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Transcript of the Testimony of Tommy Estep

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STATEMENT UNDER OATH

OF

TOMMY ESTEP

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 Tuesday, August 31, 2010, beginning at 9:00 a.m.

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

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STATEMENT

By Mr. Estep

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* Exhibits Retained by MSHA *

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is August
5 31st, 2010. I'm with the Office of the Solicitor,
6 U.S. Department of Labor. With me is Jasey Maggard,
7 an accident investigator with the Mine Safety and
8 Health Administration, MSHA, an agency of the United
9 States Department of Labor. Also present are several
10 people from the State of West Virginia. I ask that
11 they state their appearance for the record.

12 MR. FARLEY:

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

15 ATTORNEY KOERBER:

16 And I'm Barry Koerber, Assistant Attorney
17 General assigned to represent the West Virginia Office
18 of Miners' Health, Safety and Training.

19 MS. SPENCE:

20 I'm Beth Spence with the Governor's
21 independent investigation.

22 ATTORNEY BAXTER:

23 Mr. Maggard, Mr. Farley and Ms. Spence
24 will be conducting the questioning today. There are
25 also several members of the investigation team present

1 in the room today. Would you please swear in the
2 witness?

3 -----

4 TOMMY ESTEP, HAVING FIRST BEEN DULY SWORN, TESTIFIED
5 AS FOLLOWS:

6 -----

7 ATTORNEY KOERBER:

8 Sir, would you please state your full
9 name for the record and spell your last name?

10 A. Tommy Dean Estep, E-S-T-E-P.

11 ATTORNEY KOERBER:

12 And would you please state your address
13 and your telephone number?

14 A. [REDACTED] . Phone
15 number is [REDACTED] .

16 ATTORNEY KOERBER:

17 And sir, do you have an attorney or other
18 personal representative that you're expecting to be
19 here with you today?

20 A. No.

21 ATTORNEY KOERBER:

22 Are you appearing here today as a result
23 of receiving a subpoena?

24 A. Yes.

25 ATTORNEY KOERBER:

1 And would this be a copy of that
2 subpoena?

3 A. Yeah.

4 ATTORNEY KOERBER:

5 I'd like that to be Exhibit One.

6 (T. Estep Exhibit One marked for
7 identification.)

8 ATTORNEY KOERBER:

9 And this is the green card signed by Tara
10 on 8/16. I'd like that to be Exhibit Two.

11 (T. Estep Exhibit Two marked for
12 identification.)

13 ATTORNEY KOERBER:

14 Sir, the statute that authorizes the
15 Director to subpoena witnesses to interviews such as
16 this also requires the Director to offer to each
17 witness subpoenaed a \$40-a-day witness fee, plus
18 roundtrip mileage from your home to here and back, so
19 long as you drove in your personal vehicle, at the
20 rate of 15 cents a mile, plus reimbursement for any
21 tolls that you may pass coming here or going back. In
22 order to receive that money, two forms must be filled
23 out, one of which is an IRS Form W-9, which is the
24 request for your Social Security number, because it is
25 my understanding that the \$40 witness fee is

1 considered income that will be reported to the IRS and
2 that you'll receive a 1099 miscellaneous at some later
3 date. Prior to the interview I handed you these
4 forms, and you have completed them and given them back
5 to me. Do you want me to submit these for you for
6 payment?

7 A. Yes.

8 ATTORNEY KOERBER:

9 Thank you. Derek? Oh, excuse me. I
10 notice there is one other attorney in the room. I
11 would ask he state his name, firm and who he
12 represents for the record.

13 ATTORNEY PENCE:

14 It's Chris Pence, Allen Guthrie & Thomas,
15 and I represent Performance Coal Company.

16 ATTORNEY BAXTER:

17 All members of the Mine Safety and Health
18 Accident Investigation Team and all members of the
19 State of West Virginia Accident Investigation Team
20 participating in the investigation of the Upper Big
21 Branch Mine explosion shall keep confidential all
22 information that is gathered from each witness who
23 provides a statement until the witness statements are
24 officially released. MSHA and the State of West
25 Virginia shall keep this information confidential so

1 that other ongoing enforcement activities are not
2 prejudiced or jeopardized by a premature release of
3 information. This confidentiality requirement shall
4 not preclude investigation team members from sharing
5 information with each other or with other law
6 enforcement officials. The team members'
7 participation in this interview constitutes their
8 agreement to keep this information confidential.

9 Government investigators and specialists

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

18 You may have your personal attorney

19 present during the taking of this statement or another
20 personal representative, if MSHA has permitted it, and
21 may consult with your attorney or the representative
22 at any time. You may also request a break at any
23 time. Your identity and the content of this
24 conversation will be made public at the conclusion of
25 the interview process and may be included in the

1 public report of the accident, unless you request that
2 your identity remain confidential or your information
3 would otherwise jeopardize a potential criminal
4 investigation. If you request us to keep your
5 identity confidential, we will do so to the extent
6 permitted by law. That means that if a judge orders
7 us to reveal your name or if another law requires us
8 to reveal your name or if we need to reveal your name
9 for other law enforcement purposes, we may do so.
10 Also, there may be a need to use the information you
11 provide to us or other information we may ask you to
12 provide in the future in other investigations into or
13 hearings about the explosion. Do you understand?

14 A. Yeah.

15 ATTORNEY BAXTER:

16 Do you have any questions?

17 A. No.

18 ATTORNEY BAXTER:

19 After the investigation is complete, MSHA
20 will issue a public report detailing the nature and
21 causes of the fatalities in the hope that greater
22 awareness about the causes of accidents can reduce
23 their occurrence in the future. Information obtained
24 through witness interviews is frequently included in
25 these reports. Since we will be interviewing other

1 individuals, we request that you not discuss your
2 testimony with any person aside from your personal
3 representative or counsel.

4 A court reporter will record your
5 interview. Please speak loudly and clearly. If you
6 do not understand a question asked, please ask us to
7 rephrase it. Please answer each question as fully as
8 you can, including any information you've learned from
9 someone else. We'd like to thank you in advance for
10 your appearance here. We appreciate your assistance
11 in this investigation. Your cooperation is critical
12 in making the nation's mines safer.

13 After we have finished asking questions,
14 you'll have an opportunity to make a statement and
15 provide us with any other information that you believe
16 to be important. If at any time after the interview
17 you recall any additional information that you believe
18 might be useful, please contact Norman Page of MSHA at
19 the telephone number or e-mail address provided to
20 you.

21 Any statements given by miner witnesses
22 by MSHA are considered to be an exercise of statutory
23 rights and protected activity under Section 105(c) of
24 the Mine Act. If you believe any discharge,
25 discrimination or other adverse action is taken

1 against you as a result of your cooperation with this
2 investigation, you're encouraged to immediately
3 contact MSHA and file a complaint under Section 105(c)
4 of the Act.

5 MR. FARLEY:

6 Mr. Estep, on behalf of the Office of
7 Miners' Health, Safety and Training, I'd like to
8 inform you that West Virginia State Mining Regulations
9 also provide protection against potential
10 discrimination for participating in these type
11 interviews. And should you experience any problems,
12 you should contact the West Virginia Board of Appeals.
13 I'm going to pass along some contact information to
14 the Board. The Board of Appeals hears complaints from
15 miners concerning discrimination. Should you have a
16 claim, you need to do so within 30 days of whenever it
17 occurs. Okay?

