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**Transcript of the Testimony of Barry Fletcher**

**Date:** May 17, 2010

**Case:**

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STATEMENT UNDER OATH  
OF  
BARRY C. FLETCHER

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 Monday, May 17, 2010, beginning at 10:51 a.m.

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

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EXHIBIT PAGE

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DESCRIPTION

IDENTIFIED

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Map

22\*

\*exhibit not attached

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ATTORNEY WILSON:

Good morning. My name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration. Also present are officials with the State of West Virginia. I'll ask at this time that they state their appearance for the record.

MR. MCGINLEY:

Patrick McGinely.

MR. FARLEY:

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

MR. O'BRIEN:

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

ATTORNEY WILSON:

Today is May 17, 2010. This is an interview of Barry Fletcher. Also present in the room are several other members of the investigation teams. All members of the Mine Safety and Health Administration Accident Investigation Team and all members of the of the State of West Virginia Accident

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

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



1 will issue a public report detailing the nature and  
2 the causes of the fatalities in the hope that greater  
3 awareness about the causes of accidents can reduce  
4 their occurrence in the future. Information obtained  
5 through witness interviews is frequently included in  
6 these reports. You should know that if you request  
7 confidentiality, confidentiality will only be granted  
8 on a case-by-case basis. Your statement may also be  
9 used in other enforcement proceedings as well.

10 You may have a personal representative  
11 present during the taking of the statement and you may  
12 consult with your representative at any time. Do you  
13 have a representative with you?

14 MR. FLETCHER:

15 No.

16 ATTORNEY WILSON:

17 You may refuse to answer any question and  
18 you may request a break at any time. This is not an  
19 adversarial proceeding. Formal Cross Examination is  
20 not be permitted but clarifying questions are  
21 appropriate.

22 A court reporter will record the  
23 interviews. Please speak loudly and clearly. If you  
24 do not understand the question please ask that the  
25 question be rephrased. Please answer each question as

1 fully as you can, including any information that you  
2 may have obtained from somebody else.

3 Again, I would like to thank you in  
4 advance for your appearance here. We appreciate your  
5 assistance in this investigation. Your cooperation is  
6 critical in making the nation's mines safer. After we  
7 have finished asking questions you will have an  
8 opportunity to make a statement and provide us with  
9 any other information that you believe to be  
10 important.

11 If at any time after the interview you  
12 recall any additional information that you believe may  
13 be useful, please contact either Terry Farley or  
14 Norman Page here at the Mine Academy. At this time,  
15 I'll ask the court reporter to swear you in.

16 -----  
17 BARRY FLETCHER, HAVING FIRST BEEN DULY SWORN,  
18 TESTIFIED AS FOLLOWS:

19 -----  
20 ATTORNEY WILSON:

21 I'll turn it over to Attorney Farley.

22 EXAMINATION

23 BY MR. FARLEY:

24 Q. Barry, would you please begin by giving us your  
25 name, home address and a phone number, please?

1 A. Barry C. Fletcher, [REDACTED],

2 [REDACTED]

3 [REDACTED]

4 Q. How long have you been employed by the West  
5 Virginia Office of Miners' Health, Safety and  
6 Training?

7 A. Nineteen (19) --- around 19 years. Close to 19.

8 Q. How many years in the coal industry did you work  
9 just prior to that?

10 A. Since 1976 I was in the coal industry until I took  
11 this job.

12 Q. So around 35 years now?

13 A. Close to it. I was out of the mine about a year  
14 and a half at one time.

15 Q. Which one of the agency's regional offices are you  
16 based at?

17 A. Region 1 out of Westover, West Virginia.

18 Q. Okay.

19 BRIEF INTERRUPTION

20 BY MR. FARLEY:

21 Q. You work out of our Westover office?

22 A. Yes, sir.

23 Q. Okay. Are you also a mine rescue team member ---

24 A. Yes.

25 Q. --- for the agency?

1 A. Yes, sir.

2 Q. How long have you been a mine rescue team member  
3 for the agency?

4 A. Since '93.

5 Q. Okay. Going on 16, 17 years now?

6 A. Yes, sir.

7 Q. Is that about right? What's your current position  
8 with the agency?

9 A. I'm a roof control inspector out of the Westover  
10 office, Region 1.

11 Q. Now, who do you report to? Who's your main  
12 supervisor?

13 A. Alan Lander.

14 Q. Prior to April 5th, 2010, had you ever visited  
15 what was called Upper Big Branch Mine?

16 A. No, I had not.

17 Q. Okay. On that date, April 5th of this year, how,  
18 when and from whom did you learn that a problem  
19 existed at the Upper Big Branch Mine?

20 A. Our mine rescue teams were practicing in the Logan  
21 area and we were at Chief Logan Lodge, and around four  
22 o'clock we had returned there and they notified us  
23 that there had been an incident around four o'clock on  
24 the 5th, that afternoon.

25 Q. When you say they notified us, do you recall who

1 might have notified you?

2 A. I believe Danny Spratt and Steve Snyder, I believe  
3 were both there at the time. I'm not sure which one  
4 of the individuals originally mentioned it.

5 Q. Okay.

6 A. Danny Spratt did inform the team.

7 Q. Okay. Is Danny Spratt the rescue team  
8 coordinator?

9 A. Yes, he is.

10 Q. And that was around 4:00 p.m.; you think?

11 A. Yes, sir.

12 Q. What happened then?

13 A. At that point we just assembled our teams and, you  
14 know, kind of got organized there and then we left for  
15 the mine, Upper Big Branch Mine.

