



**SARGENT'S  
COURT  
REPORTING**

**Quality Work. Quality People.**

**Transcript of the Testimony of Denver Lambert**

**Date:** July 14, 2010

**Case:**

**Printed On:** July 23, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: [schedule@sargents.com](mailto:schedule@sargents.com)

Internet: [www.sargents.com](http://www.sargents.com)

STATEMENT UNDER OATH  
OF  
DENVER LAMBERT

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, July 14, 2010, beginning at 1:02 p.m.

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

A P P E A R A N C E S

ROBERT S. WILSON, ESQUIRE

U.S. Department of Labor

Office of the Regional Solicitor

1100 Wilson Boulevard

22nd Floor West

Arlington, VA 22209-2247

ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

JOHN O'BRIEN

Safety Inspector

West Virginia Office of Miners' Health,

Safety and Training

Welch Regional Office

891 Stewart Street

Welch, WV 24801-2311

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

TERRY FARLEY  
West Virginia Office of Miners' Health,  
Safety and Training  
1615 Washington Street East  
Charleston, WV 25311

PATRICK C. MCGINLEY  
West Virginia Independent Investigation  
West Virginia University College of Law  
P.O. Box 6130  
Morgantown, WV 26506-6130

## I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Wilson	7 - 11
5	STATEMENT	
6	By Mr. Farley	11 - 12
7	STATEMENT	
8	By Mr. McGinley	13
9	WITNESS: DENVER LAMBERT	
10	EXAMINATION	
11	By Mr. Sherer	14 - 36
12	EXAMINATION	
13	By Mr. Farley	36 - 39
14	EXAMINATION	
15	By Mr. McGinley	39 - 50
16	RE-EXAMINATION	
17	By Mr. Farley	50 - 51
18	RE-EXAMINATION	
19	By Mr. Sherer	51
20	EXAMINATION	
21	By Attorney Wilson	51 - 53
22	RE-EXAMINATION	
23	By Mr. Sherer	53 - 55
24	RE-EXAMINATION	
25	By Mr. McGinley	55 - 58

I N D E X (cont.)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

RE-EXAMINATION

By Mr. Farley

59 - 60

RE-EXAMINATION

By Mr. McGinley

60 - 61

CLOSING STATEMENT

By Attorney Wilson

61 - 62

CERTIFICATE

63

1	EXHIBIT PAGE	
2		PAGE
3	NUMBER	IDENTIFIED
4		
5	NONE OFFERED	
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

P R O C E E D I N G S

-----  
ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I am with the Office of the Solicitor, United States Department of Labor. And with me is Erik Sherer, an investigator with the Mine Safety and Health Administration. Also present with the State of West Virginia, Terry?

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. MCGINLEY:

Patrick McGinley, with the Governor's independent investigation team.

ATTORNEY WILSON:

Today is July 14, 2010. We're here to conduct an interview of Denver Lambert. All members of the West Virginia Accident Investigation Teams and the Mine Safety and Health Administration Accident Investigation Team shall keep confidential all information that is gathered from each witness who



1 voluntarily provides a statement until witness  
2 statements are officially released. MSHA and the  
3 State of West Virginia shall keep this information  
4 confidential so as to not jeopardize other ongoing  
5 enforcement activities by a premature release of  
6 information. This confidentiality requirement shall  
7 not preclude investigation team members from sharing  
8 information with each other or with other law  
9 enforcement officials. Everyone's participation in  
10 this interview constitutes their agreement to keep  
11 this information confidential.

12 Government investigators and specialists

13 have been assigned to investigate the conditions,  
14 events and circumstances surrounding the fatalities  
15 that occurred at the Upper Big Branch Mine-South on  
16 April 5th, 2010. That investigation is being  
17 conducted by MSHA pursuant to Section 103(a) of the  
18 Federal Mine Safety and Health Act and by the West  
19 Virginia Office of Miners' Health, Safety and  
20 Training. We appreciate your assistance in this  
21 investigation. You may have an attorney or another  
22 representative present with you during your interview.  
23 Do you have an attorney or representative?

24 MR. LAMBERT:

25 No, sir.

1 ATTORNEY WILSON:

2 Your statement is completely voluntary.

3 You may refuse to answer any question and you may  
4 terminate your interview at any time. You may request  
5 a break at any time. Just let me know.

6 MR. LAMBERT:

7 Okay.

8 ATTORNEY WILSON:

9 This is not an adversarial proceeding.

10 It is a fact-gathering exercise. Formal Cross  
11 Examination will not be permitted, but follow-up  
12 questions will be allowed.

13 Your identity and the content of this  
14 interview will be made public at the conclusion of the  
15 interview process and may be included in a report of  
16 the accident, public report, unless you request that  
17 your identity remain confidential. If you do request  
18 confidentiality, we will keep your identity  
19 confidential to the extent permitted by law. In other  
20 words, if a judge orders us to reveal your identity or  
21 some other law requires us to do that, we will reveal  
22 your name. There may also be a need to use the  
23 information that you provide to us in other  
24 investigations or hearings concerning the explosion.  
25 Do you understand your right to request

1           confidentiality?

2   MR. LAMBERT:

3   Yes, sir.

4   ATTORNEY WILSON:

5   Do you have any questions about that?

6   MR. LAMBERT:

7   No, sir.

8   ATTORNEY WILSON:

9   After the investigation is complete, MSHA  
10       will issue a public report detailing the nature and  
11       the causes of the fatalities in hope that greater  
12       awareness about the causes of accidents prevent their  
13       occurrence in the future. We will be interviewing  
14       other individuals, and so we request that you not  
15       discuss your testimony with anyone outside this room.  
16       A court reporter will be recording the interview, so  
17       please speak loudly and clearly. If you do not  
18       understand a question, please ask that the question be  
19       rephrased.

20   MR. LAMBERT:

21   Okay.

22   ATTORNEY WILSON:

23   Please answer each question as fully as  
24       you can, including information that you may have heard  
25       from someone else.

1 MR. LAMBERT:

2 Okay.

3 ATTORNEY WILSON:

4 Again, I want to thank you in advance for

5 appearing here today. Your cooperation is important

6 and critical to making the nation's mines safer. At

7 the end of the questioning and before we go off the

8 record we'll give you an opportunity. If there's

9 anything else that you want to add to the record, any

10 other information that you believe would be helpful to

11 our investigation or if there's any statement that you

12 would like to make, we'll give you that opportunity at

13 the end.

14 MR. LAMBERT:

15 Okay.

16 ATTORNEY WILSON:

17 All right. Terry?

18 MR. FARLEY:

19 Mr. Lambert, on behalf of the Office of

20 Miners' Health, Safety and Training, I want to advise

21 you that the West Virginia Coal Mine Health and Safety

22 Regulations also protect miners against potential

23 discrimination from participating in these type of

24 interviews. I'm going to give you a memo that has

25 some contact information on it in the event that you

1       should suffer any such ill treatment. It provides the  
2       contact address for the West Virginia Board of Appeals  
3       that hears complaints regarding such matters. Also,  
4       it provides my phone number and the phone number for  
5       Bill Tucker, our lead underground investigator, should  
6       you have a problem.