18 A. Okay.

19 EXAMINATION

20 BY MR. FARLEY:

21 Q. We'll start with a little background information
22 here today if you don't mind. How long have you been
23 a coal miner?

24 A. Almost 14 years.

25 Q. Fourteen (14) years. How long have you been with

1 Massey? All of them?

2 A. I started there as a red hat.

3 Q. Okay.

4 A. Started at Performance.

5 Q. Okay. What about UBB, all 14 years?

6 A. That's where I've always been.

7 Q. Okay. As of April 5th this year, what was your
8 job classification at UBB?

9 A. I was an electrician on one of the coal crews on
10 the longwall.

11 Q. Okay. Now, were you an hourly employee or a
12 salaried employee?

13 A. I was hourly.

14 Q. Okay. Were you a supervisor?

15 A. Yeah.

16 Q. How many people did you supervise?

17 A. I just had one helper electrician with me on the
18 coal crew.

19 Q. Okay. Now, who did you report to?

20 A. Daniel Laverty.

21 Q. Okay. Which shift did you work?

22 A. We rotated shifts. The schedule we were on was
23 the six and three schedule. We worked a week of ---
24 six days of days and six days evening.

25 Q. Now, who was the longwall face foreman on your

1 crew?

2 A. Kevin Medley.

3 Q. Kevin Medley?

4 A. Yes.

5 Q. Okay. What was the last shift you worked prior to
6 April 5th?

7 A. April 5th was my first day back from three days
8 off.

9 Q. Okay. So does that mean your last shift would
10 have been about Thursday, April 1st?

11 A. Yeah.

12 Q. Now, did you work day or evening on April 1st?

13 A. Day.

14 Q. Okay. How much coal did you run that day? How
15 was production that day?

16 A. No idea. That's farther back than yesterday. I
17 don't ---.

18 Q. Any major breakdowns that day?

19 A. None that I recall.

20 Q. Anything unusual about your last day there?

21 A. None at all.

22 Q. Any unusual sights?

23 A. No.

24 Q. Smells?

25 A. No.

1 Q. Any kerosene or petroleum-type smells?

2 A. No.

3 Q. Did you travel across the face on April 1st?

4 A. Several times.

5 Q. Why would you make several trips across along the
6 face?

7 A. I just always tried to stay with the shearer and
8 make sure everything was all right.

9 Q. Okay. All right. Did you happen to make it to
10 the tailgate side, all the way to the tailgate side on
11 April 1st?

12 A. Yeah.

13 Q. Okay. Did you make it out into the tailgate
14 entries at any point?

15 A. No.

16 Q. How was the longwall face ventilation that day?

17 A. Excellent. Good air. Had the air we were
18 supposed to have.

19 Q. Okay. Now, how long had you held that position on
20 the longwall prior to April 5th?

21 A. Probably around --- probably around three years.

22 Q. Were you at Logan's Fork ---

23 A. Yeah.

24 Q. --- at any time with the longwall?

25 A. Yeah.

1 Q. Did you return with the longwall in 2009?

2 A. Yeah.

3 Q. Okay. All right. Now, based on my reading of the
4 longwall pre-shift and on-shift book for the month of
5 March, around the 1st of March the entry in the pre-
6 shift exam book for the main intake on the longwall
7 showed about 115,000 cubic feet per minute. Now, as
8 of the end of March, around April 5th, that same
9 intake reading had been reduced to about 55,000 cubic
10 feet per minute. Did you notice that reduction in air
11 quantity during the month of March?

12 A. Yeah, due to MSHSA's requirement of the
13 ventilation change.

14 Q. What did MSHA require you to do?

15 A. I don't really know any of the big specifics about
16 it. I just know that we had to miss several days of
17 work due to several ventilation changes required by
18 MSHA.

19 Q. Okay. Now, when you say they were required by
20 MSHA, was that as a result of some type of enforcement
21 action? Some type of closure order issued?

22 A. Like I said, I don't really know any of the
23 specifics about it because I wasn't involved in any of
24 the air changes.

25 Q. Someone instructed you that --- you were down for

1 about three days because MSHA required it?

2 A. To the best of my knowledge, the only thing that I
3 know anything about it was that the air was moving the
4 wrong way on the tail side and there was an air change
5 required after that.

6 Q. Okay.

7 A. That's pretty much all I know about it.

8 Q. Okay. Prior to this interview today, have you
9 been interviewed by any other person or organization
10 about the UBB Mine explosion?

11 A. No. I had several attempts to MSHA and others
12 even coming to my house. I just really didn't see the
13 point in it. Like I told every one of them, if I knew
14 anything about any of it that could have helped lead
15 to what happened to the 29 of the best buddies a
16 person could ever have, I would have been there that
17 day. But I know nothing.

18 Q. Okay.

19 A. Simple as that.

20 Q. Have you been interviewed by any representatives
21 of Massey or Performance Coal?

22 A. I think once, the company lawyers.

23 Q. Okay. Did you make any weekly electrical
24 examinations of the longwall equipment?

25 A. Yeah. I was required to do permissibility checks

1 every Thursday.

2 Q. What in particular did you check?

3 A. My assigned checks were mostly the mule train,
4 mostly mule train and gate box. That was pretty much
5 the extent of my checks.

6 Q. Did you personally carry a methane detector ---

7 A. Yes.

8 Q. --- on the longwall face?

9 A. Yes.

10 Q. At any time since this UBB longwall face started
11 in September of 2009 do you recall detecting any
12 levels of methane?

13 A. The highest reading I've ever seen on my spotter
14 was .2.

15 Q. 0.2 percent?

16 A. Yeah.

17 Q. Are you aware of any other higher concentrations
18 detected by anyone else?

19 A. No.

20 Q. As the face electrician, I assume you would have
21 been familiar with the longwall methane monitors?

22 A. Absolutely.

23 Q. Do you recall any monitors reflecting any
24 quantities of methane at any time?

25 A. Same readings on those. the highest reading I

1 ever recall, maybe from time to time flashing a .3.

2 That's the highest I've ever seen it go.

3 Q. Do you recall any malfunctions of --- with the
4 longwall methane monitoring system at any time?

5 A. I don't really recall any taking place at UBB
6 since we had been back, but I do recall a couple at
7 Logan's Fork. And when something like that would
8 happen, they were fixed immediately. There was no
9 reason never to fix them. There was parts kept there
10 to fix them.

11 Q. Mr. Medley was your foreman, correct, ---

12 A. Yeah.

13 Q. --- face foreman?

14 A. Yeah.

15 Q. Did you have confidence in Mr. Medley?

16 A. Yeah.

17 Q. Do you feel like he made an honest effort to
18 comply with health and safety requirements?

19 A. Yeah.

20 Q. I assume if you traveled to the longwall every day
21 you would have traveled up the track entry; is that
22 correct?

