



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of George Curry

Date: July 21, 2010

Case:

Printed On: July 26, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
GEORGE CURRY

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 and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, July 21, 2010, beginning at 12:48 p.m.

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

A P P E A R A N C E 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

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

JOHN O'BRIEN
Safety Inspector
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

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

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

I N D E X

1		
2	OPENING STATEMENT	
3	By Attorney Babington	6 - 11
4	STATEMENT	
5	By Mr. Farley	11
6	WITNESS: GEORGE CURRY	
7	EXAMINATION	
8	By Mr. Sherer	12 - 70
9	EXAMINATION	
10	By Mr. Farley	70 - 74
11	RE-EXAMINATION	
12	By Mr. Sherer	75 - 78
13	EXAMINATION	
14	By Attorney Babington	79
15	RE-EXAMINATION	
16	By Mr. Farley	79 - 80
17	RE-EXAMINATION	
18	By Attorney Babington	80
19	RE-EXAMINATION	
20	By Mr. Farley	80 - 81
21	RE-EXAMINATION	
22	By Mr. Sherer	81 - 83
23	CLOSING STATEMENT	
24	By Attorney Babington	84 - 85
25	CERTIFICATE	86

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

EXHIBIT PAGE

PAGE

NUMBER	DESCRIPTION	IDENTIFIED
One	Portal Map	83*
Two	Ellis Portal Map	84*
Three	Bandytown Fan Map	84*

* Exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is July 21st, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. 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. I ask that they state their appearance for the record.

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 several members of the investigation team also present in the room today. Erik Sherer will be conducting initial questioning. All members of the Mine Safety Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big

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

15 Government investigators and specialists

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

24 You may have your personal attorney

25 present during the taking of this statement, or

1 another personal representative if MSHA has permitted
2 it, and you may consult with your attorney or
3 representative at any time. Your statement is
4 completely voluntary. You may refuse to answer any
5 question and you may terminate your interview at any
6 time or request a break at any time. We also have
7 bottles of water available if you would like one of
8 those.

9 For the record, do you have a personal
10 representative with you today?

11 MR. CURRY:

12 No, sir.

13 ATTORNEY BABINGTON:

14 All right. And you've been advised of
15 your right to have counsel?

16 MR. CURRY:

17 Yes, sir.

18 ATTORNEY BABINGTON:

19 Okay. And you still agree to do the
20 interview?

21 MR. CURRY:

22 Yes, sir.

23 ATTORNEY BABINGTON:

24 Your identity and the content of this
25 conversation will be made public at the conclusion of

1 the interview process and may be included in the
2 public report of the accident unless you request that
3 your identity remain confidential or your information
4 would otherwise jeopardize a potential criminal
5 investigation. If you request us to keep your
6 identity confidential, we will do so to the extent
7 permitted by the law. That means that if a judge
8 orders us to reveal your name or if another law
9 requires us to reveal your name or if we need to
10 reveal your name for other law enforcement purposes,
11 we may do so.

12 Also, there may be a need to use the
13 information you provide to us or other information we
14 may ask you to provide in the future in other
15 investigations into and hearings about the explosion.

16 Do you understand?

17 MR. CURRY:

18 Yes, sir.

19 ATTORNEY BABINGTON:

20 Do you have any questions?

21 MR. CURRY:

22 No, sir.

23 ATTORNEY BABINGTON:

24 After the investigation is complete, MSHA

25 will issue a public report detailing the nature and

1 causes of the fatalities in the hope that greater
2 awareness about the causes of accidents can reduce
3 their occurrence in the future. Information obtained
4 through witness interviews is frequently included in
5 these reports. Since we will be interviewing other
6 individuals, we request that you not discuss your
7 testimony with any person aside from a personal
8 representative of counsel.

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

15 I'd like to thank you in advance for your
16 appearance here. We appreciate your assistance in
17 this investigation. Your cooperation is critical in
18 making the nation's mines safer.

19 After we've finished asking questions,
20 you'll have an opportunity to make a statement,
21 provide us with any other information that you believe
22 is important. If at any time after the interview you
23 recall any additional information that you believe
24 might be useful, please contact any of us or Norman
25 Page at the contact information previously provided.

1 Finally, any statements given by miner
2 witnesses to MSHA are considered to be an exercise of
3 statutory rights and protected activity under Section
4 105(c) of the Mine Act. If you believe any discharge,
5 discrimination or other adverse action is taken
6 against you as a result of your cooperation with this
7 investigation, you're encouraged to immediately
8 contact MSHA and file a complaint under Section 105(c)
9 of the Act. Terry?

10 MR. FARLEY:

11 Mr. Curry, on behalf of the Office of
12 Miners' Health, Safety and Training I'd like to advise
13 you that the West Virginia Mine Health and Safety
14 Regulations also provide protection against potential
15 discrimination for participating in these type of
16 interviews. I want to pass along some contact
17 information for the West Virginia Board of Appeals,
18 which hears complaints regarding discrimination, along
19 with my business card and phone number for Mr. Bill
20 Tucker, who's our lead underground investigator.

21 And should you have any problems, I want
22 you to feel free to give us a call. We would caution
23 you that should you have a problem with some type of
24 discrimination, you should file a complaint within 30
25 days of the time the event occurs. All right.

1 -----

2 GEORGE CURRY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
3 AS FOLLOWS:

4 -----

5 EXAMINATION

6 BY MR. SHERER:

7 Q. First of all, I want to thank you for coming down
8 this afternoon. Would you please state your name for
9 the record?

10 A. George Curry.

11 Q. What's your address?

12 A. [REDACTED] .

13 Q. Okay. What's your telephone number, please?

14 A. [REDACTED] .

15 Q. Okay. Are you appearing here voluntarily, Mr.
16 Curry?

17 A. Yes.

18 Q. Has anyone else interviewed you concerning the
19 accident?

20 A. No, sir.

21 Q. Have you spoken with any attorneys from the
22 company?

23 A. Yes, I've had to speak with the lawyers from the
24 company. They interviewed me before.

25 Q. Okay. About when did that take place?

1 A. Three weeks, maybe, after the explosion.

2 Q. Okay. Do you recall where that was at?

3 A. At the mine office.

4 Q. At UBB's mine office?

5 A. Yes, sir.

6 Q. Okay. Where are you currently employed?

7 A. At UBB at ---.

8 Q. Okay.

9 A. --- Performance Coal.

10 Q. Okay. How long have you been in the mining
11 industry, roughly?

12 A. Okay. I got started in '71, laid off in '87, out
13 for 20 years, started in --- again in May of 2007 to
14 the present date.

15 Q. Okay. Where'd you go to work in 2007?

16 A. At UBB as a dispatcher.

17 Q. Okay. So you've been at UBB since 2007?

18 A. I was at the Shumate Mine from August to January
19 of 2008.

20 Q. Okay.

21 A. I got laid off, got laid off on Friday, hired back
22 on Monday.

23 Q. That's good. And you mentioned you were initially
24 hired in as a dispatcher.

25 A. Yes, sir.

1 Q. How long did you do that, please?

2 A. A year and a half, maybe, about.

3 Q. How long have you been fire bossing?

4 A. Two years.

5 Q. Tow years; okay. Have you done anything else in
6 between?

7 A. No, sir.

8 Q. Okay. Now, you mentioned that you fire bossed in
9 the southern portion of the mine. Could I ask you to
10 take a marker on this map? This is the 1 to 200 scale
11 map that shows the UBB Portals, and just highlight the
12 belts that you were responsible for.

13 A. All right. It would've been the Three section
14 belt.

15 Q. That would be ---?

16 A. This one. And then I went back onto One North
17 somewhere. Where's the ---?

18 Q. Here's the portals.

19 A. Okay. It was right in here somewhere. I went to
20 the barrier section.

21 Q. Okay. And the barrier section is right up here?

22 A. Yes, sir, approximately from right about here ---

23 Q. Okay.

24 A. --- on up to here.

25 Q. Okay.

1 A. In this area.

2 Q. Okay. Would you just highlight this belt, then?

3 WITNESS COMPLIES

4 MR. SHERER:

5 Okay. And for the record, Mr. Curry
6 highlighted in pink the two portions of belts that he
7 was responsible for, the Three section belt, a portion
8 of the North --- Number One North belt and ---

9 BY MR. SHERER:

10 Q. --- what'd you call this?

11 A. Two North.

12 MR. SHERER:

13 Two North, a portion of the two North
14 belt.

15 BY MR. SHERER:

16 Q. Or this is all the Two North belt?

17 A. Well, that's all of the Two North right there.

18 Q. Okay. Were you responsible ---

19 A. Oh.

20 Q. --- for the section?

21 A. Yes, sir. Yes, sir, I'm sorry. Well, wherever
22 the tailpiece was.

23 Q. Yeah, sure.

24 MR. SHERER:

25 And he also highlighted the section belt

1 going into the barrier section.

2 A. Yes, sir.

3 BY MR. SHERER:

4 Q. Okay. What else did you have to do in this
5 portion of the mine? Did you have any pumps?

6 A. Well, I had to walk the return airways off the 04
7 section.

8 Q. Okay. Can I get you to take a different color
9 marker and highlight those returns you had to walk?
10 That was weekly, wasn't it?

