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Transcript of the Testimony of James Griffith

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STATEMENT UNDER OATH
OF
JAMES GRIFFITH

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 Friday, August 27, 2010, beginning at 1:07 p.m.

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ATTORNEY HAMPTON:

Okay. My name is Pollyanna Hampton.

Today is August 27th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer. He is an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present here are several people from the State of West Virginia, and I ask that they now introduce themselves for the record.

MR. FARLEY:

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

MR. KOERBER:

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

ATTORNEY MCATEER:

I'm Davitt McAteer, and I'm from the Governor's independent investigative team.

ATTORNEY HAMPTON:

There also might be other members of the

1 teams in the audience today. All members of the Mine
2 Safety and Health Accident Investigation Team and all
3 members of the State of West Virginia Accident
4 Investigation Team participating in the investigation
5 of the Upper Big Branch Mine explosion shall keep
6 confidential all information that is gathered from
7 each witness who voluntarily provides a statement
8 until the witness statements are officially released.

9 MSHA and the State of West Virginia shall
10 keep this information confidential so that other
11 ongoing enforcement activities are not prejudiced or
12 jeopardized by a premature release of information.
13 This confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Your participation in this interview also
17 constitutes your agreement to keep this information
18 confidential.

19 Government investigators and specialists
20 have been assigned to investigate the conditions,
21 events and circumstances surrounding the fatalities
22 that occurred at the Upper Big Branch Mine-South on
23 April 5th, 2005. Excuse me. The investigation is
24 being conducted by MSHA under Section 103(a) of the
25 Federal Mine Safety and Health Act and the West

1 Virginia Office of Miners' Health, Safety and
2 Training. We do really appreciate your assistance in
3 coming out to talk to us today.

4 You many have a personal attorney present
5 during the taking of this statement or another
6 personal representative if MSHA has permitted it. So
7 the record is clear, do you have anybody with you here
8 today as a representative?

9 MR. GRIFFITH:

10 No.

11 ATTORNEY HAMPTON:

12 Your identity and the content of this
13 conversation will be made public at the conclusion of
14 the interview process and may be included in the
15 public report of the accident, unless you request that
16 your identity remain confidential or your information
17 would otherwise jeopardize a potential criminal
18 investigation. If you request us to keep your
19 identity confidential, we can only do that to the
20 extent permitted by the law.

21 That means that if a judge orders us to
22 reveal your name or if another law requires us to
23 reveal your name or if there's any other law
24 enforcement reason for revealing your name, we would
25 have to do so. Also, there may be a need to use the

1 information you provide to us or other information we
2 may ask you to provide in the future in other
3 investigations into and hearings about the explosion.

4 Do you understand?

5 MR. GRIFFITH:

6 Yes.

7 MS. FERGUSON:

8 Do you have any questions?

9 MR. GRIFFITH:

10 No.

11 MS. FERGUSON:

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

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

23 She is recording the interview, so please speak loudly
24 and clearly. If you don't understand a question,
25 please ask the person to rephrase it, and please

1 answer each question as fully as you can, including
2 giving any information you might have learned from
3 somebody else.

4 We would like to thank you in advance for
5 your appearance here today. We really do appreciate
6 your help with us. Your cooperation is critical in
7 making the nation's mines safer.

8 After we have finished taking --- asking
9 questions, at the very end you'll have an opportunity
10 to make any statement that you would like or to go
11 over any answers that you have given us if you have
12 additional information or anything you'd like to
13 clarify. And if at any time after the interview you
14 have additional information you'd like to share with
15 the team, please contact us at the information that
16 was given to you in the letter that I handed you
17 before we started the interview. Norman Page is the
18 leader of the Federal Accident Investigation Team, and
19 he can be contacted through that information.

20 As well, any statements given by miner
21 witnesses to MSHA are considered to be an exercise of
22 statutory rights and protected activity under Section
23 105(c) of the Mine Act. If you believe any discharge,
24 discrimination or other adverse action is taken
25 against you as a result of your cooperation with this

1 investigation, you may contact MSHA and file a
2 complaint under Section 105(c) of the Act.

3 MR. FARLEY:

4 Mr. Griffith, on behalf of the Office of
5 Miners' Health, Safety and Training, I'd like to
6 inform you that the West Virginia Mine Safety
7 Regulations, particularly West Virginia Code 22A,
8 Article 1, Section 22, protects miners from
9 discrimination which might result from participation
10 in these kind of interviews. Now, I want to pass
11 along some contact information for the West Virginia
12 Board of Appeals, and the Board is charged with
13 hearing complaints from miners about potential
14 discrimination.

15 Should you experience any problems at
16 all, you should contact the board immediately at that
17 address. I would caution you that should you have a
18 problem, you need to file a claim within 30 days of
19 when it occurs. Also, you have my business card and
20 one for Bill Tucker, our lead underground
21 investigator. Thank you.

22 ATTORNEY HAMPTON:

23 Okay.

24 ATTORNEY KOERBER:

25 Could you swear in the witness, please?

1 -----

2 JAMES GRIFFITH, HAVING FIRST BEEN DULY SWORN,
3 TESTIFIED AS FOLLOWS:

4 -----

5 ATTORNEY KOERBER:

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

8 A. James Kelly Griffith, Jr., G-R-I-F-F-I-T-H.

9 ATTORNEY KOERBER:

10 And would you provide your address and
11 telephone number, as well, sir?

12 A. [REDACTED] .
13 Phone number [REDACTED] .

14 ATTORNEY KOERBER:

15 Sir, this is a copy of the subpoena that
16 was served upon you on the 11th of August, and I'd
17 like that to be Exhibit Number One.
18 (Griffith Exhibit One marked for
19 identification.)

20 ATTORNEY KOERBER:

21 And this is a copy of the Return of
22 Service filled out by the sheriff's office of Wyoming
23 County, showing that they served you on the 11th day
24 of August at 11:00 a.m. And that's a copy of the
25 subpoena, as well, that was attached to the return.

1 I'd like that to be Exhibit Two.

2 (Griffith Exhibit Two marked for
3 identification.)

4 ATTORNEY KOERBER:

5 Sir, the statute that authorizes the

6 Director to subpoena witnesses to interviews such as

7 this requires the Director to offer to each of those

8 subpoenaed witnesses a \$40-a-day witness fee, plus

9 mileage at the rate of 15 cents a mile from your house

10 to here and back, so long as you drove in your

11 personal vehicle, plus reimbursement for any tolls

12 that you may have passed on your way to or from.

13 Prior to the interview I had provided you with two

14 forms that needed to be filled out in order to receive

15 that money; is that correct?

16 A. Yes.

17 ATTORNEY KOERBER:

18 And you requested the opportunity to let

19 your wife look at it and talk it over a little bit

20 with your wife; is that correct?

21 A. Yes.

22 ATTORNEY KOERBER:

23 Okay. Here is my name, my address and

24 the phone number here where you could reach me. Talk

25 to your wife. Decide what you want to do. Give me a

1 call.

2 A. Okay.

3 ATTORNEY KOERBER:

4 Okay? Thank you.

5 ATTORNEY HAMPTON:

6 Okay.

7 EXAMINATION

8 BY MR. SHERER:

9 Q. First thing I want to do, Mr. Griffith, is thank
10 you for coming down here this afternoon. We're
11 looking into what went on as far as the conditions and
12 practices and such that led up to this explosion, and
13 we're doing it for two reasons. First is the family
14 and the friends and the coworkers of these miners
15 deserve an answer what went on.

16 The second reason is we want to prevent this from
17 ever happening again, so any information you can share
18 with us is greatly appreciated. Roughly, how many
19 years of mining experience do you have?