23 A. Yeah.

24 Q. Okay. Now, the map we have reflects a couple sets
25 of doors on each side of where the air splits at the

1 mouth of the longwall. Now, this air split here.
2 part of the air goes to the longwall. The other half
3 goes --- the other part goes to the miner sections.
4 We understand that there were a couple of doors
5 installed on the inby side of this air split we
6 believe sometime around the 1st of March. Do you have
7 any recollection of when those doors would have been
8 installed?

9 A. Are you talking about on the track?

10 Q. Yes, sir.

11 A. I don't recall any doors being put in right about
12 that time.

13 Q. Do you recall doors being put in at any time at
14 that location?

15 A. Yeah, soon after we started that longwall panel.

16 Q. Okay.

17 A. There was a set of doors there, but they were
18 there well before March 1st ---

19 Q. Okay.

20 A. --- or whenever.

21 Q. My understanding of the doors as they appeared
22 prior to the explosion was that you had a door and a
23 side panel with the door, of course, covering the
24 track area, and the side panel was constructed in such
25 a manner as to where it had an opening, some number of

1 blocks left out to regulate air. Is that what the
2 door looked like to you?

3 A. The best I recall, yeah, it did have a few blocks
4 left out just --- that was what I assumed for, was a
5 little bit of positive air movement on the track. It
6 was on the --- like going inby, looking at the doors,
7 it was on the left side.

8 Q. Okay. Do you recall seeing any person stationed
9 in the vicinity of those doors on a regular basis?

10 A. No, not really.

11 Q. Okay. As of your last shift on April 1st, did you
12 have any pumps along the longwall face?

13 A. No.

14 Q. Are you familiar with any water problems that
15 might have occurred on the longwall face prior to
16 April 5th, roughly November or December of last year?

17 A. Yeah, we did have water trouble.

18 Q. Okay. Did you lose some time because of the water
19 trouble?

20 A. Yeah.

21 Q. About how many days were you down in dealing with
22 that?

23 A. Not really down any days. It was just slow
24 moving. We tried to run. The problem with that,
25 there was so much water, it created a --- we had a dip

1 about mid-face that the water accumulated in. It
2 caused a lot of fines to pile up. Other than that,
3 that was the only ---.

4 Q. Now, we asked earlier what --- how the longwall
5 ventilation was on the last shift worked. Did you
6 ever notice any fluctuations in the longwall
7 ventilation? When I say fluctuations, I don't mean
8 day-to-day. I mean like moment to moment, where it
9 kind of ---

10 A. No.

11 Q. --- comes and goes? Okay. The map reflects some
12 check curtains in Number One, two and three entries to
13 direct air down the longwall face. Did you ever see
14 these curtains flowing in the outby direction?

15 A. No.

16 Q. Were they normally bowed inby?

17 A. Yeah.

18 Q. Okay. Do you recall a set of doors at this
19 location, between the Three and Four entries, around
20 that location right there?

21 A. Yeah. I'm not sure what break, though. There was
22 scoop access over into the other entry.

23 Q. The last shift you worked, were those doors still
24 there, as far as you know?

25 A. I really couldn't give an honest answer on that.

1 I don't recall if they were or not.

2 Q. Okay. Mr. Medley, your foreman, did you ever
3 observe him make his pre-shift/on-shift examinations
4 on the longwall face?

5 A. Yeah, absolutely.

6 Q. Were there boards, date, time and initial boards,
7 made out of belt rubber or some other substance along
8 the face anywhere?

9 A. Along the face normally he just dated up like on a
10 jack leg or something like that.

11 Q. Was there anything on the tail side, a date-up
12 board?

13 A. Not that I recall. Normally the same thing, just
14 dated up on the tail drive covers their self.

15 Q. Okay. How often was it necessary for the longwall
16 crew to call out production downtime updates?

17 A. They had to give an update every hour.

18 Q. Every hour?

19 A. Yeah.

20 Q. Okay. Who would make that call to the surface on
21 a daily basis?

22 A. Just to give a regular production report, hourly
23 report, was the headgate operator.

24 Q. Okay. Do you know who he would make that call to?

25 A. Normally whoever the dispatcher was at the time.

1 Q. Okay.

2 MR. FARLEY:

3 Jasey, do you want to have a go at it?

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. You said you did examinations on the mule train
7 and the headgate XP box; is that correct?

8 A. Yeah.

9 Q. What type of things do you do on the headgate box?
10 What all do you check when you do permissibility?

11 A. Just fill the gauge, check the flame pack on the
12 covers, check and make sure all the lid seals the air,
13 all the plugs are in proper, safe condition, such
14 things as that.

15 Q. Do you operate the switches, check any stops when
16 you do that exam?

17 A. Normally, yeah.

18 Q. How did the E stop circuit work on that? Was it
19 working properly the last time you checked it?

20 A. As far as the E stop circuit on the headgate box
21 itself, that was normally something that was checked
22 by hoot owl, because when you hit the E stop on the
23 gate box, that knocks the power all the way to the
24 mouth of the section.

25 Q. Had you ever operated it before?

1 A. Yeah, absolutely, during setup.

2 Q. When you hit the E stops, do you normally hit both
3 of them or do you just hit --- is there a particular
4 one that you would normally check on that box?

5 There's as couple E stops on that box, and one of them
6 is a ---.

7 A. One of them takes the power out to the mule train.
8 The other takes the power out to the mouth of the
9 section.

10 Q. Okay. The one that takes power off to the power
11 center, have you noticed --- does the methane monitor
12 continue to work on the tail motor when you hit the E
13 stop?

14 A. That I don't recall. I don't --- no, because when
15 you knock, the power to the mule train, you lose power
16 to everything. That methane monitor is powered at the
17 end of the gate box.

18 Q. Okay. When was the last time you think --- was it
19 several months ago that you tried it or just your last
20 exam or --- do you have any idea?

21 A. I really don't recall when it was myself. Like I
22 said, that was something that was checked on hot owl,
23 so ---.

24 Q. Had you ever done any work on any E stops on the
25 headgate or shearer?

1 A. No, not really.

2 Q. Never had to replace any or had any damaged at any
3 time?

4 A. Not that I recall.

5 Q. I understand that they had replaced one on your
6 shift on March 29th on the shearer. You don't recall
7 that?

8 A. No, I sure don't.

9 Q. You don't recall one being damaged on the outside
10 or anything?

11 A. (Indicates no).

12 Q. Do you recall any downtime for the E stop on the
13 shearer?

14 A. No, I do not.

15 Q. When is the --- let me ask you this. Have you
16 been in the shearer control panel in the past few
17 months prior to the accident? Had you had to do any
18 work inside that box?

19 A. We hadn't had much trouble at all out of that
20 shearer. I don't really recall --- in the past couple
21 months before that took place, I don't recall doing
22 that.

23 Q. Tell me a little bit about --- you said you made
24 several trips down on the 1st, down the face. What
25 all was you doing that day? Do you recall?

1 A. Maybe checking with the jacksetter every trip,
2 checking to see if he had any busted hoses, stuff like
3 that. I was trying to keep everything going.