11 A. Yes, sir. This is going to take a while here.

12 Q. Okay. And just approximate's good enough for
13 this.

14 WITNESS COMPLIES

15 MR. SHERER:

16 Okay. And Mr. Curry has highlighted with
17 a blue marker the ---.

18 BY MR. SHERER:

19 Q. What'd you call this, old section Number Four?

20 A. Well, coming up the track, this would've been Four
21 left.

22 Q. Okay.

23 A. And this would've been Four right.

24 Q. Okay.

25 A. The return airways of both left and right.

1 Q. Okay. And you basically ---? You probably walked
2 the outline of --- the outside of this?

3 A. Yes, sir, the outside parameter ---

4 Q. Okay.

5 A. --- before I left.

6 Q. Yeah, sure. Anything else that you had to take
7 care of down here?

8 A. On this end I had the walk the intake airway to
9 Four --- the Four section when it was in operation.

10 Q. Okay. And then this thing, the Four section mined
11 out when, about several months ago?

12 A. Yes, sir, about January the 31st, maybe.

13 Q. Okay. Well, we don't have to worry about that,
14 then. Did you take care of any pumps down here?

15 A. No, sir, not in this area.

16 Q. Okay. Did you take care of any pumps anywhere?

17 A. Yes, sir.

18 Q. Where were they?

19 A. It would've been back up ---.

20 Q. North of here?

21 A. On the north side.

22 Q. Okay.

23 A. My job just in the title one area, I wound up
24 working, walking the seals all the way up to 75 Break
25 North Mains, then fire bossed the power centers and

1 pumps on the main line and then the pumps and power
2 centers on LBB.

3 Q. Oh, okay.

4 A. So I just went from one place to the other.

5 Q. You had a lot of area to cover. Tell you what, on
6 this northern part of the map, if you would, please,
7 just kind of tell us all you had to do up here and
8 mark it out.

9 A. The seals was basically my main thing.

10 Q. Okay. So we have sets of seals at the ---.

11 A. Yes, sir. I checked the gas --- seals that had
12 the gas checks in them.

13 Q. Okay.

14 Q. And then all the way up to, like I say, 75 Break,
15 North Mains.

16 Q. Okay. Now, we'll have that on this map that's
17 underneath here. It'd be over there, actually.

18 A. Right there would've been my last set, set 15.

19 Q. Okay. Can I get you to just take a marker and
20 mark all the seals you had to make?

21 WITNESS COMPLIES

22 BY MR. SHERER:

23 Q. Here's 13. There's a portion of this ---.

24 A. Missing.

25 Q. Yeah, it's missing here.

1 A. Forty-three (43) Break is where I stopped at. I
2 forgot what the seal number was.

3 Q. Actually, I think there's a map under here. Wait.
4 Okay. Yeah. Let's use this. That's probably a
5 little better for you.

6 A. Right there.

7 Q. Okay. And can I get you to mark these here?
8 Well, we'll just use this map.

9 A. Okay.

10 ATTORNEY BABINGTON:

11 Mr. Curry, did you mark the Bandytown fan
12 map?

13 MR. SHERER:

14 Yes, he did.

15 ATTORNEY BABINGTON:

16 Okay.

17 MR. SHERER:

18 But we won't use that. We won't enter
19 that into evidence. We'll just use these two maps.

20 ATTORNEY BABINGTON:

21 Is that fine with State?

22 MR. FARLEY:

23 Sure.

24 BY MR. SHERER:

25 Q. Okay. Now, while you're on this map, and you

1 mentioned several other things you had to checked up
2 here, some pumps, some power centers.

3 A. That was mainly on the main line over here.

4 Q. Oh, okay. Is there anything else on these north
5 mains?

6 A. No, sir.

7 Q. Okay. These maps do overlap a little bit.

8 A. Okay. I went to that one.

9 Q. Here's seal set 15 right here.

10 A. Okay. I'm trying to see where I was at. Okay,
11 down here. Yeah, that's one set.

12 Q. Did you check these set of seals? It would be
13 just south of the barrier section.

14 A. Yeah.

15 Q. Okay.

16 A. No. Okay. And I got these up here.

17 Q. Okay.

18 MR. SHERER:

19 Okay. And Mr. Curry has marked several
20 sets of seals with an orange marker.

21 BY MR. SHERER:

22 Q. What else did you have to check up through there?

23 A. On the mine line --- let's see. Where's LBB at?

24 Q. LBB is here. This has been referred to as LBB.

25 A. Okay. We had power centers across and pumps,

1 locations up through here.

2 Q. Okay. Tell you what, do you remember how many
3 power centers and pumps you had?

4 A. Two pumps and two power centers.

5 Q. Okay. That's good enough. And that was in the
6 LBB entries?

7 A. Yes, sir.

8 Q. How about on these main lines here? Did you have
9 any ---?

10 A. All right. On the main line there was about one
11 pump at 77, 77 Break. There was another pump further
12 back down, but I forgot what the break was.

13 Q. What was in there (indicating)?

14 A. Let me see. Now, where was the portal at?

15 Q. Right here.

16 A. Okay. The pump was right in here somewhere.

17 Q. Okay. So just south of the UBB Portals, ---

18 A. Yes, sir.

19 Q. --- the entries going to the UB Portals on the ---
20 what do you call that, the North, Northeast Mains?

21 A. I call it the Four section track.

22 Q. Okay. Four section track. Okay. So you had two
23 pumps, one there.

24 A. One pump here and one up at 77 Break ---

25 Q. Okay.

1 A. --- on the main line.

2 Q. Okay. You have any power centers down through
3 here?

4 A. Yes, sir, on the --- I forgot what break it was.
5 As soon as you made the turn, it would've been right
6 in here somewhere.

7 Q. Okay.

8 A. That was a power center. And the next power
9 center would've been at the LBB, almost at the LBB
10 switch.

11 Q. Okay. So the two power centers and a --- what'd
12 you call this?

13 A. I call it the main line.

14 Q. Two power centers and the main line, okay.
15 Any ---?

16 A. I'm sorry, sir. At 78 and 79 Break there was two
17 power centers.

18 Q. Okay. So four --- were there four power centers
19 in the main line?

20 A. Yes, sir.

21 Q. Okay. So you also checked, what, four pumps and
22 six power centers?

23 A. Yes, sir, in that approximate.

24 Q. Okay. Anything else you had to check? Any other
25 electrical installations?

1 A. No, sir, I didn't have much to do with that. I
2 just remember those power centers. Four North at the
3 time was taken care of by the other fire bosses. No,
4 sir.

5 Q. Okay.

6 A. Might very well have been, but I forgot.

7 Q. Sure, okay. Well, that seems like a fair amount
8 to do. Let's talk about your typical shift. What
9 time would you show up?

10 A. 6:00. Six o'clock was starting time.

11 Q. Six o'clock in the afternoon, six o'clock in
12 the ---?

13 A. Morning.

14 Q. Okay, six o'clock in the morning. So you're on
15 dayshift?

16 A. Yes, sir.

17 Q. Okay. What's the first thing you do?

18 A. All right. The days I walked the return, Jim
19 Bowyer and I would get together and he'd give me a
20 ride to the One South tail. I would go up the One
21 North down to the overcast, come over into the return
22 airway and walk that airway, and that was
23 approximately three hours.

24 Q. Okay. And that's the old Four, left old Four
25 section?

1 A. No, the whole thing, left and right.

2 Q. Okay.

3 A. I walked both of them ---

4 Q. Okay.

5 A. --- at the same time.

6 Q. Okay.

7 A. And I came out, ate, and then I would --- had to

8 do the P.M. on the silo. What belt head was that?

9 The belt head, last belt head in the mines before it
10 went outside ---

11 Q. Okay.

12 A. --- that we'd grease and do, like I said, do the
13 P.M. on that.

14 Q. Okay. And by P.M. you're ---

15 A. We're talking maintenance.

16 Q. --- talking preventative maintenance; okay. What
17 else did you do?

18 A. All right. After that it would be close to start
19 doing the afternoon fire boss run.

20 Q. Okay.

21 A. Jim would give me a ride to the Three section's
22 tail. And I generally had to wait until about one
23 o'clock before I could start my fire boss run. I
24 would go up that. Jim would give me a ride up here
25 and then I would go to what we call the --- oh, gosh.

1 There was a switch right there before --- the 04
2 section switch. I parked the ride there. Then I
3 would walk that belt.

4 Q. Is that the Plumley switch?

5 A. The Plumley switch, yes, sir.

6 Q. Okay.

7 A. I would leave the ride there. I would walk this
8 belt line come back out on the track, and there was a
9 power center up there that I would wait at 52 Break.
10 And well, I checked it, too, sorry.

11 Q. Okay. So there's another power center?

12 A. Yes, sir, there was another one.

13 Q. Okay.

14 A. As I go along I --- the light comes on.

15 Q. Sure. No problem.

16 A. But I would either catch a ride with Harley as he
17 came off the North Mains in as he checked his seals,
18 or Jim would come up and pick me up and then it'd be
19 quitting time by that time.

20 Q. Okay. What time would you try to start that
21 afternoon fire boss run, just in general?

22 A. About one o'clock.

23 Q. About one o'clock. And you say that took pretty
24 much the rest of the shift?

25 A. Yes, sir.

1 Q. About what time did you generally end the shift?

2 A. My quitting time was three o'clock.

3 Q. Okay. So about two hours to do your ---

4 A. Yes, sir.

5 Q. --- fire boss run? Now, on that day you spent
6 most of your time checking the 04 section. Were you
7 also responsible for the maintenance on these belts?

8 A. No, sir.

9 Q. Okay. Who did that?

10 A. I don't know who had that upper end. Jim had this
11 end and I had the Three section belt and the last belt
12 head to the outside of ---

13 Q. Okay.

14 A. --- well, it'd be the One South belt head.

15 Q. Okay. So you did the One South belt head. Now, I
16 understand that the Three section worked out a couple
17 months ago?