20 A. I'd say 20 years.

21 Q. Okay. When did you start working for the Massey
22 organization?

23 A. April '04.

24 Q. Okay. When did you first start working up at
25 Upper Big Branch?

1 A. April '04.

2 Q. Okay. Had you been at Upper Big Branch that
3 entire period of time ---

4 A. Yes.

5 Q. --- up until the explosion? What was your job
6 title at the time of the explosion?

7 A. Miner operator.

8 Q. Miner operator. Which section did you work on?

9 A. Headgate 22.

10 Q. Headgate 22. Which shift did you work on?

11 A. I was on the swing shift.

12 Q. Okay. You worked the --- operated the right miner
13 or the left miner?

14 A. Right miner.

15 Q. Okay. What did you think about the ventilation on
16 Headgate 22?

17 A. Can I say one thing?

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

19 A. I operated both miners ---

20 Q. Okay.

21 A. --- because we didn't --- at that present time we
22 didn't have a second operator, ---

23 Q. Sure.

24 A. --- so I walked.

25 Q. Oh, okay. I always wondered how effective it was

1 to have two miners and two operators in a three entry
2 development.

3 A. It happens.

4 Q. Okay. What did you think about the ventilation on
5 Headgate 22?

6 A. It sucked.

7 Q. Okay.

8 ATTORNEY MCATEER:

9 Is that technical term?

10 A. Yes, West Virginia term.

11 BY MR. SHERER:

12 Q. The week or so prior to the explosion, did you
13 notice any changes in the ventilation during that
14 week?

15 A. Yes, I did.

16 Q. Can you please explain that?

17 A. The air actually dropped, because I know that our
18 high voltage sign in front of the power box, which was
19 in Number Two entry, our intake, normally swang, you
20 know, from the air.

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

22 A. And it hadn't for, you know, the last several
23 days. You know, I don't know an exact time. And I
24 kept mentioning to the boss, you know, we have an air
25 problem. There's something wrong with the air.

1 Q. Sure. Now, who was the boss?

2 A. Brandon Bowling.

3 Q. So you told Mr. Bowling that there was a problem
4 with the air?

5 A. Yes.

6 Q. What did he do at that point in time?

7 A. Nothing, that I know of.

8 Q. What was the last shift you worked prior to the
9 explosion?

10 A. I believe it was Saturday.

11 Q. Okay. Do you recall if that sign was hanging
12 still on Saturday?

13 A. Yes.

14 Q. What was the minimum quantity of air you needed to
15 run your miner?

16 A. I believe it's 6,000.

17 Q. 6,000. Did you have an anemometer?

18 A. No, sir.

19 Q. So you depended on the section boss to measure the
20 air?

21 A. Yes.

22 Q. Do you recall if he measured the air on that
23 Saturday?

24 A. I've never seen him take an air reading, but
25 that's not to say he didn't take one, but I've never

1 been around when he has taken it.

2 Q. Thank you. That explains why he testified he
3 never had any problem with air. What about the
4 methane on Headgate 22? What was the maximum value
5 you saw on the methane monitor on the miner?

6 A. The last few days it would go as high as 4.7, 4.8.
7 In between buggies it would drop by the time, you
8 know, the buggy would come back up there.

9 Q. Did you tell Mr. Brandon about that?

10 A. Yes, I did.

11 Q. Or excuse me. What was his name, Brandon Bowling?

12 A. Yes.

13 Q. Yeah, Mr. Bowling, excuse me. What'd he do when
14 you told him about the methane?

15 A. Actually he never done nothing. Just said, okay.
16 I'd sent word when I was mining in Number Three entry
17 that we had, you know, gas problems and we didn't have
18 enough air. So my buggy operator, which was Bobby
19 Pauley at the time, she actually told him twice,
20 because she told me she'd told him. He was, I think,
21 kind of leaning over the power box, and when I
22 finished my cut, he was still over the power box.

23 Q. Have you ever heard him say something like, it's
24 okay to have five percent methane, as long as it don't
25 make it out to the power box?

1 A. No, sir.

2 Q. Okay. How long had he been the section foreman on
3 22 Headgate?

4 A. That's another type of question I'm very bad with.
5 Whenever the section started, he was ---

6 Q. Okay. So ---

7 A. --- the section boss, so you know ---.

8 Q. --- pretty much the entire time?

9 A. Yeah. Time-wise I can't tell you.

10 Q. Okay. That's fine. That's fine. What did you
11 think about rock dust on 22 Headgate?

12 A. Possibly could've been better, but we had wet
13 conditions, and I know at least once a week, most the
14 time someone from our crew stayed back and run the
15 rock dust machine with the bulk duster.

16 Q. Was that a scoop-mounted duster?

17 A. Yes.

18 Q. Okay. Did they get those big bags of rock dust up
19 there?

20 A. Yes.

21 Q. Do you about how many of those bags they go
22 through in a week?

23 A. I would say at least four, because when we dusted,
24 we would always load four. Sometimes we would load
25 five and we would dust further down the return or the

1 intake.

2 Q. When you having problems getting enough air to
3 operate, did anybody ever go out to the mouth of the
4 section and try to get more air?

5 A. I know they kept telling us that they're working
6 on the problem. You know, I've never seen no one
7 actually doing it, because when I get in the face,
8 that's normally ---

9 Q. Sure.

10 A. --- where I stay.

11 Q. How did you see to mine in the face? How'd you
12 keep the dust down?

13 A. I didn't. I learned to cut by feel.

14 Q. Oh, gee. You are good.

15 A. Yeah.

16 Q. Did you run the scrubber?

17 A. Yeah.

18 Q. Did anybody go over the vent plan with you?

19 A. Yes.

20 Q. When was the last time somebody went over that
21 with you?

22 A. I'm not sure quite. I really can't tell you the
23 time. I know when we got our --- I think they call it
24 the MO's for that section, ---

25 Q. Uh-huh (yes).

1 A. --- I know I was told the amount of air I was
2 supposed to have. We normally keep a sticker on the
3 side of the bone of the miner with the required amount
4 of air, the water sprays, the main air.

5 Q. Sure, uh-huh (yes). But you couldn't measure that
6 because you didn't have an anemometer?

7 A. Right.

8 Q. Did you have a handheld methane detector?

9 A. Yes.

10 Q. Did that thing ever go into alarm on you?

11 A. The type I use doesn't have an alarm on it.

12 Q. Okay. One of those silver ones?

13 A. Right. It had the big letters so I can put it on
14 the head of the miner.

15 Q. You use one of those magnets to ---

16 A. Yes.

17 Q. --- stick it up there? When you first got on the
18 section and you powered everything up, how would you
19 check the methane in the face?

20 A. I would walk up to the reflectors which are next
21 to the last row of bolts and engage my methane monitor
22 and kind of walk the face backwards and forwards.

23 Q. Okay. What if the face was in 20 feet?

24 A. Like a scrap cut?

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

1 A. I would do the same thing. I would take it up my
2 last row of bolts.

3 Q. Okay. Did you have an extendable probe on the
4 section?

5 A. Yes.

6 Q. Did you ever use that?

7 A. I never.

8 Q. Okay. Would the section boss --- did he ever stay
9 with you during an entire cut cycle to observe what
10 you were doing and how you were doing it?

11 A. I don't believe he ever has stayed with me on a
12 full cut. At the most he would come up when he was
13 going to date up, and he'd stand around maybe two or
14 three buggies, you know, and talk a little bit.

15 Q. Uh-huh (yes), sure. About how many open --- how
16 often did they move the feeder on this section?

17 A. Well, really that would depend on how good we
18 mined.

19 Q. Okay. Would you normally have two open breaks
20 or ---?

21 A. I would say yeah, most of the time.

22 Q. Okay. Did you guys move up the feeder and the
23 power or was that done by another shift?

24 A. That was done by the hoot owl shift.

25 Q. Okay. How deep were the cuts you were taking here

1 on this section?