4 Q. How often would you have to change hoses on the
5 shields and maybe ---

6 A. There was not set schedule, just ---.

7 Q. --- the IUs? Just normal stuff, how often was you
8 working on it?

9 A. You might change two or three hoses a shift.

10 Q. Okay. And what about the chalk computers, did you
11 have to change those out very often or ---?

12 A. It's the IU box.

13 Q. It's the IU box, right. How often did you have to
14 change those?

15 A. Not very often at all. You might have to change
16 --- in a six-day run, you might have to change two
17 boxes.

18 Q. Where would you normally keep those boxes for
19 spares?

20 A. We kept them on the parts car outby the longwall
21 face.

22 Q. When you was going across on April 1st, do you
23 recall what the face area looked like behind the
24 shields? Had it fell recently or had it been a while
25 since you all had a fall behind the shields?

1 A. It was normally staying up pretty close to the
2 shields. I don't recall any --- other than start-up,
3 any length of time that it would hang there any time
4 at all.

5 Q. So what you're saying is that as soon as they
6 would push the pan line up, you were usually
7 getting ---?

8 A. As soon as we pulled the shields, it would fall
9 behind it.

10 Q. Okay. You said that your boss, I guess Kevin
11 Medley, normally dated up on the tail drive covers; is
12 that right?

13 A. Right.

14 Q. Was there a date board at Shield 160 or was there
15 any date boards that some of the other crews used to
16 date up the pre-shift?

17 A. I don't recall a date board being down there.

18 Q. Have you --- what kind of things do you know about
19 the ventilation plan at this mine? Have you been ---
20 do you feel like you've been properly trained on the
21 ventilation plan?

22 A. Yeah, as far as on the longwall because that's the
23 only place I ever went.

24 Q. And what do you recall about your training? Air
25 direction let's say on the beltline, what direction

1 should the air be going?

2 A. On the beltline the air is supposed to go outby.

3 Q. When was the last time you was down the beltline?

4 A. The farthest I ever went on the beltline was maybe
5 walked the length of the monorail.

6 Q. At any time --- since this panel's been started,
7 at any time have you walked the entire longwall belt
8 to the Mother Drive?

9 A. Maybe once.

10 Q. And what was the purpose of that?

11 A. Occasionally I would --- well, not occasionally.
12 During the length of that time I probably recall maybe
13 having to --- and it was normally on the evening
14 shift. The outby crews would be a fire boss short or
15 something, and I'd have to walk --- I had to walk the
16 longwall belt.

17 Q. Could you tell me how many ventilation controls
18 they had down that belt when you traveled it? Did
19 they have a lot of box checks or what do you recall
20 about it? And what --- do you recall what direction
21 the air was going when you was doing your fire boss
22 run?

23 A. As far as the air direction, I don't really
24 recall. Well, yeah, I do. I mean, the air was going
25 the right direction because that was --- the last time

1 I remember having to walk it was probably real close
2 to the start-up of the longwall panel. I don't recall
3 doing it any time recent. But the only box check I
4 remember was maybe around --- just guessing, maybe
5 around 15 Break, somewhere down around there. It
6 seems like there was a --- maybe a man door you had to
7 go through down through there somewhere.

8 Q. Did you have any additional ones, any curtain in
9 addition to that or belt or anything else you noticed
10 when you went down through there?

11 A. To be honest, it's been so long, I really don't
12 recall.

13 Q. Do you recall where your alternate and primary
14 escapeways are on the longwall?

15 A. The alternate and primary?

16 Q. Yeah.

17 A. The primary being the track entry since that was
18 the intake. And the alternate, wasn't that the
19 middle?

20 Q. Had you ever done an escapeway drill?

21 A. Yeah. We did one, as required, what they required
22 every ---

23 Q. Ninety (90) days.

24 A. --- three --- yeah, three months.

25 Q. When was the last time you done an escapeway drill

1 on the beltline?

2 A. That I recall, I don't know if we ever walked the
3 beltline. I really don't recall.

4 Q. When you was talking about MSHA's requirement on
5 the ventilation when you was trying to answer why
6 there was less air going across the longwall
7 face, ---?

8 A. It wasn't less air going across the longwall face.
9 The only problem that I ever know of, like I said, was
10 on the tail side the air going the wrong way in the
11 tail entry. There was never a problem with air across
12 the longwall face.

13 Q. Okay. Did anybody tell you why it was going the
14 wrong direction on the tail side of the longwall? Did
15 anybody try to explain to you ---

16 A. No, not really.

17 Q. --- what had happened and how to prevent it?

18 A. No, because nobody knew.

19 Q. Do you --- we was asking you about these doors
20 over here to this --- going up by this tailgate
21 development section, 040. Do you remember any
22 charging stations in that area, scoop charging
23 stations?

24 A. No, I do not, because I was never over in there.

25 Q. On these doors back here, the regulating doors on

1 the intake outby the --- where the mule train is
2 currently at, do you remember those doors being left
3 open at any time ---

4 A. No.

5 Q. --- on the track entry?

6 A. No. Every time we ever went through them we
7 closed them. and that would be the only time that I
8 ever had to go through them is when we were going in
9 and out. Like I said, we always closed them.

10 Q. What kind of condition were those doors in?

11 A. I always remember them being in pretty good shape.

12 Q. What about other doors in the mine, do you recall
13 any of them being damaged outby this area, outby the
14 longwall panel, maybe down by ---

15 A. The only other ones there ---.

16 Q. --- Six North track or ---?

17 A. The only other ones I ever recall being damaged at
18 any time was the ones that sat just right here by 78
19 Break, once you turned over to the headgate towards
20 the mouth of the longwall panel.

21 Q. Did you ever notice any of those doors being left
22 open at any time?

23 A. Not left open. The only --- I do recall one time,
24 and I think that was during the longwall move, one of
25 the motor crews hit the inby set and knocked it down,

1 but it was repaired as soon as it was reported.

2 Probably the following shift it was repaired, put back
3 up.

4 Q. Let me ask you about the remote controls for the
5 shearer since you're an electrician. How many spares
6 did you all keep?

7 A. We normally kept --- we tried to keep three of the
8 458s and three of the 472s on the belt track. That
9 was a --- not counting the ones that was --- the one
10 of each that was used on the face.

11 Q. And how long did the batteries last during a
12 shift? Would they last all the shift pretty good?

13 A. If they were charged, they'd last all shift. We
14 would run into that a lot, people not putting them on
15 charge.

16 Q. What time did your shift normally stop? What time
17 did you all quit? Like let's say dayshift.

18 A. Dayshift, we normally quit right around --- it
19 kind of varied. It kind of varied to where the
20 shearer was at. If the shearer was on the head and it
21 was close to three o'clock, we'd shut down. But if we
22 were on the tail, we'd just keep running until the
23 shearer was headed back towards the head normally
24 until we run into the crew coming.