18 A. Well, they were still working the day I left.

19 Q. Oh, okay.

20 A. They still had equipment up there. If something
21 should've happened up on one of the other sections,
22 they would go back up there and fire it up and ---

23 Q. Okay.

24 A. --- would still run coal.

25 Q. Okay. So it was ---.

1 A. The power was knocked.

2 Q. Oh, okay. It was just kind of a standby section?

3 A. Yes, sir.

4 Q. Okay. That makes sense. About how often would
5 they run that section? Do you know?

6 A. No, sir. From the time that they idled it, to my
7 knowledge, they knocked the power up on the main line
8 and they never put the power back in ---

9 Q. Okay.

10 A. --- that I know of.

11 Q. Okay, sure.

12 A. Yeah.

13 Q. Okay. You said the first thing you did was get a
14 ride in to start some of your stuff. Did you check
15 the books before you ---?

16 A. Oh, yes, sir.

17 Q. Okay. What books would you check?

18 A. Checked the airway books for this one. I glanced
19 through the ones for the belt lines to see what kind
20 of violations they had, the fire bosses before on the
21 oncoming shift --- off-going shift had. And I just
22 looked for anything that didn't look right.

23 Q. Sure. Did you take any pre-shift or fire boss
24 reports that people would call out?

25 A. I had, but I think Jim Bowyer started doing all of

1 that.

2 Q. Okay. When you got done with your fire boss run,
3 did you call it out or did you take it out?

4 A. I took it out.

5 Q. Okay. Did you have another way to report things
6 that you didn't consider hazardous? Let's say you
7 just needed to do some maintenance type work on one of
8 the belts.

9 A. We had maintenance sheets that if anything was
10 wrong with the belt head or anything like that, we had
11 sheets we had to fill out to report that and turn that
12 into the maintenance.

13 Q. Okay. Was there a whiteboard or something where
14 you could list things?

15 A. Mark down bad rollers, splices, things like that,
16 yes, sir.

17 Q. Okay. Where was that whiteboard at?

18 A. We call it the fire boss room.

19 Q. Okay. Did you actually change out rollers or
20 anything like that?

21 A. No, sir.

22 Q. Okay.

23 A. I seldom ever had the type of time. There was a
24 few times I've helped. If Jim or Droopy would need an
25 extra hand, I was there. The other part of the time I

1 was moving.

2 Q. Now, you mentioned Droopy. Who's that?

3 A. Lacey Stewart.

4 Q. Okay.

5 A. My apologies.

6 Q. No, no problem. There's a lot of nicknames in the
7 coal mines and not knowing any of those folks, it's
8 hard to keep up.

9 A. He was one of the fellows that got killed. I
10 didn't know his real name. And he had fire bossed the
11 returns and I kept wondering who in the world this H
12 was. I was halfway through my run before I realized
13 that was Head. I mean, that's just the way it works.

14 Q. Okay. Do you want to take a minute?

15 ATTORNEY BABINGTON:

16 Off the record.

17 SHORT BREAK TAKEN

18 BY MR. SHERER:

19 Q. Okay. Now, you checked several sets of seals, and
20 I noticed that you circled one seal in each set, and I
21 assume that's the one where you took the ---

22 A. Gas check.

23 Q. --- gas checks. Did you check the other seals in
24 each set?

25 A. No, sir.

1 Q. Okay. You just went to that one seal?

2 A. Yes, sir. Harley Davis --- Harley --- Harley
3 Davis. Harley Taylor, that was his primary job, was
4 to check all the seals.

5 Q. Okay.

6 A. The gas checks had to be done once a week.

7 Q. Okay.

8 A. Oh, no, every day, I'm sorry. And all the seals
9 had to be checked once a week.

10 Q. So you did just the gas checks daily?

11 A. Yes, sir. I did those on Sundays and Mondays.

12 Q. Okay.

13 A. Now, Harley was off on Sundays and Mondays, so I
14 filled in for him on those two days.

15 Q. Okay.

16 A. The rest of the time he did them.

17 Q. Oh, okay. So you did it two days?

18 A. Yes, sir.

19 Q. Oh, okay. Just in general how was the ventilation
20 down in this portion of the mine that you checked?

21 A. I would say okay, ---

22 Q. Okay.

23 A. --- but I wouldn't say it was outstanding, either.

24 Q. Okay.

25 A. It might've passed the inspection, but that

1 would've been about it. I wouldn't go any further
2 with it.

3 Q. Okay.

4 A. I know of one time that they were having some
5 problems. Harley took care of that on the return
6 airway in that area.

7 Q. Sure. And you say the ventilation was okay. How
8 about methane? Did you ever run into much methane
9 down through here?

10 A. On the seals. Behind the seals, yes, sir.

11 Q. Okay. How about in the front of the seals?

12 A. No, sir.

13 Q. Okay. What sort of methane detector did you
14 carry?

15 A. Solaris.

16 Q. Okay. Did you just take that home with you?

17 A. No, sir. Yes, sir, I'm sorry.

18 Q. Okay. And you'd charge it at home?

19 A. Yes, sir.

20 Q. How about the calibration, where'd you do that?

21 A. Well, they have a --- I don't know what you would
22 call it, but we calibrated it right there at the mine
23 office.

24 Q. Did you have the Galaxy unit that you ---?

25 A. Yes, sir, I think that's what it was called.

1 Q. Okay. Did you bump test that meter?

2 A. I didn't know what a bump test was until this
3 explosion.

4 Q. Okay.

5 A. Everett Hager wanted to start a bump test and I
6 didn't know what it was.

7 Q. Okay.

8 A. I never heard of it.

9 Q. So you just did the monthly calibrations?

10 A. Yes, sir.

11 Q. Okay. Who was your boss, please?

12 A. I think Gary May.

13 Q. Gary May, okay. Who would tell you what you
14 needed to do?

15 A. Gary May or Rick Foster. Rick Foster was the mine
16 foreman, either one of them.

17 Q. Now, what was Gary May's title? Do you recall?

18 A. He had been the superintendent of the south side.

19 Q. Okay. And Rick Foster was the mine foreman. Was
20 he the mine foreman of the south side or ---?

21 A. Just the south side, yes, sir.

22 Q. Okay. Thank you. And in all of these travels in
23 the south side of the mine, did you go through any
24 equipment doors or track doors?

25 A. No, sir. Well, no, sir.

1 Q. Okay. Did you go through man doors instead?

2 A. Yes, sir.

3 Q. Okay. Were those man doors part of the track
4 doors or did you just go around?

5 A. I just went around them the bigger part of the
6 time.

7 Q. Okay. What about when you got a ride in on one of
8 the trips?

9 A. I rode in with Jim Bowyer, like I said, to the
10 south --- oh, I'm sorry. Up on what they call the
11 East Mains ---

12 Q. Uh-huh (yes).

13 A. --- there was about --- gosh, how could I forget
14 that --- about four sets of track doors.

15 Q. I could see why you'd want to forget that.

16 A. Oh, God, it was aggravating. Well, there was one,
17 two --- yeah, there was four on the main line, and if
18 you went down on the south side to the One South
19 tailpiece, there was another set.

20 Q. That's a lot of doors. Did you have to get out
21 and open those doors or were they automatic doors?

22 A. You could set in the trip and pull it, get them to
23 open up. You'd hit a button.

24 Q. Oh, okay. Did you ever come up on any of those
25 doors and find any of them open?

1 A. Yes, sir. There had been times when they'd lose
2 the power and they'd literally fly open ---

3 Q. Okay.

4 A. --- and things like that, but people leaving them
5 open, no.

6 Q. Okay.

7 A. No, I don't recall that happening.

8 Q. You ever close one and then as you went past it or
9 walked away, you notice if it come back open?

10 A. That may have happened, but I don't recall
11 anything like that, you know, or ---.

12 Q. What sort of shape were those doors in? Were they
13 well-maintained or did they get beat up, bunged up?

14 A. Those up there stayed pretty decent shape, yes,
15 sir. They were in pretty fair shape.

16 Q. Okay. Now, what would you do if you found, say, a
17 gobbed out area on one of these belts? Would you
18 shovel it?

19 A. Yes, sir.

20 Q. Okay. What if there was too much for you to
21 shovel by the end of your shift? What would you do
22 then?

23 A. I would have to report it.

24 Q. Okay.

25 A. It'd definitely be in the fire boss book, and then

1 I'd verbally tell Gary May or Rick Foster what's going
2 on. And as I say, it would definitely be in the fire
3 boss book, but it would be up to them after that.

4 Q. Sure, okay. Now, what about the bad rollers?
5 What would you do if you found a stuck roller?

6 A. If we could, we'd go ahead and take it out.

7 Q. Just drop it down?

8 A. Yeah, drop it down, get it out of there. If we
9 couldn't, we'd have to turn the belt off and get some
10 help, because when it was hot, then you got a bad
11 problem there.

12 Q. Now, if you drop it down, would you put that in
13 the fire --- or in the examiner book?

14 A. Yes, sir, sometimes, or I mean ---.

15 Q. Okay.

16 A. Yeah, on the other part, you know, you'd say if
17 you did --- you removed it.

18 Q. Okay.

19 A. Replaced it or removed it.

20 Q. Okay. Did you check or do any maintenance on the
21 CO monitoring system?

22 A. No, sir, I didn't fool with that.

23 Q. What about the fire suppression system?

24 A. No, sir.

25 Q. Okay. Do you know who did that?

1 A. That would've been in the maintenance book, the
2 time sheets, Virgil Bowman.

3 Q. Okay.

4 A. There might've been some other people working on
5 other shifts.

6 Q. Sure.

7 A. Those were two on dayshift I know would work on
8 them.

9 Q. Okay. Would you even check the fire suppression
10 system?

11 A. No, sir, I didn't. I think Jim Bowyer did. I'm
12 not sure, but I never checked.

13 Q. Okay, sure. Okay. What about rock dust? Did you
14 have to rock dust the belts?

15 A. Yes, sir, I had rock dusted belts.

16 Q. Okay.

17 A. Around belt heads, mainly.

18 Q. Did you use a machine mounted unit or did you ---?

19 A. No, sir, hand dust.

20 Q. Hand dusting. Were there any trickle dusters on
21 these belts ---

22 A. Yes, sir.

23 Q. --- that you took care of?

24 A. Yes, sir.

25 Q. Could you tell me where those trickle dusters were

1 located?