16 Q. And do you recall approximately what time you  
17 left?

18 A. Around 4:15.

19 Q. Did you travel directly to the mine?

20 A. Yes, sir. Yeah, I was in the mine rescue truck.  
21 And we traveled from Chief Logan directly to the mine.

22 Q. Okay. Can you estimate your approximate time of  
23 arrival at Upper Big Branch?

24 A. Between 5:15 and 5:30. I think it was closer to  
25 5:30.

1 Q. Okay. And at which portal did you arrive?

2 A. We first went to the Ellis Portal. At that point,  
3 we visited our machines and got prepared to work and  
4 then they informed us to relocate to Montcoal.

5 Q. Okay. Do you recall why you had to do that?

6 A. That was just the avenue that they chose to get  
7 into the mine was the Montcoal Portal.

8 Q. Okay. What happened then after you --- once you  
9 went to the Ellis Portal to the Upper Big Branch  
10 South, what happened then?

11 A. Well, we basically went over there and hooked our  
12 truck up and staged a parity one ground.

13 Q. What time did the mine rescue team --- well, what  
14 time did the first mine rescue team members from  
15 Office of Miners' Health, Safety and Training enter  
16 the mine; if you know?

17 A. I honestly don't know that answer.

18 Q. Okay. What time did you personally enter the mine  
19 first, approximately?

20 Q. When we went underground we went underground as a  
21 team. I believe we entered the mine around 8:15  
22 Monday evening.

23 Q. Okay. Now, when you say we entered as a team,  
24 would that have been other team members from the  
25 Office of Miners' Health, Safety and Training?

1 A. Yes, sir. It was two teams from our agency.

2 Q. Okay. Do you recall who your other team members  
3 were?

4 A. The North team, yes, sir. Myself, John Hall, Tom  
5 McGuire, Ralph Tanner, John Scott. How many is that?

6 Q. It's four or five.

7 A. We had six men. I ---.

8 Q. That's okay.

9 A. Jeff Bennett was on our team and arrived later.  
10 We met them later in the day.

11 Q. Again, this is not a memory test. It's just ---.

12 A. Yeah, I know.

13 Q. If you entered the mine about 8:15, did you enter  
14 the UBB Main South Portal?

15 A. If that's the Montcoal Portal.

16 Q. Okay. During our interview here and our  
17 discussion, feel free to use the map at any time.

18 A. Okay.

19 Q. It might make is much easier for us. And feel  
20 free to write on it, mark on it, draw lines on  
21 it, ---

22 A. Okay.

23 Q. --- whatever it takes to get us to wherever you  
24 want to take us.

25 A. Okay. We have a smaller scale map of the entire

1 mine on the board here and we have smaller ones here

2 ---

3 A. Okay.

4 Q. --- for your benefit, so ---.

5 MR. SHERER:

6 There's a laser pointer if you want to

7 use that also.

8 BY MR. FARLEY:

9 Q. So please just take us through what happened.

10 Start from the time you entered the mine. Give me a  
11 general description of where you went, what you did,  
12 how it played out.

13 A. Well, we were instructed to enter the mine and we  
14 traveled the Montcoal Portal which was quite a  
15 distance to the Ellis Switch. And from the Ellis  
16 Switch we traveled the track in a battery-powered trip  
17 and we stopped in the area of 76, 77 block of the Four  
18 North Belt, Five North Belt area. So I think about  
19 Block 76 was where we stopped. At that point, there  
20 was supposed to have been a fresh air base there, but  
21 they had advanced up so when we gathered our men up we  
22 traveled up to, I think, it was 98 or 99 block to the  
23 new established fresh air base.

24 Q. Okay. Now, when you arrived initially, at 76, ---

25 A. Uh-huh (yes).



1 Q. --- wherever you were, were you able to travel  
2 beyond there or were you utilizing a track-mounted  
3 mantrip?

4 A. No, sir. We parked outby that switch and then we  
5 walked --- we traveled by foot.

6 Q. Now, ---.

7 A. We were told to stop there. We could have went a  
8 few breaks further, but obviously, we were told to  
9 stop, so that's what we did.

10 Q. Okay. How much further do you think you could  
11 have traveled on the track?

12 A. Probably about four breaks. About three breaks  
13 past the switch. There was debris ---

14 Q. Okay.

15 A. --- in the track.

16 Q. Was it just debris or was the track ---

17 A. No, it was ---.

18 Q. --- damaged?

19 A. Things that were forcibly put in the track entry,  
20 which we assume was by the explosion.

21 Q. Okay. So you then had to just travel on foot from  
22 where you left your mantrip to about 98?

23 A. Yes, sir. And we traveled to the new fresh air  
24 base, and at that time the southern team, which was  
25 Eugene White and some of his men from that area, they

1 wanted to go explore what they call the cut-through  
2 area. And so they went over there for quite awhile.

3 Q. Now, when you say the southern team, now, Eugene  
4 White works for who?

5 A. Miners' Health, Safety and Training .

6 Q. Now, when you say the southern team, is that one  
7 of the industry teams?

8 A. No, sir, that's a team from the State of West  
9 Virginia, Miners' Health, Safety and Training.

10 Q. Okay. So that would have been other agency  
11 employees?

12 A. Yes, sir.

13 Q. Now, do you recall what time --- approximately  
14 what time you encountered them?

15 A. To the best of my recollection, it was probably  
16 somewhere around ten o'clock.

17 Q. Okay.

18 A. It was quite a travel. By the time we drove up  
19 there and met with the fresh air base, it was around  
20 10:00 p.m.

21 Q. Okay. And this is around crosscut 98?

22 A. Yes, sir.

23 Q. For the benefit of everyone else, could you  
24 indicate the location of 98 on the map here, please?

25 A. This area right here (indicating). It could have

1       been 99, but it was 98 or 99.

2       Q. Barry, let me suggest that you take a marker ---

3       A. Spad number.

4       Q. --- and mark that location and initial beside it  
5       and indicate fresh air base or whatever it is you're  
6       trying to describe there.

