 faces. And what we were going to do, I had gotten
3 some pumps over there and some discharge line, and we
4 were getting ready to start pumping it.

5 Q. Okay. So had it roofed out anywhere in this old
6 Number Four?

7 A. No, I don't think it roofed out.

8 Q. Okay. But ---.

9 A. No, I'm sure it never roofed out.

10 Q. Okay. Okay. Just asking. So you basically took
11 care of water anywhere it was collecting down in the
12 south end of the mine?

13 A. Well, I don't mean just myself.

14 Q. Sure.

15 A. I mean, ---.

16 Q. Sure. You and your coworkers?

17 A. Yes, sir.

18 Q. Okay. You had mentioned you had some pumps over
19 --- what do you call this area again?

20 A. This was Three section.

21 Q. Three section?

22 A. Yeah.

23 Q. About the same sort of water situation over there?

24 A. We were saying --- like I say, they pulled out of
25 the face area here, and we were setting pumps right

1 there, too. But I already had four pumps. I believe
2 it was four pumps out there. Now, let's see, I had
3 one at --- right in --- oh, let me see how it goes.
4 The track on down --- about this area was a pump.
5 Then at Eight Break I had a pump, eight right here.
6 And then at 19 --- 18 --- 16 and 18, I think they had
7 pumps. So about here and about here.

8 ATTORNEY HAMPTON:

9 Okay. The witness has again indicated in
10 pink where the pumps were. And because we do have a
11 lot of pink circles on the map at this point, maybe if
12 we could take lines and draw out to the margin and
13 write the words pumps, showing where on the map they
14 are so we can figure this out later. Thank you. And
15 can we also do that for the pumps that you circled in
16 the old works?

17 A. Sure.

18 WITNESS COMPLIES

19 ATTORNEY HAMPTON:

20 Thank you.

21 BY MR. SHERER:

22 Q. Thank you. So you had a lot of pumps keeping up
23 with the water in the south end of the mine. Did you
24 ever talk to anybody that worked up around the
25 longwall?

1 A. Yes, sir. But the longwall had been portalling
2 over at the same place we were until within I would
3 say a few months. They had moved over to the Ellis
4 Portal. So I didn't really get to see them after
5 that.

6 Q. Do you recall anybody on the longwall talking
7 about the problems they had with water up there?

8 A. I knew that they had some water with --- they had
9 some air pumps in behind the longwall, and I knew that
10 they had some problems. And I don't know what they
11 were or whatever. I think it was just keeping them
12 running.

13 Q. Sure.

14 A. Uh-huh (yes).

15 Q. They had a lot of water up there. Do you know why
16 --- what happened? You guys looked like you were
17 taking real good care of the water down on the south
18 side of the mine. And they were just having a heck of
19 a problem with water up around the longwall. Did
20 anybody talk about why there was that distance?

21 A. No, I don't think.

22 Q. Thank you. Are you appearing here today
23 voluntarily?

24 A. Yes, sir.

25 Q. Where are you currently employed at?

1 A. At Performance. At UBB.

2 Q. You're still at UBB?

3 A. Yes, sir.

4 Q. Still doing the south side of the mine?

5 A. No. No, sir. I don't know that anyone is even
6 going over here. What I do is I go in and I have a
7 Federal inspector with me or a State man, but lately
8 it's been a Federal, and we pre-shift for the rock
9 dust crew, survey crews or the mappers that come in,
10 and then we just on shift.

11 Q. And that's primarily the northern part of the
12 mine?

13 A. Yes, sir, 78 Break inby.

14 Q. Okay. Have you seen the water in there?

15 A. I've seen water in the faces of Headgate 22, of
16 old north mains and inby. It would be the tailgate
17 section, but the new one that they were driving. But
18 that's where I've been, so that's all I've seen.

19 Q. Does it look like that area is making more water
20 than what you saw down on the ---?

21 A. Yes, sir, it is making ---. Well, I don't know if
22 it's making more, but it's not being pumped, so ---.

23 Q. Sure. What sort of mine certificates do you have?

24 A. Mine foreman. I've got a dust sampler card, a
25 shot firer card, an instructor card. That's probably

1 about it, I guess.

2 Q. That's enough.

3 A. It's kept me working.

4 Q. There you go. What about equipment doors, did you
5 have to go through any equipment doors down on the
6 south end?

7 A. We had --- yeah. We had five doors up here at
8 east mains, and that's where they were, if you want me
9 to mark it.

10 Q. No.

11 A. You know where they are, I'm sure.

12 Q. What condition are those doors in, in general?

13 A. They were usually pretty good. But if you lost
14 power or something like that, you know, you had to
15 hand open them then.