25 Q. Okay.

1 A. So it just kind of varied.

2 Q. And where would you normally be at around quitting
3 time?

4 A. Electrician, around quitting time, keeping my
5 toolbox warm.

6 Q. What about your helper?

7 A. He was normally right there with me.

8 Q. What types of work did you usually have your
9 helper doing ---

10 A. He normally just ---.

11 Q. --- during a normal day?

12 A. Most of the time we stayed --- most of the time we
13 stayed right together and worked on whatever.

14 Q. Have you ever had problems of the ranging arm pins
15 on the shearer at any time in the past or ---?

16 A. A couple of the other shifts had had a little bit
17 of trouble with them coming out from time to time.
18 But on our shift we hadn't --- we hadn't had any
19 trouble with them.

20 Q. What would cause them to come out? Was it the
21 B-lock or ---?

22 A. Yeah. Normally on the face side they would come
23 out.

24 Q. On the face side?

25 A. Yeah.

1 Q. Now, on that face side, did you all come up with a
2 homemade way of keeping that --- the pin from coming
3 out on that side? Did you come up with something in
4 addition to the B-locks that come with the machine?

5 A. Now, once again, I'll be honest. Myself, that was
6 something that always --- during the time when we were
7 setting bits or something, that was one of the checks
8 I always had --- the guy that helped me, he would pull
9 a shield in and get out there and look at them, make
10 sure none of them were coming out and such. But
11 myself, I would always take care of checking chain
12 tension, greasing the shearer, checking oil levels, so
13 I didn't --- I don't know what was on it because I
14 didn't see it.

15 Q. What time during the shift would you check chain
16 tension?

17 A. Whenever we had to --- whenever we needed bits and
18 the shearer was on the head. There was no specific
19 time.

20 Q. If you was working on that ranging arm, where
21 would you do it at, wherever it was down or ---?

22 A. Normally you had no option. You had to work on it
23 wherever it goes down at.

24 Q. I was wondering, how --- to make it from the head
25 to the tail, how long would it normally take you to

1 get there when you were cutting? Say you were cutting
2 a little bit of sandstone at the tail say on April
3 1st, how long was it taking you to make a pass?

4 A. Probably about an hour-and-a-half, maybe two
5 hours.

6 Q. Was it --- how much --- and prior to April 1st,
7 was you getting some passes a lot quicker than that
8 or ---?

9 A. Yeah.

10 Q. Tell me why that --- why it was taking so long for
11 you guys?

12 A. It was hard cutting on the tail.

13 Q. And how far --- where did the hard cutting start
14 for it?

15 A. That I recall, the hard cutting started --- it
16 started getting hard around 140 Shield and from there
17 onto the tail.

18 Q. Okay. How often was you having to change bits?

19 A. During that time, we were having to set bits on
20 the head and tail, so ---. On the tail we just set
21 --- spotted a few bits in the tail drive because it
22 was going that direction. It was going ---.

23 Q. So you made a pass from head to tail, how many
24 bits at the tail end would you spot?

25 A. Probably two or three buckets on the tail end.

1 Q. When they were cutting --- tell me about when they
2 was cutting the rock, was there a lot of sparking
3 going on or ---?

4 A. Yeah, when they hit sand rock.

5 Q. How much? How do you describe that? How would
6 you describe it?

7 A. Well, of course, when a carbon bit hits sand rock
8 it's going to spark. There's no getting around it.

9 Q. Was it like fireworks or ---? What did it look
10 like to you?

11 A. I wouldn't exactly describe it as that. Just when
12 the bit would hit the rock, it would --- you would
13 have some sparks flying, yeah.

14 Q. Had you had any other maintenance issues lately
15 that you recall that you had been involved with, had
16 to work on or knew about or --- on the face or mule
17 train or anything?

18 A. I really don't recall any major issues because we
19 had not had a whole lot of problems with much of
20 anything in the two or three months before. That was
21 basically the only thing was maybe water and then hard
22 cutting on the tail. That was pretty much the extent
23 of our ---.

24 Q. Had you had any cable problems or anything lately
25 or ---?

1 A. I maybe do recall one time the shearer cable
2 getting mashed by the jack setter. But other than
3 that, ---.

4 Q. Had they recently changed the shearer cable, do
5 you recall that, when that was done?

6 A. Yeah. I had forgot about that. But yeah, I do
7 recall the shearer cable had just been changed out.
8 That was basically because of the britby itself
9 tearing up.

10 Q. Had you ever done any calibrations on the methane
11 monitors?

12 A. No, I didn't do the calibrating on them.

13 Q. Did you all use any curtains along the face at any
14 of the shields at times to help with the ventilation
15 across the face?

16 A. I do recall once, but I don't know exactly about
17 what time, when it took place. We had probably until
18 about mid-face had curtain hung up in front of the
19 jacks directing air, just trying to force the air
20 towards the tail.

21 Q. Was they losing a lot of air in the gob at that
22 point, where you ---

23 A. Yeah.

24 Q. --- had to hang the curtain?

25 A. Yeah.

1 Q. How long a piece would you have to hang or do you
2 recall that they had hung to do that?

3 A. The best I can recall, probably mid-face is about
4 where the curtain was hung to, somewhere around there.

5 Q. So how many shields? Did they have to hang one
6 there at mid-face?

7 A. From head to tail. I mean, ---

8 Q. From head ---?

9 A. --- not from head to tail. From head to mid-face.

10 Q. Head to mid-face?

11 A. Yeah.

12 Q. Okay. Had you ever stuck a spotter back in the
13 shields and checked for methane before since you
14 carried a spotter?

15 A. Yeah.

16 Q. Had you ever seen any higher concentrations ---

17 A. No.

18 Q. --- than .3 other than them, you know, ---

19 A. No.

20 Q. --- normal air strength?

21 A. No.

22 MR. MAGGARD:

23 Do you got any questions?

24 EXAMINATION

25 BY MS. SPENCE:

1 Q. What shift did you work on April 5th?

2 A. On April 5th we were on evening shift.

3 Q. Had you arrived at the mine?

4 A. The explosion took place at 3:05. We started
5 underground at three o'clock. We were a few breaks
6 in.

7 Q. Thank you.

8 ATTORNEY BAXTER:

9 I'd like to take a short break.

10 SHORT BREAK TAKEN

11 ATTORNEY BAXTER:

12 Let's go back on the record.

13 RE-EXAMINATION

14 BY MR. FARLEY:

15 Q. Mr. Estep, did I understand you to say that you
16 examined the longwall belt from time to time?

17 A. Not from time to time. The only --- like I said,
18 earlier in the start-up of this longwall panel, I
19 recall maybe doing it once.

20 Q. You mean like a pre-shift/on-shift exam of the
21 belt?

22 A. Yeah.

23 Q. Do you have mine foreman/fire boss certification?

24 A. Yeah.

25 Q. Do you recall the last time you would have

1 examined the longwall belt?

2 A. I couldn't give you a date. It had been quite a
3 while.

4 Q. We understand that there was still track left in
5 the tailgate entries up to some point here. We're not
6 exactly sure how far it extended as of April 5th. Do
7 you have any idea of where the track ended on the
8 tailgate side of the longwall?

9 A. The track was still there, but it was right around
10 probably --- I couldn't give you a break number, but
11 probably the track kind of zigzagged over here in a
12 couple spots. But right around where you went
13 straight up and then the track --- I think it went off
14 to the right maybe, right in that area it was sealed
15 off. There was no --- you couldn't access any of it.