2 A. About --- let's see, on the Three section belt
3 there would've been about a breakthrough on the inby
4 side of the head.

5 Q. Okay.

6 A. They had another trickle duster there.

7 Q. Can I get you to take a marker and mark those
8 locations for me?

9 WITNESS COMPLIES

10 BY MR. SHERER:

11 Q. Can I get you just to draw a line out from that
12 and say trickle duster or duster?

13 WITNESS COMPLIES

14 BY MR. SHERER:

15 Q. Thank you. Were there any trickle dusters on
16 these other belts that you took care of?

17 A. They put one up here by the tailpiece.

18 Q. Okay. Okay. Now, you marked two trickle dusters.
19 Did you have to fill these dusters up every day?

20 A. Jim took care of that one.

21 Q. The one at the Three section.

22 A. Yes, sir. And I had filled that one up, ---

23 Q. Okay.

24 A. --- but it wasn't a daily thing that I had to do.

25 Q. Okay.

1 A. But I had done it.

2 Q. Would you do it a couple times a week on average?

3 A. Yes, sir, something like that.

4 Q. How much rock dust would this duster hold? How
5 many bags, roughly?

6 A. Three to four.

7 Q. Okay.

8 A. Maybe, possibly five, maybe.

9 Q. Okay. When you were checking this belt and you
10 got up and took along your duster, was it normally
11 full or partially full or empty?

12 A. Partially full.

13 Q. Okay.

14 A. Sometimes it would be, you know, ---.

15 Q. Sure, uh-huh (yes).

16 A. It seemed like there was another one in there
17 someplace, but I forgot where it was at. I can't
18 remember where the thing was.

19 Q. Well, you had a transfer right here where this
20 belt was on this drawing. Would it have been anywhere
21 around there?

22 A. It seems like it ought to be. It almost had to be
23 in around there somewhere, but ---

24 Q. Okay.

25 A. --- I don't recall seeing it. I do remember

1 getting into the --- somebody had started it up and I
2 walked right into the dust. I do remember that.

3 Q. That's the easiest way to find them.

4 A. Yes, sir.

5 Q. Okay. Who decided when to run this duster? Who
6 turned it on? Who turned it off? Do you know?

7 A. No, sir. I'd say the fire boss. The hoot owl
8 fire bosses were the people that fired up and might've
9 started the belts up in the morning. The belts would
10 be running before we come out and ---

11 Q. Okay.

12 A. --- get everything started.

13 Q. Okay. And what about the rock dust in general on
14 these belts lines?

15 A. The fire bosses would report it and then it would
16 be up to the super and mine foreman to put a crew on
17 it to see that it was rock dusted, whether it be by
18 machine or by hand. A lot of it I don't think a
19 machine could get to. They might be able to, but it'd
20 be tough.

21 Q. Sure. Roughly --- and I know this going to be
22 hard for you to estimate, about how often would these
23 belts be dusted? Would they get dusted about once a
24 month, once a week?

25 A. I'm calling about once every two weeks.

1 Q. Okay.

2 A. But that's an estimate.

3 Q. Sure, uh-huh (yes). Now, when you were working
4 around and walking these belts, did you ever notice
5 any float dust up on the structure or around the
6 belts?

7 A. No, sir. It may've been Three section I did
8 notice some, but it wasn't much.

9 Q. Okay.

10 A. It might've been just after a belt move or
11 something and they hadn't got it cleaned up yet.

12 Q. Sure. And when you noticed that dust, what'd you
13 do?

14 A. If it didn't take very long, I'd go in and try to
15 take care of it myself, just dust, well, hand dust it
16 myself. But if it was going to be --- take more time,
17 then I'd have to turn and put it on the fire boss
18 report and report it.

19 Q. Okay. Just in general, what were the conditions
20 down in these areas that you examined? Was the roof
21 good?

22 A. No, sir, not in my opinion.

23 Q. Well, what was going on with the roof?

24 A. The scale, slate ---.

25 Q. Kind of dribbling out?

1 A. Yes, sir, they had fencing bolted up, and there
2 was lots of places where there had been so much rock
3 on it that the fencing bowed down.

4 Q. Okay.

5 A. And I got kind of nervous traveling through there,
6 but I don't know what they could've done about it if
7 they did want to do anything, but I don't know what
8 they could've done.

9 Q. Sure.

10 A. It was nasty-looking to me.

11 Q. Sure. So you just had slate rock coming out ---

12 A. Yes, sir.

13 Q. --- between the bolts. Did you notice if the
14 bolts --- were any of the bolts just hanging there?

15 A. There had been, yes, sir, but they had been
16 replaced, too.

17 Q. Oh, okay.

18 A. When they was getting ready to start that end ---.
19 See, all this back up in here, that went all the way
20 up through there, and when they went to reopen that
21 end, I guess would be the way to say it, they did take
22 a roof bolter in there and they did do a lot of work
23 on the top.

24 Q. Sure. And this is the North Mains up to the Ellis
25 switch?

1 A. Yes. We called it the main line ---

2 Q. Okay.

3 A. --- where the North Mains went across.

4 Q. Oh, okay. The main line up to the Ellis switch?

5 A. Yes, sir.

6 Q. Okay. Thank you. What about the ribs down
7 through here?

8 A. They were bad in places, but it wasn't nothing ---

9 I didn't think it was anything really serious, but ---

10 be concerned about. Sometimes rock would roll out in

11 the walkway. Five minutes you could pick a rock, pick

12 that bit up and get it out of the way.

13 Q. Sure, uh-huh (yes). What about the floor? Was

14 there any floor heave?

15 A. Not that I can recall.

16 Q. Okay. What about water? Was there much water

17 down through here?

18 A. No, sir. The only water I can think of would be

19 up around the tailpiece of Two North. They had some

20 water up there, but I think that came off the belt

21 heads.

22 Q. Sure.

23 A. There was no pumps or anything. It wasn't that

24 serious.

25 Q. Okay. Do you feel like you had enough time to

1 conduct a complete examination of these belts?

2 A. Yes, sir.

3 Q. Okay.

4 A. On dayshift. Nightshift was a different story.

5 Q. What was going on on the nightshift?

6 A. They had to do, make two runs, two fire boss runs
7 on those belt lines. I worked nightshift. You hit
8 the date board and you just kept running.

9 Q. Oh, jeez. Now, was that just down the south end
10 of the mine or ---?

11 A. No, sir, that's the north end.

12 Q. North end, too? So all ---?

13 A. Well, the south end was --- it was tough, but the
14 north end was worse.

15 Q. Now, the south end, as I understand it,
16 immediately prior to the explosion the only area that
17 was operated down here was this barrier section?

18 A. Yes, sir.

19 Q. And the north end, of course, you had the longwall
20 and the two developing sections?

21 A. Yes, sir.

22 Q. And those guys still had to make two runs on the
23 nightshift?

24 A. Yes, sir.

25 Q. Do you know --- recall what their shift --- when

1 their shift started in general and when it ended?

2 A. No, sir. They were on a completely different
3 setup than what we were. I was on nine hours and the
4 fire bosses on the north did work 12-hour shifts. I
5 did know that.

6 Q. Sounds rough.

7 A. It was.

8 Q. I can imagine.

9 A. They would come in --- I forgot what time. I
10 think we started about nine o'clock when I was up
11 there, and you started in and you had to do a fire
12 boss run right then for the hoot owl shift.

13 Q. Sure.

14 A. And then you had to start again, doing it for the
15 --- make another fire boss run for the dayshift. And
16 to me they just didn't have enough people.

17 Q. Sure.

18 A. And I told them, in a roundabout way the company's
19 fault. They couldn't get anybody to work for them.

20 Q. Sure. That sounds like a rough job.

21 A. I don't know any other way to say it.

22 Q. No, no, that's fair. Did those examiners also
23 have to maintain those belts? Do you know?

24 A. Yes, sir.

25 Q. So they had to --- did they have to shovel?

1 A. Yes, sir.

2 Q. Did they have to grease?

3 A. Yes, sir.

4 Q. Did they have to dust?

5 A. Yes, sir.

6 Q. They did all that in two fire boss runs, too?

7 A. Yes, sir.

8 Q. Did they hire Olympic runners?

9 A. We had one, John Bigford. He has a physique about
10 like that telephone cord right there.

11 Q. Oh, okay. I can imagine that.

12 A. I was tickled to death when they got me off there
13 and put me on the south, because I was getting scared.
14 I wasn't satisfied with the way I had to do my job.
15 I felt like I was being put on a limb and they were
16 sawing the limb off behind me. That's the way I felt.
17 Now ---.

18 Q. Did you ever talk to --- who'd you work for when
19 you were up there?

20 A. Well, at the time I think that was Homer Wallace,
21 was the super up there then. He was the super of the
22 entire mine.

23 Q. Did you ever talk to Homer about that?

24 A. He knew about it. There wasn't nothing he could
25 do about it. He couldn't get any more people. He

1 needed --- he knew he needed people, but he couldn't
2 do anything about it, couldn't get anybody to work for
3 him.

4 Q. How come they couldn't work for him?

5 A. Well, they could work for him. It wasn't nothing
6 personal against Homer. They just wouldn't work for
7 Massey.

8 Q. Okay. If he could've found people, do you think
9 he could've hired them?

10 A. Yeah. The only way they were getting fire bosses
11 in was to transfer them from other mines anyway. But
12 they didn't have any choice.