2 A. Twenty-five (25) foot was the most I would take,
3 and some cases I would take less, depending on top
4 conditions.

5 Q. How was the top?

6 A. Not very good, but it wasn't horrible, either.
7 Controllable.

8 Q. Okay. How about the ribs?

9 A. Probably about the same, you know. You really had
10 to watch. Just occasionally you would see one that
11 you know, you need to pull or stay away from it.

12 Q. Sure.

13 A. Wasn't real bad.

14 Q. Did they bolt the ribs up through here?

15 A. Yes.

16 Q. Okay. What about the floor? How was that?

17 A. Wet, muddy, hooved.

18 Q. Hooved. Did you ever have to back a miner up and
19 grade any of the hooves?

20 A. Oh, yes.

21 Q. Do you recall, if there were little puddles of
22 water around the face anywhere, if bubbles were coming
23 up through those?

24 A. Yeah, about all the time.

25 Q. Did you seem to get any methane if you ever had

1 your detector around those bubbles?

2 A. Yeah, we, you know, checked ---

3 Q. Sure.

4 A. --- and made sure it was methane, whatever, you
5 know, and it was.

6 Q. Okay. Did you ever have to go to, like, diagonal
7 curtains to get enough air?

8 A. Yes.

9 Q. Was that common?

10 A. Yes, it was common, and I think one of the reasons
11 we done it, it did improve our air, so you know, we
12 done the best we could do.

13 Q. Sure, uh-huh (yes). Where were you guys mining
14 prior to starting this headgate?

15 A. Headgate 22?

16 Q. Uh-huh (yes).

17 A. What is now the longwall panel.

18 Q. Now, did you drive on the headgate side or the
19 tailgate side?

20 A. Tailgate side.

21 Q. Okay. Do you know if you worked on out past the
22 longwall toward that new fan?

23 A. Yes, I started the section and I finished the
24 section.

25 Q. Okay. What were the conditions like back toward

1 that fan?

2 A. Horrible.

3 Q. Horrible. Roof-wise, ventilation-wise?

4 A. We had one fall. I'm not 100 percent. I think it
5 was approximately around 20 Break.

6 Q. Uh-huh (yes).

7 A. In the Number One entry. And we would spot cable
8 bolts most of the time on account of, you know, we
9 would hit a crack and ---

10 Q. Uh-huh (yes).

11 A. --- according to the law we would need to put them
12 in.

13 Q. Sure.

14 A. Number Three entry stayed quite a bit of water.
15 Sometimes it would be over your boots.

16 Q. Uh-huh (yes).

17 A. And no air, hardly at all, methane.

18 Q. When you were driving that section down toward the
19 fan, did the water always run down toward the face?

20 A. Yes.

21 Q. Okay. We've heard that there was quite a bit of
22 taking of floor or grading, what I'd call it, back
23 toward that fan. Did you do any of that?

24 A. Yes.

25 Q. Do you recall about how deep that got?

1 A. A minimum, I would say, would probably be four
2 foot; maximum, 16 foot.

3 Q. Jeez. That's a deep cut.

4 A. We had a hole.

5 Q. I hope you put up some good roof support.

6 A. No, I'm talking about grading bottom.

7 Q. Yeah, I know, but ---

8 A. Okay.

9 Q. --- you don't want that roof to be working when
10 you're that far below it.

11 A. Yeah, that's right.

12 Q. That's hard to see with your cap lamp.

13 A. Uh-huh (yes).

14 Q. When you did that grade, do you think the water
15 would've naturally flowed down to that pump?

16 A. Most of it. Only my personal opinion, I think the
17 sump was in the wrong area. It was kind of up on the
18 hill, right --- the end of the section kind of went
19 upgrade.

20 Q. Uh-huh (yes).

21 A. And so far up is where we put our sump.

22 Q. Uh-huh (yes).

23 A. Which my personal opinion, it should've been
24 back ---

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

1 A. --- sooner.

2 Q. So put the sump on the uphill side. That doesn't
3 work too well.

4 A. No.

5 Q. Could you show us where that sump is? We haven't
6 been able to get back there since the explosion.

7 A. Gosh.

8 Q. Here's the fan itself, and this is the pump.

9 ATTORNEY HAMPTON:

10 Okay. I'm handing the witness a pink
11 marker. If you could draw actually on the map where
12 it was?

13 WITNESS COMPLIES

14 ATTORNEY HAMPTON:

15 And ---

16 A. To the best of my knowledge, that's how it was.

17 ATTORNEY HAMPTON:

18 --- could you draw a line out into that
19 empty space and write the word, sump? And I am going
20 to mark this map as Exhibit Number Three, Griffith
21 8/27/10.

22 (Griffith Exhibit Three marked for
23 identification.)

24 MR. SHERER:

25 All right.

1 ATTORNEY MCATEER:

2 Do you mean that this --- the pump is
3 right here or this is the cut?

4 A. This is actually the cut.

5 ATTORNEY MCATEER:

6 Okay.

7 A. We started --- I don't know what break it was.
8 You know, I know from the pump where it was at. We
9 gradually went in the bottom here, come in. This
10 ended up approximately four foot deep right here.
11 Okay. This was four to five foot across on the
12 crosscuts. The Number One entry, it went in a slow
13 taper to down to 16 foot right here.

14 ATTORNEY HAMPTON:

15 Would it be helpful to have him mark the
16 feet?

17 MR. FARLEY:

18 Yes, it would.

19 A. Sixteen (16)?

20 MR. FARLEY:

21 Yeah.

22 ATTORNEY MCATEER:

23 Uh-huh (yes).

24 MR. FARLEY:

25 Just draw a line out there if you can.

1 WITNESS COMPLIES

2 A. Yeah. Like that?

3 MR. FARLEY:

4 Yes, sir. Uh-huh (yes).

5 MR. SHERER:

6 Okay.

7 ATTORNEY MCATEER:

8 Could you put your initials on there,
9 just to ---?

10 MR. SHERER:

11 Thank you, Mr. Griffith.

12 BY MR. SHERER:

13 Q. When you cut --- when you finished cutting about,
14 oh, three or four breaks inby the sump pump, do you
15 think that you cut far enough back to drain the water?

16 A. Well, like I said, really, I think the sump
17 should've been outby a little more.

18 Q. Uh-huh (yes).

19 A. Right in --- approximately right in here the
20 section started going up.

21 Q. Uh-huh (yes).

22 A. This would eventually get the water, but it
23 would've made the water deeper back here ---

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

25 A. --- outby.

1 Q. And you're pointing to the Number Four entry and
2 further outby.

3 A. Right.

4 Q. And in fact, there's water shown on the map ---

5 A. Right.

6 Q. --- in that area. Did you ever talk to anybody
7 that worked back in here after the longwall started
8 up?

9 A. Yeah. I worked there.

10 Q. Do you recall how deep the water got?

11 A. I'm thinking here. Back in, approximately, this
12 area on the headgate side ---.

13 Q. Well, here's the headgate.

14 A. Okay. It roofed out in areas like swags. I know
15 it roofed out.

16 Q. Okay. Thank you. Do you recall if they had any
17 pumps down this headgate to try to handle the water?

18 A. Several.

19 Q. Did you ever have to work on any of those pumps
20 or ---?

21 A. I was down there approximately maybe four shifts
22 on the pump side.

23 Q. Do you recall about when you were down there?

24 A. No. Time-wise, I don't know.

25 Q. Okay. Would it have been several months prior to

1 the explosion?

2 A. Yes.

3 Q. Okay. Thank you. Okay. So the roof was bad in
4 places, had trouble with the water. You said the
5 ventilation was bad. How bad was the ventilation?