16 Q. So were all these doors automatic down here?

17 A. Uh-huh (yes).

18 Q. Okay. What about damage, did you ever see any of
19 them beat up or bumped up?

20 A. Yes, sir. Yes, sir.

21 Q. Were those regularly replaced or repaired?

22 A. I thought that they did a pretty good job of
23 replacing them over here, ---

24 Q. Okay.

25 A. --- on the south side.

1 Q. Did you ever come up to any of those doors and
2 find them open?

3 A. Yes, sir.

4 Q. Do you know why they were open?

5 A. I don't know. Now, one set, unless the air was
6 against it or it was working properly, it may fall
7 open, you know, because the air wasn't against it.

8 Q. Sure. Uh-huh (yes). So you ever close one of
9 those doors and have them come back open on you?

10 A. Yes, sir.

11 Q. Why do you think they did that?

12 A. Just the way they were constructed right there,
13 the pressure wasn't on them.

14 Q. Did any of these doors have ropes or chains or
15 anything like that to try to fasten them shut?

16 A. Not that I know of.

17 Q. Okay.

18 A. And I do think that if I came up on the doors ---
19 because like I say, I was usually the first one in the
20 mine up to this point. If there was a problem, I
21 would call out to one of the chiefs and usually they
22 would come and try to fix it up pretty quick.

23 Q. Now, these were blowing fans down here in the
24 south, weren't they?

25 A. I believe so.

1 Q. Did you have doors where the --- where you went
2 into the portals or were they further on in?

3 A. Well, we could travel all the way. This is
4 probably 35 breaks up to this point where the doors
5 were.

6 Q. Okay. That's the south mains you call it?

7 A. Yes, sir. Or east mains.

8 Q. East mains?

9 A. We went up the east mains.

10 Q. Okay. What about these portals here?

11 A. Okay. Just inby, I think it's like 12, 13 Break
12 there was a set of airlock doors here.

13 Q. Okay. And what are these portals called; do you
14 recall?

15 A. We just called them UBB portals, I guess.

16 Q. Okay. And they're the portals that generally had
17 west or southwest to the UBB office?

18 A. Well, they went up the barrier section toward the
19 north.

20 Q. Well, the --- you have to take a right here ---

21 A. Uh-huh (yes).

22 Q. --- to go back up to the north. This map --- this
23 direction toward me is north.

24 A. Okay.

25 Q. So you had some doors. At other mines you worked

1 at, did they have as many doors ---

2 A. No, sir.

3 Q. --- as this mine did?

4 A. No, sir.

5 Q. What did they use instead?

6 A. Usually overcasts.

7 Q. Do you know why there's so many doors in this
8 mine? We've asked a ton of people that, and I still
9 haven't got a good answer.

10 A. I would say because it's cheaper than putting in
11 an overcast. That's my opinion.

12 Q. Okay. Did you spend a lot of time going through
13 those doors, opening, closing, waiting?

14 A. Every time you went through them, I mean ---.

15 Q. And do you still think they're cheaper than
16 overcasts?

17 A. Initially they would be. But in the long haul, I
18 don't know.

19 Q. Sure. Did you ever do more than one fire boss
20 examination during your shift?

21 A. Well, this would be a weekly at the same time, you
22 know.

23 Q. Okay. Did you ever have to catch a fire boss
24 examination from a previous shift if something
25 happened?

1 A. If something went down, we would have to go fire
2 boss it, sure.

3 Q. Okay. Do you have to examine any electrical
4 installations?

5 A. Yeah, power boxes.

6 Q. How many power boxes would you say you had?

7 A. Oh, let's see. Probably seven, something like
8 that.

9 Q. Seven fire boxes?

10 A. Five to seven.

11 Q. Did you have any distribution boxes along with
12 those?

13 A. Uh-huh (yes). Sometimes, yes, sir.

14 Q. About how many of those did you have?

15 A. Three or four.

16 Q. Okay. Did you have any --- you said you had some
17 pumps down in here. Do you have any compressors or
18 anything like that?

19 A. No, sir.

20 Q. Did you ever find any hazardous conditions on
21 these belts?

22 A. Yes, sir. Sure.

23 Q. Just in general, what sort of hazardous ---?

24 A. Well, it could be a bad roller. It could be a bad
25 crib or it could be a bad splice or ---.

1 Q. You said you didn't have much spillage?

2 A. Not too much, no, sir.

3 Q. Okay. If you fixed those hazardous conditions,
4 would you note them in your belt book?

5 A. Yes, sir.

6 Q. What if you couldn't fix them, how would you do
7 that?

8 A. If it was --- it would depend on what it was. If
9 it was bad enough, we would shut it down and I would
10 call and try to get me some help there and do it.