7       A. You mean initial it with this one?

8       Q. Sure. That's fine.

9       WITNESS COMPLIES

10      MR. MCGINLEY:

11      So for the record, you wrote FAB for  
12      fresh air base and your initials ---

13      A. Yes, sir.

14      MR. MCGINLEY:

15      --- at about --- between the ---

16      A. 98, 99 block.

17      MR. MCGINLEY:

18      --- 98 and 99 block?

19      A. Yes, sir.

20      BY MR. FARLEY:

21      Q. Okay. Now, how many teams were at the fresh air  
22      base at that point?

23      A. The best I can recall, it was our two teams.

24      There was some individuals there who were manning the  
25      fresh air base. I believe there were two gentlemen

1       there, and I have no idea of their names.

2       Q. Okay.

3       A. I believe one was a company employee.

4       Q. Okay.

5       A. He was manning the phone, but ---.

6       Q. Okay. All right. How many teams were inby at  
7       that point; do you know?

8       A. I'm not positive on that.

9       Q. Okay. I know there were a couple on the  
10      22 Headgate area that we later encountered, but I  
11      honestly don't know how many teams were on the ground  
12      at that point besides our own.

13     Q. Okay. So we're up to about 10:00 p.m. now?

14     A. Yes, sir.

15     Q. Can you pick it up from there and tell us what  
16     transpired and what you did, please?

17     A. Well, I sat here with our team for probably an  
18     hour or so while they were doing some exploring in  
19     this area and doing some different things. We had to  
20     assist them a little bit with radio communication  
21     because they were spread out. And a couple of our  
22     guys helped them. Probably an hour or so later we  
23     began to advance up the track towards 22 Headgate. We  
24     knew that there was people inby on 22 Headgate based  
25     on communication with the fresh air base. And our

1 goal was to get up there to assist them or to float  
2 them out if they run out of air. So we advanced, you  
3 know, sometime after 11:00 --- between 11:00 and  
4 midnight. We advanced up the track. Of course, there  
5 was debris, pretty substantial, all the way up through  
6 there. And we probably went 12 or 15 breaks, and at  
7 that point myself and John Hall, I made the decision  
8 to leave our team there and we went up to the 22  
9 Headgate switch. Just to kind of save everybody  
10 beating and banging, we went up to the 22 Headgate.

11 Q. Can you indicate the 22 Headgate switch on the map  
12 for us, please?

13 A. Well, it would be in this vicinity right here  
14 (indicating).

15 Q. Okay.

16 A. This is the track entry and this is the belt  
17 entry.

18 Q. Want to mark it for us, please?

19 ATTORNEY WILSON:

20 Yeah, why don't you, again, put an  
21 arrow ---

22 A. Sure.

23 ATTORNEY WILSON:

24 --- and write out here 22.

25 A. Now, as we walked up through here, I mean, we had,

1 you know, some issues with some air quality. You  
2 know, it was like a sensation, a burning sensation  
3 definitely was there at that time as we traveled up  
4 the track.

5 BY MR. FARLEY:

6 Q. Now, when you say a burning sensation ---?

7 A. In our eyes.

8 Q. In your eyes.

9 A. Yes, sir.

10 Q. Okay.

11 A. Now, we had some CO. It was bouncing between 40  
12 probably in 80 parts per million.

13 Q. Okay. You were under apparatus at this point?

14 A. Yeah. We eventually went under apparatus about  
15 halfway up through there. When the numbers started  
16 increasing, we did put our apparatuses on.

17 Q. Okay.

18 A. And then the teams stopped here and John Hall and  
19 I advanced up the track.

20 Q. When you say his team stopped here, can you  
21 communicate approximately where that was?

22 A. You know, let's see. Give me a second.

23 Q. Take your time.

24 A. I'd say in the vicinity of probably 110 block or  
25 so. Between 110 and 115.

1 Q. Okay.

2 A. We dropped the team off. Make a note there.

3 Q. Just say team waited there.

4 A. Okay.

5 WITNESS COMPLIES

6 BY MR. FARLEY:

7 Q. Approximate time?

8 A. Yeah, I don't ---. To the best of my  
9 recollection, about 11:30 or so.

10 Q. Okay. That's fine.

11 A. But then John Hall and I advanced again up the  
12 track and we --- I'd say in this vicinity right there  
13 (indicating). I'll just put stopped.

14 Q. Okay.

15 ATTORNEY WILSON:

16 Where you're indicating stopped, is that  
17 where the ---

18 A. Yeah.

19 ATTORNEY WILSON:

20 --- switch is there?

21 A. Yes, sir. Yeah, the track switch.

22 ATTORNEY WILSON:

23 Okay. Let's go ahead. I'll mark this

24 map as Exhibit Fletcher One.

25 (Exhibit Fletcher One marked for

1 identification.)

2 MR. FARLEY:

3 Okay.

4 A. So when John and I advanced to the track switch,  
5 at that point we run into some radio communication  
6 from the team that was inby us. And I'm not exactly  
7 sure, but I believe it was the Knox Creek Mine Rescue  
8 team. I could be mistaken on that, but I believe that  
9 was the team that was inby.

10 BY MR. FARLEY:

11 Q. As best you can remember.

12 A. And we had a discussion with the radio man, just  
13 kind of getting a feel for what was going on, and that  
14 probably took John and I --- I would say, from here to  
15 here (indicating), I'd say it took us a half hour, 45  
16 minutes.