7       MR. LAMBERT:

8       Okay.

9       ATTORNEY WILSON:

10      And also I have a letter requesting your  
11      appearance here today, hand delivered to you, a copy  
12      of that now so that you have that for your records as  
13      documentation that we requested that you be here  
14      today. Also, MSHA's contact information is included  
15      in that letter. So if for whatever reason you need to  
16      contact MSHA, if you think of additional information  
17      after today, you can contact us at that --- the  
18      information there.

19      MR. LAMBERT:

20      Okay.

21      ATTORNEY WILSON:

22      All right?

23      MR. LAMBERT:

24      Yes, sir.

25      ATTORNEY WILSON:

1 Pat?

2 MR. MCGINLEY:

3 I'd just add that on behalf of the

4 Governor's independent team and the rest of the State

5 and Federal investigation teams, we're trying to

6 figure out what caused this accident. We know the

7 families of the miners we lost are depending on us to

8 do that, and so it's important that you, to the extent

9 that you recall, that you tell us the truth. And if

10 there's some responsibility to be imposed at the end

11 of this investigation, we want to do that. If not, we

12 want to make that clear as well. So we appreciate

13 your cooperation.

14 MR. LAMBERT:

15 Okay.

16 ATTORNEY WILSON:

17 Mr. Lambert, if you would face the court

18 reporter, we'll have her swear you in.

19 -----

20 DENVER LAMBERT, HAVING FIRST BEEN DULY SWORN,

21 TESTIFIED AS FOLLOWS:

22 -----

23 ATTORNEY WILSON:

24 And would you please state your full name

25 for the record?

1 A. Denver David Lambert.

2 ATTORNEY WILSON:

3 And would you give us your address and  
4 telephone number?

5 A. [REDACTED]

6 ATTORNEY WILSON:

7 And is there a ZIP Code for your address?

8 A. [REDACTED]

9 ATTORNEY WILSON:

10 All right. Thank you.

11 A. Yes, sir.

12 ATTORNEY WILSON:

13 Erik?

14 EXAMINATION

15 BY MR. SHERER:

16 Q. Are you appearing here today voluntarily, Mr.  
17 Lambert?

18 A. Yes, sir.

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

21 A. The company lawyers.

22 Q. About when did they do that?

23 A. Probably about a week, week-and-a-half, after the  
24 explosion.

25 Q. Do you recall where they did that?

1 A. At Elk Run office.

2 Q. About how long did that interview last?

3 A. Probably about an hour-and-a-half to two hours.

4 Q. Do you recall any of the types of questions that  
5 they asked you?

6 A. They just wanted to know if there was float dust  
7 and stuff on the section and where our pumps were  
8 sitting and was our bottom hooving and if we had seen  
9 anybody smoking or anything like that.

10 Q. Sure. We're probably going to repeat a lot of  
11 those some questions again.

12 A. Okay.

13 Q. About how many years of mining experience do you  
14 have?

15 A. I have 34.

16 Q. Give me just a rough outline of where that's been  
17 and what you've done.

18 A. I worked at Edmond. I run a shuttle car down  
19 there. And then I worked for Pittston. I run a  
20 shuttle car for them in Amigo. And then I worked for  
21 Maben Energy and just small mines here and there, you  
22 know.

23 Q. Sure. About when did you go to work for Massey?

24 A. 2001.

25 Q. What mine did you go to work for them?



1 A. Well, I went to Ellis and then I got up sent up to  
2 White Queen.

3 Q. Okay. When did you come to UBB?

4 A. Probably about nine months ago.

5 Q. Okay. So roughly the first of May or so ---

6 A. Yes, sir.

7 Q. --- 2009?

8 A. Yes, sir.

9 Q. That was before they got the wall set up and  
10 running, wasn't it?

11 A. Yes, sir.

12 Q. Where are you currently employed?

13 A. For Massey, at Shonk No. 2 Mine.

14 Q. Shonk No. 2?

15 A. Yeah.

16 Q. Now, at UBB, you said you've been there about nine  
17 months. What have you done at UB --- what did you do  
18 at UBB?

19 A. I run the left shuttle car on Four section, and we  
20 worked it out. It was supposed to have lasted like a  
21 year or something. We were running so good, we worked  
22 it out. We run a couple small panels, then they sent  
23 us to the tailgate.

24 Q. So that Four section was down near the main UBB  
25 Portal?

1 A. Yes, sir.

2 Q. Do you recall when they sent you to the tailgate?

3 A. No, sir, I sure don't.

4 Q. Okay. Has it been this year?

5 A. Yes, sir.

6 Q. It's been since Christmas?

7 A. Yes, sir.

8 Q. Do you have any Federal or State mining  
9 certificates?

10 A. No, sir.

11 Q. So you run the left-hand shuttle car?

12 A. Yes.

13 Q. Do you do anything else on the section?

14 A. I roof bolt here and there to help, you know.

15 Q. Just fill in, work through the lunch break?

16 A. Well, we don't get a lunch break.

17 Q. You don't get a lunch break?

18 A. No. We work through lunch.

19 Q. You're a better man than I am. And you say you  
20 normally worked the evening shift?

21 A. Yes, sir.

22 Q. Was that a straight shift or did you rotate?

23 A. That was straight shift.

24 Q. About what time did that shift start?

25 A. I believe it started at 3:15. No, it started at

1 four o'clock at UBB.

2 Q. So when did you go into the portal?

3 A. At four o'clock.

4 Q. Four o'clock?

5 A. Yes, sir.

6 Q. About when do you come out?

7 A. Probably about 2:00, 2:30, somewhere around there.

8 Q. Who was the boss on that crew?

9 A. We called him Hammer. I believe it was Brian  
10 Collins is his name.

11 Q. Sure. Big guy?

12 A. Yes, sir.

13 Q. You guys portal at UBB or the Ellis Portal?

14 A. UBB.

15 Q. About how long did it take you to get up to the  
16 section?

17 A. Probably about an hour and 20 minutes, 15, 20  
18 minutes, somewhere around in there.

19 Q. That's a long ride.

20 A. Yes, sir.

21 Q. Were the rails in good shape?

22 A. Pretty much so, yeah.

23 Q. Do you recall going through any track doors or  
24 equipment doors?

25 A. Yes, sir.

1 Q. How many of those would you go through? A lot of  
2 them?

3 A. A lot of them.

4 Q. Tell me about those doors. Were they in good  
5 shape or were they beat up?

6 A. Some of them was beat up.

7 Q. Do you ever come up to any and find one of them  
8 open?

9 A. Once in a while, yes.

10 Q. Did you ever hear of --- when several crews were  
11 changing out, the first man trip opened them up and  
12 the second --- or the last mantrip would close them?