13 Q. You got to help me here. I don't understand.
14 They had a problem getting fire bosses because they
15 had too much to do; is that fair?

16 A. Well, I don't know if it's too much to do. It was
17 just the way that Massey decided to do their people,
18 work their --- the way they wanted to work their
19 people. And they was just too many other places for a
20 fire boss to go find a better job someplace else.

21 Q. Sure. Did they consider working them different,
22 maybe hiring more fire bosses?

23 A. They definitely needed more fire bosses, but now,
24 what they could do about it, I don't know. I
25 mean, ---.

1 Q. Do you know if this was a company policy?

2 A. No, sir, I don't know about that.

3 Q. Okay.

4 A. I just knew we had a problem there at our
5 particular mine. That's the one that I was interested
6 in and ---.

7 Q. Sure.

8 A. I did hear about them having one job fair
9 someplace and all day long five people showed up. So
10 I mean, ---

11 Q. That's not good.

12 A. --- take --- you can take it from there. And I do
13 not know the job fairs they've had in the past. And
14 this is just rumor. They said nobody showed up.

15 Q. That's hard to believe in this day and time and a
16 lot of people needing a job.

17 A. Yes, sir, but there's also a lot of other jobs
18 opening up.

19 Q. Okay.

20 A. And well, why should I go breaking my neck for one
21 outfit when this fellow over here is going to treat me
22 better?

23 Q. Okay. That a valid consideration.

24 A. Now, me, I've never made so much money in my life,
25 but also, I'd never see my house. I lived there and I

1 didn't like that at all.

2 Q. Sure.

3 A. You work a 12-hour shift and then you spend at
4 least an hour each way driving, that doesn't leave you
5 much home time.

6 Q. Sure. That's a tough duty.

7 A. Then I transferred to the south. I went to nine-
8 hour days. I had two days off a week. I was loving
9 that.

10 Q. Sure. Let me ask you just an opinion. Do you
11 think that those long hours and the stress of the job
12 and the fatigue, do you think that impacted safety up
13 there?

14 A. I couldn't see how it would keep from it. If you
15 do any kind of driving at all, you drive eight hours a
16 day, nonstop, ---

17 Q. Sure.

18 A. --- you don't belong on the road. It's the same
19 deal with underground. You go like that a couple ---
20 three days, you can't be as alert ---

21 Q. Sure.

22 A. --- and as observant as you need to be.

23 Q. Sure. Do you know if anybody ever complained
24 about that?

25 A. Yes, sir. To my knowledge, nothing was ever

1 done ---

2 Q. Okay.

3 A. --- about it.

4 Q. Who did people complain to?

5 A. By that time Homer Wallace was gone and we got a
6 new super, Everett Hager. And whether anything --- he
7 ever did anything or attempted to do anything, I don't
8 know.

9 Q. Okay. But as far as you know, the problem was
10 never resolved?

11 A. Not to my knowledge. If you had a fire boss crew,
12 and they did have three men, and one takes a day off,
13 you're hurting.

14 Q. Were the other two fire bosses able to make up for
15 that one fire boss that took off?

16 A. Like I said, they hit the date boards.

17 Q. Okay.

18 A. As far as doing anything else, it was almost
19 impossible.

20 Q. Sure. Now, I don't know a lot about Massey, but I
21 do understand that they really got upset when the
22 belts weren't running.

23 A. Yes, sir.

24 Q. Which took precedent when you were working up
25 there, keeping the belts running or doing the fire

1 boss running?

2 A. Keeping the belts running.

3 Q. Sure.

4 A. I had no problems at all saying that.

5 Q. Sure. I appreciate that.

6 OFF RECORD DISCUSSION

7 A. I have no problems at all saying that. They
8 wanted to keep the belts running.

9 BY MR. SHERER:

10 Q. Sure. Let's talk a bit about the bigger mine,
11 particularly the area where the explosions occurred.
12 Were you aware of any ventilation problems up there?

13 A. I was aware that they had had problems. Now, at
14 the time that the --- of the explosion, no, sir.
15 There was one afternoon we were getting ready to start
16 our afternoon fire boss run and they stopped us,
17 pulled us outside. And they were making a change in
18 their ventilation. And then we had to go back in and
19 start all over again.

20 Q. Okay.

21 A. But now, what they were doing or what their
22 problem was, I don't know.

23 Q. Sure.

24 A. We just knew that they did have a problem and bath
25 house gossip.

1 Q. Sure.

2 A. You heard more.

3 Q. Sure. Did they make a lot of ventilation changes
4 at this mine, if you know?

5 A. Seems to me like they did.

6 Q. Do you know who was in charge of planning the
7 ventilation at this mine?

8 A. I was told Chris Blanchard.

9 Q. Okay. And then who was Chris Blanchard, please?

10 A. The president of Route 3.

11 Q. The president of Route 3. What's Route 3?

12 A. That was from Glen Daniel to Whitesville or on
13 down all the way, I guess, to Madison, even, every
14 mine down through there, that he was in charge of it.

15 Q. Now, just roughly, how many mines was he in charge
16 of?

17 A. Oh, Lord, I couldn't even begin to give you a
18 guess.

19 Q. Twenty (20)?

20 A. More than that.

21 Q. More than 20 mines. And he was in charge of all
22 them mines and he also did the ventilation in this
23 mine?

24 A. Now, again, I'm repeating a rumor.

25 Q. Sure, uh-huh (yes). Sure.

1 A. Our superintendent and general mine foreman were
2 not allowed to make decisions. He made the decisions
3 on how that place was going to be ventilated.

4 Q. Okay.

5 A. Now, like I said, that was a rumor.

6 Q. Sure, uh-huh (yes).

7 A. I wasn't working there and really didn't know that
8 much about it, but that's what I was told.

9 Q. Okay. Now, what were Mr. Blanchard's
10 qualifications? Do you know? Was he ---

11 A. I don't know.

12 Q. --- an old, experienced man?

13 A. He was not old, no, sir. We're talking about
14 somebody in late 30s, maybe early 40s.

15 Q. Okay.

16 A. But as far as being a coal miner, in my opinion,
17 no. He wasn't even close.

18 Q. Okay.

19 A. He couldn't hold a candle to Everett Hager.

20 Q. And then Mr. Hager wasn't allowed to make the
21 decisions?

22 A. No, sir. If he knew something was going on and
23 wanted to do something about it ---.

24 Q. Did Mr. Blanchard have any other qualifications?

25 Do you know if he was, like, a ventilation engineer or

1 anything like that?

2 A. No, sir.

3 Q. Okay. I appreciate that.

4 A. Blanchard never did anything to me personally, ---

5 Q. Sure.

6 A. --- but, boy, he ---. I hate to think people
7 thought as much of me as they do him.

8 Q. Was he abusive of people?

9 A. Verbally.

10 Q. Verbally. You ever heard of him kicking a
11 cigarette out of somebody's hand?

12 A. No, sir, because I believe if that had happened,
13 somebody would've been doing some kicking of their
14 own.

15 Q. Okay. We've actually heard that from someone
16 else.

17 A. I've never heard that happen, but ---

18 Q. Well, let me ask you that.

19 A. --- that definitely sounds like him.

20 Q. Okay. Were there places at the UBB Portal here,
21 particularly around the bath house, were there places
22 you couldn't smoke or places you could smoke?

23 A. They have a no smoking policy. They say it's
24 strictly enforced. At one time that may be true, but
25 if you wanted a cigarette, you went and you smoked.

1 Q. Sure.

2 A. I mean, I know of one place where they congregate,
3 but ---.

4 Q. And that's on the surface?

5 A. Yes, sir.

6 Q. Okay. That's an interesting tale about Mr.
7 Blanchard. Sound like he didn't have any friends at
8 this mine.

9 A. He was quoted as saying he was down there to run
10 coal and not make friends. He wasn't down there to
11 make friends. He got 50 percent of it right. He
12 didn't make any friends.

13 Q. Like I said, I always found I could run coal and
14 make friends. In fact, I ran more coal when I did
15 make friends.

16 A. In my lifetime I've found that people that have
17 the big egos are the ones that feel that they have to
18 show their authority, and they're the ones that wind
19 up stepping on the wrong foot.

20 Q. Sure.

21 A. To me that's basically what he's done. He's made
22 so many people mad, they don't care whether they ran
23 anything for him or not.

24 Q. Sure. Let me ask you this. If I was just Joe
25 Miner working up at UBB and Mr. Blanchard came up and

1 told me to do something, asked me to do something and
2 I thought, well, buddy, that may be a problem, do you
3 think I'd speak up and tell him that it could be a
4 problem.

5 A. If you did, you'd probably be looking for a job
6 five minutes later.

7 Q. Okay. Do you think that contributes to a safe
8 working environment?

9 A. No, sir, it doesn't help.

10 Q. Sure.

11 A. The word fear raises its head and --- you take
12 something --- somebody like me. I'm [REDACTED] and I have to
13 work until I'm [REDACTED] so my wife will have some kind of
14 health insurance.

15 Q. Oh, jeez.

16 A. And am I afraid of my job? Apprehensive ---

17 Q. Sure.

18 A. --- would be the word, but afraid, no.

19 Q. Well, just talking for MSHA, you shouldn't be
20 apprehensive. You should be able to go to any mine in
21 the country and be assured that you'll end up that
22 afternoon going home to see your family. That's what
23 we're working for.

24 Q. Well, like I say, I've been out of the mines for
25 20 years. My last job was at Beckley Mine and we

1 heard a lot about Massey.