16 Q. Right. Now, if somebody wanted to take the
17 track ---?

18 A. It was down here around 78 Break.

19 Q. Around 78 toward ---?

20 A. Just right inby there was as far as you could go,
21 just a few breaks right inby there.

22 Q. As of your last shift?

23 A. Yeah.

24 Q. Okay.

25 A. Yeah.

1 Q. All right. About how ---?

2 A. And it was --- the only reason I know this,
3 because a couple of our shifts, while we were down, we
4 were over building all the stoppings and stuff to make
5 the --- for the ventilation change.

6 Q. Okay.

7 A. So that --- there was a set of doors there just
8 right inby 78 Break, ---

9 Q. Okay.

10 A. --- and it was sealed off right there.

11 Q. We understand that there was a water crew, a boss
12 and a couple of pumpers that would travel the tailgate
13 back to the back end of the longwall ---

14 A. Right.

15 Q. --- to check on some water. Did you guys ever see
16 them as they were passing up the tailgate?

17 A. No.

18 Q. Okay.

19 A. No, we wouldn't have seen them. There was no way
20 from the face that we could have ever seen them.

21 Q. Okay. Do you know who they were?

22 A. The only ones I ever really recall seeing over
23 there was --- it was one of the miner section crews.
24 And I think the boss of that crew, the one I seen
25 going up there was Brandon Bowling was the foreman of

1 that crew.

2 Q. Okay. Going up the tailgate?

3 A. Well, we ran in --- where we seen them at was we
4 just have happened to pass them here at 78 Break, and
5 they were going right here to park their ride, and
6 then walk up from there.

7 Q. When's the last time you saw Mr. Bowling and his
8 crew there?

9 A. Once again, I'm sorry, but I couldn't give you a
10 date. I don't recall any exact time.

11 Q. Would that be sometime in 2010?

12 A. Yeah.

13 Q. Sometime within a month prior to April 5th?

14 A. Just guessing, I'm going to say probably two
15 months before.

16 Q. Okay. Now, your understanding was they were going
17 back to the tailgate, back into the longwall to deal
18 with the water situation at the time? Is that what
19 you thought they were doing?

20 A. Yeah.

21 Q. Okay. Bowling and how many people would you
22 estimate were with him?

23 A. It was most of his coal crew.

24 Q. Okay.

25 A. Maybe five, six people.

1 Q. Why was the coal crew going back there? That's
2 not ---.

3 A. Just they shut down one of the miner sections to
4 work on water rather than shut the longwall down.

5 Q. Okay. All right. Needed people to do it; is that
6 right?

7 A. Right. Yeah.

8 Q. Okay. Do you know how long that miner section was
9 shut down under those circumstances?

10 A. That I --- to the best of my knowledge, I know it
11 happened maybe three or four days, is all I know of it
12 happening.

13 Q. Okay. When you were traveling around the
14 longwall, did you ever make it over into this
15 crossover area from the longwall headgate entries over
16 towards the 22 Headgate?

17 A. No, definitely not. The farthest I ever went was
18 at one time, before we made it down to there, there
19 was a power center just right off of --- one break
20 over from our track, right there where that crosscut
21 was at, and that's as far as I ever went.

22 Q. Okay.

23 A. The only reason I ever went there, was the belts
24 went down. I had to go right there to that starter
25 box and put power back in.

1 Q. Your face boss, Mr. Medley, do you ever recall him
2 having to leave the face and travel outby to the doors
3 and make any adjustments?

4 A. Not that I recall.

5 Q. Okay.

6 RE-EXAMINATION

7 BY MR. MAGGARD:

8 Q. Who would --- if they had a ventilation problem
9 outby, who would they normally send to take care of
10 it?

11 A. It would normally be --- I mean, if it was bad
12 enough and just saying, I don't recall this happening
13 or no reason for this to happen, if it was anything to
14 where we didn't have enough air to cross the longwall
15 face, then the whole longwall crew would go work on it
16 and find out where the air trouble was at.

17 Q. Had you had to do that ---

18 A. No.

19 Q. --- since this panel had been started on your
20 crew?

21 A. Not that I recall. I really don't remember ever
22 our crew having to do that.

23 Q. Do you recall any other crews having to do
24 ventilation work recently or during the time this
25 panel had been started?

1 A. Really not that I recall. If they did, I wasn't
2 told about it, so I don't know.

3 Q. Do you recall anybody from --- any of the
4 superintendents, any mine management coming in, any
5 engineers or anybody that was working on ventilation
6 while you had been working on the longwall?

7 A. No, not that I know of.

8 Q. Have any of them been up on the longwall to check
9 ventilation? Do you recall somebody that's not
10 normally on your crew up there at the longwall?

11 A. Now, I do recall maybe a couple times maybe the
12 --- I'm trying to think who maybe it was. I do recall
13 one time the president of the company was up there
14 just looking around, and he made a couple of air
15 checks while he was up there.

16 Q. And how long ago do you recall that being, just a
17 month ago?

18 A. Maybe a month before that took place. It was
19 really --- it was him and I think maybe the
20 superintendent, which is Everett Hager. But other
21 than that, that's really about the only times I recall
22 seeing anybody.

23 Q. How long was they up there that day?

24 A. Just come up --- maybe a half hour. Come up,
25 walked on the face, watched the longwall run a little

1 bit, and that was it.

2 Q. Did they go completely across?

3 A. No.

4 Q. How far --- where did they go to on the face?

5 A. Maybe 30, 40 Shield and come back off the face,
6 and that was the last we seen them.

7 Q. Okay. On the --- I forgot what I was going to ask
8 you. Let's talk about welding on the longwall face.

9 When is the last time you had to do any welding or
10 cutting or anything across the face?

11 A. The only time I recall having to do any cutting
12 was maybe --- well, I think the --- our last six-day
13 run, I think we had to take slack out of the face
14 chain, but all checks were made and we kept rock dust
15 and fire extinguishers and everything right there on
16 the head motors, right there where we were working.

17 Q. Did you use any fire hose or anything --- did you
18 keep fire hose available there?

19 A. Fire hose available right there on the stage
20 loader. We had everything that we were supposed to
21 have right there.

22 Q. Did you keep it hooked up all the time or just ---

23 A. Yeah.

24 Q. --- there, available?

25 A. There was fire hose right there. Now, it wasn't

1 hooked up, but it was laying right there with the fire
2 cap right there at the crusher.

3 Q. How much would you keep of it I mean right there
4 at that location?

5 A. There was normally a couple --- at least a couple
6 300-foot rolls laying there at all times.

7 Q. Did you have other places down the face you could
8 hook up a fire hose, ---

9 A. Yeah.

10 Q. --- have any fire outlets?

11 A. Yeah. There was --- I don't remember exactly what
12 shield but around mid-face and then one on the tail.

13 Q. You said your last shift was April 1st; is that
14 right? Was that a Thursday or did you work ---?

15 A. Well, it was --- I don't ---.

16 Q. Or did you work like a Saturday that week or ---?

17 A. I don't remember any date. I would have to look
18 at a calendar. I just know that the day the explosion
19 took place was our first day back from three days off.