6 A. Well, at the present time we have two miner
7 operators. I think this ended up 131, 133 breaks, if
8 I'm correct on that. Okay. Probably back about 90
9 Break or so, we started having more gas problems. And
10 like, if I would have my miner in Number Three, the
11 roof bolter would be in Four, we would normally have
12 to shut one or the other down to try to force all of
13 the air in whichever place we wanted to work in.

14 Q. Would that get the gas down below one percent?

15 A. Where I mined?

16 Q. Uh-huh (yes).

17 A. Yeah, yes.

18 Q. Okay. Thank you. What's the maximum methane
19 reading you recall seeing anywhere up on that
20 headgate?

21 A. Over five percent.

22 Q. Who was the section boss when you were doing that?

23 A. Rob Wickline.

24 Q. And did you tell Mr. Wickline about that?

25 A. Yes.

1 Q. What'd he tell you to do?

2 A. Normally he would tell us, try to re-ventilate.

3 And like I said, you know, it was their choice of

4 whether we tried to run one with more gas ---

5 Q. Uh-huh (yes).

6 A. --- gas than what we did, so we would make the

7 decision, do you want us to mine or do you want us to

8 bolt?

9 Q. Uh-huh (yes).

10 A. And you know, if we needed a place to bolt, we

11 would shut the miner down until they'd get done. Then

12 we would try to reroute our air to the miner.

13 Q. Okay. Now, you indicated that there was two

14 miners and two operators. And you also indicated that

15 you were in, like, the Number Three and Four entry.

16 Do you know if the left side miner and bolter were

17 having similar problems?

18 A. Not quite as bad as what I was on that side.

19 Q. How come one side was worse than the other? Just

20 the way that ---?

21 A. Mainly because I guess the gas were coming more

22 out of those entries. It wasn't because of

23 ventilation, because ---.

24 Q. Okay. Did you ever have the miner power knock off

25 over two percent?

1 A. No.

2 Q. Okay. Did you ever have to pull back and knock
3 the power to the section?

4 A. We had never done it, but we should've done it.

5 Q. Okay. Now, it sounds like there's a long history
6 of just not having enough ventilation. Have you
7 communicated with --- you or anyone else on the
8 section --- communicated with higher level management
9 about that problem?

10 A. We complained about every time we'd get around
11 someone, you know, the mine foreman or super.

12 Q. Uh-huh (yes).

13 A. And most the time they would say, we're working on
14 it, or, we're having someone to go down and patch all
15 the holes they can and whatever. And whether they did
16 or not, I don't know. And I personally have asked the
17 inspectors to come and give us a hand.

18 Q. Uh-huh (yes).

19 A. We're having a problem. We ain't got no air and
20 we've got gas.

21 Q. Sure. Did the inspectors come and do anything?

22 A. No.

23 Q. Do you recall which inspectors you talked to?

24 A. One was Mr. Pauley. I'm not sure of his first
25 name.

1 MR. FARLEY:

2 Gerald.

3 A. Gerald, maybe. And Kevin.

4 BY MR. SHERER:

5 Q. Kevin Sigmon?

6 A. That don't sound good, don't sound right.

7 Q. Was he an MSHA inspector?

8 A. You know, I don't know if he was State or Federal.

9 Most the time I didn't ---

10 Q. Sure.

11 A. --- really question.

12 Q. What color coveralls did he wear?

13 A. Dark blue.

14 Q. It was probably Federal, then. So you told these
15 inspectors, we didn't have enough air? We got methane
16 problems?

17 A. Yes.

18 Q. Okay.

19 A. More than one person on the section has
20 complained, I know.

21 Q. Okay.

22 MR. FARLEY:

23 Now, has that been while you were on 22

24 Headgate?

25 A. Twenty-two (22) and the longwall panel.

1 MR. FARLEY:

2 Okay.

3 BY MR. SHERER:

4 Q. Mr. Griffith, I apologize. If we have inspectors
5 that didn't respond to problems with the ventilation
6 and methane, we're not doing our job.

7 A. Yeah. Mr. Dishman was another one.

8 Q. Dishman?

9 A. Yes.

10 MR. SHERER:

11 Okay. Can we go off the record for a
12 minute?

13 OFF RECORD DISCUSSION

14 MR. SHERER:

15 We're back on the record. We tried to
16 find our internal review team and it looks like
17 they've gone home. We are going to refer this
18 situation to our internal review people, and they may,
19 in fact, contact you.

20 BY MR. SHERER:

21 Q. Okay. First of all, Mr. Griffith, I understand
22 that you have a nickname. What is that, please?

23 A. Dude.

24 Q. Thank you.

25 A. D-U-D-E.

1 Q. Thank you, Dude. When you were mining on the 22
2 Headgate, we understand there was quite a bit of
3 construction going on near the mouth of the section.

4 A. Yes.

5 Q. Did that affect your ventilation?

6 A. Yes. When they were running the miner, trying to
7 finish cutting the belt channel, connect it up, they
8 would open the man --- well, it wasn't the man doors.
9 It was, like, supply doors that was in our intake, and
10 it would take away from our air. If an inspector
11 would show up, they would shut them, give us our air,
12 and they would quit mining.

13 Q. When they were mining, would the dust from cutting
14 those overcasts and belt channels, would that come
15 down on the section?

16 A. No.

17 Q. Okay. They just got your intake?

18 A. The dust --- yeah, the dust would go outby us.

19 Q. Okay. Have you ever heard --- you mentioned when
20 the inspector would come up they'd shut down and give
21 you guys the air you needed.

22 A. Yes.

23 Q. Have you ever heard of that happening with maybe
24 other equipment doors at other locations in the mine?

25 If an inspector went to one section, that section

1 would get the air and another section would be cut
2 back?

3 A. Yes. I think it was Two section. And we were on
4 the longwall panel which they were on now.

5 Q. Uh-huh (yes).

6 A. We had a regulator in the intake, and they would
7 switch our air, depending on where the inspector went
8 to.

9 Q. Now, who do you think was doing that switching?

10 A. Who was in charge? I would assume that it would
11 be probably the mine foreman or the superintendent.

12 Q. Okay. Have you ever heard of people stand near
13 the equipment doors when inspectors were in the mines
14 to reroute air using the equipment doors?

15 A. I haven't heard like that.

16 MR. SHERER:

17 Okay. Thank you. That's all the
18 questions I've got for right now.

19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Mr. Griffith, let me kind of work backwards here.
22 The regulator that was manipulated or finagled with,
23 based on the direction the inspectors traveled, now,
24 do you have an idea where that was located?

25 A. Well, we were on ---.

1 Q. Where were you mining at the time?

2 A. We were starting the longwall panel. We were
3 actually cutting, splitting these blocks that were at
4 an angle. Probably would be this area on the map.

5 Q. Okay. Near the Mother Drive of the current
6 longwall?

7 A. Right.

8 Q. Okay.

9 A. And we had probably just came from this section.
10 The regulator was approximately in these entries that
11 connected the two sections.

12 Q. You got your hand on the area which is now at the
13 mouth of the existing longwall panel?

14 A. Yes.

15 Q. All right. And I think we can probably get our
16 little gadget here, determine the date there, but do
17 you recall when that occurred?

18 A. Date-wise, no. I have no idea.

19 Q. Okay. Do you have any knowledge of that happening
20 anywhere else since that time?

21 A. Just when we were on Headgate 22 and I talked
22 about the supply doors there.

23 Q. Down when they were cutting the belt channel ---

24 A. Yes.

25 Q. --- for the Mother Drive?

1 A. Yes.

2 Q. Okay. All right. Did you ever hear of that
3 happening over by the longwall, at the mouth of the
4 longwall where these doors are, you know, where the
5 air splits, where this green line comes in and the air
6 splits when they go to the longwall end up to the
7 miner sections? Did you ever hear of that happening
8 in that area?

