



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Nathan Mills

Date: June 18, 2010

Case:

Printed On: June 23, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
NATHAN MILLS

taken pursuant to Notice by Cynthia Piro Simpson, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, June 18, 2010, beginning at 6:00 p.m.

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

A P P E A R A N C E S

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

DEREK J. BAXTER, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

JASEY MAGGARD
Miner Safety Health Administration
3837 South U.S. Highway 25E
Barbourville, KY 40906

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

CELESTE MONFORTON, MPH, DRPH
West Virginia Independent Investigation
2100 M. Street, NW
Suite 203
Washington, DC 20037

I N D E X

1		
2		
3	OPENING REMARKS	
4	By Attorney Baxter	5 - 9
5	OPENING REMARKS	
6	By Mr. Farley	9 - 10
7	WITNESS: NATHAN MILLS	
8	EXAMINATION	
9	By Mr. Farley	10 - 28
10	EXAMINATION	
11	By Mr. Maggard	28 - 44
12	EXAMINATION	
13	By Ms. Monforton	44 - 45
14	RE-EXAMINATION	
15	By Mr. Farley	46 - 47
16	RE-EXAMINATION	
17	By Mr. Maggard	47 - 52
18	RE-EXAMINATION	
19	By Ms. Monforton	53 - 56
20	RE-EXAMINATION	
21	By Mr. Maggard	56 - 59
22	CLOSING REMARKS	
23	By Attorney Baxter	60 - 61
24	CERTIFICATE	62
25		

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

EXHIBIT PAGE

PAGE

NUMBER	DESCRIPTION	IDENTIFIED
One	Mine Map	14*
Two	Mine Map of Ellis Portal Area	18*
Three	Mine Map	40*

*exhibits not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 Let's go on the record. My name's Derek

5 Baxter. Today is June 18th, 2010. I'm with the
6 Office of the Solicitor, U.S. Department of Labor.

7 With me is Jasey Maggard, an accident investigator
8 with the Mine Safety and Health Administration, MSHA,
9 an agency of the United States Department of Labor.

10 Also present are several people from the State of West
11 Virginia. I ask that they state their appearance for
12 the record.

13 MR. FARLEY:

14 I'm Terry Farley, with the West Virginia

15 Office of Miners' Health, Safety and Training.

16 MS. MONFORTON:

17 And I'm Celeste Monforton, and I'm with

18 Governor Manchin's special team.

19 ATTORNEY BAXTER:

20 And Mr. Maggard, Mr. Farley and Dr.

21 Monforton will be conducting the questioning today.

22 All members of the Mine Safety and Health Accident

23 Investigation Team and all members of the State of

24 West Virginia Accident Investigation Team

25 participating in the investigation of the Upper Big

1 Branch Mine explosion shall keep confidential all
2 information that's gathered from each witness who
3 voluntarily provides a statement until the witness
4 statements are officially released. MSHA and the
5 State of West Virginia shall keep this information
6 confidential so that other ongoing enforcement
7 activities are not prejudiced or jeopardized by a
8 premature release of information.

9 This confidentiality requirement shall
10 not preclude investigation team members from sharing
11 information with each other or with other law
12 enforcement officials. Your participation in this
13 interview constitutes your agreement to keep this
14 information confidential.

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

24 You may have your personal attorney
25 present during the taking of this statement, or

1 another personal representative, if MSHA has permitted
2 it, and may consult with your attorney or the
3 representative at any time. Do you have a personal
4 representative here today?

5 MR. MILLS:

6 No.

7 ATTORNEY BAXTER:

8 Okay. Your statement is completely
9 voluntary. You may refuse to answer any question and
10 you may terminate your interview at any time or
11 request a break at any time.

12 Since this is not an adversarial
13 proceeding, formal Cross Examination will not be
14 permitted. However, your personal legal
15 representative may ask clarifying questions as
16 appropriate.

