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Transcript of the Testimony of Scott Halstead

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STATEMENT UNDER OATH
OF
SCOTT HALSTEAD

taken pursuant to Notice by Alicia R. Brant, 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 Thursday, August 26, 2010, beginning at 4:10 p.m.

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

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ATTORNEY FERGUSON:

Mr. Halstead, my name is Dana Ferguson.

Today is August 26th, 2010. I'm an attorney with the Office of the Solicitor, U.S. Department of Labor.

With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration or MSHA, an agency of the U.S. Department of Labor. Also present are several members from the State of West Virginia teams. I ask that they state their appearance for the record.

MR. FARLEY:

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

ATTORNEY MCATEER:

And I'm Davitt McAteer with the Governor's investigative team.

MR. O'BRIEN:

John O'Brien with the West Virginia Office Miners' Health, Safety and Training.

MR. KOERBER:

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

1 ATTORNEY FERGUSON:

2 There are also some other members of the

3 Federal Accident Investigation Team in the room today,

4 but Mr. Sherer, Mr. Farley and Mr. McAteer will be

5 conducting the questioning. If you'll swear the

6 witness, please?

7 -----

8 SCOTT HALSTEAD, HAVING FIRST BEEN DULY SWORN,

9 TESTIFIED AS FOLLOWS:

10 -----

11 ATTORNEY FERGUSON:

12 Mr. Koerber?

13 ATTORNEY KOERBER:

14 Sir, would you please state your full

15 name for the record and spell your last?

16 A. My full name is Scott Derwin Halstead, and that

17 lest name is spelt H-A-L-S-T-E-A-D.

18 ATTORNEY KOERBER:

19 And would you state your address and

20 telephone number, please?

21 A. My address is [REDACTED]

22 [REDACTED] [REDACTED] [REDACTED]

23 [REDACTED].

24 ATTORNEY KOERBER:

25 And Mr. Halstead, do you have your own

1 attorney with you here today?

2 A. Yes, sir.

3 ATTORNEY KOERBER:

4 Could you point him out, please?

5 A. Right here, Mr. Sparacino.

6 ATTORNEY KOERBER:

7 Okay. Sir, would you please state your

8 name for the record and who you're with as far as a

9 firm?

10 ATTORNEY SPARACINO:

11 Anthony J. Sparacino, sole practitioner,

12 Beckley, West Virginia.

13 ATTORNEY KOERBER:

14 Okay. And is Mr. Halstead your client?

15 ATTORNEY SPARACINO:

16 Yes, he is.

17 ATTORNEY KOERBER:

18 Okay. I also see we have another

19 attorney here, and could you please identify yourself

20 for the record and who you represent?

21 ATTORNEY AKERS:

22 My name is Rob Akers and I'm with Allen

23 Guthrie & Thomas in Charleston, and I'm here on behalf

24 of Performance Coal Company.

25 ATTORNEY KOERBER:

1 Mr. Halstead, are you appearing here
2 today as the result of receiving a subpoena?

3 A. Yes, sir.

4 ATTORNEY KOERBER:

5 Okay. Would this be a copy of that
6 subpoena?

7 A. Yes, it is, sir.

8 ATTORNEY KOERBER:

9 Okay. I'd like that to be marked as
10 Exhibit One.

11 (S. Halstead Exhibit One
12 marked for identification.)

13 ATTORNEY KOERBER:

14 And sir, this is a copy of the return
15 receipt card signed by you. Do you agree with that?

16 A. Yes, sir.

17 ATTORNEY KOERBER:

18 Okay. I'd like that to be marked as
19 Exhibit Two.

20 (S. Halstead Exhibit Two
21 marked for identification.)

22 ATTORNEY KOERBER:

23 The statute that allows the Director to
24 subpoena witnesses to interviews such as this requires
25 the Director to offer to each witness a \$40 witness

1 fee, together with the roundtrip mileage at the rate
2 of 15 cents a mile plus reimbursement for any tolls
3 that you may have passed on the way here or on the way
4 back, but to receive that money, I need certain forms
5 filled out. I provided those forms to you prior to
6 the interview. Did you fill them out?

7 A. Yes, sir.

8 ATTORNEY KOERBER:

9 Did you give them back to me, sir?

10 A. Yes, sir.

11 ATTORNEY KOERBER:

12 And you would like to receive the money?

13 A. Yes, sir.

14 ATTORNEY KOERBER:

15 Okay. No other questions.

16 ATTORNEY FERGUSON:

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

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

10 Government investigators and specialists

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

19 You may have your personal attorney

20 present during the taking of this statement and may
21 consult with your attorney or the representative at
22 any time. However, since this is not an adversarial
23 proceeding, formal Cross Examination will not be
24 permitted. But you must --- but you may ask
25 clarifying questions as appropriate.

1 Your identity and the content of this
2 conversation will be made public at the conclusion of
3 the interview process and may be included in the
4 public report of the accident, unless you request that
5 your identity remain confidential or your information
6 would otherwise jeopardize a potential criminal
7 investigation. If you request us to keep your
8 identity confidential, we will do so to the extent
9 permitted by law.

10 That means that if a judge orders us to
11 reveal your name or if another law requires us to
12 reveal your name or if we need to reveal your name for
13 other law enforcement purposes, we may do so. Also,
14 there may be a need to use the information you provide
15 to us or other information we may ask you to provide
16 in the future in other investigations into and
17 hearings about the explosion. Do you understand?

18 A. Yes, ma'am.

19 ATTORNEY FERGUSON:

20 Do you have any questions?

21 A. No.

22 ATTORNEY FERGUSON:

23 After the investigation is complete, MSHA
24 will issue a public report detailing the nature and
25 causes of the fatalities in hopes that greater

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

8 A court reporter will record your
9 interview. Please speak loudly and clearly. If you
10 do not understand a question asked, please ask that it
11 be rephrased. Also, I would caution you that you need
12 to answer verbally instead of nodding your head or
13 saying uh-huh or uh-uh ---

14 A. Okay.

15 ATTORNEY FERGSON:

16 --- so that the record is clear for the
17 future. Please answer each questions as fully as you
18 can, including any information you have learned from
19 someone else. We'd like to thank you in advance for
20 your appearance. We appreciate your assistance in
21 this investigation. Your cooperation is critical to
22 making the nation's mines safer.

23 After we've finished asking questions,
24 you'll have an opportunity to make a statement and
25 provide us with any other information you believe to

1 be important. If at any time after the interview you
2 recall any additional information you believe might be
3 useful, please contact Norman Page at the address I
4 provided ---

5 A. Yes.

6 ATTORNEY FERGUSON:

7 --- in your letter.

8 A. Yes.

9 MR. FARLEY:

10 Mr. Halstead, on behalf of the Office of
11 Miners' Health, Safety and Training, I'd like to
12 inform you that the West Virginia State Mining Law,
13 specifically West Virginia Code, Chapter 22A, Article
14 1, Section 22 provides protection against
15 discrimination of miners who participate in these
16 investigative interviews. I'd like to pass along some
17 contact information for the West Virginia Board of
18 Appeals. The Board of Appeals hears complaints from
19 miners regarding discrimination.

20 A. Okay.

21 MR. FARLEY:

22 Should you experience any problems as a
23 result of your participation in these interviews, you
24 should contact the Board immediately. Now, I would
25 caution you that should you have a problem, you'd need

1 to file a claim within 30 days if anything occurs.

2 Okay. Thank you.

3 A. Yes, sir.

4 ATTORNEY FERGUSON:

5 Are you all set?

6 MR. FARLEY:

7 Sure.

8 ATTORNEY FERGUSON:

9 Okay.

10 EXAMINATION

11 BY MR. FARLEY:

12 Q. Mr. Halstead, what's your total mining experience?

13 How long have you been a coal miner?

14 A. Thirty-five (35) years.

15 Q. Okay. Now, how long have you been with the Massey

16 companies?

17 A. Approximately about 15.

18 Q. Okay. How long have you been at the --- how long

19 were at the UBB Mine prior to the April 5th explosion?

20 A. Fifteen (15).

21 Q. Fifteen (15) years?

22 A. Yeah.

23 Q. Okay.

24 A. That's the total amount, you know, from the time

25 they put me to work 'til --- you know.

1 Q. Okay. All right. So a pretty good while, then?
2 Now, as of April 5th and the time preceding April 5th
3 this year, what was your job at UBB?

4 A. Fire boss, belt man.

5 Q. Okay. Now, were you an hourly employee or a
6 salaried ---?

7 A. Hourly.

8 Q. Okay. Who was your supervisor?

9 A. Well, prior to this it was Everett Hager. He's
10 the superintendent. And we had two or three different
11 mine foremans, so to speak, Gary May and Mr. Moore.
12 Andy Kolson was there, you know, for a short stint.
13 And you know, the higher-ups would be Wayne Persinger,
14 who's your vice-president and of course Chris
15 Blanchard is president.

16 Q. Okay. Now, you indicated that Mr. Hager was your
17 immediate supervisor. When did Mr. Hager become your
18 immediate supervisor? Do you recall?

19 A. He'd been there sometime before the 1st of the
20 year. I can't remember exactly, but a few months
21 before the 1st of the year come around.

22 Q. Okay.

23 A. He had been on the UBB side. He started there and
24 then we transferred, you know, down to the Eunice
25 Portal area.

1 Q. Okay. So Mr. Hager returned to UBB sometime
2 before the beginning --- or somewhere around the end
3 of 2009; is that fair?

4 A. Uh-huh (yes).

5 Q. Okay.

6 ATTORNEY FERGUSON:

7 Is that a yes?

8 A. Yes, ma'am. Yes, I'm sorry.

9 ATTORNEY FERGUSON:

10 Okay.

11 BY MR. FARLEY:

12 Q. Now, we understand that Mr. Hager was
13 superintendent; is that correct?

14 A. Yes, sir.

15 Q. Okay. Now, in the time --- about the time that
16 Mr. Hager arrived at the end of 2009 up to the time of
17 the explosion, you indicated that you were a fire
18 boss.

19 A. Yes, sir.

20 Q. What was your area of responsibility? What area
21 of the mine were you assigned to examine?

22 A. When he first come there I was assigned to the
23 North Mains belts, which is Three --- well, Three
24 North for a while, and then they shut it down there
25 and it went Four North, Five North, Six North, you

1 know, in that area. And then closer to the time of
2 the explosion I was put on the longwall belt.

3 Q. Okay. Now, when you say closer to the time of the
4 explosion, can you narrow that down for me?

5 A. Within three --- probably three months before the
6 explosion.

7 Q. Okay. So about three months before the explosion
8 you began examining the longwall belt? Now, before I
9 get --- before I lose track of it here, what shift did
10 you work?

11 A. Dayshift.

12 Q. Okay. Now, that started at what time?

13 A. That started at 6:00 a.m.

14 Q. And when did you finish up?

15 A. It was 3:00 p.m.

16 Q. Okay. Now, did you work --- what kind of rotation
17 did you work, five-day week, six-day week?

18 A. Six-day week.

19 Q. How many days off did you have?

20 A. I had one day off during a week, and then, you
21 know, there was a schedule change made later on, you
22 know, which, you know, affected us all. And I was put
23 on, like, 12-hour shifts. And it was like four days
24 on and two days off.

25 Q. Okay. Do you recall about what time you started

1 the 12-hour shifts?

2 A. 6:00 a.m.

3 Q. But about what time, what point in time this year?

4 A. Oh. Well, the 12-hour shifts, that was ---.

5 Before the 1st of the year I was on it for a little
6 while, and then they changed it back. And then the
7 day of the explosion was my first shift back on a
8 12-hour shift.