13 A. Yes, sir.

14 Q. Did you ever see that?

15 A. Yes, sir.

16 Q. How common was that?

17 A. Pretty common.

18 Q. Once a week?

19 A. A little more than that I'd say.

20 Q. A little more than that?

21 A. Yes, sir.

22 Q. Every other day?

23 A. Yeah, I'd say, sir.

24 Q. Thank you.

25 A. Yes, sir.

1 Q. Did you ever get out and open or close those  
2 doors?

3 A. Yes, sir.

4 Q. Was that easy or hard or ---?

5 A. Well, some of them wasn't in great shape and they  
6 rubbed the rails. Sometimes it took two of us to shut  
7 them.

8 Q. Took two of you to shut them?

9 A. Yes.

10 Q. Because of air pressure?

11 A. No, just because they was hitting the rails.

12 Q. Okay.

13 A. Yeah.

14 Q. Would you actually have to pick them up to move  
15 them?

16 A. Yes, sir.

17 Q. Well, did any of those doors come back open on  
18 their own?

19 A. Yes, sir, some of them.

20 Q. Tell me about that head --- or that tailgate  
21 section. How was the roof on that section?

22 A. The top was pretty good shape.

23 Q. Good roof?

24 A. Yes.

25 Q. How high was that section?

1 A. It was probably about five-and-a-half, six foot  
2 high.

3 Q. How high was the coal?

4 A. Probably about four foot, something like that.  
5 They took so much rock to clear the jacks when they  
6 come back up there.

7 Q. So you're taking about something like about a  
8 foot-and-a-half, two foot of rock?

9 A. Yes, sir.

10 Q. Were you taking it on the top or the bottom?

11 A. Taking it out of either one, it was easiest to  
12 get, you know.

13 Q. Easiest one to cut?

14 A. Yes, sir.

15 Q. What sort of rock was that roof?

16 A. Most of it was like slate.

17 Q. And you say it's in pretty good shape?

18 A. Yes, sir.

19 Q. You run the bolter. What sort of bolts were you  
20 guys using in there?

21 A. I believe they was using --- I believe they was  
22 using five-foot bolts.

23 Q. Okay. Five-foot torque tension?

24 A. Yes, sir.

25 Q. Put up any cable bolts?

1 A. Yes, right in an intersection. They had done it  
2 in a star pattern.

3 Q. Do you recall how long those cable bolts were?

4 A. Six foot.

5 Q. Okay. Put up any mesh?

6 A. No, sir.

7 Q. Okay. How about straps or bacon skins?

8 A. No, sir. They won't let you use them. They used  
9 the J channel.

10 Q. Who wouldn't let you use them?

11 A. Massey won't let you use them.

12 Q. Oh, okay.

13 A. Yeah.

14 Q. Huh. I had never heard that before.

15 A. Yeah. They come into White Queen and took them  
16 away from all of us, said it was too thin and they  
17 wouldn't hold that much. They took them away from us.

18 Q. Okay. How about pizza pans, do you use those?

19 A. All the time.

20 Q. What about the ribs?

21 A. Our ribs was pretty good, yeah.

22 Q. What about floor?

23 A. What?

24 Q. What about the floor?

25 A. It busted. It would hoove up.

1 Q. Where would it hoove up? Was it hooving up right  
2 in front of the miner or a break or two outby?

3 A. Most of the time a break or two outby.

4 Q. Okay. Now, when it hooved up, did you notice any  
5 water coming out of it.

6 A. Yeah. We had plenty of water coming up out of  
7 there.

8 Q. How about gas?

9 A. When I first seen the bubbling coming up out of  
10 there, I went and had the boss come over with a  
11 methane detector. And he checked and he said there  
12 wasn't no gas coming out of it.

13 Q. So some bubbling, but it wasn't methane?

14 A. That's what he said.

15 Q. Okay. Do you recall if the oxygen level went down  
16 when he checked it out?

17 A. No, sir.

18 Q. When you were running buggy and you came up to the  
19 miner, did you ever notice what the methane detector  
20 was reading on the miner?

21 A. Once in a while it would be like .2, .3, something  
22 like that, you know.

23 Q. Did that miner ever gas off any?

24 A. No, sir. I hadn't seen it gas off any.

25 Q. What about the air on that section? Did you have



1 plenty of air?

2 A. Yes, sir.

3 Q. You ever hear of any air reversals, air going the  
4 wrong way?

5 A. Yes, sir.

6 Q. Could you explain that to us?

7 A. We was mining and the boss come over there and  
8 told me, he said, there's something wrong. He said,  
9 we don't have no air coming up the intake. I said,  
10 are you sure? And he said, yeah, I'm sure. He said,  
11 come over here. So we got the buggy and went over  
12 there, and sure enough, there wasn't none coming up  
13 there. And we got to looking, and it was going up the  
14 beltline.

15 Q. Okay.

16 A. So we built a regulator for stopping across the  
17 beltline. And we never could get it to come up there,  
18 so he shut everything down. And he called the mine  
19 foreman, Wayne, whatever his last name ---.

20 Q. Persinger?

21 A. Persinger, yes, sir. And I don't know what he  
22 said, but we didn't run no more coal that night. And  
23 they come in sometime that night and worked on the  
24 air.

25 Q. Okay. Is that the only ventilation problem you

1 recall on that section?

2 A. No, sir. I know they sent us home there for a  
3 week or two to work on the air, where our air wasn't  
4 right.

5 Q. Do you recall what was wrong or where it was at?

6 A. Something about the Glory Hole around --- down  
7 around where that hole was.

8 Q. Okay. Do you recall about when that week was?

9 A. One week was around Christmas. They was down  
10 there working around that Glory Hole, doing something,  
11 changing something.

12 Q. Okay. How about the --- do you remember if there  
13 was a sign over the power center?

14 A. Danger. Yeah, there was a danger sign over the  
15 power center.

16 Q. Did you ever notice how that thing was swinging  
17 around?

18 A. Yeah.

19 Q. So the airflow was making it swing back and forth?

20 A. Yes, sir.

21 Q. Would you come in some days and that thing would  
22 be flipping around pretty hard ---

23 A. Yes, sir.

24 Q. --- and some days it would be just hanging there?

25 A. Just hanging there.

1 Q. When it was just hanging there, what would you  
2 guys do?

3 A. We wouldn't run nothing. We'd get the boss and  
4 he'd do his air readings. And if we didn't have  
5 enough air or something, he wouldn't run.

6 Q. How many times --- just an estimate, how many  
7 times did he have problems finding the air on that  
8 section?

9 A. Two or three times.

10 Q. Two or three times?

11 A. Yes, sir.

12 Q. And you guys were in there for what, a couple  
13 months?

14 A. Yes, sir.

15 Q. Okay. When the miner was turning crosscuts and  
16 finishing up crosscuts, normally you cut them so the  
17 air is to your back?