11 Q. Did you have some system --- let's say you had a
12 spill and you couldn't shovel it out by the end of the
13 shift, how would you pass that on to the next shift?
14 How would they know to come back in there and finish
15 it up?

16 A. Well, I would put it in the book, but usually we
17 got to talk to each other, ---

18 Q. Oh, okay.

19 A. --- so ---.

20 Q. Okay. Did you have a whiteboard or anything like
21 that?

22 A. A what?

23 Q. One of those whiteboards up on the wall?

24 A. Yes, sir.

25 Q. Did you put stuff on that?

1 A. I did, like you know, whatever the problem was,
2 whatever needed done right there.

3 Q. Okay. Sure. Did you have any sort of work orders
4 or maintenance forms that you had to fill out?

5 A. I didn't really --- I would go in the maintenance
6 room, in the office right there, and say I need this
7 or that and write it on the board for them
8 sometimes ---

9 Q. Okay.

10 A. --- or if there was a problem, you know.

11 Q. Okay. So they had a board that you ---

12 A. Yes, sir.

13 Q. --- put it on? Do you know who took care of the
14 mechanical or electrical type maintenance down there?

15 A. Usually, because I was dayshift, I would report it
16 to John Henline. John was the evening shift chief,
17 and he's a real good man and ---

18 Q. Sure.

19 A. --- we got along for years.

20 Q. And he'd direct the people to take care of it?

21 A. He would do his best.

22 Q. Okay. Did you ever have anything that you told
23 him about or listed that took several days to fix?

24 A. Sometimes.

25 Q. Did they do a good job of getting on the problem

1 and staying on the problem?

2 A. Sometimes.

3 Q. Sometimes?

4 A. Sometimes I think they thought things may have
5 been more important than I did or something, ---

6 Q. Sure. Yeah.

7 A. --- and I understand that.

8 Q. Sure. This is a big mine and a lot of stuff going
9 on. Did you ever have something that for some reason
10 you just couldn't get it done, you couldn't get the
11 resources to fix it?

12 A. This rock duster went down and the blower motor
13 went down on it, and it seemed like it took them a
14 long time to get it fixed. But outside of that, I
15 can't remember anything else.

16 Q. Okay. Sure.

17 ATTORNEY HAMPTON:

18 And just so that the record is clear,
19 you're pointing to the rock duster that is ---?

20 A. At One South Tail.

21 ATTORNEY HAMPTON:

22 Okay.

23 BY MR. SHERER:

24 Q. Did you have to fill out like a requisition or
25 anything like that?

1 A. No, I didn't. No.

2 Q. Do you think somebody else had to?

3 A. Not that I know of. I'm sure to order that part,
4 whatever it would be, blower motor or whatever, there
5 were requisition forms that they had to go through.

6 Q. Okay. But they eventually got the new motor?

7 A. Yes. Well, they brought in a new duster ---

8 Q. Oh, okay.

9 A. --- and then --- that's why I said there was a
10 difference here a while back, so ---.

11 Q. Oh, okay. So you got a brand new duster?

12 A. Yeah.

13 Q. Just generally, how long did that take from the
14 blower motor went out until you got that new duster?

15 A. Well, it seemed like it was a month.

16 Q. Okay. So they probably had to order it and get a
17 requisition approved and all that sort of stuff?

18 A. They had to find it, too, I would say.

19 Q. Oh, I'm sure there was a lot of ----.

20 A. And they did eventually come up with a motor for
21 it.

22 Q. Oh, okay.

23 A. It wasn't too much longer, so ---.

24 Q. Did they actually replace the motor?

25 A. Yes.

1 Q. And then you got a brand new trickle duster?

2 A. Yeah.

3 Q. Okay. What about the roof, rib and floor down in
4 this area?

5 A. It was usually pretty good, but now that's not to
6 say we didn't have to set sand jacks or timbers or
7 something like that, too, which we did.

8 Q. Was the roof starting to spall out in areas, ---

9 A. Sometimes.

10 Q. --- dribble out?

11 A. Yeah.

12 Q. Okay.

13 A. See, some of this area that I know of, which ---
14 along One South and One North had been there for 12,
15 13 years, so ---.

16 Q. Sure. What about the ribs, were they starting to
17 take much weight?

18 A. No, not down through here. Now, this side --- on
19 the One South belt, most of this is sandstone top.
20 This was really good top through here. And then the
21 farther you went towards the north, the top would
22 change.

23 Q. Was it getting shalier?

24 A. In places it was.

25 Q. Okay. Was there much --- any supplemental support

1 on the roof like mesh or ---

2 A. Yes.

3 Q. --- channels or ---?

4 A. They put the wire mesh up when they bolted it to
5 start with.

6 Q. Okay.

7 A. And then we come through --- I say we, us that
8 worked there, and we would put timbers or whatever we
9 needed.

10 Q. Okay. What about the floor, have you see any
11 floor heaving down through there?

12 A. I can't say that I really --- I've seen the floor
13 over here when we went out the south side over on the
14 hazy side, I saw it hooved pretty bad.