9 Q. Okay. So is it fair to say that for January,
10 February, March, leading up to the explosion, you were
11 working 6:00 a.m. to 3:00 p.m. ---

12 A. Yes.

13 Q. --- six days a week? Is that ---

14 A. Yeah.

15 Q. --- about right?

16 A. Yes, sir.

17 Q. Okay. All right. Now, during that period of time
18 when you're examining the longwall belt, were you
19 assigned any other areas of the mine to examine?

20 A. Yes, sir. I had been on examining the intakes and
21 returns, you know, in the north section of the mines.
22 And there was times when there was nobody ---. You
23 know, if somebody missed work I would examine one of
24 the working sections.

25 Q. Uh-huh (yes), okay. Now, if we were to pass you a

1 colored marker, would you be good enough to trace the
2 belts and airways that you were assigned to examine in
3 the three-month period preceding the explosion,
4 please?

5 MR. SHERER:

6 Does that map cover the entire area that
7 you need?

8 A. Well, prior to that, also, you know, the seals, I
9 done all the seals, those 64 seals in the mines. And
10 I helped another individual, which was, you know ---
11 he was supposed to do that all the time. You know, he
12 was delegated to do that all the time, which is Harley
13 Taylor, and he needed help with some of it, so you
14 know, they wanted me to.

15 BY MR. FARLEY:

16 Q. Now, when you say prior to when you helped Mr.
17 Taylor?

18 A. That was months, you know, like around --- before
19 the 1st of the year.

20 Q. Okay. I'm primarily --- right now, primarily
21 interested in what areas you examined from January
22 2010 up to April 5th; okay?

23 A. Okay.

24 ATTORNEY FERGUSON:

25 And will this map cover that, because we

1 have maps of different sections over here. We can get
2 one of another part, if that would be helpful.

3 A. Well, there was a LBB section, which is outby.

4 ATTORNEY MCATEER:

5 Did you do that after January?

6 A. A couple times, yeah, because one of the fire
7 bosses, you know, missed ---.

8 BY MR. FARLEY:

9 Q. Okay. Now, I'm primarily interested in what you
10 were regularly assigned to do on a daily basis.

11 A. Regularly assigned, okay.

12 Q. Now, I understand that you may have filled in a
13 time or two ---

14 A. Yeah, right.

15 Q. --- here and there for a day or so.

16 A. Uh-huh (yes).

17 Q. But primarily your daily area of responsibility,
18 ---

19 A. Okay.

20 Q. --- please.

21 A. Okay. Here's the North belts, Five North, the
22 Ellis belts, Ellis Five and Ellis Four, which led to
23 the outside.

24 MR. SHERER:

25 Okay. We got a map that's got those on.

1 BY MR. FARLEY:

2 Q. Okay. And again, from January 2010 to April 5th.

3 A. Uh-huh (yes.

4 ATTORNEY MCATEER:

5 I think he's going to use it. Is he
6 going to use this?

7 ATTORNEY FERGUSON:

8 Well, he doesn't think he's going to
9 continue on.

10 MR. SHERER:

11 Okay. There's the Ellis Portal right
12 there.

13 A. Okay. Bumpy road.

14 BY MR. FARLEY:

15 Q. Okay. Now, did you examine that belt on a daily
16 basis after the 1st of this year?

17 A. Yes, for a --- you know, a certain period of time.
18 It was more than just, you know, just a day ---

19 Q. Okay.

20 A. --- or a couple days.

21 Q. All right. Okay. Thank you. Just indicate the
22 dates that you examined those areas. Now, when I say
23 dates, I don't --- I mean from January 1 through
24 whenever it was.

25 A. Okay. Let's see. Yeah, that day.

1 ATTORNEY MCATEER:

2 Mr. Halstead, some of these fellows are

3 older here in this interview room, and if you would

4 write your name down there and say examined, they'd

5 have to remember. Of course I'd remember right away,

6 but ---.

7 OFF RECORD DISCUSSION

8 WITNESS COMPLIES

9 MR. FARLEY:

10 Okay. That's great. Thank you.

11 ATTORNEY MCATEER:

12 Yeah, that's good.

13 A. Okay.

14 OFF RECORD DISCUSSION

15 A. Okay. I can say it was all during this period of

16 time.

17 ATTORNEY MCATEER:

18 Okay, yeah.

19 (S. Halstead Exhibit Three

20 marked for identification.)

21 ATTORNEY FERGUSON:

22 So let the record reflect that Mr.

23 Halstead has indicated by a yellow highlighter,

24 marking from Ellis Portal, Number Four belt, Four

25 North belt, Five North belt ---

1 MR. FARLEY:

2 Six.

3 A. Six.

4 ATTORNEY FERGUSON:

5 --- and Six North belt that was examined

6 between January 1, 2010 and April 5, 2010 on Exhibit

7 Three?

8 A. Yeah.

9 ATTORNEY FERGUSON:

10 Map Exhibit Three.

11 A. Okay.

12 MR. FARLEY:

13 Okay. Now ---?

14 ATTORNEY FERGUSON:

15 And then the record should reflect that

16 Mr. Halstead has marked the Seven North belt.

17 A. This is the longwall, which I also ---.

18 BY MR. FARLEY:

19 Q. Now, at what point did you assume responsibility

20 for the longwall belt?

21 A. That was March.

22 Q. 2010?

23 A. Uh-huh (yes).

24 Q. Now, when you said March, you mean March 1,

25 March ---?

1 A. March 1.

2 Q. Okay. All right.

3 ATTORNEY FERGUSON:

4 If you will mark that right here, main

5 examined March 1 to April 5th?

6 WITNESS COMPLIES

7 ATTORNEY FERGUSON:

8 And the map, including the Six North belt

9 and Seven North belt, is marked as Exhibit Four.

10 (S. Halstead Exhibit Four

11 marked for identification.)

12 ATTORNEY FERGUSON:

13 Okay. And if you'd do the same for

14 Seven? You have it down now.

15 WITNESS COMPLIES

16 BY MR. FARLEY:

17 Q. Okay. Thank you. Now, you've marked belts here
18 from the Ellis Portal all the way to 22 Headgate belt
19 head?

20 A. Yes.

21 Q. Now, about how far was that?

22 A. Oh, roughly about two and a half mile, I'd say,
23 give or take.

24 Q. Okay. Plus the longwall belt?

25 A. The longwall belt, I started on it when it was ---

1 it had the tripper drive in, you know, so they had
2 just got started, so I worked on it most of the time.
3 I can't remember exactly when it started, when they
4 had it.

5 MR. SHERER:

6 September.

7 A. September, yeah.

8 BY MR. FARLEY:

9 Q. Now, how much time did it take you to examine all
10 the belts you had to examine ---

11 A. Well ---

12 Q. --- that you just ---?

13 A. --- on that day of the explosion, ---

14 Q. Yeah.

15 A. --- it took me three hours to walk out.

16 Q. Okay. Now, you're starting from the longwall or
17 from 22 Headgate?

18 A. I started from the headgate of the longwall, which
19 is the tailpiece, you know, of the longwall.

20 Q. All right. Now, and when you say that day, you
21 mean April 5th?

22 A. Yes.

23 Q. What time did you start out?

24 A. It was one o'clock.

25 Q. 1:00 p.m. And what time did you arrive outside?

1 A. It was about 3:00, about 3:10, something like
2 that. No, not 3:10, but 2:50, 2:50. And I was
3 upstairs filling out my report, and they was a couple
4 of calls come out and I took them. And after that I
5 finished filling my report out and walked downstairs.
6 And when I was walking toward the grip, it --- you
7 know, it blowed up.

8 Q. Okay. Now, let me make sure I understand what you
9 said correctly. You said you left headgate on the
10 longwall at 1:00 p.m.?

11 A. Uh-huh (yes).

12 ATTORNEY FERGUSON:

13 Yes?

14 A. Yes, yes, I did. Yes, sir.

15 BY MR. FARLEY:

16 Q. And you said you got outside at 2:50?

17 A. Uh-huh (yes). That's not quite three hours, no.

18 Q. Okay, okay. An hour and 50 minutes, two hours at
19 the most?

20 A. Two hours, yeah.

21 Q. Okay. Now, at the time you ---. How much time
22 did you spend in the vicinity of the longwall face
23 before you left at one o'clock?

24 A. I would say probably about 10, 15 minutes.

25 Q. Okay. How did you get to that area? Did you walk

1 or ride?

2 A. Yes, I walked the ---. You know, I was at the
3 Mother Drive, working, and then I started working my
4 way up the beltline, checking rollers, cutting strings
5 out of the rollers, checking for any gob, you know, to
6 clean up. I cleaned some at the box check at around
7 Eight Break, and then continued on up, you know,
8 looking at the ribs and the top and so forth. And I
9 got up there. I got up there and I probably stood
10 there for about, like I say, about 10, 15 minutes
11 before one o'clock, and I started back off.

12 Q. Okay. So you're on the longwall, headgate side,
13 quarter to 1:00, something like that. Any
14 conversations with anybody?

15 A. No, sir.

16 Q. Nobody at all?

17 A. No, sir.

18 Q. So who'd you see? Anybody at all?

19 A. In the past, you know, times that I've walked off
20 there, I had talked to a headgate operator, you know,
21 from time to time.

22 Q. Okay.

23 A. But on that day the headgate operator wasn't, you
24 know, there. He was up towards the face area, you
25 know working, I guess.

1 Q. Okay. Was the longwall producing when you were
2 there?

3 A. Yes, sir.

4 Q. Okay. Was it producing the entire time you were
5 there?

6 A. You know, as far as putting out coal, I can't say
7 for sure, you know, if ---.

8 Q. Well, I mean, was the shearer running?

9 A. Well, the shearer was over on the face. I'm not
10 sure. You know, they may've been.

11 Q. Okay.

12 A. They may not.

13 Q. Was there coal on the belt?

14 A. At times, yeah. It wasn't constant.

15 Q. All right. Did you see anyone else in the area,
16 anyone at all?

17 A. No, sir.

18 Q. Okay. Now, you start walking out. It's 1:00 p.m.

19 A. Uh-huh (yes).

20 Q. Do you see anyone else on your way out?

21 A. No, sir.

22 Q. Okay. And did you see a Mr. Elswick anywhere?

23 A. No, he was on the miner section. He started his
24 fire boss run in the north part of the mines and
25 Dino's section.

1 Q. Okay. All right. Now ---?

2 A. He ended up at the Mother Drive.

3 Q. Okay.

4 A. That's where I talked to him last.

5 Q. Okay. You saw Mr. Elswick at the longwall Mother
6 Drive on your way out?

7 A. I didn't see him, no. He was still working his
8 way down to the Mother Drive.

9 Q. Okay.

10 A. Like I said, when I was outside I received a call
11 from him, and he give me his report. I wrote it down
12 and I asked him, I said, where are you at exactly? He
13 said I'm at the Mother Drive. I said, you stay right
14 there. I'll be right in after you.

15 Q. Okay. Now, what time did you talk to Mr. Elswick?

16 A. That was somewhere between, I'd say five 'til 3:00
17 to three o'clock, something like that.

18 Q. Okay. Very shortly before the explosion?

19 A. Yeah, yeah.

20 Q. Okay. Now, to the extent you can remember, can
21 you tell me precisely what Mr. Elswick said during
22 your phone conversation with him?