20 Q. So where was you at the time it occurred? You
21 said it occurred at 3:05. How did you know that?
22 What time --- how did ---?

23 A. It was really obvious. It was no farther than I
24 was in. It was the scariest thing I've ever been in.
25 It was such the concussion of the blast that it

1 scooted our mantrip. So I mean, it was obvious
2 something wasn't right.

3 Q. How many breaks in was you when it happened?

4 A. We were just right inby where the mantrips were
5 parked on that side, and I'm going to say maybe Seven
6 or Eight Break as far as we were in.

7 Q. And how did you exit the mine? When it occurred
8 you all was on the mantrip. Was you all traveling in
9 when it happened?

10 A. Yeah.

11 Q. Tell us a little bit about what you seen.

12 A. We just took our --- there was a charging station
13 right there, just two or three breaks underground.
14 And we took our mantrip off charge and was on our
15 mantrip, pulling out and getting ready --- heading to
16 the longwall. And then it just first started getting
17 like a good steady breeze, and then it just kept
18 picking up from there and getting worse and worse.
19 And eventually dust and debris so bad you couldn't see
20 your hand in front of your face. And it was enough of
21 a --- I guess you could say concussion or whatever
22 that if you weren't holding onto something it would
23 throw you.

24 Q. What kind of noise was you hearing? Did you hear
25 anything when it first happened?

1 A. No. I didn't really --- no, didn't hear nothing,
2 just --- the first thing I noticed was --- I didn't
3 really think nothing of it because these chargers that
4 the power center powered up, the chargers right there
5 at that charging station was powered up on inby. They
6 were actually powered up at the --- the next inby belt
7 head was at the Ellis belt head, I think. I don't
8 recall exactly what number that is. I think Number
9 Five. But anyway, that's where that was powered up.
10 And as soon as that hit there, the power went off to
11 those chargers. And I did notice the power go off to
12 the chargers, and it probably wasn't --- it was
13 probably 10, 15 seconds later is when the air started,
14 then all the dust and debris flying.

15 Q. And then I assume you made it outside. Tell us
16 what --- outside, what was going on out there?

17 A. Everybody's in the ride. I mean, there wasn't no
18 walking in that when the air was blowing like it was.
19 You know, we all was able to get off the ride and get
20 over into the breaks and hold onto each other or
21 something to keep from being blowed around. Then when
22 the air started dying down and the dust settled
23 somewhat, we were able to walk, and we walked out.

24 Q. How long did that --- do you know how long that
25 was going on or ---?

1 A. Just guessing, ---

2 Q. Just a guess.

3 A. --- I would say probably anywhere from three to
4 five minutes maybe that we had to stay there like that
5 before we was able to --- before the dust settled
6 enough that we could somewhat see where we were.
7 Because there was such a --- I refer to it as a
8 concussion, whatever there, that the --- I mean,
9 everybody's hats and lights and everything was blowed
10 off their heads, and we didn't have no lights. So we
11 just had to kind of wait until it settled down there
12 and able to gather what we could up and try to get
13 out.

14 Q. And when you made it outside, what was going on?
15 What was --- what do you recall about it?

16 A. As soon as I got outside, you could hear --- I'm
17 pretty sure I recall hearing the fan alarm as soon as
18 we got out. But other than that, really nothing.
19 Just everybody running out of the bath house,
20 wondering what had happened.

21 Q. And when you say fan alarm, was --- do you think
22 that was the Bandytown fan or which ---?

23 A. Yeah. Yeah, I know it was the Bandytown fan
24 because the fans over on the UBB side never did --- to
25 the best of my knowledge, never did go off.

1 Q. Is that --- are all the fans tied to the phone
2 system or what?

3 A. Yeah, they're all tied to the phone system where
4 it will be an audible alarm if any one of them at any
5 time goes off.

6 Q. Which one --- how do you know which fan has gone
7 off from the phone alarm?

8 A. I don't. I just hear the alarm. The dispatcher
9 will have to hear an alarm. The dispatcher will know
10 which one by looking at the computer and tell you
11 which one is off.

12 Q. So what went on outside? Did you stay there ---

13 A. Yeah, I stayed outside.

14 Q. --- for the rest of the shift?

15 A. I stayed until around 1:30, maybe two o'clock that
16 morning.

17 Q. What was your job during that time?

18 A. Pretty much just --- myself and Kevin Medley ---
19 Jack Roles, the longwall coordinator, he asked us two
20 just to stay just in case he needed us for anything.
21 But we didn't really do anything, just sat there and
22 waited, pretty much waiting to hear word ---.

23 Q. But you sat on the Ellis side the whole time?

24 A. Yeah.

25 Q. Who do you recall was the first guys that went in

1 after the accident?

2 A. Right after the accident --- I have to think for a
3 second who all it was. Jack Roles, Everett Hager,
4 probably two or three others. I don't really remember
5 who it was, but had gone on the mantrip and went back
6 in. That's when they ran into that first ride with
7 the other eight guys that found the first deceased.

8 Q. What else do you remember about the evening? Kind
9 of go through a sequence of events until the time you
10 quit.

11 A. Not a lot really, just every time you would hear
12 somebody holler, hoping that it was word from
13 underground that somebody was okay. It really wasn't
14 --- probably --- I'm going to say it was probably
15 about as long as maybe an hour-and-a-half, maybe two
16 hours, just guessing, because I mean that --- trust
17 me, you'd have to be there to anywhere near
18 understand. That whole evening is just kind of a
19 blur. I was hoping to hear some good word, but it
20 just never did happen. But like I said, just
21 guessing, I'm going to say it was probably an
22 hour-and-a-half or so before the rescue teams all got
23 there and was ready to head in, somewhere around
24 there. But other than that, I don't really --- I
25 wasn't really in the middle of much that was going on.

1 I just stayed there just in case somebody did need
2 help with anything. And the rescue teams --- once the
3 rescue teams got there, they pretty much had it. It
4 was in their hands.

5 Q. And since the time of the accident, did you work
6 any more days after April 5th at UBB?

7 A. No.

8 Q. Where are you currently working at?

9 A. At Elk Run shop.

10 Q. And have you been there the whole time since the
11 accident?

12 A. I went to Revolution for one day. Just that one
13 day there, I stopped at Elk Run, coming back up the
14 road, coming back home that evening, and talked to
15 Craig Boggs and asked him if he had anything down
16 there for me, so he told me he'd like to have me in
17 his shop. They had a lot of equipment to rebuild. So
18 that's where I've been ever since.

19 Q. Now, when you was at UBB, I understand that Danny
20 Laverty was your boss; ---

21 A. Yeah.

22 Q. --- is that correct?

23 A. Yeah.

24 Q. When you were doing the examinations or checking
25 any kind of equipment on the longwall, did you ---

1 were you able to take anything out of service?

2 A. Yeah. If I found something wrong with it, I
3 called to order a part and I would take it out of
4 service until that part got there. The only thing I
5 ever really recall taking out of service was the scoop
6 for a stop/start switch. That's basically about it.

7 Q. Okay. But have you got any other examples of
8 stuff that you've had to take out of service for a
9 hazardous condition?