18 A. Yes, sir.

19 Q. At any time did they turn them around and cut them  
20 so that the air was coming over the miner?

21 A. Not that I can remember so far.

22 Q. How about curtains? Did you guys keep a lot of  
23 curtains on that section?

24 A. Yes, sir.

25 Q. Did you ever have to hang diagonal curtains?

1 A. Yes, sir.

2 Q. Was that common?

3 A. That's pretty common, where you have to force your  
4 air, you know, where you're mining at.

5 Q. Okay. So you say the most methane you ever saw on  
6 the monitor on the CM was just a few tenths?

7 A. Yes, sir.

8 Q. Do you ever recall it getting over one percent,  
9 where the monitor started flashing?

10 A. No, sir.

11 Q. What about methane outbursts or big in-rushes of  
12 methane, do you recall anybody talking about that?

13 A. Yes, sir.

14 Q. What specifically did they talk about?

15 A. They was talking about something --- they had the  
16 longwall there before, I believe, and they said  
17 something about the bottom had busted and caused them  
18 a lot of problems, where gas was coming up through  
19 there.

20 Q. Would that have been about 2004?

21 A. Probably somewhere around there.

22 Q. Now, you mentioned several problems with air on  
23 the section. What about just throughout the mine in  
24 general, did you feel like the ventilation was  
25 adequate at all times?

1 A. No, I didn't, you know.

2 Q. Do you care to explain that a bit?

3 A. Well, you'd be running and all of a sudden you  
4 wouldn't have no air, you know. And they'd go look  
5 around, trying to find out what the problem was, or  
6 they'd call outside and somebody would go check it or  
7 something. In a little while we'd have air. And  
8 that's why we couldn't figure out what was going on.

9 Q. In your 30 years of mining, was it common to  
10 operate a coal mine like that?

11 A. No, sir.

12 Q. So most of the mines you worked in, was the air  
13 fairly constant?

14 A. Yes, sir.

15 Q. Do you know why the air was like that at this  
16 mine?

17 A. All I could hear, they was trying to get enough  
18 air for that longwall. That's all they worried about.

19 Q. Okay. Were they making changes in the ventilation  
20 that caused air to come and go?

21 A. I'm pretty sure.

22 Q. And that was while you guys were up on the  
23 section?

24 A. Yes, sir.

25 Q. Okay. So you'd be up there cutting coal or

1       whatever and all of a sudden the air would be cut  
2       down?

3       A. Yes, sir.

4       Q. Did you ever have to stop mining because of the  
5       lack of air?

6       A. Yes, sir.

7       Q. Do you know if they had told the boss or anybody  
8       about that?

9       A. No. He just happened to find it because he's the  
10      one that come and got me off the buggy at night and  
11      told me, said there's something wrong. He said, our  
12      air ain't up here. and sure enough, he was right.

13      Q. Sure. That sounds like a pretty conscientious  
14      boss.

15      A. Yeah. He's a real good boss.

16      ATTORNEY WILSON:

17      That was Brian Collins?

18      A. Yes.

19      BY MR. SHERER:

20      Q. What about water? You mentioned there was some  
21      water on the section. Was water a problem in this  
22      mine?

23      A. Yes, sir.

24      Q. Any particular place?

25      A. They --- it was roofed somewhere, wherever it was

1 at, and they worked on it for a while, and then they  
2 had to go in there and shoot some bottom or something  
3 to get it to drain a certain way. They was down there  
4 for a long time over water, where it roofed out.

5 Q. Do you think that may have been the headgate of  
6 the longwall?

7 A. It was around that longwall somewhere up there,  
8 yeah.

9 Q. Thank you. When you guys were up on the section,  
10 did anybody call and tell you that inspectors had come  
11 on the property?

12 A. Yes, sir.

13 Q. How common was that?

14 A. All the time, any time.

15 Q. Did you guys do anything different?

16 A. Yeah. We made sure our curtain was tightened down  
17 or made sure we had air in the face.

18 Q. Sure. Did you ever have to throw some rock dust  
19 before they got there?

20 A. Pretty much not. Our section was pretty much rock  
21 dusted all the time.

22 Q. Okay. So mainly just tightening the curtain up?

23 A. Yeah. Tightening stuff up, yeah.

24 Q. Okay.

25 ATTORNEY WILSON:

1 What about scooping up the roadways,  
2 would they ever do that when an inspector was coming?

3 A. Sometimes where you have too much coal on the  
4 bottom and stuff, they'd have them men come up and  
5 clean up something or something.

6 BY MR. SHERER:

7 Q. Did you ever hear of methane monitors being  
8 bridged out or ---

9 A. No, sir.

10 Q. --- sniffers covered up?

11 A. No, sir.

12 Q. So you didn't even hear of anybody --- any rumors  
13 about that?

14 A. No, sir.

15 Q. Do you know if anybody ever complained about the  
16 ventilation?

17 A. Not on our section, no. I've heard men talk about  
18 they didn't have --- it didn't seem like they had air  
19 on these other sections.

20 Q. Okay. So it was a problem on more than just the  
21 headgate section?

22 A. Yes, sir.

23 Q. Do you now if anybody told the mine foreman, mine  
24 superintendent about that?

25 A. Yes, sir.



1 Q. Who would have done that; do you know?

2 A. Them guys on that one section, they didn't have no  
3 air up there. When our air wasn't in the intake that  
4 night, we walked the beltline, me and Scott, the  
5 electrician, which he was a fill-in boss, too. And we  
6 walked our section to their section and asked that  
7 boss up there if they have air. And he said, we ain't  
8 had air for a while. He said, what are you running?  
9 He said, we ain't shutting it down, so ---.

10 Q. Who was that boss?

11 A. Give me a minute and I'll think of it.

12 Q. Sure. Was it the fellow they call Smurf?

13 A. No, sir. Smurf had just quit and went somewhere  
14 else.

15 Q. Patrick Hilbert?

16 A. It wasn't him. It was the other one. He's a  
17 Marine.

18 Q. Okay.

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

20 Q. That's okay.

21 A. Okay.

22 Q. If you think about it, let us know.

23 A. I will.

24 Q. So air was a problem at several different places  
25 in the mine? Did the bosses complain about it? Did

1       they ---?

2       A. Oh, yeah. I'd say they was scared to say much  
3       about it.

4       Q. Who would they have complained to?

5       A. Everett Hager.

6       Q. Everett Hager. And he was the mine  
7       superintendent?

8       A. Yes, sir.

9       Q. Did he have a habit of punishing people that  
10      complained about stuff?

11     A. Sometimes, yeah.

12     Q. How would you describe Mr. Hager? Was he a good  
13     boss?

14     A. I didn't care much for him, period. Yeah.

15     Q. I've heard him described as a hateful old man?

16     A. Yeah, he was.

17     Q. Is that an accurate description?

18     A. Yes.

19     Q. Do you think his attitude or the attitude of  
20     management in general, do you think that supported a  
21     safe coal mine or an unsafe coal mine?

22     A. An unsafe coal mine.

23     Q. So you guys were just starting to come --- go in  
24     the mine when the explosion occurred?

25     A. Yes.

1 Q. Were you actually in the mine?

2 A. I was standing beside the fan, and it reversed.

3 And I run. I thought the fan was blowing up, you  
4 know, a blast coming up there or something. I didn't  
5 know. I had never heard of nothing like that. It was  
6 blowing trash up on the hill. And I got a bad habit  
7 of checking in when I get there.