23 A. He just give me his report on what he observed,
24 you know, his run, his fire boss run.

25 Q. Now, his run would've included the 22 Headgate

1 belt ---

2 A. Uh-huh (yes).

3 Q. --- down and the Seven North down to the Mother
4 Drive?

5 A. Yes, and like I say, in the North Mains area he
6 had, like, some EPs and rooms and stuff like that to
7 check.

8 Q. Did Mr. Elswick report anything that you would
9 consider to be a violation or hazardous condition?

10 A. No, sir.

11 Q. Okay. Did he indicate that he had detected any
12 methane?

13 A. Not that I recall, no, he didn't.

14 Q. Okay. I think I have a copy of the pre-shift
15 exam, which was called out on April 5th in the
16 afternoon by Mr. Elswick to you. Does that look like
17 the report that Mr. Elswick called out to you?

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

19 Q. Okay. Is that how you remember it at the time?

20 A. Yes, uh-huh (yes).

21 Q. Okay. And does it appear that anything was
22 changed since that time?

23 A. No.

24 Q. Okay. Now, and Mr. Elswick reported no hazards,
25 no methane detected?

1 A. No.

2 Q. Did Mr. Elswick say anything about how he was
3 feeling physically?

4 A. No, sir.

5 Q. Did he say anything about his eyes burning?

6 A. No, sir.

7 Q. Nothing?

8 A. Nothing.

9 Q. Okay.

10 A. He just told me, he said, I'm here at the Mother
11 Drive. He said, I didn't know if you was coming after
12 me or if I was going to have to catch a ride out. I
13 said, you stay right there where you're at. I'll be
14 right in after you.

15 Q. Okay. All right. Now, let's go back to the time
16 you left the longwall.

17 A. Uh-huh (yes).

18 Q. The entire time you were walking out, did you
19 remain in the belt entry?

20 A. Yes, sir. Yes, sir. Yeah, they done pulled that
21 one section out that they had done a little bit of
22 construction work, so that's all that was there, was
23 just the longwall belt.

24 Q. Okay. Now, on your way down the longwall belt,
25 after you passed --- before you passed the Mother

1 Drive, did you see anyone else, anyone at all?

2 A. No.

3 Q. Okay. Now, when you left the longwall around 1:00
4 p.m., what was the direction of airflow on the
5 longwall belt?

6 A. It was going in.

7 Q. What do you mean, inby?

8 A. Yes.

9 Q. Okay.

10 A. Uh-huh (yes).

11 Q. And how strong was the air current moving inby on
12 the belt?

13 A. You couldn't feel it real strong in the open
14 entry, but when you got to where the box checks were
15 at it was very strong. It would even blow coal off
16 the belt.

17 Q. Okay. So you had strong air coming, moving inby
18 on the longwall belt?

19 A. Yes, sir.

20 Q. Okay. Was that typical of how you usually found
21 the longwall belt?

22 A. Yes, sir. Like I say, at the Eight Break box
23 check I had to clean, you know, several times, not
24 during one shift, but you know, over a period of a
25 week, you know, several times.

1 Q. Okay. Now, as you walked the longwall belt and
2 the headgate, particularly down to about 78 and a
3 little further outby, what was the rock dusting like?
4 What was the quality of rock dusting?

5 A. There was areas that needed additional dusting,
6 you know. I mean, it was getting gray and there was
7 some areas where, like, overcasts and things were at,
8 it got a little bit darker, you know, so ---.

9 Q. Okay. To your knowledge, prior to April 5th, do
10 you know if the longwall belt, your area of
11 responsibility, along with the ---

12 A. Six North.

13 Q. --- Six North belt down to 78 and beyond, do you
14 recall the last time that belt might have been machine
15 rock dusted? Or was it ever machine rock dusted?

16 A. Oh, yes. It had been quite a while.

17 Q. Yeah. Okay. When you say quite a while, can you
18 pin that down for me? Weeks, months?

19 A. Maybe a couple weeks, probably, I'd say.

20 Q. Okay.

21 A. Because, you know, I mean I walked it. You know,
22 especially --- I didn't walk that every day, but that
23 particular day I walked all the way out. But what I
24 could see, you know, especially further on down the
25 beltlines, you know, it was getting dirty. We have

1 trickle dusters at the heads.

2 Q. All right.

3 A. And we was told to keep them filled and keep them
4 running.

5 Q. Okay. Now, if I understood what you said
6 correctly earlier, you began examining the longwall
7 belt around the 1st of March. Now, if at any time
8 during the month of March, do you have any
9 recollection of the longwall belt being machine rock
10 dusted?

11 A. Just with trickle dusters. Most of the time it
12 was hand dusted. They had a hard time getting the
13 track duster up in that area.

14 Q. Why?

15 A. Well, wrecking and plus there was so much activity
16 going on, you know, in that area with ---.

17 Q. Why would it wreck?

18 A. Well, just tight gauges. You know, the trucks on
19 the rock duster was, you know, wore out. And you
20 know, the turning radius on it goes to a certain
21 point, and it's got blocks that stops it. And you
22 know, it can't do nothing but either jump off the
23 track or slide around a turn.

24 Q. Did you ever observe the track duster, where it
25 might've derailed?

1 A. Oh, I used to work on the track duster years ago.

2 Q. Okay. But here in, let's say, 2010. Did you ever
3 observe the track duster in operation?

4 A. No, sir. They usually done that ---. Well, on
5 the dayshift on the UBB side, south side, I had seen
6 them, you know, at times dusting that side, yeah. And
7 there had been a time or two, us going in on the
8 dayshift, the midnight crew was dusting, and I'd see
9 them come out with the duster, you know. And
10 sometimes we'd go in and they'd be dusting the, you
11 know, in the track area where --- you know, where they
12 had dusted certain areas.

13 Q. Okay. Now, I was talking to a boy the other day
14 that worked on that thing. It got off the track and
15 he was jacking it up and the wheels fell off of it.

16 A. Yeah, that's what I say.

17 Q. That sound familiar?

18 A. Yeah, yeah. I guess the bearings, you know, in
19 the turntable itself were probably wore out, and the
20 pins and stuff, you know.

21 Q. Okay. Now, in your estimation, as you traveled
22 that longwall belt on April 5th, and Six North, in
23 your estimation, did they need a little bit more rock
24 dusting?

25 A. Yes, sir.

1 Q. Okay. Would that also have been true of the Seven
2 North belt from ---?

3 A. The Seven North belt, they had dusted it and there
4 was just a limited amount of coal on that belt most of
5 the time. I mean, you know, they run into a lot of
6 hard cutting and so forth up in that area.

7 Q. Okay.

8 A. And you know, they'd run every now and then, and
9 the beltline stayed in pretty good shape. It was just
10 starting to turn gray.

11 Q. Okay. But I think Mr. Elswick examined Seven
12 North ---

13 A. Yes.

14 Q. --- on April 5th.

15 A. Uh-huh (yes).

16 Q. Okay. Why was he examining that belt that day?

17 A. Well, that was his --- actually his fourth day
18 there.

19 Q. Okay.

20 A. You know, he'd just been newly hired and that was
21 his fourth day there, and we had to, you know, kind of
22 show him around the place, get him ---

23 Q. Right.

24 A. --- familiar with the area.

25 Q. Right.

1 A. And we felt like that was the easiest for him to
2 do, you know.

3 Q. Without getting lost?

4 A. Right, right.

5 Q. Okay. All right.

6 A. So there was two or three of us that actually, you
7 know, took time to show him, you know, the areas ---

8 Q. Okay.

9 A. --- and what needed to be fire bossed.

10 Q. Okay. Who else helped you in showing Mr. Elswick
11 around?

12 A. John Bickford ---

13 Q. Okay.

14 A. --- and --- let me think of his name. He was off
15 work that day, too. I can't think of his name right
16 now.

17 Q. Okay. Were you comfortable that Mr. Elswick could
18 negotiate the belt from ---

19 A. Yes.

20 Q. --- 22 Headgate down to the ---

21 A. Yeah.

22 Q. --- Mother Drive area?

23 A. He had, you know, a pretty good bit of mining
24 experience, and he was familiar with, you know, how
25 things were laid out. And everything that we showed

1 him, he was pretty confident, you know, he could find
2 his way. Yes.

3 Q. Okay. Now, I think you --- you know, you marked
4 your area of responsibility. Now, in the three months
5 or so preceding the explosion on April 5th, did you
6 ever have occasion to travel the 22 Headgate belt?

7 A. Yes, sir.

8 Q. When?

9 A. That was probably --- may've been a couple weeks
10 prior to that, was my last time, I'd say, from what I
11 can remember. You know, I'd travel up to --- we had
12 this tailgate side. They had new construction, and I
13 traveled across it, you know, come up the longwall
14 belt, traveled across and then up, you know, onto that
15 section, because they was ---. Their beltline ---.
16 Until they got this other stretch of belt in right
17 here to hit Seven North with ---

18 Q. Uh-huh (yes).

19 A. --- they had a cross belt right here that they was
20 using and that. And I come up and come across, you
21 know, and ---

22 Q. Okay.

23 A. --- went up that way.

24 Q. All right.

25 ATTORNEY FERGUSON:

1 And let's let the record reflect that the
2 witness is referring to the crossover to Headgate 22.

3 MR. FARLEY:

4 Okay. Thank you.

5 BY MR. FARLEY:

6 Q. Now, you think that was approximately two weeks
7 prior to the explosion event ---

8 A. Yes.

9 Q. --- to your best estimation?

10 A. From what I can recollect, yes.

11 Q. Okay. Now, what did the 22 Headgate belt look
12 like then?

13 A. It was spot dusted. They was having trouble, as I
14 said, even getting the duster up there for the fact
15 that the track was so far behind.

16 Q. Uh-huh (yes).

17 A. So it had to be pretty much hand dusted.

18 Everything was under construction in this area out to
19 the mouth, trying to get things set up, you know, the
20 track and going underneath the belt with the track, so
21 there was a lot of work going on at that time and they
22 hadn't put the switch in, you know. So that belt had
23 to be hand dusted.

24 Q. Okay. Now, did it appear that the 22 Headgate
25 belt had ever been machine dusted at any time?

1 A. Only down here at this belt head. At this belt
2 head there was a trickle duster just inby that belt
3 head.

4 Q. Okay. All right. Now, the area of the Mother
5 Drive construction here where the 22 Headgate belt
6 dumps onto Seven North ---

7 A. Yes, sir.

8 Q. --- do you know when that started?

9 A. Not sure. I mean, it was just a process of
10 months, you know, a couple months, three months ---

11 Q. Okay.

12 A. --- something like that. You know, getting
13 everything cleaned up getting this beltline back in
14 shape, Seven North beltline back in shape and getting
15 it ready to run. And there was a lot of cutting going
16 on up here for overcasts, you know, a belt channel.

17 Q. Okay. Now, did you have occasion to walk through
18 that area as the work was being done?

19 A. Yes, sir.

20 Q. Okay. Was that work finished as of April 5th? Do
21 you know?

22 A. To the point to where they could load, yes. There
23 was still some other, you know, things going on out
24 here next to the mouth. They was, you know, putting a
25 lot of the big drive motors and stuff in for the

1 longwall, ---

2 Q. Okay.

3 A. --- you know, setup.

4 Q. Now, as you passed through that area, did you
5 notice where stoppings might have been removed or
6 doors --- did you notice doors open?

7 A. Well, on occasion, yes, there had been doors, you
8 know, left open here and there, you know, and I'd try
9 to shut what I found, because there were ---. You
10 know, like I say, there was a lot of construction
11 going on up there and people going every which
12 direction and ---.