9 A. Only rumors, because, like I say, when I was in
10 the --- when I actually went underground, I went to
11 the face and that's where I stayed. And ---

12 Q. Sure.

13 A. --- what I heard was ---

14 Q. Sure.

15 A. --- mainly rumors. And right now I couldn't tell
16 you who told me. I guess it was just bath house talk.

17 Q. Okay. We heard the same thing. But did you ever
18 actually see these doors that were installed in by
19 where that air splits is at the mouth of the longwall?

20 A. Yes, I've seen them.

21 Q. Okay. Now, as best we can put it together, they
22 may've been put in there around the 1st of March. Any
23 idea on that?

24 A. Time-wise, I can't tell you.

25 Q. Okay. Now, the description we have of them is, is

1 you got a door across the track and then you got a
2 side panel with some number of blocks left out to
3 allow air to pass through.

4 A. Right.

5 Q. Okay. Now, but if you added or subtracted
6 blocks ---

7 A. Uh-huh (yes).

8 Q. --- in that area, you could obviously ---

9 A. Control our air.

10 Q. --- control your air?

11 A. Yes.

12 Q. Okay. You mentioned some inspectors. Do you know
13 --- can you tell me approximately when you would've
14 spoken to Mr. Pauley or Mr. Dishman about your methane
15 and air problems?

16 A. Time-wise, no, but it was approximately the time
17 we were starting Headgate 22, we were called off and
18 sent in the Number Four entry of the longwall panel to
19 do some work up in there.

20 Q. Okay. All right. About the time you were
21 starting Headgate 22?

22 A. Right.

23 Q. Okay. All right. Earlier in your interview you
24 were talking about methane that you had encountered on
25 your last shift, Saturday evening before the

1 explosion, and I think you were talking about the
2 Number Three entry. And I missed the exact amount of
3 methane that you detected. Could you tell me again,
4 please?

5 A. The most I seen on the miner ---

6 Q. Uh-huh (yes).

7 A. --- monitor was --- it would run a 4.8, 4.7. My
8 buggy man, which was Bobby, she said she seen it go to
9 a 4.9, but you know ---.

10 Q. And that's on Saturday, April 3rd?

11 A. Yes.

12 Q. Okay. 4.8, 4.9?

13 A. Yeah.

14 Q. Okay. Do you remember a foreman by the name of
15 Hutchins, nickname Smurf?

16 A. Smurf, yes.

17 Q. Okay. Did you ever work for him on 22 Headgate?

18 A. No, I haven't worked for him on that section. He
19 has filled in a shift or two when we were over on the
20 longwall panel.

21 Q. Okay. All right. Do you have any idea as to why
22 he left the UBB Mine?

23 A. I can tell you what I heard. [REDACTED]

24 [REDACTED]

25 [REDACTED]

. Now, that's

1 hearsay.

2 Q. All right. During the month of March, the month
3 of March, if we can believe the air readings that are
4 recorded in the pre-shift exam ---

5 A. Uh-huh (yes).

6 Q. --- books, around the 1st of March the main
7 longwall intake shows a reading of about 115,000 cubic
8 feet per minute, and by the end of the month it's
9 entered in the book as about 55,000 cubic feet per
10 minute. Now, obviously that's a pretty significant
11 change.

12 A. Yes.

13 Q. You know, it had to go someplace. Did any of it
14 make its way up to Headgate 22 at any time? Did your
15 ventilation get any better at all during the month of
16 March?

17 A. A possibility, because when we first started, we
18 struggled with very low air.

19 Q. Uh-huh (yes).

20 A. At one point in time we got --- we got real good
21 air. We got more than enough we needed.

22 Q. When was that?

23 A. I can tell you it was approximately between
24 probably 15 Break and maybe up to 25 Break. It would
25 come and go daily or maybe weekly, depending on who

1 showed up, and then towards the end of the section is
2 when we started having trouble. It's like they took
3 our air somewhere. I don't know where it went to, but
4 we started having problems about the time we started
5 having more gas come in.

6 Q. Okay.

7 A. But at one point on that section, we did have good
8 air.

9 Q. Okay. But it goes --- bottom falls out of it
10 again?

11 A. Yeah.

12 Q. All right. Now, did you have any situations where
13 it would just change from minute to minute?

14 A. I would say yes, because you know, as I would mine
15 maybe one cut, you know, we would have pretty decent
16 air. You could tell by the dust, you know, going out.
17 And then maybe by the time the cut was ended or we
18 would move to another cut, and then it would be, you
19 know, real dusty.

20 Q. Okay. You experience anything like that during
21 the last week before the explosion?

22 A. Not as far as coming and going. I'm going to say
23 approximately the last two weeks we just had low air
24 on the section.

25 Q. Okay. All right. Okay. But that sign at the

1 power center was a pretty good indication what was
2 going on; right?

3 A. Yes. Yeah. Well, you know, it was just like
4 walking outside in the wintertime. I mean you can
5 tell when you have air.

6 Q. Uh-huh (yes).

7 A. The sign was a real good indication. You know,
8 that's how we always said. Well, the sign's swinging
9 today. We got air.

10 MR. FARLEY:

11 Okay. Okay. Mr. McAteer, you have ---?

12 EXAMINATION

13 BY ATTORNEY MCATEER:

14 Q. Mr. Griffith, how'd you come by your nickname?

15 A. My aunt went with a boy and his name was Dudey ---

16 Q. Okay.

17 A. And mine went from Dudey to Dude.

18 Q. All right. Very good. It didn't have anything to
19 do with the movie?

20 A. No.

21 Q. Okay.

22 A. No, I've had that --- I had that one almost 58
23 years.

24 MR. SHERER:

25 Oh, okay.

1 BY ATTORNEY MCATEER:

2 Q. Well, if we could go back to Mr. Farley's
3 comments, questions there for a minute, you said that
4 toward the end of the section that air came back. And
5 could you take the glass there and try to point out
6 where that was? In other words, point out where the
7 good air is, and then the bad air.

8 A. I can give you an approximate.

9 Q. Yeah, everything's approximate.

10 A. Uh-huh (yes).

11 MR. FARLEY:

12 These little green things here are
13 actually dates if you can actually see them.

14 A. Dates. I don't need to look at its breaks.

15 MR. FARLEY:

16 Okay.

17 A. May've been, like, 10 Break.

18 MR. FARLEY:

19 Okay.

20 MR. SHERER:

21 And we're not sure how they started.

22 They didn't number the breaks on the map.

23 A. Well, we were in, I'm a-thinking 31 breaks ---

24 MR. SHERER:

25 Okay.

1 A. --- when the explosion happened.

2 MR. SHERER:

3 Twenty-nine (29). So they started right
4 here (indicating)?

5 A. This would be one, two, three ---? Okay. This is
6 approximately here.

7 Q. Number One there.

8 WITNESS COMPLIES

9 ATTORNEY MCATEER:

10 Okay.

11 A. Right here. And that is only approximately.

12 MR. FARLEY:

13 Okay. Can we get you to just mark good
14 air?

15 WITNESS COMPLIES

16 MR. FARLEY:

17 Okay.

18 BY MR. MCATEER:

19 Q. Now, when did it pick up being bad again?

20 A. Probably from 10 Break to the ---

21 Q. Twenty-five (25) Break?

22 A. --- wherever the section quit at.

23 Q. This is 31.

24 A. Uh-huh (yes).

25 Q. You're saying ---?

1 A. Okay.

2 Q. Okay. This is 10, this is 25, ---

3 A. Okay.

4 Q. --- and you were saying, then, from 25 up?

5 A. Yes.

6 Q. Okay. And then mark bad air with the arrows
7 again.

8 ATTORNEY HAMPTON:

9 Could you mark a 10 or --- this one was
10 10?

11 A. Uh-huh (yes).

12 ATTORNEY HAMPTON:

13 Right?

14 A. Right. I think that one's 20.

15 BY ATTORNEY MCATEER:

16 Q. Okay. And then could you put your initial there
17 at some point?

18 WITNESS COMPLIES

19 BY ATTORNEY MCATEER:

20 Q. Thank you. The day of 4, April the 4th, the
21 Saturday --- I'm sorry, 3, April the 3rd is a
22 Saturday. That was a significant day in that they
23 were going to have a couple days off?