17 Q. Okay. So a half hour, 45 minutes from where you  
18 left the rescue team ---

19 A. When we ---

20 Q. --- to the 22 Headgate switch there?

21 A. When we run into the radio guy, probably half an  
22 hour.

23 Q. Okay. So you ran into the radio guy?

24 A. Yes, sir. He was dropped off for communication  
25 purposes near the switch.



1 Q. Okay. What did he tell you about what was going  
2 on inby towards 22 Headgate, if anything?

3 A. When we first talked to him, he had said that the  
4 team was only three by --- I guess, direction of the  
5 command center, is the way I understood it. And so at  
6 that point, we waited to make sure that all those men  
7 made it out and everybody was okay. They didn't need  
8 any help. And then once that team inby us proceeded  
9 outby, we also retreated.

10 We come back and met up with our guys and then we  
11 come back to the 99 block, the teams did. And when we  
12 got to 99 block they were given an instruction to  
13 retreat from the mine because of some air quality  
14 readings.

15 Q. Okay.

16 A. And that was probably around one o'clock ballpark.  
17 We got outside about 2:30, so I'd say it was about  
18 right. At that point everybody retreated from the  
19 mine. All the rescue teams and all the workers, ---

20 Q. Okay.

21 A. --- which would have been our team and the south  
22 team.

23 Q. So you and John Hall didn't make it any further  
24 inby than the 22 Headgate switch?

25 A. Not on the 5th and 6th. No, sir.

1 Q. Okay.

2 A. That was the furthest point of our advancement.

3 Q. All right. Now, during the evening of the 5th and  
4 into the morning of 6th, if I followed you correctly,  
5 you said you traveled the track entry from the fresh  
6 air base toward the 22 Headgate switch; correct?

7 A. That's correct.

8 Q. Did you make it into the --- as your belt entry  
9 there anywhere?

10 A. No, sir. We did not make it in the belt entry as  
11 such. Now, we did look in some crosscuts as the teams  
12 went up through there, but other than the victim, the  
13 102, we didn't really notice anything, ---

14 Q. Okay.

15 A. --- you know, unusual other than just the forces,  
16 obviously, were there. And debris on the track. But  
17 no, sir, we did not travel the belt entry. We  
18 traveled the track entry.

19 Q. Okay. Now, as you traveled the track entry, did  
20 you --- were you able to assess or ascertain the  
21 direction of the stoppings on either side that might  
22 have been blown out, or were they blown out?

23 A. Yes, sir, there were stoppings damaged and belt  
24 damage. And to be quiet honest with you, that night  
25 we were focused on getting to where we thought people

1 were at.

2 Q. Sure.

3 A. So yeah, we did see stoppings blown out. We  
4 didn't map any force directions or anything of that  
5 nature ---

6 Q. Sure.

7 A. --- that night.

8 Q. I understand.

9 A. We observed some things, but our goal was to get  
10 up and assist the inby teams with 22 Headgate  
11 operation.

12 Q. Okay. All right. So you exited the mine after  
13 midnight, after 1:00 a.m., because you got some ---

14 A. The air quality ---

15 Q. --- the air quality ---

16 A. --- at 22 Headgate.

17 Q. --- deteriorated?

18 A. Yes, sir.

19 Q. What did you do when you got outside?

20 A. Well, when we got outside, I mean, as a team, you  
21 know, we clean the machines and kind of just waited  
22 for some information, what we were supposed to do. We  
23 went to our mine rescue truck when we checked out of  
24 the mine. Went through the normal routine of  
25 preparing to go back underground as needed.

1 Q. Were you involved in a debriefing once you got  
2 outside?

3 A. I cannot remember discussing anything with anyone  
4 that night or that morning.

5 Q. Okay.

6 A. Now, I'm not saying that somebody wasn't, but as  
7 far as our team members, I can speak for myself, I  
8 really was not debriefed by anybody at the mine.

9 Q. Okay. Did you have conversations with Office of  
10 Miners' Health, Safety and Training supervisors  
11 personnel when you got outside?

12 A. Yes, sir. We discussed, basically, what we run  
13 into as far as when we put our apparatus on and things  
14 of that nature, but really no details about any  
15 particulars of the explosion or forces other than the  
16 fact that we were curious why we were called outside.  
17 And then, of course, then we found out when we got to  
18 the fresh air base we had some bad readings, but ---.

19 Q. Okay. After you found out why you were called  
20 outside, were you satisfied that that was an  
21 appropriate decision?

22 A. I do what they instruct us to do.

23 Q. Okay. Now, you're now into the morning of April  
24 6th. Were you underground again after that?

25 A. No, sir, we were not. We cleaned our truck and

1 our machines, and I'm not sure when we left. I  
2 believe we left Tuesday afternoon or Wednesday to head  
3 back to Westover ---

4 Q. Okay. So you were not ---?

5 A. --- regional office.

6 Q. Excuse me. You were not involved in the recovery  
7 operation after that?

8 A. Yes, sir, we did return.

9 Q. Okay. When did you return?

10 A. We returned Friday, the 9th.

11 Q. Okay.

12 A. And we arrived at the mine about 10:45 Friday  
13 evening.

14 Q. Okay.

15 A. On Saturday morning we went underground  
16 approximately 3:45. That was on the 10th.

17 Q. When you say 3:45 on the 10th, is that a.m.  
18 or ---?

19 A. Yes, sir. That's Saturday, the 10th at 3:45.

20 Q. Okay. Can you take us through that?

21 A. Yeah, at that point we were asked to assist with  
22 the ventilation of 22 Headgate, meaning our team.  
23 There was quite a few teams underground at that time  
24 because the push was on to get onto the 22 Headgate  
25 section.

1 Q. Right.

2 A. And so we kind of repeated the routine. The  
3 Montcoal side traveled a long distance past L switch,  
4 up four and five belt, and we stopped in the same  
5 location, I believe that night. They might have  
6 cleared the track up a couple of blocks, I don't  
7 recall. But then, obviously, we walked by foot the  
8 rest of the evening to get where we went.