13 Q. The reason I ask that question is it's been
14 indicated to us once or twice that that construction
15 work may have had a negative impact on the quantity of
16 air going to 22 Headgate section. Did you ever get
17 any sense of that from what you saw and from
18 conversations with any people in that area?

19 A. Well, from the times that I had frequented that
20 area, you know, there was times where they was
21 working, the dust, you know, would stand in there.
22 Back here on the track and places they had to put
23 check curtains in and things of that nature to try to,
24 you know, direct the air. I think they had some holes
25 in some stoppings going to the return to try to, you

1 know, get the air to push the dust out, you know,
2 so ---.

3 Q. Okay. All right. Now, when you were walking the
4 longwall belt on April 5th, you were walking out, was
5 there anything unusual about what you encountered?
6 Was there anything different than what you had seen
7 the previous time you'd walked it?

8 A. No, sir.

9 Q. Did you smell anything different?

10 A. No, sir.

11 Q. Okay. Now, prior to April 5th, when was your last
12 shift worked?

13 A. Let's see. That was Monday, so I worked that
14 Saturday, that past Saturday.

15 Q. Okay. Was that dayshift on Saturday?

16 A. Uh-huh (yes).

17 Q. Okay. Did you examine the longwall belt on
18 Saturday?

19 A. Yes.

20 Q. Okay. Did anything change between Saturday and
21 Monday?

22 A. The air was, like, fluctuating, you know. I mean,
23 it'd pick up and it would die, then pick up and die.

24 And from what I could gather during that time, you
25 know, the water in the top end of the longwall, you

1 know, up there where they had the fan ---.

2 Q. Uh-huh (yes).

3 A. You know, you had a lot of water up there and they
4 had pumps that was operated by air pressure, and they
5 had to keep somebody up there to maintain them all the
6 time. And then they finally got some pumps up there.
7 They, I guess, dropped some cables down to hook up
8 some pumps. But if they didn't maintain them pumps,
9 keep them --- keep the water down, it would cause the
10 air to fluctuate.

11 Q. Okay. Now, did you notice --- you noticed this on
12 Saturday preceding the accident, that the air seemed
13 to fluctuate?

14 A. Yeah.

15 Q. Was it the belt entry only or was this the entire
16 longwall intake?

17 A. Just from --- yeah, the belt entry was the only
18 place that I had, you know. Then I got over there
19 into the track entry a couple times, checking some
20 things out, but other than that, you know, I was
21 mainly on the belt.

22 Q. Okay. Now, since you traveled the longwall belt
23 for the last month or so prior to the explosion, did
24 you ever notice the doors that had been installed, we
25 believe, sometime around the 1st of March in the

1 longwall intake here? Am I correct there? There's
2 some new ---

3 A. Uh-huh (yes).

4 Q. --- doors that were installed?

5 A. Yeah.

6 Q. Now, the description we have of them is that you
7 got a door and you got a side panel with ---

8 A. Yeah, yeah.

9 Q. --- some percentage blocks left out; ---

10 A. Yeah.

11 Q. --- is that correct?

12 A. Box check, what it's called, you know, basically.

13 Q. Yeah.

14 A. Yeah, for the belt. Yeah.

15 Q. Okay. Now, we understand that that sort of served
16 to regulate the air. How often did you ---?

17 ATTORNEY FERGUSON:

18 Was that a yes?

19 A. Yes, yes, I'm sorry.

20 BY MR. FARLEY:

21 Q. How often did you notice anyone around those
22 doors?

23 A. There was times weeks prior to that, a couple
24 weeks, three weeks, you know, they had come up there
25 because the air just seemed to be slow. And they was

1 trying to push as much as they could up across that
2 longwall face. And they had --- I don't know; let's
3 see --- I'm going to say estimate of maybe five, maybe
4 even six box checks up that longwall belt. And some
5 of them was made out of curtain, you know. Some of
6 them was made out of block, and then some of them was
7 made out of curtain.

8 Q. Okay. Now, the doors I'm referring to are in the
9 --- probably would've been in the track entry.

10 A. Uh-huh (yes). Yeah, down here next to the mouth?

11 Q. Yeah.

12 A. Yeah, they was two sets. Yeah.

13 Q. Yeah.

14 A. And that was basically for that cut-across, you
15 know, actually the pullout area, what you would call
16 the pullout area.

17 Q. Okay. And then the doors I'm talking about
18 should've been just inby where the air splits.

19 A. Yes, uh-huh (yes).

20 Q. Okay. Now, do you recall when those --- do you
21 know when those doors were put there, when they were
22 installed?

23 A. They'd been there for several months, I think.

24 Q. Several months?

25 A. Yeah. And the doors had been hit a couple of

1 times, and they had to replace them, you know. People
2 couldn't get stopped. When they come around that
3 curb, they had --- you know, just couldn't slow down.

4 Track was so slick and they'd knock them out and they
5 had to replace them, you know, but ---.

6 Q. Let me make sure I understand you now. My
7 understanding is this side portion had been left out
8 to allow air to pass through; is that correct?

9 A. On the longwall belt, but now, on the track, the
10 track had ---.

11 Q. Well, that's what I mean, on the track.

12 A. Yeah, the track was ---.

13 Q. Track.

14 A. It was completely closed off with the doors.

15 Q. Okay. There's not a side panel which was left
16 open to allow air to pass through?

17 A. No, that one's where the ---. That was where the
18 four-foot belt used to run when they drove that panel
19 up. So they, you know, they built the stopping to the
20 side and then put the doors across the track.

21 Q. Okay. But there's not a hole in these doors here
22 to allow air to pass through where my finger is, where
23 the air ---?

24 A. There may have been maybe a block out, you know,
25 just a small area, just to allow enough air to, you

1 know, keep, like, in between the two sets of doors,
2 keep that flushed out.

3 Q. Okay.

4 A. But as far as, you know, it being --- it was a
5 stopping to the side and then the doors put up overtop
6 the track, you know, to allow people to get in and
7 out. And we'd open one set, get inside, close that
8 set and then open up the other set, you know, because
9 I mean it's a violation to have both sets open at the
10 same time, especially, you know, if it's going to
11 affect your air.

12 Q. Okay. Now, how many doors do you actually have
13 here after you turn into the longwall headgate? How
14 many doors did you actually have in the track entry,
15 coming towards the longwall?

16 A. Okay. Like I said, after you make that turn
17 coming up on the section ---.

18 Q. Uh-huh (yes).

19 A. After you make that turn coming up on the section,
20 come around the curve, there was two sets there.

21 Q. Okay. Four doors, two sets; right?

22 A. Uh-huh (yes), uh-huh (yes).

23 Q. Would you circle and mark the doors that we've
24 been talking about here?

25 A. At this area here.

1 Q. Okay. Now, the first set of doors would be outby
2 where the air splits; is that correct?

3 A. Uh-huh (yes), yes, sir.

4 Q. Okay. And the next set would be inby where the
5 air splits; ---

6 A. Yes, uh-huh (yes).

7 Q. --- is that correct?

8 A. Uh-huh (yes).

9 ATTORNEY MCATEER:

10 Could he mark those?

11 A. Yes, these right here, the two sets here.

12 ATTORNEY MCATEER:

13 And then draw a line.

14 MR. FARLEY:

15 Put a line out here and write, doors.

16 WITNESS COMPLIES

17 ATTORNEY FERGUSON:

18 Okay.

19 A. Now, there was a set of doors on that cut-across
20 where I told you that the Dino's section, the miner
21 section was using the belt coming over and dumping
22 onto the longwall belt. They had a belt, a cross belt
23 coming and dumping onto the longwall belt, and just
24 inby --- we was inby that area --- there was a set of
25 doors, because they had a cross belt.

1 BY MR. FARLEY:

2 Q. Okay.

3 A. And where they went up ---. They was going onto
4 that section from this area here for a while where
5 they was driving across, and after they got drove
6 across they still maintained that track, because, you
7 know, they had had to walk a long way this way. So
8 they parked up here. Here's the two doors right here.

9 ATTORNEY MCATEER:

10 Could you mark that with a different
11 color?

12 MR. FARLEY:

13 Marker. Get a ---.

14 ATTORNEY MCATEER:

15 Different color.

16 MR. FARLEY:

17 Get a green color.

18 ATTORNEY MCATEER:

19 Yeah. I'll take the blue there. Yeah.

20 MR. SHERER:

21 Let the record state that the witness
22 marked the doors near the mouth of the headgate with
23 blue.

24 ATTORNEY FERGUSON:

25 Okay. Just mark ---. Okay.

1 A. And those doors was well-maintained. I mean, you
2 know, because it really had an effect on the air, you
3 know, wanting to run this way instead of ---

4 BY MR. FARLEY:

5 Q. Okay.

6 A. --- this way.

7 Q. All right. Now, let me move away from the doors
8 for a minute here. April 5th you leave the longwall
9 at one o'clock. You didn't talk to anybody.

10 A. No, sir.

11 Q. Did you know at that point that the longwall had
12 been down during that shift?

13 A. There was a time or they might've been two times
14 that I know that they was down for just a short period
15 of time.

16 Q. During --- on April 5th?

17 A. Yes.

18 Q. How did you know that?

19 A. Well, the headgate operator would shut the belt
20 off from time to time, or if I was around the belt and
21 didn't see a lot of coal coming for a period of time,
22 like if I was checking splices, didn't see a lot of
23 coal coming, I would, you know, call and see what was
24 going on. So there's some work sometimes that I could
25 do if I could shut the belt off, so ---.

1 Q. Okay. Well, in your estimation, then, what's the
2 time frame during the shift on April 5th where the
3 longwall was not producing coal?

4 A. During that shift?

5 Q. Yes, sir. Yes, sir.

6 A. It was probably about an hour to two hours prior
7 to my walking the belt.

8 Q. Okay. Now ---?

9 A. Because that's about the time I checked the
10 splices.

11 Q. Okay. Now, you left the headgate at one o'clock.

12 A. Uh-huh (yes).

13 Q. So you think an hour or two prior to that you see
14 no coal?

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

16 Q. Is that correct?

17 A. Yes, sir.

18 Q. Now, what about prior to that, earlier in the
19 morning?

20 A. Well, prior to that, earlier in the morning I
21 hadn't got there when they had started the belt
22 producing. I was doing other things, checking those
23 --- the chambers, you know. I worked my way up,
24 filling rock dust machines up, you know, trickle
25 dusters, and checking chambers as I come up.

1 Q. Okay. Now, in your estimation there's no coal
2 coming from the longwall in an hour --- in the hour or
3 two preceding 1:00 p.m. Now, what point do you see
4 the coal coming from the longwall again?

5 A. As I was walking down the belt.

6 Q. Okay. Now, about what point do you see it? As
7 you were walking down the belt and you see the coal
8 coming from the longwall, were you still on the
9 longwall belt when you see the coal coming?

10 A. Yes, sir. Yes, I was close to the mouth.

11 Q. Okay. Now, if you left there at one o'clock, how
12 long does it ordinarily take you to walk the longwall
13 belt?

14 A. Well, at that time it was a short belt. It took
15 me about 20 minutes.

16 Q. Okay. So about 1:20 or before, you see coal
17 coming down the longwall belt?

18 A. Yes.

19 Q. All right. On your previous shift on Saturday,
20 when you examined the longwall belt, did you have any
21 conversations with the crew, longwall crew that day?

22 A. Not that I recollect.

23 Q. Okay. Did you ever have any contact,
24 conversations with the longwall crew when you made
25 your examination, before you made your examination?