24 A. Yes.

25 Q. All right. Do you remember how many buggies were

1 mined that day or ---?

2 A. No.

3 Q. It was a good day or was it not so good day?

4 A. Probably average day. I normally don't keep up
5 with what I mine. I just mine the best I can mine and
6 all I ask the boss, how much we running, you know?

7 Q. What's the average amount for you?

8 A. I would say approximately 130, 170 feet in a
9 shift, which wasn't real good.

10 Q. It's not bad, either. Going back to the canal
11 that you cut back there toward the end, what was the
12 purpose of that?

13 A. The water was supposed to run down in the channels
14 and go down to where it went 16 foot deep, and they
15 set a huge pump, where it was hopefully going to
16 control the water.

17 Q. This was a sump pump?

18 A. Yes.

19 Q. Okay. What'd you call that area?

20 A. Nothing in particular ---

21 Q. Okay.

22 A. --- that I did, you know.

23 Q. Back on Headgate 22, you said the air was pretty
24 bad at particular times, and your foreman --- when you
25 asked him about it, you testified that he did nothing,

1 but you didn't testify as to what he said. Do you
2 remember his comments?

3 A. That's really hard to say, you know? I wouldn't
4 say because I would hate to ---

5 Q. Sure.

6 A. --- quote him wrong.

7 Q. Oh, sure. But did he have a concern about it, as
8 well?

9 A. I'm sure he probably did, because if someone came
10 up, you know, he would be in as much trouble as we
11 would be if we were mining in it, you know.

12 Q. Sure.

13 A. Maybe more so.

14 Q. And did he ever leave the section to go and try to
15 rectify it and fix the problem?

16 A. Not to my knowledge.

17 Q. Do you recall any inspections during this period
18 of time on section --- Headgate 22?

19 A. I know we never had an inspector on our shift that
20 I can recall.

21 Q. Why was that?

22 A. Why was that?

23 Q. Uh-huh (yes).

24 A. I'm not sure. They would go to different
25 sections, you know, or walk beltlines, air ways, and I

1 guess that's --- just wasn't our turn, you know.

2 Q. Okay. Are you familiar with the S1 publication by
3 Massey?

4 A. Pretty much.

5 Q. Do you have a copy?

6 A. No.

7 Q. How are you familiar with it?

8 A. A lot of it was my brother. He was there, I don't
9 know, probably 15 years, and he always tried to keep
10 me from getting in trouble, so he would say, S1, you
11 know, you do this. Make sure you have this, that
12 and ---.

13 Q. Was he another miner or was he a safety director
14 or ---?

15 A. No, he was a miner. He got killed in the
16 explosion, William Griffith.

17 Q. Oh, sir, I'm awfully sorry. When you spoke with
18 the inspectors --- you mentioned two or three
19 inspectors --- would you speak to them at the mine or
20 at another location?

21 A. At the mine. They were normally outside in the
22 bath house area.

23 Q. Sure.

24 A. They had came off, I guess, their shift. And you
25 know, normally we would set around and talk to them.

1 Where you been, you know, and so on and so on.

2 Q. Sure. Now, you said there was rock dusting
3 conducted up at the face area. Was there rock dusting
4 outby, as well?

5 A. On occasions we would go outby more than our
6 normal routine.

7 Q. Right.

8 A. We done a weekly, what we call bulk dusting, which
9 is with the rock duster and the machine on it. We
10 would do the face areas and especially before belt
11 moves so we could be sure we would get the belt entry.

12 Q. Okay.

13 A. I personally feel like our shift done a pretty
14 good job on rock dusting.

15 Q. Were there rock dusting crews that came in other
16 times?

17 A. Not on the section. They had guys on the hoot owl
18 that would come in with the rock duster that run on
19 the track. And they would do the beltlines, track
20 way.

21 Q. And in the months leading up to the disaster, did
22 you see anybody do that?

23 A. Normally I didn't see that ---

24 Q. You didn't see it?

25 A. --- but on account of the shift ---

1 Q. Sure.

2 A. --- probably moths prior to that, though, we had
3 one particular guy that wanted to rock dust when it
4 was our quitting time, and we had to try to get out
5 through the dust, and we used to jump on him, you
6 know.

7 Q. With good reason.

8 A. Yeah.

9 ATTORNEY MCATEER:

10 Mr. Griffith, thank you. That's all the
11 questions I have at this time.

12 RE-EXAMINATION

13 BY MR. SHERER:

14 Q. Got just a few follow-up questions, Mr. Griffith.
15 When inspectors were on the property, either State or
16 Federal, did somebody call in to let you guys know
17 when they were coming?

18 A. Most of the time. I would say at least 98 percent
19 of the time. Very seldom we were ever surprised.

20 Q. Okay. Thank you. Aside from the ventilation
21 problems we've discussed on the sections you were
22 working on, what was your general feeling for the
23 ventilation in the mine? Do you think it was
24 adequate?

25 A. Well, I actually started running the miner a

1 little bit before the old North Mains started, like,
2 One Break. I think I started approximately Five
3 Break.

4 Q. Uh-huh (yes).

5 A. I drove all of that up. I drove all these, the
6 longwall panels.

7 Q. Uh-huh (yes).

8 A. And very few times, I would say, we had good air.
9 You know, I couldn't pinpoint a time or an area, ---

10 Q. Sure.

11 A. --- but ---.

12 Q. But your general feeling is it was deficient most
13 of the time?

14 A. Yes.

15 Q. And we've talked about methane on the 22 Headgate
16 and the 21 Headgate as you were driving out toward the
17 Bandytown fan. Were there any other areas where you
18 hit high concentrations of methane?

19 A. The first time I actually encountered something
20 that concerned me ---.

21 Q. Uh-huh (yes).

22 A. I mean, we might find a few tenths ---

23 Q. Sure, yeah.

24 A. --- here or there.

25 Q. Uh-huh (yes).

1 A. Plus when we were driving the Old North Mains up
2 here right probably in this area, we started hitting
3 more levels, which I can't say that I seen anything
4 over a one or anything like that. But I've never
5 worked a gassy mine and, you know, it started
6 concerning me a little bit.

7 Q. Sure; okay. This is an area that we've been
8 referring to as Eight North.

9 A. Well, we always call it the Old North Mains.

10 Q. Okay.

11 A. Like I say, I started here and drove this to the
12 Glory Hole.

13 Q. Uh-huh (yes).

14 A. This, this, all this.

15 Q. So in general, the extreme levels of methane you
16 hit were on the 21 Headgate and 22 Headgate?

17 A. Yes.

18 Q. Okay. Thank you. Did you ever see anybody bridge
19 out a methane monitor?

20 A. I would say yes, and I'll go ahead and tell you
21 the reason.

22 Q. Sure.

23 A. It was partially out and under unsupported top.

24 Q. Uh-huh (yes).

25 A. That particular time we had no methane. We

1 probably backed it back out ten feet where we could
2 work on it safely, but I have never run one. I have
3 never been asked to run one. We done it for safety
4 reasons.

5 Q. Okay, okay.

6 A. If they were methane in there, there's no way ---

7 Q. Okay.

8 A. --- that I would even agree to it.

9 Q. Okay. Thank you. Have you ever heard of anybody
10 in the, say, the past year or so at Upper Big Branch,
11 bridging out a methane monitor or putting a bag over
12 the sniffer of anything like that?