15 Q. Okay.

16 A. And this week I've seen it up in the north end
17 there, there was hooved placed.

18 Q. Sure. But in the south end, what was ---?

19 A. Generally not any hooving that I know of.

20 Q. Yeah. This is fairly shallow down in this area,
21 isn't it?

22 A. Uh-huh (yes).

23 Q. Okay. Did you have some eight-hour intervals set
24 up in this mine for fire boss runs or did each area
25 have different times they did the fire boss runs?

1 A. Yeah. We fire bossed it every eight hours or
2 so, ---

3 Q. Okay.

4 A. --- pre-shifted for the next shift and on-shift.

5 Q. Okay. And those were ---

6 A. Standard times.

7 Q. --- standard times?

8 A. Yeah.

9 Q. Do you recall what those times were?

10 A. Well, I started at 1:00, 1:00 p.m., and the
11 evening shift would start at 8:00, I think. The fire
12 bosses actually started at 6:00, 6:00 p.m. And I
13 think they started to run about 8:00. That way they
14 would be pre-shifting for the hoot owl. And then they
15 started at 3:00 or 3:30 for us.

16 Q. Okay. And you think that was the same times
17 throughout the mine?

18 A. It may have varied half an hour because I believe
19 they started a half hour earlier on the north side
20 than we did on the Ellis side, if you want to call it
21 that.

22 Q. I understand they staggered all the shifts' start
23 times here?

24 A. It was a little different, yes, sir.

25 Q. It must have been hard to keep up with?

1 A. Well, I just did what I was supposed to have done,
2 started when I was supposed to.

3 Q. So you put all the hazardous conditions down in
4 the belt books?

5 A. Yes, sir.

6 Q. What about something that you really didn't think
7 was a hazardous condition, but you still needed to do
8 something about it, would you jot that down like ---?

9 A. Yes, sir. There's a place, which you know as well
10 as I do, in the fire boss book that says it's not
11 necessarily a violation but something that needs
12 attention down toward the remarks, and I'd put ---
13 like when you see it's going to need rock dusted, it
14 may not be ---

15 Q. Sure.

16 A. --- exactly black, but let's go ahead and do it if
17 we can, that type of thing.

18 Q. Okay. Who did you report to? Who was your
19 supervisor?

20 A. My immediate supervisor was Rick Foster. He was
21 the mine foreman, and Gary May was the superintendent.

22 Q. Okay.

23 A. They were usually together, or it seemed like to
24 me when I got outside, so I talked to both of them.

25 Q. Any of them come down while you were working in

1 this area?

2 A. Yeah. I would see them pretty regularly.

3 Q. Did they ever --- when you were making a fire boss
4 run, did they ever go with you?

5 A. Berman Cornett, the safety director, had.

6 Q. Okay. When was that?

7 A. It's been a few months --- well, several months
8 now, I guess.

9 Q. Okay. What did he do when he went with you?

10 A. He just traveled with me, I guess, to make sure
11 that I was doing what I said I was doing.

12 Q. Okay. Sure.

13 A. And as a matter of fact, I think they traveled ---
14 there was two safety directors, Jim Walker and Berman
15 Cornett, and I think they traveled with all the fire
16 bosses to see what we were doing. And I know that
17 they went to the section, too, so ---.

18 Q. That was good. Was Berman okay with what you were
19 doing?

20 A. Well, he must have been or I would have probably
21 heard about it.

22 Q. There you go. Let's talk about the mine in
23 general. We've heard that there was as lot of
24 ventilation problems. We know we issued a lot of
25 paper. We issued a lot of orders. What did you think

1 about the mine ventilation?

2 A. Well, I know our --- this side was good.

3 Q. Sure.

4 A. That's all I know. And I hadn't been up, like I
5 say, to the north for a year.

6 Q. Okay. When the explosion occurred, was that a
7 surprise to you?

8 A. Yes, sir.

9 Q. What was the first thing you thought of once you
10 heard about the explosion?

11 A. Well, I was there. I had just got outside. I was
12 filling out the timesheet and we heard --- we heard
13 something. I didn't know what it was. And this
14 portal --- let me find it right here, this is the
15 track that we go in. This entry right here is the
16 return, and I could see things blowing out. And
17 really, I thought it was a fall to start with. I've
18 seen some major falls and I know what they're capable
19 of doing. And I just couldn't believe it was an
20 explosion.