9 Q. Okay. Do you recall where the fresh air base was  
10 inby 78?

11 A. I'm sure that the fresh air base was probably  
12 still here at 99 block, ---

13 Q. Okay.

14 A. --- but we never traveled that way. When we got  
15 up here our goal that night was to assist with the  
16 accompanying --- of carrying some bodies off the  
17 headgate section. So we traveled a different  
18 direction. We traveled up these adjacent entries and  
19 then across these cut-throughs.

20 Q. Okay. Now, those adjacent entries you just  
21 referred to, can you make those, please, because I  
22 think ---

23 A. Sure.

24 Q. --- where you appear to be pointing to are the  
25 tailgates --- is the tailgate side of the longwall?

1 A. Yes, sir. Now, I'm not sure it if was Four, Five  
2 or Six, but we traveled ---

3 Q. Okay.

4 A. --- these entries here. And I'm just going to put  
5 a note here (indicating). I'm just going to put the  
6 tailgate of the longwall.

7 Q. Okay.

8 ATTORNEY WILSON:

9 Just for the record, what did you write  
10 down?

11 A. Traveled up toward the tailgate of the longwall.

12 ATTORNEY WILSON:

13 If it's okay with you, ---

14 A. Sure.

15 ATTORNEY WILSON:

16 --- put the date, that's, I think you  
17 said, 4/10; is that right?

18 MR. FARLEY:

19 Yeah. Saturday morning.

20 ATTORNEY WILSON:

21 Put 4/10/10.

22 A. Yeah. And this is from my recollection as well.

23 I mean, I'm just trying ---.

24 BY MR. FARLEY:

25 Q. That's fine. That's fine.

1 A. Yeah, that was the a.m. our teams traveled up  
2 here. And our purpose that night was to assist with  
3 the recovery of individuals they had ready to go in  
4 headgate section.

5 Q. Okay. Now, again, can you take me through how  
6 your direction --- direction of travel there, please?  
7 Now, I know where you're starting from.

8 A. Yeah, we traveled a couple of these entries up  
9 through here, and I'm not sure whether it was this one  
10 (indicating) ---

11 Q. Okay.

12 A. --- or this one, to be honest with you, but we  
13 eventually went across here (indicating).

14 Q. Okay. Now, you're marking ---.

15 A. The travel direction towards the longwall headgate  
16 area.

17 Q. Okay. Now, this mark you just made, would that be  
18 a couple of crosscuts outby the mouth of the longwall  
19 panel?

20 A. Yes, sir.

21 Q. Is that a fair description?

22 A. Yes, sir, but I do not remember which head we were  
23 in.

24 Q. Okay.

25 A. I just know we traveled up this set of old --- the



1 tailgate mains, ---

2 Q. Okay.

3 A. --- traveled across the cut-through and then we  
4 traveled up the belt, the longwall belt to continue to  
5 help with the transporting of bodies.

6 Q. Okay. Now, the longwall belt you're referring to  
7 would that be on the headgate side of the longwall?

8 A. Yes, sir. Section belt.

9 Q. Okay.

10 A. Yeah, we crossed it. We traveled this direction.

11 Q. Okay.

12 A. This face isn't right.

13 Q. All right. The longwall belt that you traveled,  
14 you're traveling up, you're traveling inby on the  
15 longwall belt, what was the damage like there?

16 A. It was pretty intensive. You know, stuff was tore  
17 up.

18 Q. Can you describe it?

19 A. We had a rigid structure that was, you know,  
20 misplaced and things of that nature.

21 Q. When you say misplaced ---?

22 A. Out of its ordinary position in the entry.

23 Q. Okay. Is it blowing to one side or the other?

24 A. I don't really recall that. We had to cross over  
25 a time or two. I'm not sure.

1 Q. Okay. All right.

2 A. I don't recall.

3 Q. That will be fine. Continue then, just tell me  
4 what happened.

5 A. Well, what I did the rest of that night, if I  
6 remember right, we just assisted in carrying people.  
7 They had some bodies stationed down through here and  
8 we helped with that, and then when we had those bodies  
9 removed, we carried from here back to here  
10 (indicating) and had a rubber-tire mantrip that would  
11 transport them down this set of entries.

12 Q. When you say this set of entries, do you mean on  
13 the tailgate side?

14 A. Yes, sir, the tailgate --- the old tailgate mains.  
15 They would transport --- as we carried the bodies off  
16 the longwall headgate area, we would carry them across  
17 this (indicating) and back to this area here, and then  
18 they would transport them out.

19 Q. So it was necessary to carry the bodies?

20 A. It was necessary to carry the bodies because you  
21 could not put them in a ride. That's correct.

22 Q. So you had to carry the bodies from the longwall  
23 face in the outby direction ---

24 A. Right.

25 Q. --- down the ---?

1 A. Right. They had a few people here. They had a  
2 few bodies in this area here and I don't remember  
3 exactly where they were at, but they did ---.

4 ATTORNEY WILSON:

5 When you say here, I need you to explain  
6 for the record, describe where you're referring to.

7 A. I'm not sure I can. I'm not sure I can. I  
8 remember walking up here (indicating). We went down  
9 the belt some. We might have even been in an adjacent  
10 entry a time or two. If you have a location of the  
11 victims, which I know you do, wherever they found them  
12 is where they bagged them and that's where we carried  
13 them from. That's the best I can tell you.

14 BY MR. FARLEY:

15 Q. Okay.

16 A. And I believe there was three or four in this  
17 area. And then when we finished up with that, the  
18 gentlemen that were working on the longwall face, I  
19 walked up and went down the face and helped them bring  
20 some bodies up. I wasn't involved in the preparing  
21 for transport, but I helped them bring some bodies up  
22 the longwall face.