8 Q. Sure.

9 A. And our electrician, Scott, come from upstairs  
10 downstairs. He said, have you checked in? I said,  
11 yeah. He said get your name off the board. He said,  
12 did you talk to Steve Harrah, which was our boss. And  
13 I said, yeah. I said, I'm pretty sure it was 78 Break  
14 is where he called from, outside, to get, you know,  
15 the road out. And I was asking did we need a pair of  
16 wet pants because we were running buggy, and that  
17 water would get in the buggy. And he told me he had  
18 it pumped down and said don't worry about it. He  
19 said, we'll see you in a few minutes. I said, okay.  
20 But they didn't make it.

21 Q. You say the fan reversed. Did you actually see  
22 the blades spin the other way?

23 A. No, sir. The electrician and mine foreman, the  
24 evening shift mine foreman, when I was running away  
25 from it, they was running to it.

1 Q. Now, who was this electrician; do you recall?

2 A. Will. He's our electrician now. All I know him  
3 by is Will.

4 Q. Okay. Will.

5 A. Yeah.

6 Q. And who was the evening mine foreman?

7 A. Rick Foster.

8 Q. Okay. Rick Foster?

9 A. Yes, sir.

10 Q. Now, did you have a chance after the explosion to  
11 talk to Will again?

12 A. Yes, sir.

13 Q. Did he say he had to do something to reverse the  
14 blades again?

15 A. He said that fan stopped and reversed. He said,  
16 and then after that --- I guess the explosion went  
17 back in or something or it done blowed all that dust  
18 through it, he said it just stopped, which it did, and  
19 he said it just went right back the same way.

20 Q. Okay. So he didn't have to reverse the rotation  
21 or anything?

22 A. No, sir.

23 Q. Okay. How long were you up in the mine after the  
24 explosion?

25 A. Probably about three hours.

1 Q. Who was running things right after the explosion;  
2 do you recall?

3 A. The superintendent right now, where I'm working  
4 right now, and I can't think of his name. He was the  
5 superintendent there on the evening shift.

6 Q. Gary May?

7 A. Gary May, yeah.

8 Q. Do you recall if he was a responsible person?

9 A. Yes, sir. He's pretty responsible.

10 MR. SHERER:

11 That's all the questions I've got.

12 EXAMINATION

13 BY MR. FARLEY:

14 Q. Mr. Lambert, I've got a few things here just to  
15 clarify and make sure I understood what you said. On  
16 April 5th, when you were standing out --- when you  
17 were outside before the explosion, did I understand  
18 you said you spoke to Steve Harrah on the phone?

19 A. Yes.

20 Q. Okay. Now, was there a dispatcher when you  
21 portalled in at UBB?

22 A. Yes, sir.

23 Q. Who was the dispatcher that day?

24 A. I have no idea because they'd switch them around  
25 every time you looked up, ---

1 Q. Okay.

2 A. --- to be honest about it.

3 Q. When you spoke to Mr. Harrah on the phone, was  
4 anybody else around?

5 A. No. I was in the bath house when I was talking to  
6 him.

7 Q. Okay. You just picked up the mine phone?

8 A. Yeah. I heard him and just picked it up and asked  
9 him did I need to get me some wet pants.

10 Q. Okay. All right. And was that when he was  
11 calling out?

12 A. Yes. He'd call out for the road, yes, sir.

13 Q. Okay. All right. You said earlier that there  
14 were times when you would have air on your section and  
15 then suddenly it would just go away?

16 A. Disappear, yes, sir.

17 Q. And I think you suspected that people sometimes  
18 were making air changes?

19 A. Yes.

20 Q. Is it possible, too, that that could occur when  
21 somebody left a door open someplace?

22 A. Could be, yes, sir.

23 Q. Would it have the same effect maybe?

24 A. Yeah. Uh-huh (yes).

25 Q. Okay. Now, when you operated your shuttle car on

1 the 22 Tailgate, did --- while you were behind the  
2 miner, did the dust ever roll back to your shuttle car  
3 there?

4 A. When we was cutting the top it would.

5 Q. Okay.

6 A. Yes, sir.

7 Q. Was that about every time you were cutting top ---  
8 every time you had to cut top ---

9 A. Yes.

10 Q. --- and bottom?

11 A. Uh-huh (yes).

12 Q. You said that at UBB you didn't get a lunch break?

13 A. No, sir.

14 Q. Did you carry a lunch bucket?

15 A. Yes, sir.

16 Q. Okay. Now, did you have time to eat anything  
17 during the day?

18 A. If I eat, I eat it while I was running, you know,  
19 while I was on my buggy running, because we ain't  
20 allowed to stop and eat.

21 Q. I mean, how long was your shift?

22 A. Nine hours. And then sometimes it was longer than  
23 that.

24 Q. Okay. So you were expected to work nine hours or  
25 longer without eating anything?

1 A. Yes, sir. Yes, sir.

2 Q. Okay. That would probably make me sick.

3 ATTORNEY WILSON:

4 Pat?

5 EXAMINATION

6 BY MR. MCGINLEY:

7 Q. Did you work the weekend before the explosion, Mr.  
8 Lambert? It was Easter weekend.

9 A. No, sir.

10 Q. When was the last time you worked before that  
11 weekend; do you recall?

12 A. We worked most of them because of vacations. We'd  
13 have to work --- they'd double our Saturdays to ---  
14 take two Saturdays from our starting vacation to the  
15 end of our vacation, and they would reschedule us  
16 every time you look up, you know.

17 Q. Right. We've heard that. But you didn't work  
18 that particular weekend?

19 A. I don't believe, no, sir.

20 Q. So you came in --- the first time you had been in  
21 the mine on the afternoon of the explosion --- you  
22 hadn't been there for a few days?

23 A. Yes, sir.

24 Q. Did you hear anything about air changes or  
25 problems over the weekend?



1 A. No, sir. They was working on stuff up there,  
2 building stoppings and doing stuff. But where and  
3 stuff like that, I don't know.

4 Q. Why do you say that?

5 A. Because they was doing something around that Glory  
6 Hole, whatever they was doing up there.

7 Q. Did you see anything that was different when you  
8 went in? Oh, you didn't go in?

9 A. I didn't.

10 Q. Did you talk to anybody who had worked over the  
11 weekend and said they were building stoppings?

12 A. There was a few boys there that I believe --- I  
13 believe they was trainees, said they was building  
14 stoppings and stuff up there, maybe setting cribs  
15 around that longwall somewhere where the top was so  
16 bad.

17 Q. So they were red hats?

18 A. I'm pretty sure they was red hats.

19 Q. Would you know who they ---?

20 A. They have so many people running in, you know ---.

21 Q. Sure. Where did you run into them? That was  
22 after the explosion?

23 A. In the --- just stories and stuff, you know,  
24 talking to people, yeah.

25 Q. I see. Were you concerned about the ventilation

1       there the last few months?