21 Q. So you saw some dust coming out of the portal?

22 A. Yes, sir.

23 Q. Did you see some debris?

24 A. Debris. I don't know exactly what it would have
25 been.

1 Q. Muck and stuff?

2 A. Yeah, I would suppose.

3 Q. Did you see any crib blocks or half-headers coming
4 out?

5 A. There may have been a wedge or something like
6 that, but I was in the office.

7 Q. Oh, okay.

8 A. And it's to here, so you're talking a couple
9 hundred feet, whatever.

10 Q. Okay. So you saw stuff coming out of the portal,
11 thought it may have been a roof fall. When did you
12 --- were you told or you figured out that it was an
13 explosion?

14 A. It was probably about six o'clock or something
15 like that. It seems like it was six o'clock. We
16 still didn't know exactly what was going on. I know
17 that people were going in and things like that.

18 Q. Okay. Now, was the responsible person down in
19 this area?

20 A. At --- you mean like the one we put on the board
21 out there?

22 Q. Yeah.

23 A. It would have been Gary --- Rick Foster and Gary
24 May.

25 Q. Did you have any contact with them right after the

1 explosion?

2 A. Well, they both --- I think they both took off
3 going inside to see if it had been a fall or what the
4 problem was, ---

5 Q. Okay.

6 A. --- and I didn't see them for a little while.

7 Q. Okay. When you heard it was an explosion or you
8 figured out it was an explosion, did you think of
9 anything that it could have been?

10 A. Not really. It would have just been guessing. We
11 didn't know.

12 Q. Sure.

13 A. Which with Sago --- my first thought was maybe a
14 seal had done that because, you know, with Sago I'm
15 sure ---.

16 Q. That was our first thought, too. Well, did you
17 participate in the rescue and recovery effort?

18 A. No, sir. We were told to start monitoring these
19 portals. Droopy, which is my buddy, and Lacey Stewart
20 and Gene Martin and I got these portals right here.
21 We were just checking to see what we were going to
22 get. And then the section boss is over. I think Jack
23 Martin, Brandon Davis, I think Jack, were over here,
24 and they wanted to monitor these portals.

25 Q. So you monitored these portals and the section

1 bosses monitored, I guess, the western portals?

2 A. Yes.

3 Q. Did anybody pick up any CO ---

4 A. No, I didn't.

5 Q. --- that you know of?

6 A. We wrote down the reading and everything we got.

7 We took them every 15 minutes, ---

8 Q. Sure.

9 A. --- and I gave them to Gary that night. It was
10 after midnight.

11 Q. How long did you stay at the mine that night?

12 A. I was there until after midnight.

13 Q. Okay. Did you go back to work ---?

14 A. I worked, excuse me, about 19 hours that day.

15 Q. Oh, sure. That's terrible. A long day for
16 everybody involved.

17 A. Yes, sir.

18 Q. Did you go back up after that night?

19 A. No, I didn't go back to work because we didn't
20 know what was going on or anything like that. And
21 Gary said, well, I'll just call you.

22 Q. Sure.

23 A. And then I got a call on Sunday, I think it was
24 Sunday, and I think I started back to work Monday, the
25 next Monday.

1 Q. Okay. Do you ever know when MSHA or State
2 inspectors were on the property prior to them actually
3 walking up to you?

4 A. Yes, sir. Sure.

5 Q. Was that called in the mines?

6 A. Uh-huh (yes). We usually knew if somebody was
7 there.

8 Q. Okay.

9 A. Or I did. Let's put it that way.

10 Q. Sure. While you were working down here in the
11 southern part of the mine, were there any major
12 ventilation changes that you're aware of?

13 A. I knew that they had made some changes up north
14 because I had started at --- maybe twice. I know once
15 I had started a fire boss run, and I got to right
16 here, to east main, and I met George Curry, and he
17 said, we've got to stop right now. They're going to
18 make an air change. And they thought it was just
19 going to take a few minutes, but it ended up taking a
20 few hours, I think.

21 Q. Sure.

22 A. So then we had to stop. I think we were
23 withdrawn. We were. And then later on we came back
24 in and pre-shifted again.

25 Q. Oh, okay. Did you ever hear of mining taking

1 place without ventilation curtains?

2 A. I know that it's happened. I don't know about
3 this place, but I've been around.

4 Q. Okay. Sure. Have you ever seen it at this mine?

5 A. Usually the curtain was upright every time I was
6 up there.

7 Q. Usually.

8 A. I'm not saying maybe years ago that I didn't see
9 the curtains back. But I'm not usually up in the
10 faces, so I just don't know.