1 A. I have talked to the headgate operator, you know,
2 Woody, you know, at times when their crew was working.
3 And I have talked a couple of times to Mullins.

4 Q. Okay. Now, during your conversations with these
5 gentlemen in the weeks or month preceding the
6 accident, did they ever express to you that they were
7 having any problems with methane or ventilation or
8 both?

9 A. No, no, the only problems that I encountered that
10 they was talking about was a chain was either stuck,
11 you know, hung up or they had some shafts break, you
12 know, on the shearer, just stuff of that nature.

13 MR. FARLEY:

14 Okay. Any other questions?

15 MR. SHERER:

16 Sure.

17 EXAMINATION

18 BY MR. SHERER:

19 Q. Thank you, Mr. Halstead.

20 A. Yes, sir.

21 Q. You mentioned there was seven or eight box checks
22 on the longwall belt.

23 A. Yeah, about six, I estimate.

24 Q. Six?

25 A. Yeah.

1 Q. Okay. And you said some of them were canvas; some
2 of them were block?

3 A. Yes.

4 Q. Do you know why none of those are shown on the map
5 here?

6 A. I have no idea.

7 Q. Had you ever seen anybody put those on the map?

8 A. They had a map man there on the UBB side, and he
9 would, from time to time, ask us fire bosses where
10 such-and-such was, you know.

11 Q. Uh-huh (yes).

12 A. And he said, come show me on the map, and you
13 know, we'd show him. And I guess it was his
14 responsibility to, you know, lay that out, but ---.

15 Q. Do you recall him ever asking you about or did you
16 ever tell him about those box checks?

17 A. No. Once I moved to the Ellis side, you know, I
18 never seen him.

19 Q. Oh, okay, okay. Who was that map guy?

20 A. I can't think of his name.

21 Q. A little short guy?

22 A. Short, heavy --- kind of heavysset.

23 Q. Yeah, Erik Lilly?

24 A. Yeah. Yeah, there you go.

25 Q. Okay, okay. Thank you.

1 A. Yeah.

2 Q. When was the last time you walked this connector
3 between the Tailgate 22 and the Headgate 22?

4 A. It was probably --- like I say, it was probably a
5 week or two prior to the explosion the last time I
6 traveled across there, because I had started down here
7 and walked up the longwall belt, went up to the
8 headgate and then come back down, and then I went
9 across that way. But that belt was not in service
10 when I done it. I just went that way and so I could
11 get over there and walked up to the face. I mean not
12 face, but the tailpiece of the miner section, and then
13 come back down and got back over here on Seven North
14 belt and come down Seven North belt, you know.

15 Q. Okay. Now, when you walked across the connector,
16 did you walk up the belt entry?

17 A. Yes, sir.

18 Q. What was the rock dust like through there?

19 A. It was bad.

20 Q. It was bad?

21 A. Uh-huh (yes).

22 Q. Was it black?

23 A. Yeah.

24 Q. Okay. Was the belt clean? Did it need shoveling?

25 A. Spot --- need spot cleaned. I mean it wasn't real

1 bad, just spot cleaned.

2 Q. Okay. Thank you. Now, you were talking about the
3 water down on the --- near the backside of the
4 longwall.

5 A. Yes, sir.

6 Q. Did you ever have any occasion to go back there?

7 A. Yes. Andy Kolson was the mine foreman at one
8 point.

9 Q. Uh-huh (yes).

10 A. And he was in charge of keeping that, you know,
11 maintained. You know, and this, it was at a point
12 where it was a long way back to that water.

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

14 A. And you know, because the mule train was way out
15 here and that was basically as far as you could go as
16 far as a ride, you know.

17 Q. Uh-huh (yes).

18 A. So I had to walk up there one day. He sent me.
19 And I had to carry a set of hip waders or chest waders
20 from there to the point where I had to get, you know,
21 get them on and start walking through the water. And
22 he wanted me to check all these pumps, which I said
23 was operated by air pressure.

24 Q. Uh-huh (yes).

25 A. And there was probably three pumps that was not

1 working. And the water, the water --- I had to stand
2 in water up to here and reach down in the water to get
3 the pump, which the pump, you know, had, I guess, come
4 loose from its hangers and fell down there, and then I
5 had to retrieve the pump out of there and repair some
6 lines, your air lines and discharge lines.

7 Q. Did you flood your waders?

8 A. Yes, sir. I remember that.

9 Q. Kind of figured that.

10 A. Yeah, uh-huh (yes).

11 Q. Was the water roofed out in any of those entries
12 down there?

13 A. No, sir.

14 Q. Okay.

15 A. But it was deep, you know. I mean deep and spread
16 out.

17 Q. Okay. Now, you mentioned on Saturday you felt the
18 air was fluctuating on the longwall belt due to the
19 water. What makes you think it was the water?

20 A. Well, that was your main intake going up to the
21 fan, so ---.

22 Q. So you just kind of ---?

23 A. When they had problems, that's where they'd run
24 to.

25 Q. Oh, okay, okay. Do you recall any time that

1 somebody had to ---? Do you recall the last time
2 somebody had to go back there to do something with the
3 water? When was that, just roughly?

4 A. Well, there was a man working on it that day.

5 Q. On Saturday?

6 A. Uh-huh (yes).

7 Q. Do you know who that was?

8 A. No, I can't think of his --- he's got a funny
9 name, but I can't think. He's a --- shoot.

10 Q. Was it Burdoff?

11 A. Burdoff, yeah, yeah, him. And he had probably two
12 other men. At some points he had three or four men to
13 help him, you know. It was just according to what
14 other work needed to be done. They'd take people away
15 from him, you know.

16 Q. Uh-huh (yes).

17 A. Burdoff, yeah.

18 Q. Couple red hats?

19 A. Yes. Yes, sir.

20 Q. Okay. And so he was in there Saturday.

21 ATTORNEY FERGUSON:

22 What was he doing?

23 A. Working on the pumps. That was his job.

24 Basically that was his job, and there was another man
25 on the midnight. I can't think of his name. He was a

1 new guy. A lot of new --- they had a lot of new guys
2 in there and, you know, I just didn't learn everybody,
3 but Burdoff was one of them, and then they was a man
4 on that midnight that, you know ---. And they would
5 talk, you know. They would talk on the phone, or if
6 they didn't get a chance to talk on the phone, they'd
7 meet up there at 78 Break, you know, at the switch-out
8 and they'd talk before --- you know, before they'd go
9 on ---

10 BY MR. SHERER:

11 Q. Sure.

12 A. --- their separate ways.

13 Q. Okay. Thank you. Did you ever have any occasion
14 to get down on the tailgate of the longwall?

15 A. It was months.

16 Q. Okay.

17 A. Like I say, at one point they had me walking all
18 the airways. It was months prior to that explosion.
19 They was a man that was off and I done his job,
20 walking all that.

21 Q. Okay, okay.

22 A. Which was Charlie Saminsky.

23 Q. Okay. I met Mr. Saminsky.

24 A. Yeah.

25 Q. Just in general, do you think the ventilation of

1 the longwall was adequate?

2 A. It was about half, I think ---

3 Q. Okay.

4 A. --- because prior experience to some longwall
5 setups, you know, they've had 100,000 foot of air or
6 better going across that face.

7 Q. Uh-huh (yes).

8 A. And most of the time I'd ever heard anybody
9 talking about the air up there, it was like in the 90'
10 or --- yeah.

11 Q. Would it surprise you to know that it was about
12 55,000 a few days prior to the explosion?

13 A. Yeah, I could agree with that.

14 Q. Had you noticed that maybe it got hotter when you
15 were working on the longwall belt?

16 A. Yes, sir. And I really blamed it on the box
17 checks, you know, I mean, because like I said, about
18 six box checks up through there. And with that cut-
19 across, you know, I blamed a lot of it on that ---

20 Q. Sure.

21 A. --- you know.

22 Q. Sure.

23 A. I mean every little piece, even doors down here at
24 85 Break, you know, they had to be maintained or, you
25 know, that air wouldn't get up here where it needed to

1 be. And that's one of the things that I feel that
2 caused a lot of this, was they didn't take time down
3 here to cut overcuts out, which they should have. But
4 now, the word was sent that we need to get up there as
5 fast as we can and get them longwall panels dug. We
6 got a longwall coming, you know? Because they was
7 just limping along down there at Logan's Fort until we
8 got things developed for them to come.

9 Q. That's interesting. Who sent that word in to get
10 on through there?

11 A. Well, there's only one president down there.

12 Q. Okay. I understand. Was there a regulator that
13 dumped belt air from this longwall belt anywhere that
14 you recall?

15 A. Back --- let's see. Back down about 85 Break,
16 along in there, where I used to get over into the
17 intake and walk up and get onto the first panel, you
18 know, where they was driving.

19 Q. Can you point that out to me?

20 A. Right here's 55, 60.

21 Q. Seventy-five (75).

22 A. That's 80.

23 Q. Here's 85 right here.

24 A. Yes. I'd get in here. And where this section
25 come up this way and then the air had needed to come

1 this way they'd done a lot of --- they'd done a lot of
2 changing in the stoppings and stuff. They even cut
3 some places and tried to get, you know, set up to
4 where they could put air on this one and then send air
5 on up to where Dino and them was loading at that
6 point.

7 Q. Okay. So ---?

8 ATTORNEY FERGUSON:

9 And can you identify this one and this
10 one?

11 BY MR. SHERER:

12 Q. Yeah, yeah. Can I get you to take a pink marker
13 and identify those areas?

14 A. Okay. This area here is basically where the doors
15 was put in; okay?

16 ATTORNEY FERGUSON:

17 And that would be at about 85 Break?

18 A. Yes, ma'am.

19 BY MR. SHERER:

20 Q. Okay. Now, do you see these doors on the map?

21 A. They're right here.

22 Q. Okay. That's the set of doors between about 83
23 and 84 Break?

24 A. Yeah.

25 Q. Okay.

1 A. Yeah. Okay. I missed it by a couple of breaks.

2 Q. That's okay. Draw your circle a little larger.

3 A. Yeah, there you go.

4 Q. That's the government way.

5 A. Basically --- yeah. Basically in that area. And
6 I would get out right there and I'd walk up that
7 intake and come up on Dino's section at that time he
8 was working, which was the longwall panel that the
9 longwall was on.

10 Q. Sure.

11 A. And I'd walk across the face and back down the
12 return, and sometimes I'd get over here in this return
13 and walk.

14 Q. Okay. And you say they were doing some vent
15 changes down there, building some stoppings?

16 A. Yes, trying to put air up on this, which was the
17 tailgate side.

18 Q. Okay. Exactly when were they making --- building
19 those stoppings and making those vent changes in
20 relationship to the explosion? Was it a week before,
21 if you know?

22 A. No, this was like months, because this section
23 here was driving up, ---

24 Q. Okay.

25 A. --- you know what I mean?

1 Q. So this was before the longwall was actually in
2 production?

3 A. Yes.

4 Q. Okay.

5 A. That's what I say. All of this was done, even,
6 you know, missing the overcasts to get up here to get
7 all this drove, because they had a longwall coming.

8 Q. Okay. So you think the fact that the longwall
9 didn't have a place to go at Logan's Fort --- do you
10 think any shortcuts were taken because of that?

11 A. Oh, yeah. That overcast was --- I mean I had been
12 in the mines 35 years and I've run a miner ---

13 Q. Sure.

14 A. --- and I've been on a section, and when they
15 mapped everything they put everything in its place,
16 even the overcasts that need to be cut. And we would
17 get it set up on Saturdays, you know. We know there's
18 a overcast coming if we was drove past it just a break
19 or two or three, whatever, on that Saturday we'd plan
20 to work and cut them overcasts out. And they was some
21 occasions we even cut them overcasts out on production
22 shift, you know.