23 MR. MCGINLEY:

24 When you say this area, can you just mark  
25 an X there?

1 A. No, I can't.

2 MR. MCGINLEY:

3 I mean as a general --- not as an  
4 accurate representation.

5 A. No, I can't. You mean the area where the bodies  
6 were at?

7 MR. MCGINLEY:

8 No, no. Just you said this area, you  
9 pointed ---.

10 A. I believe we traveled this area some and I believe  
11 we also in this area. I'd have to go back and --- I  
12 don't know, I can't remember. I wasn't keeping track  
13 whether it was One, Two or Three.

14 MR. MCGINLEY:

15 Just generally, that was the area?

16 A. Generally is the best I can tell you is these  
17 entries.

18 MR. MCGINLEY:

19 That's fine. If you could just mark an X  
20 there.

21 BY MR. FARLEY:

22 Q. When you say these entries, you're referring  
23 to ---?

24 A. The headgate belt entry, the adjacent entry and  
25 possibly the power entry. I'm not sure which entry

1 the power was in.

2 MR. FARLEY:

3 I think for your benefit, Mr. McGinley,  
4 we do have a map which indicates these exact locations  
5 of the bodies.

6 MR. MCGINLEY:

7 No, that wasn't my point. My point was  
8 just that he's got a big map here and he's describing  
9 the general areas.

10 A. We traveled the headgate areas, the belt entry  
11 area and the adjacent entries. We were in there a  
12 couple times. We had to route around some stuff that  
13 was damaged to get the bodies carried, and I just  
14 honestly don't remember what entry ---.

15 MR. MCGINLEY:

16 But this is just for reading the  
17 transcript ---

18 A. Sure.

19 MR. MCGINLEY:

20 --- to be able to translate what the  
21 general area would be when you read the transcript.  
22 If you just put an X there with the understanding that  
23 this isn't going to be accurate.

24 A. Yeah.

25 MR. MCGINLEY:

1 We just need some general representation.

2 A. Traveled belt on adjacent entries.

3 MR. MCGINLEY:

4 That's great.

5 A. Would that be all right?

6 MR. MCGINLEY:

7 Sure.

8 A. And then we did that from the longwall face,  
9 wherever it was at, all the way down through here. We  
10 were kind of in and out. I honestly don't remember  
11 what areas we were in all of the time. I just don't  
12 remember.

13 BY MR. FARLEY:

14 Q. Okay. What time did you finish up there on  
15 Saturday?

16 A. I believe we got out of the mine in the p.m.,  
17 around 1:45.

18 Q. Okay.

19 A. That would have been on the 10th.

20 Q. Okay. Now, after Saturday, April 10th, were you  
21 in the mine again?

22 A. Yes, sir.

23 Q. When was that?

24 A. Well, Terry, I'm trying to think back. Saturday  
25 was the day that we retrieved the rest of the people

1 off of the 22 Headgate; is that correct?

2 Q. Twenty-two (22) Headgate?

3 A. Yes. I'm trying to --- again, rough notes. I  
4 don't remember the date. Whatever date it was, the  
5 final day I was underground was the day that we was  
6 with the MSHA people and southern West Virginia men  
7 got the bodies off 22 Headgate. And I don't recall  
8 whether that was a Saturday or a Sunday?

9 Q. Is it possible it was a couple days later?

10 A. Yeah. And I just tried to ---.

11 Q. Okay.

12 A. The best I can recall.

13 Q. If you don't remember, that's fine. Do you  
14 remember anything specific about that effort to remove  
15 the bodies from 22 Headgate?

16 A. Well, after we restored the ventilation, the  
17 Federal 2 Team was up there that night, I do remember  
18 that, Eastern Associated Coal Federal 2 Team.

19 Q. When you say we restored the ventilation, were you  
20 involved in restoring the ventilation ---?

21 A. Yes, sir, we assisted with that somewhat, yeah.

22 We were broke up with some different teams, our team  
23 members. We weren't together as a team. But we  
24 assisted with hanging some curtain and traveling with  
25 the teams as they go up in there that night, the night

1 we recovered the bodies, and I was involved with that.

2 Q. Okay. Can you describe what work was done to  
3 restore ventilation at the 22 Headgate during this?

4 A. They hung a single row of curtains between One and  
5 Two entry of the 22 Headgate where there was damage,  
6 and we brought air with us behind our backs. I don't  
7 remember what entry we stopped at. I believe we they  
8 went inby the mantrip, and I'm not sure of the  
9 mantrip's location as far as the block.

10 Q. Okay.

11 A. A block or two. And once the ventilation was  
12 restored, then they allowed us to, us meaning the  
13 individuals involved with the body recovery, to begin  
14 to prepare the victims for transport.

15 Q. Okay. Now, when you say the mantrip --- now, you  
16 don't recall the exact location of the mantrip on 22  
17 Headgate; correct?

18 A. No, sir, I do not. If I had a map in front of me,  
19 I might be a little closer. I honestly don't remember  
20 the crosscut.

21 Q. Okay. Now, were there bodies in the mantrip?

22 A. Yes, sir.

23 Q. How many?

24 A. There were two on the outby side and there were  
25 four on the inby side.



1 Q. Okay. Was the mantrip damaged?

2 A. Yes, sir. The outby canopy on the mantrip was  
3 laying inby a couple hundred feet. Never measured,  
4 don't know what distance it took it, but there was a  
5 canopy laying inby and the outby canopy was off, so we  
6 assumed that was from the mantrip the men were on.  
7 The inby canopy was still attached with some damage to  
8 it.

9 Q. How was the inby canopy damaged?

10 A. It appeared that the force came down on the top  
11 right side.

12 Q. Now, when you say the top right side, would that  
13 be the top ride side as you're looking inby?

14 A. Yes, sir.

15 Q. Okay. Did you find additional bodies inby the  
16 mantrip?

17 A. Yes, sir. We found three individuals inby the  
18 trip. They were spaced out probably a block, block  
19 and a half apart. Don't know block locations.  
20 Wherever they were plotted on the map. There was  
21 three individuals. Yes, sir.