11 Q. Okay. Did you ever hear of anybody messing with a
12 methane monitor on a machine?

13 A. I've been reading that in the paper, but I don't
14 know anything about that.

15 Q. Okay.

16 A. And I really didn't believe it would happen.

17 Q. Okay. Never heard anybody talk about it?

18 A. No, sir.

19 Q. Did you ever call any of the 1-800 numbers?

20 A. No, sir.

21 Q. Ever know anybody that did?

22 A. Not that I know of.

23 Q. What would you do if you had a problem or a safety
24 concern at this mine, would you --- did you feel
25 comfortable talking to upper mine management about

1 things like that?

2 A. Yes, sir, I did.

3 Q. Were they receptive?

4 A. Yes, sir.

5 Q. Okay.

6 A. And if I thought it was serious enough, I'd shut
7 it down right then. And there were usually --- of
8 course, they asked questions why or what, ---

9 Q. Sure.

10 A. --- and I don't blame them for that, but I never
11 had no problem with them.

12 Q. Okay. Thank you.

13 A. You've been doing the pre-shift runs up on the
14 north end of the mine. Is that the first time you
15 spent much time up there?

16 A. Yes, sir. Like I said, that's the first time I've
17 been up in there for about a year.

18 Q. Okay. How are the conditions in the north end
19 versus the south end? I realize there's been an
20 explosion up there, but just in general, does the mine
21 look like about the same mine or does it look
22 like ---?

23 A. No. This side --- this area you have a lot better
24 top. It's a lot lower. The north is always higher.
25 It's not necessarily the coal that makes the

1 difference. It's the rock, the middle man, ---

2 Q. Okay.

3 A. --- that makes the difference right there.

4 Q. Okay. Anything else that's different that you
5 know of?

6 A. No. I don't know what you mean really.

7 Q. Well, just things you noticed. Are the ribs about
8 the same?

9 A. No. These ribs will slough off more ---

10 Q. Okay.

11 A. --- because it's higher and ---.

12 Q. Okay. Now, you've mentioned that the --- in the
13 southern part of the mine, the further north you went
14 the worse the roof got as far as ---.

15 A. Well, I won't say worst. Some areas were, you
16 know, as pretty as you could find, but then others
17 were not ---

18 Q. Okay.

19 A. --- had some bad top.

20 Q. What about the last --- we understand that the
21 mine was down for a long weekend. That was Easter
22 weekend.

23 A. Yes, sir.

24 Q. You mentioned that you were at the mine when the
25 explosion occurred. I guess you were finishing your

1 shift up?

2 A. Yes, sir.

3 Q. What was the previous shift that you had worked
4 prior to that?

5 A. That would have been Thursday. I was off Good
6 Friday, Saturday and Sunday because it was Easter.

7 Q. Okay. And did you work that entire week prior up
8 to Thursday?

9 A. Yes, sir.

10 Q. Okay. In that roughly week time span before the
11 explosion, did you notice anything different?

12 A. No, sir.

13 Q. Okay. The air was about the same?

14 A. Everything was about the same. Readings were
15 about the same.

16 Q. Okay. Did you hear anything different?

17 A. No, sir.

18 Q. Did you hear about any problems up, say, on the
19 longwall?

20 A. I didn't hear it that day. I heard it later on
21 that they had some air problems up there.

22 Q. Okay. Anything specific or just general problems?

23 A. Just general problems. I don't remember what they
24 said. Just air problems. And I don't even remember
25 who told me now.

1 Q. Okay. Sure. What about methane, did you hear
2 about any methane up there?

3 A. I just don't know anything about it.

4 Q. Okay. Sure. What about water, did you hear of
5 any major problems with water up there?

6 A. Just that it was in behind the wall. I knew that
7 they had problems. I didn't know what kind of
8 problems or what it was.

9 Q. Okay. Now, the shift that you worked right before
10 the explosion, did you notice anything different?

11 A. No, sir, I didn't.

12 Q. Did anybody say anything that seemed unusual?

13 A. No, sir, ---

14 Q. Okay.

15 A. --- not to me.

16 Q. Did you smell anything that was different?

17 A. No, sir.

18 Q. Okay. Did you notice anybody at the mine that you
19 normally didn't see up there on that shift?

20 A. No.

21 Q. Okay. Did you hear anything over the mine phone
22 that seemed different?

23 A. No.

24 Q. It was just a normal day?

25 A. Just a normal day. The day started off --- we had

1 an inspector, John, and I can't remember his last ---
2 he's a Federal man, and I took him and Rick Foster up
3 to the barrier section.

4 Q. Okay.

5 A. And then I think later on that day we had a couple
6 of State men there, or one anyway, but I didn't even
7 know he was there, so ---.