2       A. Yeah. I don't know. It just didn't seem right or  
3       something.

4       Q. And you said nobody --- none of your crew  
5       complained to bosses about it; is that right?

6       A. Yes, sir. Nobody never said nothing.

7       Q. Why was that? I mean, we've heard this before,  
8       but ---

9       A. Yeah.

10      Q. --- I'm just wondering what --- how you would  
11      explain it.

12      A. Most of the time they wouldn't --- they --- if you  
13      talked to them, they ain't going to listen to you  
14      anyway.

15      Q. When you say they, who do you mean? Like Hager?

16      A. Yeah, Hager was one of them. They didn't want to  
17      hear nothing you had to say.

18      Q. How about May?

19      A. Yeah. Gary's pretty good. He's a pretty decent  
20      guy, Gary May is.

21      Q. So if you saw safety problems, you and the others  
22      you worked with were reluctant to say anything because  
23      it wouldn't do any good?

24      A. It wouldn't do any good, yes, sir.

25      Q. That's fair?

1 A. Yes, sir.

2 Q. Did you ever have problems --- you said you didn't  
3 have problems with the roof in the 22 Tailgate. But  
4 earlier, working in other places, did you have roof  
5 problems?

6 A. Yeah. They said something about they --- I  
7 believe they made our blocks bigger and stuff because  
8 it was so much weight right at the tailgate --- I  
9 mean, the longwall ---

10 Q. Right.

11 A. --- is putting pressure on everything.

12 Q. Did you ever have to work under unsupported roof?

13 A. No, sir.

14 Q. You said that you did have problems with the floor  
15 hooving. Can you describe that, you know, how much it  
16 was hooving and ---?

17 A. It would be like a foot or two, and it would bust  
18 wide open from one entry to the other entry, and water  
19 would come up through it. And it was mostly on  
20 the --- towards the longwall.

21 Q. Okay. This is on Headgate --- or Tailgate 22?

22 A. Yes, sir.

23 Q. How much water would you be working in?

24 A. If you cut the pumps off, it would be probably  
25 three foot deep in just a few minutes.

1 Q. Really?

2 A. Yes, sir.

3 Q. What's the highest you ever experienced, the  
4 highest water there?

5 A. Probably a foot, foot-and-a-half, over your buggy  
6 seats.

7 Q. You were asked about methane floor bursts, and you  
8 heard that?

9 A. Yes, sir.

10 Q. Do you recall who you heard that from?

11 A. I heard it from the bosses and stuff talking about  
12 it, where they had had trouble before up there around  
13 that longwall.

14 Q. So that --- was it recently or a number of times;  
15 do you recall?

16 A. Yes. They said at one time that they was having  
17 trouble with the bottom hooving up, busting around  
18 that longwall, was causing trouble.

19 Q. And do you recall when that was? I think one of  
20 the questions was, was it around 2004. But is  
21 that --- did you really know?

22 A. I don't really know. I'm guessing, you know.

23 Q. Okay. But it wasn't something that had occurred  
24 very recently?

25 A. No, sir.

1 Q. Did the bosses describe what that was like, you  
2 know, warning signs of a floor methane burst?

3 A. No, sir.

4 Q. Are you familiar with the terms S1 and P2?

5 A. Yes, sir.

6 Q. What do they mean?

7 A. Safety first, production second.

8 Q. Do you think those were just slogans or was that  
9 the way they managed the mine?

10 A. That's slogans.

11 Q. Do you know anything else about S1 other than  
12 safety first?

13 A. No, sir.

14 Q. Have you ever seen an S1 manual or heard of one?

15 A. No, sir.

16 Q. Ever hear of an S1 manual?

17 A. No, sir.

18 Q. Did you work --- were you offered an enhanced  
19 employment contract, a three-year contract?

20 A. Yes, sir.

21 Q. And did you sign that?

22 A. Yes, sir.

23 Q. Did you agree ---? Did you understand --- it's a  
24 pretty lengthy document; is that right?

25 A. Yes, sir.

1 Q. Did you understand all the terms?

2 A. No, sir.

3 Q. Did you understand that if you get fired or you  
4 quit, you had to pay back all the raises, so to speak,  
5 and the bonuses?

6 A. Yes, sir.

7 Q. Would that have any impact on you or talking to  
8 the other men who worked at UBB on recording safety  
9 problems?

10 A. I'll put it, if you come up and talked to them  
11 very much, you wouldn't be there very long.

12 Q. And when you say them, do you mean the bosses  
13 or ---

14 A. Superintendents.

15 Q. --- superintendent?

16 A. Yes, sir.

17 Q. Did you ever see Chris Blanchard in the mine?

18 A. Yes, sir.

19 Q. How frequently would you see him?

20 A. Once every seven or eight months. Not much.

21 Q. Why would he --- do you recall why he was in the  
22 mine?

23 A. Come up there and jump on you for not running  
24 enough coal, and that's about it.

25 Q. How long were your safety meetings?

1 A. Probably about 15 minutes.

2 Q. What would they talk about?

3 A. Just roof, ribs, stuff like that.

4 Q. And was ventilation ever discussed in these safety  
5 meetings?

6 A. Not very much, no, sir.

7 Q. You mentioned you went with Scott, who was an  
8 electrician and a fill-in boss, to another section.  
9 What was the other section you went to?

10 A. Number One section.

11 Q. That's Headgate ---

12 A. Headgate 22.

13 Q. --- 22?

14 A. Yes, sir.

15 Q. And you talked to the boss up there?

16 A. Yes, sir.

17 Q. And he said, we haven't had enough air, but we  
18 have to run anyway, ---

19 A. Yes, sir.

20 Q. --- something like that? Do you recall anything  
21 else he said about that?

22 A. He just said he wasn't shutting it down unless  
23 somebody --- if he seen the inspector, he'd shut it  
24 down. But he was going to run it. He wouldn't  
25 shut --- we shut our section down. He wouldn't shut

1 his down. And he was told --- Scott said, we ain't  
2 had no air up here for a long time, he said, but I  
3 ain't shutting it down. Because he was scared of  
4 Everett, is what it was, Everett Hager. Brandon is  
5 his name. And Scott says, your air is coming up your  
6 belt. And he said, no, it ain't. I stood there and  
7 talked to the bolt man, Scott and him, and one of the  
8 fire bosses. I don't know who he is, but he was an  
9 older-like guy. He went up there with us. And all  
10 their air was coming up their beltline like ours was.  
11 They called Everett Hager the next --- that night  
12 sometime, and the next day he went down there toward  
13 that Glory Hole and he done something, then the air  
14 was right again.