23 Q. Sure.

24 A. I mean it was just basic, you know.

25 Q. Uh-huh (yes), sure. And why do you ---? You seem

1 to prefer overcasts to doors. Why do you do that? Is
2 there some reason overcasts are better?

3 A. Yeah. I mean, when you got an overcast in the
4 track entry, it's logical that the air's going to go
5 right overtop of you and there's no obstructions and
6 no doors to have to worry about, or ---.

7 Q. When those doors were open, would it affect the
8 air inby?

9 A. Yes, sir. Yes, sir.

10 Q. Have you ever noticed any fluctuation in
11 ventilation you would attribute to those doors?

12 A. Oh, yeah. I've been in the airways at times and
13 you could feel it. I mean, you could even feel it in
14 your ears and you could feel it, you know, the
15 movement of the air.

16 Q. Uh-huh (yes).

17 A. I mean, that's why, you know, you got two sets,
18 you know, two individual sets there. You got two
19 doors here and two doors here.

20 Q. Uh-huh (yes).

21 A. You open this set and get in there, close them
22 sets, you know. Well, you get between them two doors
23 there, open one, get in there, close it, open that
24 other one, get in here in the wide open area, close
25 them doors and then come up to the next set ---

1 Q. Sure.

2 A. --- and do the same thing, because the air was
3 going across in between them set. And like I said
4 earlier, there was occasions that track vehicles
5 couldn't get stopped and has tore them doors out. And
6 we had trouble with them. I mean, the whole time we
7 had to keep them plastered. And they even come up
8 there and put bolts in the spans, you know, the jack
9 spans and tried to ---

10 Q. Sure.

11 A. --- keep them from moving. It was just a mess.
12 That's all I can say.

13 Q. Did you ever come up on any of these doors and
14 find any of them open?

15 A. There had been occasion, yeah, because like I say,
16 the doors had been hit and it was a while before they
17 really put any attention to them. And you know,
18 they'd kind of lean and ---

19 Q. Okay.

20 A. --- you know. You close it, and if you didn't
21 have something to --- like a cable hanger or something
22 to ---

23 Q. Sure.

24 A. --- keep, they'd just come swinging right open.

25 Q. Did you ever hear of at shift change one crew goes

1 out through the doors and leaves them open and lets
2 the next crew close them?

3 A. Not that I recollect. I mean, you know, the trips
4 that I've been on, we've ---.

5 Q. Okay.

6 A. You know, we've ---.

7 Q. Did you ever hear of any other crews doing that?

8 A. Well, I've heard that, yeah, but ---

9 Q. Okay.

10 A. --- you know, that's just talk, you know.

11 Q. Okay, sure. Uh-huh (yes).

12 A. I think there was even ---. There was even one
13 point I think there was an inspector with a crew that
14 was --- I can't remember if they was going in or
15 coming out and there was a crew ahead of them that
16 actually done that, and they was a citation wrote.

17 Q. Sure. Now, can I get you to take a --- let's see;
18 okay --- an orange marker. And mark where you think
19 these belt checks were on the longwall belt.

20 A. Oh, mercy. Let's see. Well, up close to the ---
21 where this here cut-across was there was a belt check
22 just outby, I don't know ---

23 Q. Well, the ---.

24 A. --- four or five breaks or something like that.

25 Q. Yeah. Now, the longwall pulled up past ---

1 A. Uh-huh (yes).

2 Q. --- this cutover?

3 A. Uh-huh (yes), yeah. This is a pullout area ---

4 Q. Okay.

5 A. --- they had, so --- you know, you had there. You
6 had another set inby about, I don't know, two breaks
7 or so inby.

8 Q. Okay. Now, what you just circled is what I would
9 just call curtains.

10 A. Uh-huh (yes).

11 Q. You didn't have a belt going through them. They
12 were just there to keep the air directed down the
13 longwall face itself?

14 A. Uh-huh (yes), yeah.

15 ATTORNEY MCATEER:

16 Eric, can I go off the record one second?

17 MR. SHERER:

18 Sure.

19 OFF RECORD DISCUSSION

20 ATTORNEY MCATEER:

21 Is the box check that you're talking
22 about?

23 ATTORNEY FERGUSON:

24 Yes.

25 A. Yes, sir.

1 ATTORNEY MCATEER:

2 Okay. So it's no belt curtains, but it's

3 box check that you mentioned? There's six ---?

4 A. The box checks on the beltline, yes.

5 ATTORNEY MCATEER:

6 Okay.

7 MR. SHERER:

8 Yeah.

9 ATTORNEY MCATEER:

10 There's six sets of them?

11 A. Yeah.

12 ATTORNEY MCATEER:

13 Okay.

14 A. But some of them was made out of line curtain.

15 ATTORNEY MCATEER:

16 Right. Okay.

17 BY MR. SHERER:

18 Q. And you make them out of blocks or ---?

19 A. They built --- you know, they set some timbers up

20 and put board across and --- you know.

21 ATTORNEY MCATEER:

22 You can go back on. I just ---.

23 A. And there was a ---

24 ATTORNEY FERGUSON:

25 Oh, she never went off.

1 A. --- lot of pressure.

2 ATTORNEY MCATEER:

3 Okay.

4 A. There was a lot of pressure on some of them ---

5 BY MR. SHERER:

6 Q. Sure.

7 A. --- at times, and other times, you know ---.

8 ATTORNEY MCATEER:

9 That's fine.

10 BY MR. SHERER:

11 Q. Okay. Let's get you to mark the ones from the
12 stage loader on out to the longwall belt itself.

13 A. Okay. The stage loader was on up here.

14 Q. No, no, the stage loader would be right here.

15 See, this is the face.

16 A. Okay. Yeah. Yeah, I see. Yeah. Okay. Yeah,
17 just outby the stageloader and then down, I guess,
18 probably about four or five breaks there was another
19 set.

20 Q. Okay.

21 A. And then there was another set, I don't know,
22 about another six or eight breaks or something like
23 that ---

24 Q. Okay.

25 A. --- in that area.

1 Q. Okay.

2 A. But this crossover area, they were having a lot of
3 problems in there, and they was an inspector came and
4 they was walking the airways.

5 Q. Uh-huh (yes).

6 A. And they come across, and they come across these
7 overcasts and one of these overcasts had a great old
8 big hole in it.

9 Q. Uh-huh (yes).

10 A. And he wanted to know what was going on with that.
11 You know, they was having trouble with the air then.

12 Q. Sure. Would that be these two overcasts here?

13 A. Yeah. Everett Hager had come up there and knocked
14 some of the blocks out in trying to divert the air,
15 you know, because a lot of where the pressure was on
16 things, and he was trying to divert the air to get
17 more air up.

18 Q. Uh-huh (yes), sure.

19 A. Because like I said, once they done this, man, it
20 was a fit trying to get any air up this way. It was
21 all wanting to ---.

22 Q. Okay. And by this, you're referring to the
23 crossover?

24 A. Uh-huh (yes), yes, sir.

25 Q. Okay. Now, back down here where you were talking

1 about they dump the air off the belt, which direction
2 was the air on the belt?

3 A. Everything was going out.

4 Q. Okay. Even past where they dump the air?

5 A. Yes, sir.

6 Q. Okay. So it was all going outby?

7 A. Uh-huh (yes), yes, sir.

8 Q. Now, you mentioned on the longwall belt, I think,
9 as I recall, that the air was going inby.

10 A. Yes, uh-huh (yes).

11 Q. Okay. Where did that direction change? Did it
12 change at the Mother Drive?

13 A. Possibly, yeah. There was a lot of air on the
14 main line here.

15 Q. Oh, okay. So once you got off into the mouth of
16 the longwall headgate, from there in the air was going
17 inby?

18 A. Yeah.

19 Q. Okay.

20 A. I mean, I worked down there at the Mother Drive
21 when I really got hot. I mean it was a lot of air on
22 that track. I'd stand out there and cool off a little
23 bit, you know.

24 Q. Okay. And there wasn't much air on the belt,
25 then?

1 A. Uh-uh (no).

2 Q. Okay.

3 ATTORNEY FERGUSON:

4 No?

5 A. No, sir. No, ma'am.

6 BY MR. SHERER:

7 Q. Okay. When inspectors came on the property, State
8 or Federal, did you ever hear anybody calling into the
9 mine, telling you that there were ---

10 A. Yes, sir.

11 Q. --- inspectors?

12 A. Yes, sir. That was a normal practice.

13 Q. Okay. Did you wear a --- or carry a methane
14 detector?

15 A. Yes, sir.

16 Q. Okay. What's the highest reading you can recall
17 in the month or so prior to the explosion?

18 A. I may've had .3 tenths.

19 Q. Okay. Do you recall about where you ran into
20 that?

21 A. No, I can't.

22 Q. Okay. Do you think the ventilation in this mine
23 was adequate?

24 A. In some areas.

25 Q. Okay. What areas did you not think it was

1 adequate?

2 A. Well, like I say, they had a lot of construction
3 going on up here, the end of the Seven North belt, you
4 know, more into the North Mains.

5 Q Uh-huh (yes).

6 A. They had a lot of trouble getting, you know,
7 situated. And you know, the air used to travel one
8 direction at one point, and they reversed it and it
9 was traveling the other way.

10 Q. Uh-huh (yes).

11 A. Yeah, so ---.

12 Q. Okay. Do you think it was --- they planned to
13 reverse that air direction, or did it just happen?

14 A. They planned it, yeah.

15 Q. Okay. Were you ever in the mine when anybody was
16 making ventilation changes?

17 A. I could have been. You know, that's something
18 that they kind of kept under their hat, you know? I
19 mean ---.

20 Q. Who would keep it under their hat?

21 A. Well, I mean, the mine foreman and the
22 superintendent, when they decide to do stuff, they
23 don't tell everybody, you know. They just kind of go
24 and do it.

25 Q. Okay.

1 A. Just like --- I'm no dummy. When inspectors come
2 and they say, well, we want to go to this section ---

3 Q. Uh-huh (yes).

4 A. --- well, they'll send guys in there and change
5 regulators and pump all the air to this section and
6 kind of --- it drops the air on the other section, you
7 know, so that they'll have adequate ventilation. I'm
8 no dummy. I know that goes on.

9 Q. Well, we kind of caught onto that, also. Have you
10 ever seen anybody doing that?

11 A. No, sir.

12 Q. Okay.

13 A. Like I say, they kind of kept that under their
14 hat, you know.

15 Q. Who was it that kept it under their hat?

16 A. Well, like I say, that's the superintendent and
17 mine foreman do that.

18 Q. Okay. Okay.

19 A. I know ---.

20 ATTORNEY MCATEER:

21 You want to take a break?

22 MR. SHERER:

23 Sure.

24 SHORT BREAK TAKEN

25 ATTORNEY FERGUSON:

1 Back on the record.

2 BY MR. SHERER:

3 Q. Okay. Mr. Halstead, I got just a few more
4 questions here. There's a regulator shown on this
5 map. It looks like it's about one, two --- about
6 seven breaks inby the mouth of the longwall
7 headgate ---

8 A. Uh-huh (yes).

9 Q. --- on the belt, and there's an overcast that
10 looks like the belt probably goes under it. And then
11 there's a regulator, which is probably a hole in the
12 side of that overcast. Do you recall that?