8 Q. Do you know where he went, the State gentleman?

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

10 Q. I know this is asking you basically to make a
11 guess. What's your best guess that caused this
12 explosion?

13 A. I believe that there was a crack or --- in the
14 bottom or the top that just let the methane in.

15 Q. Okay.

16 A. Now, I know those guys on Headgate 22, and I've
17 worked with those guys for 11 years, ---

18 Q. Sure.

19 A. --- and they did things right. And then I know
20 those --- I know about all of them up on the longwall.
21 They all carried detectors just like I did. This
22 stuff is not going to sneak up on you. I mean, it's
23 going to happen all at once. It's going to happen
24 like that.

25 Q. Now, you mentioned a crack. Are you familiar with

1 any methane inundations or feeders in this mine?

2 A. No, sir. Now, I remember back a few years ago, it
3 seemed like maybe five years ago, on the wall there
4 was some gas buildup, and I believe it was through a
5 crack.

6 Q. Okay. Did you go up there when they were having
7 problems?

8 A. I went up there, but it was --- I had to monitor a
9 certain place. And I'm just guessing. I think I was
10 around Headgate 11. And then we just kept checking
11 and they kept adjusting or whatever and made their air
12 change or whatever they did and ---.

13 Q. Now, when you were monitoring that gas, what sort
14 of readings, roughly, did you get?

15 A. That's been a long time. I don't remember. But I
16 know our --- we took air readings. And of course, we
17 had monitors, but I don't remember what they were.

18 Q. Okay. Do you recall after that incident, did
19 anything change that you know of?

20 A. No, sir, not that I know of.

21 MR. SHERER:

22 I thank you. That's all the questions
23 I've got.

24 ATTORNEY HARDY:

25 May we take a quick break?

1 MR. SHERER:

2 Sure.

3 MR. FARLEY:

4 Of course.

5 SHORT BREAK TAKEN

6 EXAMINATION

7 BY MR. FARLEY:

8 Q. Erik was very thorough, so I'm going to try not to
9 be redundant, but I need to clarify a few things, so
10 just bear with me. Was your shift 6:00 a.m. to 6:00
11 p.m.?

12 A. No. I worked 6:00 to 4:00.

13 Q. 6:00 a.m. to 4:00?

14 A. That was a regular shift for me.

15 Q. Okay. Did some of the belt men and fire bosses do
16 6:00 to 6:00 or some of them a different schedule?

17 A. Some of them had a different schedule, yes.

18 Q. Okay. Now, were you an hourly employee?

19 A. Yes, sir.

20 Q. Were you considered a supervisor?

21 A. No, sir.

22 Q. Has that changed since April 5th?

23 A. No, sir.

24 Q. Okay. You indicated that it's been about ten
25 years since you had actually been a section boss.

1 A. Well, I just filled in then. I didn't --- you
2 know, I wasn't the regular boss or anything like that.

3 Q. Okay. All right. And you said more than once
4 that you hadn't been to the north area of the mine in
5 a year. Can you be more specific here? Let me ask it
6 this way. Do you recall the last time you would
7 have --- prior to April 5th, do you recall the last
8 time you would have traveled inby the Ellis Switch?

9 A. It was probably in January, I think, and that
10 would have been the only time when I went to that
11 seal. Remember I told you that ---

12 Q. Okay.

13 A. --- I went to fix that fitting. That's the only
14 time.

15 Q. Okay. When was the last time you would have
16 traveled inby the 78 Switch?

17 A. It would have been before May the 11th of '09.

18 Q. So obviously you had never --- prior to April 5th,
19 you had never been to the existing longwall, ---

20 A. No.

21 Q. --- Headgate 22 or Tailgate 22? Okay. Do you
22 have any longwall production experience ---

23 A. Yes, sir.

24 Q. --- during your career?

25 A. I bossed on the longwall. I worked at Bolt for

1 Pittston back in the early '80s. And well, I left
2 there in '83, I believe.

3 Q. Okay. And did you ever have any longwall
4 production experience with Massey?

5 A. No, sir.

6 Q. Okay. Has longwall production changed any great
7 extent since the time you were a longwall production
8 foreman?

9 A. Well, we had a German plow and --- of course,
10 there's still some of them around, I understand, but
11 this was a shearer. They're a Joy shearer, so it's
12 similar but totally different.

13 Q. Okay. All right. Now, you referred to an event
14 roughly five years ago where there had been a methane
15 inundation on the longwall panel at UBB.

16 A. Well, can I say ---

17 Q. Sure.

18 A. --- that I'm not for sure if it was methane or an
19 air problem, but anyway, I had to go up there. I
20 don't remember which it was.