13 A. The only time I've heard about it has been after
14 the explosion, you know, which has been very recent.
15 They started talking about ---- it was coming out that
16 a mine foreman insisted that they bridge out. Other
17 than that, no, I haven't.

18 Q. Okay. Thank you. Now, you testified that you had
19 to keep your curtains up real tight to just get the
20 bear minimum of air to operate.

21 A. Yes.

22 Q. Have you ever heard of anybody running without
23 curtains at this mine?

24 A. Probably most all miners, if you don't have a real
25 bad problem ---

1 Q. Uh-huh (yes).

2 A. --- I would say the curtain is most the time not
3 legal, and I'm talking maybe it may be back ten
4 foot ---

5 Q. Sure.

6 A. --- or something like that. But other than that,
7 you know, no.

8 Q. Okay. Thank you.

9 A. Can we go off record a minute?

10 OFF RECORD DISCUSSION

11 BY MR. SHERER:

12 Q. We just had a little discussion off record. Mr.
13 Griffith, are you aware of any air changes made when
14 miners were inby?

15 A. Yes.

16 Q. Can you explain, please?

17 A. Okay. When we were on Headgate 21 towards the
18 end, the guy they call Smurf came to the section and
19 he said, everybody come down to the power box. And we
20 gathered up down there and he said, we're going to do
21 an air change. And he said, you all go where you want
22 to go.

23 I said, well, I'll tell you where I want to go is
24 outside. So me and Bobbie Pauley, we walked down to
25 the mantrip. Of course nobody took us out. They made

1 the air change and then they said, okay. Go on. Go
2 back to work now.

3 Q. Was this when they were cutting the across from
4 the tailgate to the headgate?

5 A. No. This was when we were towards the end.

6 Q. Okay.

7 A. Real close to the fan hole.

8 Q. Do you know what they were changing and where they
9 were changing it?

10 A. I can only assume. I call this ---

11 Q. Tailgate 21?

12 A. --- Tailgate 21. When they actually cut into our
13 section we were mining here, well, that was supposed
14 to have been done on the hoot owl shift, too, ---

15 Q. Uh-huh (yes).

16 A. --- because that's an air change.

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

18 A. Well, they cut into it on our shift, which was an
19 evening shift.

20 Q. Uh-huh (yes).

21 A. And I know that was an air change right there.

22 Q. Sure.

23 ATTORNEY MCATEER:

24 Why wouldn't they wait for the hoot owl?

25 A. I don't really know. I guess they were impatient.

1 The guys were --- what we were told, they were going
2 to do it on the hoot owl shift when nobody was mining
3 up there, but it didn't happen that way.

4 BY MR. SHERER:

5 Q. Just had to get it done. How about when you were
6 on Headgate 22? Were any air changes made that you're
7 aware of while you were in that section?

8 A. Rumors, yes.

9 Q. What were those, please?

10 A. Well, we would come off the section and they would
11 say, well, they've done an air change. Did that help
12 your air?

13 Q. Who said that? Who do you think did the air
14 change?

15 A. You know, I'm not really who was --- don't really
16 know who was in charge of the outby work like that.
17 It probably came from higher levels, mine ---

18 Q. Sure.

19 A. --- foremen, superintendent, and who actually done
20 it, I couldn't say.

21 Q. Okay. Who do you think was in charge of
22 ventilation at this mine?

23 A. Well, my opinion, it was Blanchard, Mr. Blanchard.

24 Q. Okay. Did you ever see him underground with
25 anemometer or a map or anything like that?

1 A. When we was starting the longwall panel, splitting
2 the blocks in the very beginning ---

3 Q. Sure.

4 A. --- he came in with an inspector, and he did have
5 an anemometer then. I think the inspector was Mr.
6 Stevens. I think he's retired now.

7 Q. Okay.

8 A. And he was a-panicking because we didn't have no
9 air, and he knowed it. So we busted ourself building
10 stoppings to get rid of the inspector ---

11 Q. Uh-huh (yes).

12 A. --- at that time.

13 Q. From the conversation we've had so far, it sounds
14 like whenever an inspector came around, people did
15 something about air, trying to get air to sections or
16 certain working places. And do you know if that fix
17 stayed in place after the inspectors left? Was that
18 just a temporary patch?

19 A. It was always temporary.

20 Q. Okay. Thank you. Now, we understand that there
21 were quite a few equipment doors you had to go through
22 to get into this mine.

23 A. Quite a few.

24 Q. Now, were those doors ever damaged that you
25 recall?

1 A. You should've asked, were they ever fixed?

2 Q. Okay. I think that's a sufficient answer. Did
3 you ever come up on those doors and find any of them
4 open?

5 A. Yes.

6 Q. How common was that?

7 A. It wasn't nothing unusual. I mean as far as how
8 often, every month or two months, you know, I couldn't
9 say a hundred percent.

10 Q. Sure, sure. Okay. Have you ever heard of at
11 shift change one crew going out and opening the doors
12 and leaving them open for ---

13 A. Yes.

14 Q. --- another crew to shut?

15 A. Oh, yes. We got one violation one day.
16 Inspectors on the back ride, they opened both doors.

17 Q. I recall looking at that. I mean it's funny, but
18 it's sad, too.

19 A. Yeah.

20 Q. That last Saturday you worked, we understand they
21 were doing some --- cutting maybe belt channels, some
22 overcasts at Ellis Portal.

23 A. Yeah.

24 Q. Do you recall if there was any effect from that?

25 Did you notice any dust when you were going out

1 or ---?

2 A. No, because they actually --- they had real good
3 air pushing it across the track right there.

4 Q. Uh-huh (yes).

5 A. I do recall them cutting there, but we when we
6 went out, we never experienced no dust in the track
7 line.

8 Q. Okay. Do you think it may have affected the
9 ventilation further inby the mine?

10 A. I really can't say.

11 MR. SHERER:

12 Okay. Thank you. That's all the
13 questions I've got.

14 RE-EXAMINATION

15 BY MR. FARLEY:

16 Q. Maybe like your opinion on something here, if you
17 don't mind. We were talking about inspectors earlier.
18 Now, I want to speak for the Federal agency, but from
19 the State perspective, who inspected the mines. Now,
20 obviously we have a lot more mines than we do
21 inspectors, but typically what we've done is we'll
22 assign one inspector to a mine. Now, a mine this
23 size, a guy could --- he could be meandering around in
24 there for weeks, ---

25 A. Right.

1 Q. --- a month and a half or two ---

2 A. I do understand that.

3 Q. --- by the time he finished regular inspection.

4 Now, something I've been thinking about is maybe we
5 should have a team of inspectors inspect larger mines
6 like this, where you don't have a ---. You have five
7 or six guys show up at the same time. They all go in
8 five or six different directions, and maybe you can
9 avoid situations where somebody can run down and knock
10 out a couple blocks and change the ventilation while
11 you're on the way up to one of the sections. Does
12 that make any sense?

13 A. Yeah, that does sound like that would work. I
14 mean if you have three sections running, you send
15 three teams in, and the best thing is don't tell them
16 where you're going until you actually get underground.

17 Q. Well, I mean we wouldn't be there as long ---

18 A. Yeah.

19 Q. --- obviously, because we've got other ---

20 A. Right.

21 Q. --- mines to go to.

22 A. Right.

23 Q. But I mean it would seem to have, maybe --- would
24 it have a better impact ---

25 A. Well, I know, ---

1 Q. --- on making the mine safe?

2 A. --- you know, you couldn't rob air from section A
3 to give to section B if you had inspectors on all
4 three. But what we do in a situation like that, we
5 just shut the production down.