13 A. Well, that may be the one that I was talking
14 about, that they had worked on that.

15 Q. Oh, okay.

16 A. Yeah, yeah.

17 Q. Okay.

18 A. Yeah, and that's the one that the inspector was in
19 question about.

20 Q. Okay. Do you recall if there was any of those box
21 checks that was out by that particular point on the
22 longwall belt?

23 A. There may've been one.

24 Q. Okay.

25 A. Yeah.

1 Q. Okay. Now, this yellow highlighted entry, I think
2 you highlighted it, and it's got the red line in the
3 center is the belt entry. And you marked an area
4 about five or six breaks inby the longwall face, and
5 then you went down another five or six breaks and
6 marked another area. You think this is where those
7 box checks were?

8 A. Yeah, I just --- I like to say give or take a ---

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

10 A. --- few breaks. I'm not ---

11 Q. Sure.

12 A. --- really sure.

13 Q. So they just kind of had them ---

14 A. Yeah.

15 Q. --- equally --- kind of evenly spaced down through
16 there?

17 A. Uh-huh (yes).

18 Q. Did all those box checks get built at the same
19 time or did they keep adding to them?

20 A. Kept adding.

21 Q. Okay. Who was doing that?

22 A. The longwall personnel, you know. I guess ---
23 well, longwall personnel was Jack Roles.

24 Q. Uh-huh (yes).

25 A. There was Harold Lilly and --- you know.

1 Q. Who is it, Dilbert Bailey, would he ---?

2 A. He was the electrician.

3 Q. Oh, he was the electrician ---

4 A. Yeah.

5 Q. --- okay. Now, you said some of those box checks
6 were made out of block. You said some of them were
7 made out of canvas.

8 A. Yes.

9 Q. Were any of them made out of old belts?

10 A. Seemed to me like there was one.

11 Q. Okay.

12 A. I'm not exactly sure where it was at, but seemed
13 to me like there was one, yes.

14 Q. Okay. Can I get you to take --- let me give you a
15 blue pen here. Would you just draw arrows on these
16 belts, showing the direction of airflow as you best
17 remember it? Oh, Terry's got a marker. Let me ask
18 you to use that. Just draw an arrow that points in
19 the direction of the airflow. And here's your
20 beltline right here.

21 A. Uh-huh (yes).

22 WITNESS COMPLIES

23 BY MR. SHERER:

24 Q. Okay. Now, the Seven North belt, which direction
25 was the air going on that one?

1 A. I can't remember exactly ---

2 Q. Okay.

3 A. --- what direction it was going.

4 Q. Outby the Mother Drive --- I guess that'd be the
5 Six North belt --- which direction was the air going
6 on that?

7 A. Six North, it was going out.

8 Q. Okay.

9 ATTORNEY FERGUSON:

10 And let the record reflect that the
11 witness has marked the map in a blue marker with the
12 air going inby on the longwall belt and outby on the
13 Six North belt.

14 MR. SHERER:

15 Okay. Thank you.

16 BY MR. SHERER:

17 Q. Okay. Now, I remember you and Mr. Farley had a
18 long discussion about the doors. And these would've
19 been over the track ---

20 A. Yes.

21 Q. --- entry. It looks like there's two doors right
22 after you get off the North Glory Mains, coming onto
23 this, this longwall headgate. We think those doors
24 were in there probably soon after they turned these
25 headgate entries off, and we think, though we're not

1 sure, that there was two more doors built sometime
2 within the month, maybe couple of months at the most,
3 on the track going into the longwall. So there
4 would've been four doors you'd have had to go through.

5 A. Yes, yes.

6 Q. Do you recall going through all four of those
7 doors?

8 A. Yes, sir.

9 Q. Now, this last set of doors going inby --- and we
10 think they were the newer doors --- if this map is
11 correct, if these doors was closed, there wouldn't be
12 any air on the intake going into the longwall, because
13 you got ---. Here's your intake coming across here.

14 A. Uh-huh (yes).

15 Q. And there's a regulator shown with these doors,
16 and we think --- well, and we got some other testimony
17 that there was an opening on the side of the doors.

18 A. That's what I said. There may've been a block or
19 two out, yes.

20 Q. What we've heard --- and I just want to get your
21 opinion on it, we've heard that it was about half the
22 opening on the side, so it was, you know, up four feet
23 or so block, and then the rest of it was open on top.

24 A. No, I don't recall that, you know.

25 Q. Okay.

1 A. No.

2 Q. Okay.

3 A. I mean that would just completely destroy your
4 purpose of them, you know? I mean ---.

5 Q. Well, we think there was enough air coming through
6 there that that size opening would still restrict the
7 flow. Let me ask you this. Most of the time, it
8 sounds like, was spent in the belt, longwall belt.

9 A. Yes, yes, sir.

10 Q. Where did you generally get off a ride going into
11 the longwall belt?

12 A. I'd catch a ride up to the Mother Drive.

13 Q. Oh, okay.

14 A. That's where I'd get out, the Mother Drive.

15 Q. So you didn't have a chance to go through these
16 doors very often, did you?

17 A. No, sir.

18 Q. Okay. Maybe you just didn't notice it?

19 A. Right.

20 MR. SHERER:

21 Okay. Thank you.

22 EXAMINATION

23 BY ATTORNEY MCATEER:

24 Q. Mr. Halstead, I'd like to turn your attention to
25 the Saturday before the explosion on the 3rd of April.

1 I now want to pass out to the group, as well as to
2 yourself, a set of pre-shift examinations.

3 ATTORNEY FERGUSON:

4 Do you want me to mark this to the
5 exhibit file?

6 ATTORNEY MCATEER:

7 Please.

8 ATTORNEY FERGUSON:

9 Okay.

10 ATTORNEY MCATEER:

11 And I'm ask it be marked as Exhibit Five.

12 (S. Halstead Exhibit Five
13 marked for identification.)

14 ATTORNEY MCATEER:

15 I've got copies for State, for the other
16 attorney. Attorney? Okay.

17 BY ATTORNEY MCATEER:

18 Q. Now, this is an examination of the belt. Are you
19 familiar with this top sheet, ---

20 A. Yes.

21 Q. --- the examination?

22 A. Yes.

23 Q. Okay. And does it reflect --- can you tell me
24 what it is?

25 A. It's the pre-shift examination of the belts and

1 area.

2 Q. And what's the date that that would've been done?

3 A. That's on the 3rd, which would've been a Saturday.

4 Q. And is part of that your examination?

5 A. Yes.

6 Q. And how do we identify your examination?

7 A. My initials.

8 Q. Uh-huh (yes). And can you tell me what on the ---

9 what you've said on Four North, Five North and Six

10 North's, what your notes reflect?

11 A. Needs spot cleaned from drive to discharge on Four

12 North. Needs spot cleaned 60 to flow-through on Five

13 North, and needs spot cleaned and dusted on Six North.

14 Q. Okay. And what is a spot cleaning and dusting

15 mean?

16 A. The spot cleaning ---

17 Q. Right.

18 A. --- is just certain areas, ---

19 Q. Right.

20 A. --- you know, that needs ---.

21 Q. Okay. And the dusting, by that you're referring

22 to rock dusting?

23 A. Yes, uh-huh (yes).

24 Q. Okay. Now, what time were you in the mine that

25 day?

1 A. Let's see. That was before I started my --- you
2 know, they put me on the 12-hour shift, so ---

3 Q. Right.

4 A. --- I was, like, 6:00 a.m. to 3:00, I think.

5 Q. So what I'm trying to get, what ---?

6 A. Nine-hour shift.

7 Q. Okay. But what day is --- the 3rd is a Saturday?

8 A. Yes, sir.

9 Q. And you went in the morning of the Saturday?

10 A. Yes, sir.

11 Q. And you were there until three o'clock?

12 A. Yes, sir.

13 Q. And who was there at the mine at that time that
14 day?

15 A. As in foremans?

16 Q. Who was examining with you?

17 A. Oh, it was Russell Gunnoe and --- well, there was
18 Russell Gunnoe and Mike Elswick and Johnny Nealey.

19 Q. Okay, right. Now, who at management was at the
20 mine, to your knowledge, that day?

21 A. Well, Everett Hager, he's there all the time, and
22 Mr. Moore, which is a mine foreman. Let's see. On
23 Saturday ---.

24 Q. Now, on this Saturday?

25 A. Yeah, on this Saturday. I can't remember if,

1 like, the longwall --- if Harold Lilly was there or
2 not. I'm not sure. And Jack Roles --- usually on
3 Saturdays Jack Roles is not there and Harold Lilly is
4 there, but I'm not sure about that day.

5 Q. Okay.

6 A. And on the other side, I'm not sure if Gary May
7 was there or not, you know?

8 Q. Okay. But during that period of time did you see
9 any --- the president of the company?

10 A. No, sir.

11 Q. It's on a Saturday.

12 A. No.

13 Q. Did you see Jason Whitehead?

14 A. I think he was outside. I don't recall seeing him
15 underground.

16 Q. Okay. Now, you were underground for a period of
17 time. Did you notice any changes, any difference in
18 the ventilation system?

19 A. No, sir, not that I can recall.

20 Q. And where would you have been? You would've been
21 on these sections and the Seven, Eight --- Five, Six
22 and Seven?

23 A. Yes.

24 Q. Okay. And did anybody prior to you going in or
25 post you coming out, did anybody talk about anything

1 going on at the mine that day?

2 A. No, sir.

3 Q. Okay. Now, let me go back to the --- you said
4 that the set of --- on set of doors was near a curve
5 in the track.

6 A. Uh-huh (yes).

7 ATTORNEY FERGUSON:

8 Was that a yes?

9 A. Yes, ma'am.

10 BY ATTORNEY MCATEER:

11 Q. And what is that set of doors?

12 A. That's on the longwall panel. That's just
13 probably about eight breaks or ten ---

14 Q. All right.

15 A. --- after you get off the main line going onto the
16 longwall track.

17 Q. Okay. And you said there was difficulty for the
18 machines to slow down sufficiently not to run into
19 the ---?

20 A. Yes, because I mean you just --- right after you
21 get around the curve, there's the doors.

22 Q. Okay. And that those doors were then damaged?

23 A. Yes, sir.

24 Q. What was the nature of the damage?

25 A. Well, they had to be replaced. They was, you

1 know, beat up pretty bad.

2 Q. And were they damaged again?

3 A. Not that I recall.

4 Q. Okay. You said there were 64 seals in Upper Big
5 Branch?

6 A. Yes, sir.

7 Q. Okay. Have there been any added or subtracted
8 since?

9 A. No, sir.

10 Q. Okay. Now, the rock duster that you were talking
11 about that had the --- this was the track-mounted rock
12 duster, I believe.

13 A. Yes, sir.

14 Q. Was it the same rock duster that you had worked
15 on?

16 A. Yes, sir.

17 Q. And what was the make of it? Do you remember?

18 A. ALE.

19 Q. Okay. What color was it?

20 A. Orange.

21 Q. Now, you testified that there was --- the wheels
22 came off.

23 A. Yes, sir.

24 Q. Was that intended?

25 A. No, sir. They had just been a while since they

1 had been really repairs done on it. I mean it was a
2 constant thing, pretty much, with that track duster
3 keeping things dusted.