15 Q. Did they take an air reading when they went over  
16 and checked it out when you were there?

17 A. Yes, sir.

18 Q. Do you remember what the reading was?

19 A. I have no idea.

20 Q. But it clearly wasn't enough air; is that right?

21 A. Yes, sir, it wasn't enough.

22 Q. And the foreman --- fire boss agreed there wasn't  
23 enough air; is that correct?

24 A. Yeah. I'd say so, yeah.

25 Q. But they didn't shut down?



1 A. No, sir.

2 Q. They were producing at the time?

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

4 Q. Do you remember how long --- about when would that  
5 have happened, sometime in the last --- this year?

6 A. Yeah. It was before the explosion.

7 Q. Okay. Shortly before?

8 A. Yeah, not very long before, you know.

9 Q. Do you have any --- can you give any --- just a  
10 ball park? I'm not trying to pin you down.

11 A. Yeah. Maybe three weeks or something like that  
12 maybe before the explosion.

13 Q. And was that --- do you recall --- if you don't,  
14 that's fine, but was it at the beginning of your shift  
15 or the end of your shift?

16 A. That was about an hour after we got in there, you  
17 know, yeah, when he come up there and said we didn't  
18 have no air, because we had --- we was cutting and  
19 that dust was coming back on so bad, he went and done  
20 his air readings behind the fire box. He said, there  
21 ain't no air up here. And he said, you all want to  
22 shut down now, and so we did. And so me and Scott,  
23 that's when we walked up to that other section, after  
24 we found out where the air was going to. But we  
25 didn't know why it was going up there, you know.

1 Q. I see.

2 A. And they said Everett had been around that Glory  
3 Hole doing some stuff. And I don't know if it was  
4 that morning or what, but they was in there doing  
5 something. And so they called Everett I guess at his  
6 house or something, and they said the next morning the  
7 air was back right. So he had to have switched  
8 something around.

9 Q. Do you recall who said that the next morning the  
10 air was right?

11 A. Our boss said that he had talked to that other  
12 boss and said, I guess Steve Harrah said the air was  
13 right when he talked to him.

14 Q. So did someone tell you or are you just supposing  
15 that they didn't correct it during that shift up at  
16 the Headgate 22?

17 A. I believe they come in that morning --- I heard  
18 that they had come in that morning sometime on third  
19 shift and switched some stuff back around.

20 Q. So it would have been like that all during  
21 that --- your production shift. And then when  
22 production started the next morning, that's when they  
23 fixed it?

24 A. Yes, sir, it was the next day. Uh-huh (yes).

25 Q. You said that they were trying to get ---

1 frequently trying to get enough air and all they were  
2 really worried about was having enough air on the  
3 longwall?

4 A. Yes, sir.

5 Q. Why do you say that?

6 A. Because that's the truth. They asked what they  
7 was doing in that Glory Hole or something, said they  
8 was trying to get enough air up there for that  
9 longwall. They could care less about that whole mine  
10 as long as that longwall was running. Blanchard and  
11 them would tell you, that was number one right there,  
12 you know.

13 Q. That's where the production was?

14 A. That's where the production --- that's where their  
15 money was, right there.

16 Q. Okay.

17 MR. MCGINLEY:

18 I think that's all I have for you now.

19 Thank you.

20 A. Yes, sir.

21 RE-EXAMINATION

22 BY MR. FARLEY:

23 Q. You were talking about the area, the Glory Hole.

24 In the area close to the Glory Hole was there a  
25 construction project ongoing to install a new mother

1 drive, as far as you know?

2 A. I don't know. They was doing something down  
3 there, but I don't know exactly what it was. When you  
4 run equipment on your section, you don't get to travel  
5 around, you know what I'm saying.

6 Q. Well, is it possible that some of the ventilation  
7 problems for 22 Headgate section and maybe what  
8 happened on your section at 22 Tailgate began  
9 happening about the time that they began doing  
10 whatever they were doing on that area?

11 A. Yes, sir.

12 Q. Okay. All right.

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. I got one minor question. Do you recall how the  
16 return came off this tailgate section, where it went  
17 to?

18 A. Yeah. Ours went right with the longwall's.

19 Q. Okay. So it went down and dumped into the  
20 headgate of the longwall?

21 A. Yes, sir.

22 Q. Okay. Thank you.

23 EXAMINATION

24 BY ATTORNEY WILSON:

25 Q. Mr. Lambert, did you ever see or hear of people

1 smoking in the mine?

2 A. No, sir.

3 Q. And did they do smoking material searches?

4 A. Yes, sir.

5 Q. How often would they do those?

6 A. I believe it was like once every week we done  
7 that. They'd pick certain --- just different times.

8 Q. Now, with respect to Mr. Blanchard you said that  
9 when he was there, he would be there to get on you  
10 about running coal?

11 A. Yes, sir.

12 Q. Can you be more specific about what he said and  
13 who he said it to?

14 A. Well, to be honest about it, you didn't want to  
15 talk to him much because he ain't nothing but a smart  
16 alec. And I mean, you can ask anybody there and  
17 they'd tell you the same thing. Anything you done  
18 just ain't good enough for him. And he'd come up  
19 there and --- if you run 400 foot a shift, you wasn't  
20 doing good if you wasn't running 500, you know.

21 Q. Right.

22 A. He always put you don't in anything. He was  
23 always putting you down. And anything that had to do  
24 with that mines, he wanted it for that longwall.

25 Q. What about Mr. Hager, did he ever come up on the

1 section?

2 A. I never seen him one time on the section.

3 ATTORNEY WILSON:

4 Okay. Let's go off the record.

5 SHORT BREAK TAKEN

6 ATTORNEY WILSON:

7 We're back on the record. Erik?

8 ATTORNEY SHERER:

9 Sure.

10 RE-EXAMINATION

11 BY MR. SHERER:

12 Q. You mentioned that you didn't work over the  
13 weekend?

14 A. Yes, sir.

15 Q. Do you recall what the last shift you worked prior  
16 to the explosion was?

17 A. No, sir, I sure can't, to be honest about it.

18 Q. Okay. Sure. Would you have worked Friday night?

19 A. Yes, sir.

20 Q. Did you work Saturday night?

21 A. I have no idea.

22 Q. Okay. Do you recall anything out of the ordinary  
23 that last time or two you were in the mine there,  
24 anything ---?

25 A. Just them messing with that air all the time, you

1 know.

2 Q. Messing with the air. Did you notice if it was  
3 hot on the section? Did you smell anything that  
4 smelled different?

5 A. No, sir.

6 Q. Your eyes burn?

7 A. No, sir.

8 Q. Did you see anybody in the mine that you didn't  
9 normally see in the mine?

10 A. No, sir.

11 Q. Okay. We're just looking for anything that can  
12 help us try to run down this explosion.

13 A. Yes, sir.

14 Q. Given your mining background, you've obviously  
15 been to a lot of rodeos before this one.

16 A. Yes, sir.

17 Q. What do you think happened to this mine?

18 A. I thought they might have hit a gas well that  
19 wasn't on the map or the bottom busting up because  
20 that gas come from somewhere fast.

21 Q. What about rock dust, did you ever get off the  
22 track or the beltline, get into, say, intakes or  
23 returns somewhere outby?