22 Q. Okay. Did you travel to the 22 Headgate faces?

23 A. No, sir, we did not. I did not.

24 Q. Okay. Did anyone else that you know of?

25 A. Not with my group. And I don't know if anyone

1 else did with other groups. I don't know.

2 Q. Okay. So you don't recall exactly the date of  
3 your last time there?

4 A. Yeah, the dates kind of ran together. The last  
5 day underground, the day that we retrieved the men off  
6 the face, off the 22 Headgate section. I don't know  
7 what day that was.

8 Q. All right. Did you assist in carrying the bodies  
9 from 22 Headgate?

10 A. No, sir. Most of our group prepared the bodies to  
11 transport, so I did not --- I mean, we helped relocate  
12 a few to move them to an area that men could pick them  
13 up, but about a block or so outby the trip is the  
14 furthest that I carried anyone.

15 Q. Okay. How far was it necessary for the other  
16 people to carry the bodies?

17 A. They carried them directly outby the manbus about  
18 one break. We tried to keep them a break outby the  
19 manbus. They carried them down, and I'm not sure what  
20 route they took, but I assume they went down 22 track  
21 and probably crossed over somewhere. Where, I don't  
22 know. I can't answer that.

23 Q. Okay. Where did they ultimately deliver the  
24 bodies to?

25 A. On the sixth north belt track in this area, I

1 believe it was probably --- they probably called it 80  
2 Block, maybe, 79 Block. When they moved a little bit  
3 of debris off the track, they brought the mantrips up  
4 about three or four breaks, and there was an opening.  
5 There was a stopping out there and they traveled  
6 through the stopping that I located earlier on the 22  
7 tailgate side. They carried them from there, from the  
8 section clear down to there, meaning other teams. I  
9 don't know what teams or who was involved in that, but  
10 there was quite a few.

11 Q. Can you estimate the distance the distance that it  
12 was necessary to carry the bodies?

13 A. No, sir. I've never measured the map. I'd say it  
14 was probably close to a mile, but I've not measured so  
15 I can't say.

16 Q. That's fine. Now, can you recall the time of day  
17 when you exited the mine on your last day there?

18 A. I made a note, and I'm not sure if it's accurate,  
19 that we were out of the mine at 1:45 on Saturday.

20 Q. Okay. But that was the time before; right?

21 A. Yeah, I made a mistake earlier. That's correct.  
22 We retrieved the bodies, I believe, on the 12th. I'm  
23 looking at that. We got out at Sunday. Yeah, I  
24 messed up on my days, and I'll correct that.

25 Q. Okay. The 12th would have been Monday, I believe?

1 A. Yes, sir. I don't know how to correct that, but I  
2 --- for the record.

3 Q. You just did. You just did.

4 A. Yeah. I have a few rough notes, but yeah, I made  
5 a mistake. Yeah. The 12th was when we advanced back  
6 in the mine with Task Force One and the MSHA  
7 inspectors and retrieved the bodies, so all the  
8 information I said earlier was on the wrong date.

9 Q. Okay. Good enough.

10 A. And that day --- yeah, we entered the mine at 11  
11 o'clock on that day, 11:00 a.m. in the morning on  
12 Monday. That's correct. I'm sorry.

13 Q. All right. While you were traveling ---.

14 A. Out of the mine at 12:30, Terry, on Tuesday, 4:13.

15 Q. Okay.

16 A. I apologize.

17 Q. No problem. That's cool. Let me back up on a  
18 couple things.

19 A. Sure.

20 Q. When you were traveling back and forth from 22  
21 Headgate section, did you happen to venture into the  
22 area to the south of there, I think that's called the  
23 crossover, which goes towards the longwall face?

24 A. I don't recall. I believe the night I was in  
25 there --- and I was only up there one night, I was

1       only on the 22 Headgate. It would have been on a  
2       Monday and Tuesday morning. And we traveled this  
3       direction. We traveled this direction up to 22  
4       Headgate switch and then proceeded up the track.

5       Q. Okay. Were you in the area known as Eight North?

6       A. No, sir, I was not in the Glory Hole area, the  
7       Eight North area. No, sir, I was not.

8       Q. Okay. And this crossover area that I just  
9       referred to which extends south from where you turn  
10      off to go to 22 Headgate towards the longwall face,  
11      you were not in there?

12     A. I don't believe so. I'm pretty sure the day  
13     before that when I messed up on my date when we  
14     carried the bodies off the headgate, I'm almost sure  
15     this is where we traveled meaning across the old  
16     longwall cut-through up the headgate area, and it  
17     entries probably at that time one and two.

18     Q. Okay.

19     A. But no, sir, I was never personally ---

20     Q. All right.

21     A. --- in that area, that I recall.

22     Q. Okay. As you were traveling in and out of  
23     Headgate 22, did you get any sense of the destruction  
24     and how it might have originated on forces?

25     A. No, sir.

1 Q. Any thoughts on that?

2 A. No, sir. I mean, you could see there was a little  
3 bit of movement both directions. There was definitely  
4 some outby force, and at that time it would have  
5 probably been the return entry, which should have been  
6 the Number Three entry, I did notice a scoop when I  
7 looked through a crosscut, a scoop lid, a battery lid  
8 was forced and jammed up against a scoop. And we only  
9 advanced up that direction the one day, so if I spoke  
10 earlier that we was up there, we were not. We were  
11 just up there the day --- I was up there the day that  
12 we retrieved the bodies.