2 A. Okay.

3 A. They can't treat people like that. Those days are
4 over with. Well, 20 years later here I am trying to
5 get a job with Massey and people are telling me,
6 watch. You don't want to work there. I've got to
7 work. I mean the end of subject. I got to work.

8 Q. Sure.

9 A. So I got on and, my god, they do treat --- still
10 treat people like that.

11 Q. How do they get away with treating people like
12 that?

13 A. Because everybody's scared to death to open up
14 their mouth.

15 Q. Okay.

16 A. I know some real good people who are in
17 management ---

18 Q. Sure.

19 A. --- with Massey. Homer Wallace was one of the
20 best bosses I ever had anywhere. I worked for him
21 when he was a section boss at Beckley. Blaine Toller,
22 he was a belt boss for Elk Run. A fine fellow ---

23 Q. Sure.

24 A. --- as long as you do your job.

25 Q. Sure.

1 A. But then there's some that feel that they have to
2 show their authority. If they can show their
3 intelligence and their authority, I would respect
4 them, but they can't.

5 Q. I don't know. I mean, we're investigating this
6 entire mine and the management structure is a big part
7 of it. What I always found in my personal dealings is
8 authority's something you really have to earn. You
9 don't exert it. You don't tell people and get it.
10 You have to earn a person, particularly a coal miner's
11 respect.

12 A. That's the key word right there, respect. If I
13 respect the man I'm working for, I'll break my back
14 for him.

15 Q. Sure.

16 A. But now, if I have to work for him because I'm
17 afraid of him, I'll do what I have to do and that's
18 it. I won't do a thing more.

19 Q. Sure. Now, is it fair to say that Mr. Blanchard
20 wasn't held in much respect at this mine?

21 A. Absolutely not.

22 Q. Absolutely not. How about the people under him?
23 Who worked for him?

24 A. I'm trying to think. Okay. At one time it was
25 Jason Whitehead. Then something happened there. I

1 don't know what it was. I never got all the details,
2 but he was moved out of the picture and now he --- as
3 a matter of fact, I think he got a promotion. And
4 then Jamie Ferguson was the next one, and ---.

5 Q. Now, you say Mr. Blanchard was the president. So
6 Jamie Ferguson would've been ---

7 A. Vice-president.

8 Q. --- vice-president; okay.

9 A. Yes, sir.

10 Q. Was he held in respect?

11 A. Yeah, I could respect Jamie.

12 Q. Okay.

13 A. He had been a section boss. He came up through
14 the ranks.

15 Q. Okay.

16 A. And he was intelligent.

17 Q. Okay, good. Where'd Mr. Blanchard come from?

18 A. I have no idea.

19 Q. Okay. What about the mine foreman and the mine
20 superintendent? Did you have any respect for those
21 gentlemen?

22 A. Terry Moore is the mine foreman up on the north
23 end. Everett Hager, yeah. But Everett also had a
24 reputation for being --- I don't know what the word
25 --- high-tempered, I think, might be it.

1 Q. I worked for a few high-tempered mine foremen and
2 superintendents.

3 A. And he was a superintendent, but he'd fire you in
4 a heartbeat. Well, I was told he went on one miner
5 section and fired two miner operators because they had
6 rock on the miners and they didn't clean it off. And
7 he fired both of them same day, so I mean ---. A
8 vendor came to his mine, got out of the truck and had
9 a cigarette in his mouth. Everett chased him off the
10 mountain. Well, that's ---

11 Q. Sure.

12 A. --- that's Everett. I mean, that's just the way
13 he operated.

14 Q. Sounds like a real friendly bunch.

15 A. Oh, yes.

16 Q. Do you think all the ---- yeah. Do you think that
17 inhibited people doing what they needed to do to keep
18 this mine safe?

19 A. I'm saying it's a possibility.

20 Q. Okay. Do you know if anybody ever complained
21 about some safety issue or potential safety issue? Do
22 you know if they were ever threatened?

23 A. No, sir.

24 Q. Okay. Now, you mentioned several people had
25 gotten fired. Had anybody gotten fired just because

1 they thought there was a problem with the safety?

2 A. No, sir, I don't think this had any --- any of
3 that had anything to do with a safety issue.

4 Q. Okay.

5 A. I don't think, now.

6 Q. Okay, sure. Yeah. Okay. What about we were
7 talking about the ventilation. And we had quite a
8 discussion about ventilation in general and --- or the
9 lack thereof. Did you ever hear of any air reversals
10 or fluctuations, particularly up around the longwall
11 or the two developing sections?

12 A. There was something that happened up there. I
13 don't recall what it was, but I do remember hearing in
14 the bath house, about them having a problem and the
15 air changed directions or something. I didn't get all
16 the particulars about it. It wasn't in my area, so
17 I ---.

18 Q. Sure. Do you recall, roughly, about how long did
19 that occur before the explosion? Was it a week or
20 two?

21 A. No, it would've been longer than that.

22 Q. A month or so?

23 A. Maybe, possibly a month.

24 Q. Okay. Did you ever hear anybody complain about
25 methane up in the northern part of the mine?

1 A. Yes, sir.

2 Q. Can you give me some details or specifics?

3 A. I was talking to one member of a crew up there,
4 and it was --- happened up in the face. I forgot
5 which section it was, though. And they had gas in the
6 face. And they said, go tell the boss. The boss was
7 at the power center.

8 They went and told the boss and then they had to
9 go on and do something else, and I said the boss never
10 did come up to check the situation out or try to work
11 with it or try to do anything with it or ---. He
12 never even went to see if there was any gas. So the
13 men, the men themselves found the --- found the gas.
14 I forgot what the percentage was. It wasn't no small
15 amount. I don't think it was anything over three or
16 four percent, but they did find gas, and the boss for
17 whatever reason never ---. Now, this was rumor.

18 Q. Yeah, sure. That's unbelievable.

19 A. That's Massey. What else can I say?

20 Q. Sure. Did you ever get sent home or told not to
21 show up for work due to ventilation problems at this
22 mine?

23 A. Yeah, I was sent home one time. And we were fire
24 bosses and we just kind of looked at each other. And
25 they had to do a whole bunch of ventilation work, and

1 they said by the time they got through with it, it
2 would be the evening shift, anyway, so go on to the
3 house.

4 Q. Okay. Do you recall roughly when that occurred?

5 A. It was last --- late last summer or in the fall.

6 Q. Okay. Did you ever hear of a methane outburst or
7 methane inundations at this mine?

8 A. No, sir.

9 Q. Okay. What about for about the week before the
10 explosion? Do you recall anything that seems unusual,
11 anything that happened, anything you overheard?

12 A. No, sir. Nothing comes to mind.

13 Q. Okay, sure. Now, we understand that the mine had
14 a long weekend. That was Easter weekend.

15 Q. Easter weekend, yes, sir.

16 Q. You worked the --- on April the 5th and you said
17 you were right outside when the explosion occurred.
18 What would've been the shift prior to that that you
19 worked? Did you work over the weekend?

20 A. I don't think so.

21 Q. Did you work Friday night or Friday?

22 A. Friday. I may have worked --- I think I worked
23 Friday. I believe I was off. I got Saturday and
24 Sunday off.

25 Q. Okay. So you took off Saturday, Sunday, came back

1 to work on Monday. Do you recall anything that's just
2 even the least bit unusual about Monday?

3 A. Well, that was the day I did the seals, and no,
4 sir, I can't. I thought about that day time and time
5 again and I can't remember anything out of the
6 ordinary.

7 Q. Okay, sure. When you're getting ready to go in
8 the mine that morning or when you're coming back out
9 that afternoon, did you notice anybody that you
10 normally didn't notice at the mine? Anybody stick
11 out?

12 A. No, sir. After I get that last seal I go down to
13 Ellis switch ---

14 Q. Okay.

15 A. --- get on the main line, and then I started
16 getting the boxes and bumps on the way back down, down
17 to LBB, went up into LLB. Yeah, I had a ride that
18 day. Checked those boxes and pumps, came back out. I
19 might've had to wait a little bit. I was going to get
20 out too early. I didn't want to do that, so I sat at
21 the LBB switch half hour maybe.

22 Q. Okay.

23 A. I came on out.

24 q. Okay. Now, when you're in there getting those
25 seals and doing all that stuff and setting at the

1 switches and such, did you notice anything that ---
2 did you smell anything that was different?

3 A. No, sir, nothing.

4 Q. Okay.

5 A. Nothing sticks to mind.

6 Q. Okay. Did you hear anybody talking on the mine
7 phone about anything?

8 A. No, sir.

9 Q. Okay. Now, you --- let me pull this map up here.
10 All right. We took that map off and we'll mark that.
11 But anyway you ---. Now, you checked this seal set
12 15 ---

13 A. Yes, sir.

14 Q. --- just south of the 78 switch?

15 A. Yes, sir.

16 Q. About what time were you there? Do you recall?

17 A. It was about 12 o'clock.

18 Q. About 12:00 noon.

19 A. 12:00, 12:30, in that area.

20 Q. Okay. Do you recall, was it hotter than normal?

21 A. I never pay any attention to it.

22 Q. Okay.

23 A. Nothing sticks to mind.

24 Q. You just don't recall anything out of the
25 ordinary?

1 A. No. No, sir.

2 Q. Okay. What about when you were walking down these
3 seals? I notice you go through some returns down
4 through there.

5 A. That was two man doors that I had to go through.

6 Q. Okay. What was the rock dust like back down
7 through there?

8 A. The best I can recall, it may've needed rock
9 dusted or it looked like it could've used some dust.

10 MR. FARLEY:

11 Erik, excuse me. When you referred to
12 12:00, 12:30, what area were you --- were you talking
13 about 78, the seals?