4 Q. Okay. And how long had it been since you worked
5 on the rock duster?

6 A. Oh, it'd been --- what, I've been there 15 years.
7 It would've probably been about nine, ten years.

8 Q. So how old would you guess the rock duster was?

9 A. Well, it was there when I ---. It was there
10 probably a year, maybe, before I was on it.

11 Q. And that would make it ---

12 A. Yeah.

13 Q. --- 11 years old?

14 A. Yeah, I guess they had done some repairs on the
15 wheels, because I mean, you know, them bearings on
16 them wheels get bad and ---

17 Q. Sure.

18 A. --- you know, they took it in the shop and worked
19 on it.

20 ATTORNEY FERGUSON:

21 Was that the only mechanical rock duster
22 they had?

23 A. No, they got another one. It's a smaller one, and
24 I don't know exactly when they got it.

25 BY ATTORNEY MCATEER:

1 Q. Okay. Now, you said that the belt had to be hand
2 dusted. I believe this is the Headgate 22 belt?

3 A. Yes, sir.

4 Q. And you testified as to ---. Why did that have to
5 be hand dusted?

6 A. As I said, there was no track ---

7 Q. Right.

8 A. --- leading up. You know, everything was under
9 construction out here ---

10 Q. Right.

11 A. --- and they was putting that new system in for
12 the longwall, ---

13 Q. Right.

14 A. --- you know, the drive and all that. And there
15 just hadn't been no construction ---

16 Q. Sure.

17 A. --- set up for the track, you know.

18 Q. So how far a distance would you have to hand dust?

19 A. Well, there at last, that belt was in there
20 probably 20-some breaks or better, you know.

21 Q. So you had to hand dust 20-some breaks. Now, to
22 get it to 40 feet of the face, would you have to go
23 further than that?

24 A. Yes, uh-huh (yes).

25 Q. How far would that be?

1 A. Well, they moved belt every night ---

2 Q. Okay.

3 A. --- so they tried to keep the ---

4 Q. Sure.

5 A. --- feeder up close.

6 Q. Do you know what kind of --- where the rock dust
7 come from or what company delivered it?

8 A. No, sir.

9 Q. Okay. You talked about the connector. One week
10 before the accident were you up on the connector that
11 period of time, the connecting section I'm speaking
12 of?

13 A. Where this crossover's at?

14 Q. Right, the crossover.

15 A. Well, like I say, it'd probably been a couple
16 weeks prior to that I'd ---

17 Q. Right.

18 A. --- walk across there, you know. There was
19 somebody, you know, not there, and I had to fill in,
20 you know, their area.

21 Q. And the rock dusting at that point, at that time?

22 A. It was dark.

23 Q. Okay.

24 A. But like I said, at that point that belt wasn't in
25 service.

1 Q. Right. Okay. You testified at one point that
2 there were --- that they plastered around the bolts,
3 and I don't remember where it was. Do you recall that
4 trouble with keeping the bolts up and they had to
5 plaster that?

6 A. Well, they come in there and drilled holes, put
7 bolts up in to hold them stiff jacks up ---

8 Q. Okay.

9 A. --- for the doors.

10 Q. All right. And where was that?

11 A. That was down here around 83 ---

12 Q. Okay.

13 A. --- 84 Break.

14 Q. Okay. You were familiar with Dino as a person?

15 A. Yes, sir. Yeah, I liked him very much.

16 Q. Did you? Did he ever discuss with you ventilation
17 on Headgate 22?

18 A. Just a couple of times he said holy moley, you
19 know. I mean that was his ---. Holy moley, he said,
20 it's bad up here, you know. You know, that's it.
21 That's all he's --- you know. He's never really went
22 into detail and talked to me about it, you know,
23 so ---.

24 Q. Okay. That was the phrase that he would use?

25 A. Yeah. Miss him.

1 Q. Yeah.

2 A. Miss him a lot.

3 ATTORNEY MCATEER:

4 That's all the questions I have at the
5 moment.

6 MR. SHERER:

7 I got just a couple, maybe two or three
8 questions.

9 OFF RECORD DISCUSSION

10 RE-EXAMINATION

11 BY MR. SHERER:

12 Q. Down here at seal set Number 15, did you ever ---?

13 A. At 63, 64, yeah.

14 Q. Okay. Did you examine those seals?

15 A. In times past, yes.

16 Q. Do you recall which way the air was flowing around
17 those seals?

18 A. Out, going out.

19 Q. Okay. Can I get you to take this pen and just
20 draw an arrow showing the direction of air there?

21 WITNESS COMPLIES

22 ATTORNEY FERGUSON:

23 And let the record reflect that the
24 witness is drawing with a blue pen around the seals
25 that the air is flowing outby.

1 BY MR. SHERER:

2 Q. Okay. Now, here is seal sets 14 and 13. Can you
3 tell me which direction the air was flowing on these
4 two seal sets?

5 A. Outby.

6 Q. Okay. How about at seal set 13?

7 A. Outby.

8 ATTORNEY FERGUSON:

9 Let the record reflect that on Exhibit

10 Three map, the witness is writing and drawing with
11 blue pen ---

12 MR. SHERER:

13 Okay. Thank you.

14 ATTORNEY FERGUSON:

15 --- that the air is going outby at seal
16 set 13 ---

17 MR. SHERER:

18 Thirteen (13) and 14.

19 ATTORNEY FERGUSON:

20 --- and 14.

21 MR. SHERER:

22 Okay. Thank you.

23 BY MR. SHERER:

24 Q. Now, back to the longwall, did anybody tell you in
25 what direction the air was supposed to be flowing on

1 the longwall belt?

2 A. No, sir.

3 Q. Okay. How can you do an examination of a belt if
4 you don't know which way the air's supposed to be
5 flowing?

6 A. I just --- you know. I mean, they keep stuff
7 under their hat; they won't tell you nothing, and I
8 was just ---. From what I have, in the past,
9 experienced, you know, the air is supposed to come up
10 and go across the face, you know, from the headgate to
11 the tailgate.

12 MR. SHERER:

13 Okay. Thank you. One last question. I
14 am like a lawyer. Excuse me.

15 OFF RECORD DISCUSSION

16 BY MR. SHERER:

17 Q. Okay. Now, when you said you walked along the
18 crossover, you said that the rock dust was dark, but
19 the belt wasn't on?

20 A. Right.

21 Q. Do you know if that belt was generally used?

22 A. Oh, prior to --- you know, after they got this set
23 up, yes. It was used and it was dumping onto the
24 longwall belt.

25 Q. Okay.

1 ATTORNEY FERGUSON:

2 And by this setup, you mean belt of the

3 Mother Drive at the mouth of Headgate 22?

4 A. Uh-huh (yes). Well, this was the crossover for
5 the pullout of the longwall. It was in there, you
6 know, a few breaks, you know. The Mother Drive down
7 here and then, you know, they was going to pull down
8 to this point and supposed to pull out, you know,
9 but ---

10 BY MR. SHERER:

11 Q. Actually, ---

12 A. --- I think ---.

13 Q. --- the longwall pullout was down ---.

14 A. Yeah. Well, I mean they had planned on doing that
15 right there ---

16 Q. Okay.

17 A. --- and then they changed their mind ---

18 Q. Oh, okay.

19 A. --- and was going to pull out.

20 Q. Okay. Did you know that this belt, they actually
21 reversed the direction on it and it was used for the
22 section belt from Tailgate 22, once they put this
23 tailgate in?

24 A. No.

25 Q. Okay.

1 A. That was for the section that Dino was driving up.

2 Q. Yeah. Now, Dino's section did use that belt
3 coming down, ---

4 A. Yeah.

5 Q. --- but if you notice, that belt's shown going up
6 into Tailgate 22 now, and we understand that they
7 actually reversed the belt and had dumped onto Dino's
8 belt up near the mouth of 22.

9 A. I don't recall that.

10 Q. Okay.

11 A. No.

12 Q. Okay. That's what it's showing on the map now.

13 A. Uh-huh (yes).

14 MR. SHERER:

15 Okay. Thank you.

16 A. Well, now, this --- yeah, yeah, I'm sorry, I'm
17 sorry. Yes, it was, because they put a belt head over
18 here. They took the power out of here and the belt
19 head and put it up there. Yes, they did.

20 MR. SHERER:

21 Okay.

22 A. I'm sure they did.

23 MR. SHERER:

24 Okay. Thank you.

25 ATTORNEY FERGUSON:

1 I have a question.

2 MR. SHERER:

3 Sure.

4 EXAMINATION

5 BY MS. FERGUSON:

6 Q. When you started back at one o'clock, and you were
7 at the longwall face when you started back, did you
8 notice if the power was disconnected or anything
9 unusual right in that area where you would normally
10 see the headgate operator?

11 A. No, ma'am.

12 MR. SHERER:

13 Any questions?

14 ATTORNEY SPARACINO:

15 No, sir.

16 MR. SHERER:

17 Okay.

18 RE-EXAMINATION

19 BY ATTORNEY MCATEER:

20 Q. And following what she asked, did you look at the
21 water controls? Were the water controls operative at
22 your recollection or ---?

23 A. Yes, yes. They had water on the tailpiece. I
24 mean, not the tailpiece but the crusher, you know?

25 Q. Okay.

1 A. Yes.

2 Q. Okay.

3 A. Uh-huh (yes), because it really made a mess there.

4 Q. All right. Okay. And on your way out did
5 anything change, maybe you were asked this, in terms
6 of ventilation or in terms of anything?

7 A. Not to my recollection, no.

8 Q. And between Saturday and Monday, when you went
9 back in the mine on Monday, was there anything
10 different from a ventilation standpoint that you hit?

11 A. Not that I could tell.

12 ATTORNEY MCATEER:

13 Okay. That's all the questions I have.

14 ATTORNEY FERGUSON:

15 Okay. On behalf of MSHA ---.

16 ATTORNEY MCATEER:

17 Let's give him a chance to ---. Is there
18 anything you would like to add that we haven't
19 covered? Maybe you were going to say ---.

20 ATTORNEY FERGUSON:

21 Oh, I was going to say that.

22 A. No, that pretty much covers it.

23 ATTORNEY FERGUSON:

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

1 you for appearing and answering our questions today.
2 Your cooperation is very important to the
3 investigation as we work to determine the cause of the
4 accident. We request that you not discuss your
5 testimony with any person aside from your personal
6 representative. After questioning other witnesses, we
7 may call you if we have any follow-up questions.

8 If at any time you have additional
9 information regarding the accident that you would like
10 to provide to us, please contact us at the contact
11 information previously provided to you. If you wish,
12 you may now go back the answer --- back over any
13 answer you have given during this interview, and you
14 may also make a statement or provide any additional
15 information you would like to at this time.

16 A. Okay. Just one second.

17 OFF RECORD DISCUSSION

18 BY MR. SHERER:

19 Let's go back on the record.

20 ATTORNEY FERGUSON:

21 Okay.

22 A. I just want to make one clarification.

23 MR. SHERER:

24 Sure, uh-huh (yes).

25 A. I did state that I started at one o'clock, but as

1 you see on the report, I started at 12:00, from 12:00
2 to 3:00, so it did take me three hours to ---.

3 MR. SHERER:

4 Okay.

5 A. Okay?

6 ATTORNEY MCATEER:

7 Okay.

8 ATTORNEY FERGUSON:

9 Is that all?

10 A. Yes, ma'am.

11 ATTORNEY MCATEER:

12 Okay.

13 ATTORNEY FERGUSON:

14 Thank you very much for coming in today.

15 A. You're welcome.

16 ATTORNEY FERGUSON:

17 Thank you.

18 * * * * *

19 STATEMENT UNDER OATH CONCLUDED AT 6:10 P.M.

20 * * * * *

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24

25

1 STATE OF WEST VIRGINIA)
2)

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4

CERTIFICATE

5 I, Alicia R. Brant, 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 *Alicia R. Brant*
23
24
25