10 A. I don't really recall any.

11 Q. Do you feel like that as far as the longwall
12 section went, you had control over any type of
13 electrical equipment, removing it from service?

14 A. Yeah.

15 Q. Had you ever recorded any hazards in your
16 electrical exams on that section? Have you ever found
17 any hazards?

18 A. I don't really recall any specifics. It's really
19 hard for me to sit here and think back that many
20 months ago exactly what I did. It's just kind of
21 hard.

22 Q. Do you feel like you could record a hazard and it
23 would be reported up the chain?

24 A. Yeah, absolutely.

25 Q. And it would be taken care of by someone else?

1 A. Anything with any issues like that, if there was a
2 hazard, it was reported and it was taken care of.

3 Q. Would you consider Mr. Laverty the kind of boss
4 that would ---

5 A. Very competent.

6 Q. --- do what you wished? I mean, if you found ---

7 A. Yeah, very.

8 Q. --- something, he would be prompt about ---

9 A. Yeah.

10 Q. --- giving it attention?

11 A. Yeah, absolutely. I mean, you're asking all these
12 questions --- I mean, I know you're just trying to get
13 to what I think, if there's any unsafe conditions that
14 were at Performance at the time. No, I do not. All
15 this nonsense about methane monitors bridged out and
16 all this crap, it's crap. That was one thing I would
17 like to clarify. I mean, I know it was kind of ---
18 made me in somewhat look guilty, like I had something
19 to hide, because I wouldn't agree to talk to you all
20 any sooner without the subpoena. If it weren't for
21 the subpoena, I still wouldn't be here because I think
22 it's nonsense. I think this should be investigated a
23 little more and find some more specifics before start
24 pointing fingers. All these comments and remarks
25 being made to the media I think is, for the most part,

1 childish. It's ridiculous. And all these rumors and
2 --- of all these unsafe conditions at Performance,
3 it's rumors.

4 Q. I can accept your opinion, you know, but ---.

5 A. That's what I'm getting at. All this that anybody
6 was saying up until we find some specifics and a
7 cause, it's rumor.

8 Q. That's the main reason I'm here. But I've got to
9 ask questions to ---

10 A. Well, I know you've got a job to do.

11 Q. --- try to figure out if there was a pattern of
12 problems in the past ---

13 A. Yeah.

14 Q. --- and to try to figure out what happened on
15 April 5th.

16 A. I'd like to know myself.

17 Q. Right.

18 A. Like I said, ---

19 Q. We're going to continue ---.

20 A. --- that's 29 of the best buddies that anybody
21 could ever have. And if I thought that there would
22 have been something that I could have told any of you
23 to help you, I would have been here the day it
24 happened. And for you to go to such an extent to
25 think you had to subpoena me to get something out of

1 me, I just didn't agree with it. It's nonsense.

2 Q. Well, I can't speak on everything, but you know,
3 you're not the only one that's received a subpoena.

4 A. I know that. I know that.

5 Q. It's more of a scheduling ---.

6 MR. FARLEY:

7 Actually, the subpoenas were issued by
8 the West Virginia Office of Miners' Health, Safety and
9 Training, not MSHA.

10 A. And I know you're here on behalf of Manchin. I
11 would really personally like to talk to Manchin and
12 tell him how I feel about him, some of the comments
13 he's made to the media and all this. I just think
14 it's really childish and him pointing fingers at
15 something he really don't even know a whole lot about.
16 It's --- UBB was a good place to work. It really was.

17 BY MR. MAGGARD:

18 Q. One question I want to ask you. You've worked for
19 14 years for Performance?

20 A. Yeah.

21 Q. Had you ever worked anywhere else other than
22 Performance? Had you ever visited another mine or
23 worked at another mine in ---?

24 A. Yeah, I have from time to time been around to
25 several different Massey mines.

1 Q. What about other --- outside of Massey?

2 A. Yeah. I did leave Massey for a little while and
3 went to Harris, but that was just for a few months.
4 And then I kind of --- it was just one of them things.
5 You always thing that there's a possibility of the
6 grass being greener on the other side, I guess would
7 be the way to refer to it. But I went to Harris and
8 seen that it wasn't anything any different there, so I
9 came back to UBB.

10 MR. MAGGARD:

11 That's all I got.

12 BY MR. MAGGARD:

13 Q. Oh, one other question. You said you were an
14 hourly employee; is that correct?

15 A. Yeah. I was hourly but, you know, just like as
16 far as my position, that's how I was able to claim two
17 hours a day extra for the position.

18 Q. Could you hire and ---

19 A. No.

20 Q. --- fire anybody?

21 A. No.

22 Q. Could you fire anybody?

23 A. No. That's like even my face boss, I mean, he
24 couldn't fire anybody.

25 RE-EXAMINATION

1 BY MR. FARLEY:

2 Q. Mr. Estep, it would seem to me that you may have
3 some issues with the investigation that's ongoing. Do
4 you have any thoughts on how we should go about it?

5 A. Well, I just think that things have been kind of
6 --- like I said, I really feel that a lot of the
7 comments that have been made by a lot of people are
8 just --- I don't know really how to say it, I guess
9 kind of leading into a lot of the --- well, how I feel
10 about it, there was a lot of young people at UBB. And
11 a lot of it, a lot of the media is just these young
12 kids jumping at the opportunity to get a little bit of
13 attention and their face on TV, talking nonsense just
14 to get a little bit of attention. That's basically
15 how I feel about it. Because most of it that I've
16 heard --- about every one of them that I've heard on
17 TV talking to the media, it's stuff that --- a lot of
18 them were red hats that didn't have a clue how ---
19 even how things were supposed to be, just listening
20 to --- well, ---.

21 MR. FARLEY:

22 Okay.

23 ATTORNEY BAXTER:

24 On behalf of MSHA and the Office of
25 Miners' Health, Safety and Training, I want to thank

1 you for appearing and answering questions today. Your
2 cooperation is very important to the investigation as
3 we work to determine the cause of the accident. We
4 request that you not discuss your testimony with any
5 person aside from your personal representative. After
6 questioning other witnesses, we may call you if we
7 have any follow-up questions. If at any time you have
8 additional information regarding the accident that you
9 would like to provide to us, please contact us at the
10 contact information that was previously provided to
11 you.

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

16 A. I don't really have anything. Well, the only
17 thing I would say, I know I commented about the
18 Governor at one time there. I really respect him in
19 every way, but I just don't agree with some of the
20 stuff that I've heard him say, some of the comments
21 that I've heard him say on TV about Massey. Massey is
22 a very respectful --- you know, they've always shown
23 me the utmost respect of anything that I've ever done
24 or said or been involved in there. Any safety issues,
25 they're always --- I guess you'd say very important,

1 so ---. Like I said, I just don't like all the media
2 attention really trashing the company because it is as
3 very, very good company to work for. So that's the
4 part of it that I really haven't agreed with through
5 the whole thing.

6 ATTORNEY BAXTER:

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

9 A. All right.

10 * * * * *

11 STATEMENT UNDER OATH CONCLUDED AT 10:25 A.M.

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1 STATE OF WEST VIRGINIA)

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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