21 Q. Okay. Was it a situation where the longwall was
22 idle ---

23 A. It was shut down, yes, sir.

24 Q. --- as a result of the event?

25 A. Yes, sir.

1 Q. Okay. Do you recall how long that would have
2 been?

3 A. Maybe a shift, maybe two.

4 Q. Okay. Could that have been in 2004?

5 A. It could have been, yes, sir.

6 Q. Okay. During your time at UBB, particularly in
7 the last couple of years, have you personally been
8 involved in any major equipment moves where mining
9 equipment, such as continuous miners, roof bolters,
10 shuttle cars, et cetera, were transported into or out
11 of the mine at any time?

12 A. You mean did I help move them?

13 Q. Yes.

14 A. No, sir.

15 Q. Did you observe any such moves?

16 A. I may have been traveling and came up on it and
17 maybe helped them, you know, a few minutes or
18 something like that, but ---.

19 Q. Do you recall the last time you would have
20 encountered a major equipment move?

21 A. No, sir.

22 Q. Now, since April 5th, as I understand it, your
23 duties included fire bossing the mine or pre-shifting
24 the mine daily in advance of the investigating teams;
25 is that correct?

1 A. Yes, sir, that's what I've been doing for about a
2 month.

3 Q. Traveling with the inspectors. Now, if I
4 understood you correctly, you indicated that you've
5 been --- now been to the 22 Tailgate and 22 Headgate
6 sections; is that correct?

7 A. Yes, sir.

8 Q. Have you traveled all the way to the faces on
9 those sections?

10 A. No, sir. There's water up there. I've went to
11 the water --- or where I could see there was water and
12 stopped there.

13 Q. All right. So you did not crawl up the belt or
14 wade the water or anything to go inby?

15 A. Now, to go up into Headgate 22, you have to get up
16 on the belt and maybe walk the waterline a break or
17 something like that just to stay out of the water.

18 Q. Okay.

19 A. But it's plenty high right there. I mean, it's no
20 problem to do that.

21 Q. But have you traveled to the faces on Headgate 22?

22 A. As far as I could go.

23 Q. Okay. To the water?

24 A. Yes.

25 Q. Okay.

1 A. And what I understand, I'm probably three breaks
2 back from the face of Headgate 22 because the mine
3 rescue told me --- I don't know why. We were just
4 talking and he said it was 31 breaks. I never did
5 count them. And I did count up to where the date
6 board was, and I think it's at Break 25, so --- and I
7 can go a little farther than that.

8 Q. Did you make it as far as the section belt
9 tailpiece?

10 A. About two weeks ago I could see it. I was about a
11 break from it because of the water. And I did see it.
12 I could see the feeder. I could make that out at that
13 time. The feeder was back and the tailpiece was
14 pushed forward --- well, I know the explosion did it,
15 you know, brought it down and the belt is all balled
16 up.

17 Q. When you say pushed forward, do you mean it was
18 moved in an outby direction?

19 A. Outby, yes, sir. But because of the water, I
20 couldn't tell exactly where everything was.

21 Q. Sure. Sure. Bear with me for just one moment.
22 Earlier I think you said that since the explosion on
23 April 5th, that you had heard of an air problem on the
24 longwall. What was the nature of the air problem?

25 A. When I came back that next week after the April

1 5th week, that Monday, we started --- or I did, and
2 there was a fellow who traveled with me, I think Timmy
3 Williams was his name, and he had heard that they had
4 some air problems up there and he was just telling me
5 about it. Now, what they were, I don't know. I don't
6 know that he knew.

7 Q. Okay. He didn't specify?

8 A. No.

9 Q. Okay.

10 ATTORNEY HAMPTON:

11 Okay. On behalf of MSHA and the Office
12 of Miners' Health, Safety and Training, we'd like to
13 thank you for appearing and answering our questions
14 today. Your cooperation is very important to the
15 investigation as we work to determine the cause of the
16 accident. We do request that you not discuss your
17 testimony with any person aside from your personal
18 representative, as I mentioned earlier.

19 After questioning witnesses, we may call
20 you if we have any follow-up questions. And if you
21 can think of any additional information or anything
22 else that you think that the team should know in
23 trying to determine what happened, please do contact
24 Norm Page at the telephone number or the e-mail
25 address given to you in the letter that was sent to

1 your home.

2 Now, if you wish, you may go back over

3 any of the answers that you've given to us or if you

4 have any other information that you think is

5 important, you can tell us now. Is there anything

6 else you'd like to say?

7 A. No, ma'am.

8 ATTORNEY HAMPTON:

9 Okay. That's fine. Again, we'd like to

10 thank you for your cooperation.

11 A. You're welcome.

12 ATTORNEY HAMPTON:

13 Off the record.

14 * * * * *

15 STATEMENT UNDER OATH CONCLUDED AT 9:30 A.M.

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CERTIFICATE

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



Alison Salyards