13 Q. Okay. Now, that would have been the last day you  
14 were there?

15 A. Yes, sir. That would have been the 12th, and then  
16 a.m. hours of the 13th. But we got out at, like I  
17 say, at 12:30 on Tuesday the 13th, so I messed up on  
18 my days.

19 Q. As you traveled the 22 Headgate section, as you  
20 were traveling in the inby direction, did you get any  
21 sense of how the configuration of the roof bolt  
22 plates, were they bent or damaged in any particular  
23 manner?

24 A. No. I think I made note, mental note of a couple  
25 times when I was on the headgate the previous day of

1       some directional forces with some R2 plans, which was  
2       the bigger plates. But I didn't notice a lot that  
3       night on that section. I really wasn't focusing on  
4       that. Our goal was to get the individuals prepared  
5       for transport. So other than the scoop lid, I noticed  
6       some forces within the stoppings.

7       Q. Okay. Have you been back to the Upper Big Branch  
8       Mine since the 13th?

9       A. No, sir.

10      Q. Meaning the 13th of April.

11      A. No, sir.

12      Q. Is there any question or anything that I haven't  
13      asked you about this rescue and recovery operation,  
14      any question about any subject, anything you want to  
15      share with us that you think would be important?

16      A. No, sir.

17      EXAMINATION

18      BY MR. SHERER:

19      Q. First of all, Mr. Fletcher, I'd like to thank you  
20      for participating in this mine rescue and recovery  
21      effort. I think I can extend that on the behalf of  
22      MSHA also. Just a few questions. When you arrived at  
23      the mine at about 5:30 on the 5th, do you know who was  
24      in charge?

25      A. For the operation or for the mine or for the

1 agencies?

2 Q. For all of the above.

3 A. No, sir, I just reported to Danny Spratt at that  
4 point and he gave us direction on what we're supposed  
5 to do.

6 Q. Okay. Thank you. From your testimony, it sounds  
7 like there were other teams in the mine when you got  
8 there; is that correct?

9 A. I believe there were. That's correct.

10 Q. When you got to the fresh air base at Crosscut 98,  
11 you mentioned that you thought there were a team or  
12 two inby at that time; ---

13 A. Yes, sir.

14 Q. --- is that correct?

15 A. Yes, sir.

16 Q. Were there other individuals not associated with  
17 the team inby at that time?

18 A. I can't answer that. I also don't know.

19 MR. SHERER:

20 Okay. Thank you.

21 EXAMINATION

22 BY MR. MCGINLEY:

23 Q. I noticed that you were refreshing your  
24 recollection with notes. Are those notes you took  
25 contemporaneously or ---?



1 A. After the event was over, I just sit down and try  
2 to do a timeline because obviously I could not  
3 remember, as earlier noted. But I tried after the  
4 event, I just tried to sit down and get a rough draft.  
5 That's why I'm saying that everything is approximate  
6 times and approximate locations, yes, sir.

7 Q. About how many pages of notes do you have there?

8 A. It would be probably five and a half, six.

9 Q. How were you communicating when you first went in  
10 on the 5th, radio?

11 A. When we arrived at the fresh air base, yes, sir,  
12 radios. Handheld radios, that's correct.

13 MR. MCGINLEY:

14 That is all.

15 ATTORNEY WILSON:

16 All right. We're going to go off the  
17 record for a minute.

18 SHORT BREAK TAKEN

19 ATTORNEY WILSON:

20 All right. We're back on the record.

21 While we were off the record, we made some notations  
22 to the map, which is marked Exhibit Fletcher One.

23 First of all, I believe you indicated around the  
24 longwall area and the headgate on the longwall, you  
25 indicated that the green arrows are showing the

1 direction of travel that you took on 4/10; is that  
2 correct?

3 A. Yes, sir. I'm not sure that's the exact entries,  
4 but in that area, we traveled that area.

5 ATTORNEY WILSON:

6 Okay. And then up on 22 Headgate, you  
7 wrote down 4/12/10 at mantrip and IB for inby bodies  
8 and your initials, and that was, again, just  
9 indicating the area where you were on April 12th late  
10 in the day into the early morning of 4/13; is that  
11 correct?

12 A. That's correct.

13 ATTORNEY WILSON:

14 Were there any other notations that we  
15 made on the map?

16 A. No, sir, I don't believe.

17 ATTORNEY WILSON:

18 All right. Any other questions?

19 MR. FARLEY:

20 I don't think so.

21 MR. BECK:

22 Thank you, Barry. Thank you very much.

23 ATTORNEY WILSON:

24 Mr. Fletcher, thank you on behalf of MSHA

25 and the Office of Miner's Health, Safety and Training.

1 Your cooperation is very important to the  
2 investigation as we work to determine the cause of the  
3 accident. We require that you not discuss your  
4 testimony with any other person because we will be  
5 interviewing additional witnesses. After questioning  
6 those other witnesses, we may call you if we have any  
7 follow-up questions that we feel we need to ask you.  
8 If at any time you have additional information that  
9 you feel would be useful to the investigation, please  
10 contact either Terry Farley or Norman Page, the lead  
11 accident investigator for MSHA here at the Mine  
12 Academy.

13 If you wish, at this time, I'd like to  
14 give you the opportunity to provide any additional  
15 information that you believe may be useful, or if you  
16 would like to make any type of a statement, you can do  
17 that now.

18 A. No, sir, other than just the days kind of ran into  
19 each other and you lose track of what day's what. But  
20 no, no other information.

21 ATTORNEY WILSON:

22 Okay. Then, again, I want to thank you  
23 for your cooperation in this matter, and we're off the  
24 record.

25 \* \* STATEMENT UNDER OATH CONTINUED AT 11:46 A.M. \* \*

1 STATE OF WEST VIRGINIA )

2

3

4

CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

22

*Alison Salyards*

23

24

25