14 A. Oh, the seals, like the seals at set 15.

15 MR. FARLEY:

16 Okay. Thank you.

17 MR. SHERER:

18 Sure, no problem.

19 BY MR. SHERER:

20 Q. So you think it needed some rock dust. Was it
21 just kind of off-color or ---?

22 A. Yes, sir. In comparison, some of the other
23 places, yeah, excuse me, it could've used some dust.

24 Q. Okay. Do you recall if it looked like there was
25 float dust on it or just in general is a little

1 off-color?

2 A. In general a little off-color.

3 Q. Okay.

4 A. Generally the airway boss, fire boss ---

5 Q. Okay.

6 A. --- takes care of all that. The airway fire boss.

7 George Semenske is his name. And anything like that's

8 going on it's --- he's the one that takes care of

9 that.

10 Q. Sure, uh-huh (yes). Now, earlier you were talking

11 about the tremendous amount of work that the fire

12 bosses had to do on the evening shift. How about the

13 airway fire bosses? Do you recall which shift those

14 guys worked?

15 A. Dayshift.

16 Q. Were they as overworked as those evening shift

17 fire bosses?

18 A. Now, Charlie had the north end, and I was told

19 this. I was around him some, but I couldn't figure

20 out what kind of shift he had. But anyway, that was

21 about two days out of the week that he really had to

22 go. He really had to go for it, I mean really did

23 some walking.

24 Q. Sure.

25 A. The other three days of the week he was outside at

1 12:00, 12:30.

2 Q. Okay.

3 A. Now, I don't know how to explain it, how his
4 schedule went, how he went from one place to the
5 other, what he covered in so many days. Again, that
6 was none of my business.

7 Q. Sure.

8 A. I had enough trouble taking care of my own
9 business, much less everybody else's.

10 Q. Sure. I understand that, sir. You ever hear of
11 inspectors, either MSHA inspectors or State
12 inspectors, were they announced underground prior to
13 them going underground?

14 A. Yes, sir.

15 Q. How common was that?

16 A. Very.

17 Q. Okay.

18 A. The guard down at the gate would call up to the
19 dispatcher --- and I was a dispatcher; I know what I'm
20 talking about there --- call and tell you he was
21 coming. This dispatcher's job was to call underground
22 and tell them there's an inspector on the property.

23 Q. Okay.

24 A. All right. The inspector gets on the property and
25 they start getting a little sly about it. They

1 wouldn't tell you were you were going until the very
2 second they wanted trams to go underground. But
3 that's just the way things were. And I've often
4 wondered what would happen if they ever had a blitz.
5 There was one night, day. It was everything but a
6 blitz in name. God, it must've been eight or nine
7 Federal inspectors there at one time. Everywhere you
8 looked at there was an inspector.

9 Q. That's a lot of inspectors.

10 A. And well, you checked the area --- the size of the
11 mine, eight or nine inspectors I don't think would be
12 too many.

13 Q. Sure.

14 A. But that mine is a monster.

15 Q. It is --- or it was. And you say that one of the
16 dispatcher's jobs was to call in that they had
17 inspectors.

18 A. Yeah. Yes, sir.

19 Q. And you mentioned you worked as a dispatcher. Did
20 anybody tell you that was your job?

21 A. Somebody. It might've been another dispatcher
22 that was training. Whenever you hear an inspector
23 come on the property, you call underground and let
24 them know.

25 Q. Okay.

1 A. Might've --- like I said, it might've been
2 another, another dispatcher.

3 Q. Yeah. You can't recall exactly who it was?

4 A. No, sir.

5 Q. Okay.

6 A. It was nobody in management.

7 Q. Okay. You ever hear of mining taking place
8 without any ventilation curtains?

9 A. No, sir.

10 Q. Okay.

11 A. We had talked about that a bunch amongst
12 ourselves. The two crew, miner crews that were
13 killed, they were two of the safest crews you would
14 ever find anywhere.

15 Q. We've heard that from a lot of different folks.

16 A. And how that happened, I don't know. I just ain't
17 got a clue. Somebody mentioned here a while --- this
18 past week, this week that while the miner ---. They
19 were out of the coal and they were loading up, getting
20 ready to go home. That might've been the scoop
21 charger. Something might've sparked there and got
22 something going. We were just, like I say, guessing,
23 but if there had been any gas there, I know darn real
24 well Dino would've never left. He would've stayed
25 right there to take care of that.

1 Q. Did you ever hear of methane monitors being
2 bridged out?

3 A. I've heard rumors of it, but I've never seen them
4 or anything. And other than what I read in the paper
5 the other day, and I thought Jiminy Christmas,
6 something like that coming out, that would've been
7 obvious, but ---.

8 Q. Okay. You want to take a break?

9 A. Yes, sir. That would be fine.

10 MR. SHERER:

11 Okay.

12 ATTORNEY BABINGTON:

13 Okay. Off the record.

14 SHORT BREAK TAKEN

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. Mr. Curry, I have a few questions to try to
18 clarify some things here and make sure I understood
19 you correctly. You were discussing your location at
20 seal set 15 between 12:00 to 12:30. Did you mean on
21 April 5th?

22 A. Yes, sir.

23 Q. Okay. Did you advance farther inby in the ---

24 A. No, sir.

25 Q. --- mine than that? Okay. Did you ever advance

1 farther inby ---

2 A. No, sir.

3 Q. --- that point? Never been inby that location?

4 A. About the past year, the last time I was inby
5 there.

6 Q. Okay. About a year in?

7 A. Yes, sir.

8 Q. Okay. Now, so I guess about a year ago the
9 longwall would not have been in operation?

10 A. The longwall had just started whenever I made my
11 last trip in there. It may've been there a day or two
12 or something like that. It wasn't long, but I had
13 transferred out.

14 Q. All right. You referred to a story about --- you
15 had heard about methane in a working face where
16 someone had supposedly told the boss, who did not
17 respond. Any ideas who you heard that from, when that
18 occurred?

19 A. Okay. I didn't want to get into that, but I will.
20 Bobbie Pauley. She was a shuttle car operator. She
21 was the one telling me about all of this.

22 Q. Okay. When did Bobbie tell you about this?

23 A. A couple weeks ago.

24 Q. Okay. A couple of weeks ago from today?

25 A. Yes, sir.

1 Q. Okay. Which section was Bobbie referring to?

2 A. That, sir, is something I'm not --- I don't know.
3 I don't know which section she worked on.

4 Q. Okay. Did she mention who this supervisor was?

5 A. Yes, sir, but I forgot his name. Brandon?

6 Q. Brandon Davis?

7 A. I think Brandon Davis had the barrier section, I
8 think. Is there another Brandon?

9 Q. Brandon Bowling?

10 A. That might've been it. I'm not sure.

11 Q. Okay. Now, did Bobbie have a date when she thinks
12 this occurred?

13 A. She could probably tell you. I couldn't.

14 Q. Okay.

15 A. She may've told me and I ---.

16 Q. Okay. If I understand you correctly, you're an
17 hourly employee; is that correct, ---

18 A. Yes.

19 Q. --- not a salaried employee? Now, I'm a little
20 unclear as to when you actually started at UBB. I
21 know you returned to the industry in 2007 and worked
22 at a couple of Massey mines when you were hired as a
23 dispatcher, but when did you actually start at UBB?

24 A. May, the --- what was it, 31st? Right at the end
25 of May. And I worked from --- at UBB from May until

1 --- it was in August.

2 Q. What year?

3 A. 2007.

4 Q. Okay.

5 A. And it was in August they laid me off. I was on a
6 three-day break. Their communication skills ain't ---
7 they're non-existent. My first shift back was
8 supposed to be on a Sunday evening. I came back. The
9 place was locked up. The lights were off and that
10 wasn't right, but the guard had gave me the keys. I
11 went on in. I couldn't figure --- understand what had
12 happened. And then I walked by the superintendent's
13 office and I seen a pile of rescuers.

14 And oh, crap, I've seen this before. And so I got
15 on the phone and I started calling people. And I
16 couldn't get anybody to answer. And finally I did get
17 ahold of Rick Hodge and I'd been laid off. Didn't
18 anybody tell you? No, nobody told me a thing. Where
19 you at? I'm at the mine office. And that's when he
20 started stuttering and carrying on. Then I found out,
21 like I said, I got laid off. My last day had been
22 Friday, but I'd been on my break and I didn't know
23 about it.

24 Okay. Monday they called and told me I'd been

25 rehired. Go down to Shumate. Okay. And I hate --- I

1 despise Shumate. The people are great, but sharing
2 the road with those 777 trucks, no. The tires are
3 taller than what the cab of my truck was, and I'm
4 scared of those. I stayed there from August to --- it
5 was in January. And I got back down to UBB. And from
6 January, I think I ---.

7 Q. 2010?

8 A. No, this was in 2008.

9 Q. Okay.

10 A. It was in --- I started back down at UBB in
11 January as a dispatcher and I started fire bossing. I
12 think it was in October of 2008, 2008 to the present.

13 Q. Okay. Now, I think I missed this earlier, too.

14 Where precisely are you working now?

15 A. I'm at UBB, but my job is to take gas readings at
16 the boreholes.

17 Q. Okay. You're not going underground?

18 A. No, sir.

19 MR. FARLEY:

20 Okay. I don't think I have anything
21 else.

22 ATTORNEY BABINGTON:

23 Can we go off the record for one second?

24 OFF RECORD DISCUSSION

25 ATTORNEY BABINGTON:

1 Back on the record.

2 RE-EXAMINATION

3 BY MR. SHERER:

4 Q. Okay. Mr. Curry, I'm going to change the map
5 here. This is a map of the current longwall layout, 1
6 to 200 scale. And you were mentioning you had done
7 some fire boss work up in this area ---

8 A. Yes, sir.

9 Q. --- in 2009, I think?

10 A. Yes, sir.

11 Q. Do you recall roughly what areas you fire bossed?

12 A. This right here would've been the --- over towards
13 the pump, would've been on, like --- is that the 75
14 Break?