6 Q. Okay. Well, I think if I was an inspector and
7 somebody shut down every time I showed up ---

8 A. Uh-huh (yes).

9 Q. --- that would tell me something.

10 A. But what could you do about it?

11 Q. Well, I don't know. Maybe I need to come back at
12 a different time.

13 A. Yeah.

14 MR. FARLEY:

15 Yeah. All right. Thank you. I
16 appreciate your input.

17 RE-EXAMINATION

18 BY ATTORNEY MCATEER:

19 Q. Mr. Griffith, you said in answer to Mr. Farley's
20 question that you would shut production down. Was
21 that practice ever used in this mine?

22 A. Oh, yes.

23 Q. And how did it come to be used? Give me an
24 example if you could.

25 A. Well, the one time I was talking about Mr. Dishman

1 asked me why wasn't I running, I do remember --- and I
2 think our section boss was Jason Gotier --- that we
3 had shut the section down and worked on ventilation,
4 and he actually came on the section and he walked
5 around until --- with our section boss until we got
6 enough air to mine. I'm not sure what entry it was,
7 Three or Four. Probably had to been at least Four,
8 because I mined One, Two and Three.

9 And once we get the miner going, then, you know,
10 the inspector watches us load a little bit or what
11 have you. He normally would go off and finish his
12 inspection wherever on the section, you know, whatever
13 he decides to check.

14 Q. Sure.

15 A. And then after he leaves, put it in the coal.

16 Q. How can we improve the inspection system?

17 A. Well, one thing, I would think he had a very good
18 suggestion. Do not tell them where you're going,
19 because even now, if Matilda ---. She's our inspector
20 at the present time. That one name I do know. She's
21 been there pretty often since I've been there a couple
22 months.

23 They'll say, Matilda's on the property. Well, she
24 gets started coming in, don't worry about it. She's
25 going to Three section or Two section, you know. So we

1 pretty well know what's going on. She's going to walk
2 the airways or what have you.

3 Q. What mine is this at?

4 A. Round Bottom. It's Shonk Number Three, I believe.

5 Q. Round Bottom?

6 A. Uh-huh (yes).

7 Q. What company is the owner?

8 A. It's Elk Run.

9 Q. And who owns Elk Run?

10 A. Massey

11 Q. Do you think it's a practice among Massey mine
12 operator to do this?

13 A. I think it's a practice that all the mines do
14 that.

15 Q. Sure.

16 A. Another thing, you know, just like we asked for
17 help a time or two when we were in those very bad
18 conditions, low air, if they don't have the time, if
19 they have their hours in or whatever or whatever,
20 we've even had the comment, well, I'll be back soon.
21 Soon might be too late, you know? If you can't do it,
22 tell someone at your office and get somebody down
23 there.

24 Q. Right.

25 A. At least check it out, you know. I don't know who

1 pays you all's wages, but I'm sure we got a hand in
2 it, you know.

3 Q. Sure.

4 MR. SHERER:

5 Yeah.

6 MR. FARLEY:

7 Yeah.

8 MR. SHERER:

9 Can I interrupt one ---

10 ATTORNEY MCATEER:

11 Sure.

12 MR. SHERER:

13 --- second again?

14 ATTORNEY MCATEER:

15 Sure.

16 MR. SHERER:

17 Again, Mr. Griffith, tell everybody if

18 they got a problem with the inspection or an

19 inspector, call that 1-800 number.

20 A. I will.

21 ATTORNEY MCATEER:

22 The advantage of that number over an

23 individual is that the message is sent to everybody at

24 the headquarters ---

25 A. Okay.

1 ATTORNEY MCATEER:

2 --- of MSHA so that somebody is going to

3 say ---

4 A. Yeah.

5 ATTORNEY MCATEER:

6 --- wow. We better react, as opposed to

7 an individual inspector who gets in his car and goes

8 to the next place and things like that. That gets

9 into that system. I understand --- I don't like to

10 call 800 numbers, either, but in this case it has a

11 --- there is a way to make it happen. Spread it out.

12 A. Right.

13 MR. FARLEY:

14 There's even a State hotline number now.

15 I'll get you the number after you --- after the

16 interview. And here's an example of it. This is a

17 call that was made to the hotline regarding a

18 complaint in blue there.

19 A. Uh-huh (yes).

20 MR. FARLEY:

21 Yeah. So yeah, that e-mail goes to all

22 of us in our Charleston office.

23 ATTORNEY MCATEER:

24 And then they can't say, we didn't know.

25 MR. FARLEY:

1 Right.

2 A. You know, it's a shame, you know. After this
3 happens, it makes me kind of have a little guilt, too,
4 because there isn't a coal miner alive that's 100
5 percent, and I --- you know, when an inspector comes,
6 I'll tell him, hey, buddy, you know. I'm not 100
7 percent. I try to do things to what I think is safe,
8 because, only my personal opinion, I feel like some of
9 the laws are just --- really don't need to be, you
10 know, just to nitpick stuff, ---

11 ATTORNEY MCATEER:

12 Sure.

13 A. --- you know, ---

14 ATTORNEY MCATEER:

15 Sure.

16 A. --- as far as safety-wise. And I guess when we
17 mined in this longwall panel and even on 22, we mined
18 in low air and whatever, but if I refuse and these
19 other two crews go in, which it has happened before,
20 that just puts you on a very bad note, you know.

21 ATTORNEY MCATEER:

22 Sure.

23 A. It actually ---. All the miners need to come
24 together and realize, too, that the inspectors are our
25 friends, you know. It don't bother me at all when

1 they come. You know, I do the best I can do, and I
2 have done things wrong, and most of them ain't real
3 smart aleck. They'll sit down and they explain, you
4 know, hey, wait a minute, you know.

5 ATTORNEY MCATEER:

6 Okay.

7 A. So I think ---.

8 ATTORNEY MCATEER:

9 Mr. Griffith, none of us are 100 percent
10 all the time.

11 A. Right.

12 ATTORNEY MCATEER:

13 And I think your attitude is exactly
14 right.

15 A. Yes.

16 BY ATTORNEY MCATEER:

17 Q. Is there anything you want to tell us besides ---
18 you've made some suggestions here. Is there anything
19 you want to tell us about the disaster or about any
20 other matter related to mine safety?"

21 A. Nothing I can really think of right now.

22 ATTORNEY MCATEER:

23 Okay, okay. That's all the questions I
24 have.

25 ATTORNEY HAMPTON:

1 Okay. On behalf of MSHA and the Office
2 of Miners' Health, Safety and Training we'd like to
3 thank you for appearing and answering questions today.
4 Your cooperation is very important to the
5 investigation as we work to determine the cause of the
6 accident. We do request that you not discuss your
7 testimony with any other person today, other than if
8 you were to have a personal representative or an
9 attorney.

10 A. Uh-huh (yes).

11 ATTORNEY HAMPTON:

12 After questioning other witnesses, we may
13 call you if we have some follow-up questions, and as
14 I had mentioned before we started, if you have any
15 additional information you'd like to share with us,
16 please feel free to contact us at the information
17 provided to you in that letter. So now, as I had
18 promised you earlier, you may go back through any
19 answer that you've given and clarify anything that
20 you've told us, or if you have any additional
21 information or any statement or anything else you
22 would like to say, please feel free to say it now.

23 A. I think I've said most of it based on the
24 explosion, and I think that's what we're dealing with
25 right now. You know, I can go on and on with

1 violation things we've done, and it's not going to
2 resolve what's happened, you know.

3 ATTORNEY HAMPTON:

4 Okay. Well, thank you so much for coming
5 in.

6 A. Okay.

7 ATTORNEY HAMPTON:

8 Thank you. Off the record.

9 * * * * *

10 STATEMENT UNDER OATH CONCLUDED AT 2:37 P.M.

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CERTIFICATE

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



Alison Salyards