24 A. Yes, sir.

25 Q. What did those entries look like?

1 A. They was pretty dusty.

2 Q. By pretty dusty you mean they had a lot of rock  
3 dust or they had some coal dust in them?

4 A. They had some coal dust in them.

5 Q. Were they black or were they gray?

6 A. Gray.

7 Q. Gray?

8 A. Yes, sir.

9 MR. SHERER:

10 That's all the questions I've got.

11 MR. MCGINLEY:

12 I've got a couple more.

13 RE-EXAMINATION

14 BY MR. MCGINLEY:

15 Q. You said basically that on that Tailgate 22  
16 section they're constantly fooling with the  
17 ventilation, is that ---?

18 A. Yes, sir.

19 Q. That's because there wouldn't be adequate air or  
20 wouldn't be tightening the curtains? How long would  
21 it take to fix?

22 A. That one time we didn't get it fixed.

23 Q. Right. What about other times? Would it take a  
24 half an hour? Would it take an hour? Ten minutes?

25 A. Yeah, about an hour or something, just tightening



1 everything down, make sure we had enough air to run.

2 Q. Okay. And then how often --- do you think that  
3 happened once a week when you were --- in those few  
4 months you were up at Tailgate 22 or --- if you don't  
5 know, that's fine, ---

6 A. Yeah.

7 Q. --- but do you have any sense of how often that  
8 would happen?

9 A. Probably once a week or something like that we'd  
10 have to get everything tightened down and make sure we  
11 had enough air up there.

12 Q. Sometimes more than once a week or ---?

13 A. Once in a while. Yeah, it would be once in a  
14 while we would.

15 Q. At what point when you started working on Tailgate  
16 22 did that --- did you start having the air problems  
17 with the ---?

18 A. Probably about a week after we was up there we was  
19 having air problems.

20 Q. Okay. The time you said the boss said you had no  
21 air and you shut down and the boss called Wayne  
22 Persinger, ---

23 A. Yes, sir.

24 Q. --- do you remember what the conversation was and  
25 was there any hassle about shutting down?

1 A. I just --- I believe he was wanting to run because  
2 I heard him say he wasn't running --- not matter if  
3 they fired him, he wasn't running.

4 Q. He said that while you were there, listening to  
5 that conversation?

6 A. Yes, sir.

7 Q. Was it a very lengthy conversation?

8 A. No, sir.

9 Q. And did you --- well, what did you all do? Did  
10 you withdraw or did you work there and try to fix it?

11 A. We tried to fix it. Well, we was trying to find  
12 out what air was going --- it was coming up our  
13 beltline in behind our feeder. That's when we walked  
14 down to the other headgate to see.

15 Q. So that was only two to three weeks before the  
16 explosion?

17 A. Yes, sir.

18 Q. Did any bosses from outside come down there?

19 A. No, sir.

20 Q. I meant at the time.

21 A. No, sir.

22 Q. You also said there were --- they sent you home  
23 once or twice while they worked on the air for a week  
24 or so.

25 A. The inspectors made them send us home.

1 Q. Oh, okay. So both of those times were you were  
2 sent home as a result of notice of violation?

3 A. Yeah. They wouldn't let us in there because the  
4 air was all messed up.

5 Q. Okay. Was it because the air was messed up in  
6 your section or other parts of the mine, or do you  
7 know?

8 A. All of it up there on that end.

9 Q. So while you were working there, did you realize  
10 when you got sent home that there was some serious  
11 problems with ventilation ---

12 A. Yes, sir.

13 Q. --- and you've been working there in them?

14 A. Yes, sir.

15 Q. But still, nobody felt like they could speak up  
16 and tell the bosses; right?

17 A. No, sir.

18 Q. Because it wouldn't do any good?

19 A. It wouldn't do no good, no.

20 MR. MCGINLEY:

21 Okay. That's all. Thank you, sir.

22 A. Yes, sir.

23 ATTORNEY WILSON:

24 Terry?

25 RE-EXAMINATION

1 BY MR. FARLEY:

2 Q. We've talked about the ventilation problems on 22  
3 Headgate.

4 A. Yes, sir.

5 Q. Do you know if the ventilation on 22 Headgate  
6 improved in the week or two prior to the explosion?

7 A. They put a fan in somewhere. Wherever they put  
8 that fan in, they said it helped it.

9 Q. Okay.

10 A. That's what I thought they said. They put a fan  
11 in somewhere else.

12 Q. Okay. But whether it was a fan they put in or  
13 something else, did you learn that someone had said  
14 the ventilation on 22 Headgate had improved?

15 A. Yeah. They said that it had --- they had more air  
16 than they had before, yeah.

17 Q. All right. Now, in the week or two prior to the  
18 explosion on 22 Tailgate, did anything change ---

19 A. Yes, sir.

20 Q. --- for better or for worse?

21 MR. MCGINLEY:

22 You mean for ventilation?

23 A. The air stayed the same, yeah.

24 MR. MCGINLEY:

25 He's asking about ventilation, I think.

1 BY MR. FARLEY:

2 Q. Ventilation ---.

3 A. Yeah, our ventilation pretty much just stayed the  
4 same.

5 Q. Okay.

6 MR. MCGINLEY:

7 Well, --- I'm sorry.

8 MR. FARLEY:

9 I asked the question before we had  
10 testimony from a couple of people at least that the  
11 ventilation on 22 Headgate had improved somewhat in  
12 the week or two prior to the explosion.

13 A. Yeah.

14 MR. FARLEY:

15 Okay.

16 MR. MCGINLEY:

17 Just one follow-up.

18 RE-EXAMINATION

19 BY MR. MCGINLEY:

20 Q. Well, you heard that ventilation on 22 Headgate  
21 had improved, did that mean there was adequate air?  
22 Did you take that to mean there was adequate air or  
23 just that it was better than the situation they had  
24 before?

25 A. Yeah, I figured they had more air, you know,

1 because they changed a bunch of stuff around they  
2 said, which they was always doing something, yeah.

3 Q. So you really didn't know what better air during  
4 those couple weeks meant?

5 A. Yeah. We just went by what our boss would tell  
6 us.

7 Q. I understand.

8 MR. MCGINLEY:

9 Okay. No other questions.

10 ATTORNEY WILSON:

11 All right. On behalf of MSHA and the  
12 office of Miners' Health, Safety and Training, I want  
13 to thank you for appearing and answering questions  
14 today. Your cooperation is very important as we work  
15 to determine the cause of the accident. Again, I'll  
16 remind you that we request that you not discuss your  
17 testimony today with anyone outside this room because  
18 we will be interviewing additional witnesses. After  
19 questioning other witnesses, we may call you if we  
20 have any follow-up questions. And if you think of any  
21 additional information that you would like to provide  
22 to us, please contact us at the contact information  
23 that was provided to you.

24 At this time, before we finish and go off  
25 the record, is there anything else that you would like

1 to add to the record or any statement that you would  
2 like to make?

3 A. No, not really. I just --- I hope you all do find  
4 out what happened, you know.

5 ATTORNEY WILSON:

6 Okay. Well, then, again, thank you for  
7 your cooperation, and we'll go off the record.

8

9 \* \* \* \* \*

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

12 \* \* \* \* \*

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF WEST VIRGINIA )

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

CERTIFICATE

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



*Alison Salyards*