15 Q. Yeah, about 75 Break.

16 A. And on up in here. It was up in this area, was
17 where I was finding the gas.

18 Q. Okay. About 110 Break or so?

19 A. I was up in that. I remember seeing that sign on
20 the track, 110 Break.

21 Q. Okay. And you mentioned you found some methane.
22 Do you recall what the percentage of methane was?

23 A. I keep thing it was .7, maybe .8.

24 Q. Okay, .8. Now, do you recall where the methane
25 was? Was it in the ---

1 A. It was in the ---.

2 Q. --- track entry?

3 A. The return airway.

4 Q. The return airway, okay. Do you recall what sort
5 of air you were getting up in there?

6 A. Well, there was a little bit of air, but I
7 couldn't --- I didn't take an air measurement or
8 nothing.

9 Q. Okay.

10 A. There was a movement of air.

11 Q. Perceptible amount?

12 A. You could feel it, yeah.

13 Q. Okay. Was there anything in particular about that
14 location in the return? Had there been any falls or
15 any rib rolls or floor heave or ---?

16 A. None that I can recall.

17 Q. Was there any water back in there?

18 A. Yes, sir, that's why I went over there, those
19 pumps.

20 Q. Okay. Do you recall how deep the water was?

21 A. They keep it down pretty good, so ---.

22 Q. It wasn't roofed out or anything?

23 A. No, no, no, no.

24 Q. Okay.

25 A. Let's see. There was another pump at 75. There

1 was one pump there. Yeah, there was a pump at 75 and
2 there was one up there. I think it was about 110, up
3 in that area somewhere.

4 Q. Sure, uh-huh (yes). Now, when you were fire
5 bossing this, what eventually became the headgate of
6 the current longwall, were you doing the fire boss run
7 when they started that Bandytown fan shaft?

8 A. Yes, sir. I've been up in there then.

9 Q. Okay. And then this was the only location at the
10 110 Break that you found the .6, .7 ---

11 A. Yes.

12 Q. --- concentration of methane?

13 A. It was .7, .6. It was in that country. I never
14 did find anything over 1 percent. All the way down
15 through there it was spotty. You might run into it
16 one day and the next day it wouldn't be there, so just
17 --- I don't know what the situation was.

18 Q. Sure. Now, you mentioned water in several places.
19 Do you recall if there was bubbles coming up through
20 that water?

21 A. No, sir, there was no bubbles.

22 Q. Okay.

23 A. I've seen that at Beckley Mine.

24 MR. SHERER:

25 Do you have anything?

1 MR. FARLEY:

2 No.

3 ATTORNEY BABINGTON:

4 Mr. Curry, do you mind marking either

5 with a circle or an X where the pumps were, those

6 various areas on the longwall headgate?

7 A. One was at 75. I forgot where the other one was.

8 It was up, up in here somewhere.

9 ATTORNEY BABINGTON:

10 With those ones you can't remember

11 exactly where they are, if you could just circle the

12 general area you believe they probably were in?

13 BY MR. SHERER:

14 Q. Yeah, just a big circle would be good. Now,

15 you're talking about around the 110 Break?

16 WITNESS COMPLIES

17 MR. SHERER:

18 Okay. That's all.

19 ATTORNEY BABINGTON:

20 And those marks you made indicate the

21 pumps were with the orange highlighter on the

22 Bandytown fan map. Erik, anything else?

23 MR. SHERER:

24 I haven't got anything.

25 ATTORNEY BABINGTON:

1 Terry?

2 MR. FARLEY:

3 No, sir.

4 EXAMINATION

5 BY ATTORNEY BABINGTON:

6 Q. I just had one little question. What were your
7 condition --- what were your feelings about the
8 conditions in the north area of the mine in comparison
9 to the conditions in the south area of the mine?

10 A. I just never did like going in the north end,
11 period. I discussed that earlier with you. I had to
12 go up in here.

13 Q. You're pointing to the Eight North section?

14 A. Yeah. I'd have to fire boss that and the quicker
15 I'd get my job done there, the quicker I could get
16 out, the happier I was. I just didn't like the place.
17 I just had a bad feeling about it. I can't explain
18 it. Well, at the time these sections --- this wasn't
19 in here. The longwall wasn't. And you were a long
20 way from anybody. And I just didn't like feeling so
21 isolated, I guess, would be the word.

22 RE-EXAMINATION

23 BY MR. FARLEY:

24 Q. Sure. Did you ever detect any methane in the
25 Eight North area?

1 A. No, sir, I never did.

2 RE-EXAMINATION

3 BY ATTORNEY BABINGTON:

4 Q. How was the ventilation in that section? Was
5 there enough air?

6 A. There was a movement of air. That's been butted
7 off and there was pump sitting up there. If it hadn't
8 been for that pump, I don't think I would've gone up
9 there anyway.

10 Q. Are all these faces butted off there?

11 A. Yes, sir.

12 Q. Was the face of the Eight North section?

13 A. Yes, sir.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. Okay. Had you personally been to all these faces?

17 A. Not all of them, no, sir, just up there where that
18 pump was.

19 Q. Now, when you say butted off, are any of them
20 advanced or what distance are they advanced in by the
21 last open crosscut, any of them?

22 A. From what I can see, just walking by, that they
23 weren't --- they was pretty well flush. No, I
24 wouldn't say flush, but it was about as straight
25 across as you could ---

1 Q. Okay.

2 A. --- call it.

3 Q. Okay. Very well.

4 A. But now, on the other hand, I wasn't really
5 looking for that, either.

6 MR. FARLEY:

7 Okay.

8 RE-EXAMINATION

9 BY ATTORNEY BABINGTON:

10 Q. Do you remember when's the last time you visit
11 that section?

12 A. Oh, my God, over a year ago.

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. In your opinion --- that's all we're asking ---
16 what should we be looking at as far as this explosion?
17 What do you think may have contributed to it?

18 A. We've talked about that and talked about it
19 amongst ourselves, and we can't ---- we just ---. We
20 haven't got a clue.

21 Q. Okay.

22 A. Or the people I've talked to. At first we thought
23 with the miner crews being idle --- they'd backed
24 their equipment out, knocked the breakers and
25 everything --- that it had to be on the longwall.

1 That was the only thing running. And now we're
2 hearing the possibility of the scoop chargers might've
3 created a spark. There might've been gas. But I
4 ain't buying that myself.

5 Q. Where are you hearing this from?

6 A. Just people at the bath house.

7 Q. Okay. What scoop --- what scoop charger ---?

8 A. The scoop chargers that were on the sections, but
9 they knocked the breakers on that. Well, I could
10 understand that.

11 Q. Okay.

12 A. They knocked the breakers on everything but the
13 chargers, battery chargers for the scoops. And now,
14 whether that's actually what happened or not, I don't
15 know.

16 Q. Okay.

17 A. I'm just repeating hearsay.

18 Q. Sure. Well, we've got some good people in terms
19 of flames and forces ---

20 A. Yeah.

21 Q. --- and all that good stuff, some very technical,
22 astute people, and I think we can eventually come
23 to ---

24 A. Well ---.

25 Q. --- some conclusion as to where it started.

1 A. I have made my mind up and I'm going back in
2 anyway. And if they can't find out what the cause is,
3 who's to say it can't happen again? And I'm going to
4 have a hard enough time getting in there anyway, but
5 to go in and have the impression I'm looking at a
6 cocked gun, I don't know.

7 Q. Okay.

8 A. I just don't know.

9 Q. Yeah. Well, we've got a tremendous number of
10 people, both ourselves, the State and the independent
11 team that the governor appointed trying to determine
12 what caused the explosion. And I can't tell you that
13 we're going to find out what caused it, but we're
14 going to try as hard as we possibly can.

15 ATTORNEY BABINGTON:

16 Anything else, fellows?

17 MR. FARLEY:

18 No.

19 ATTORNEY BABINGTON:

20 All right. Before we close out, we
21 marked up three maps. First one is G. Curry One, and
22 that was the map of the portals.
23 (G. Curry Exhibit One marked for
24 identification.)

25 ATTORNEY BABINGTON:

1 G. Curry Two will be the one of the Ellis
2 Portal and Four North area. And G Curry Three will be
3 the Bandytown fan map of the active longwall.

4 (G. Curry Exhibits Two and Three marked
5 for identification.)

6 ATTORNEY BABINGTON:

7 On behalf of MSHA and the Office of
8 Miner's Health, Safety and Training, I want to thank
9 you for appearing and answering questions today. Your
10 cooperation is very important to the investigation as
11 we work to determine the cause of the accident. We
12 request that you not discuss your testimony with any
13 person aside from a personal representative or
14 Counsel.

15 After questioning other witnesses, we may
16 call you if we have any follow-up questions. If at
17 any time you have additional information regarding the
18 accident that you'd like to provide to us, please
19 contact us at the contact information previously
20 provided. If you wish, you may now go back over any
21 answer you've given during this interview and you may
22 also make any statement that you'd like to make at
23 this time.

24 A. No, I'm ---.

25 ATTORNEY BABINGTON:

1 Okay.

2 A. I'm okay.

3 ATTORNEY BABINGTON:

4 Well, again, I want to thank you for your
5 cooperation in this matter. Off the record.

6 * * * * *

7 STATEMENT UNDER OATH CONCLUDED AT 2:47 P.M.

8 * * * * *

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

1 STATE OF WEST VIRGINIA)

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

CERTIFICATE

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



Alison Salyards