17 Your identity and the content of this
18 conversation will be made public at the conclusion of
19 the interview process and may be included in the
20 public report of the accident, unless you request that
21 your identity remain confidential or your information
22 would otherwise jeopardize a potential criminal
23 investigation. If you request us to keep your
24 identity confidential, we will do so to the extent
25 permitted by law. That means that if a Judge orders

1 us to reveal your name or if another law requires us
2 to reveal your name or if we need to reveal your name
3 for other law enforcement purposes, we may do so.

4 We request that you refrain from
5 discussing your statement with others who may be
6 interviewed. Also, there may be a need to use the
7 information you provide to us or other information
8 we'd ask you to provide in the future in other
9 investigations into and hearings about the explosion.

10 Do you understand?

11 MR. MILLS:

12 Uh-huh (yes). Yes.

13 ATTORNEY BAXTER:

14 Okay. And do you have any questions?

15 MR. MILLS:

16 No.

17 ATTORNEY BAXTER:

18 After the investigation is complete, MSHA
19 will issue a public report detailing the nature and
20 causes of the fatalities in the hope that greater
21 awareness about the causes of accidents can reduce
22 their occurrence in the future. Information obtained
23 through witness interviews is frequently included in
24 these reports. Since we will be interviewing other
25 individuals, we request that you not discuss your

1 testimony with any person aside from your personal
2 representative or counsel.

3 A court reporter will record your
4 interview. Please speak loudly and clearly. If you
5 do not understand a question asked, please ask me to
6 rephrase it. Please answer each question as fully as
7 you can, including any information you've learned from
8 someone else.

9 I would like to thank you in advance for
10 your appearance here. We appreciate your assistance
11 in this investigation. Your cooperation is critical
12 in making the nation's mines safer.

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

20 MR. FARLEY:

21 Okay. Are you ready?

22 ATTORNEY BAXTER:

23 Yes.

24 MR. FARLEY:

25 Nathan, again, I'm Terry Farley with the

1 Office of Miners' Health, Safety and Training. I want
2 to advise you also that the West Virginia Coal Mine
3 and Health and Safety Regulations also protect miners
4 against any kinds of discrimination you might suffer
5 as a result of participating in this interviews ---
6 interview. And I'm going to pass along some contact
7 information in case you need to file a claim.

8 MR. MILLS:

9 Okay.

10 -----

11 NATHAN MILLS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
12 AS FOLLOWS:

13 -----

14 EXAMINATION

15 BY MR. FARLEY:

16 Q. Nathan, can we begin by asking you to state your
17 full name, your home address and a phone number,
18 please?

19 A. Nathan Wyatt Mills.

20 OFF RECORD DISCUSSION

21 A. Wyatt, W-Y-A-T-T.

22 BY MR. FARLEY:

23 Q. Home mailing address, home address and a phone
24 number, if you don't mind, please.

25 A. [REDACTED] ---.

1 OFF RECORD DISCUSSION

2

3 [REDACTED] . And home phone is [REDACTED] .

4 BY MR. FARLEY:

5 Q. Okay. How long have you been a coal miner?

6 A. Since 2000 --- like either '04 or '05.

7 Q. Okay. About five or six years; is that right?

8 A. Yeah.

9 Q. Where have you worked during that five to six-year
10 period?

11 A. I've worked at Elk Run. I've worked at Eastern,
12 for Harris Number Four.

13 Q. Uh-huh (yes).

14 A. I've worked at Magnum, Butler.

15 Q. Uh-huh (yes).

16 A. And I worked at Marfork, Performance and back to
17 Elk Run.

18 Q. Okay. Now, you're at Elk Run now?

19 A. Yes.

20 Q. Okay. Did you transfer back to Elk Run after the
21 explosion on April 5th?

22 A. That's where I got transferred to.

23 OFF RECORD DISCUSSION

24 A. That's where I got transferred to.

25 BY MR. FARLEY:

1 Q. Okay. How long did you work at UBB, Performance
2 UBB Mine, prior to the explosion?

3 A. I started there in May of the previous year.

4 Q. So 2009?

5 A. Yes.

6 Q. Okay. What was your occupation there at UBB
7 during that period of time?

8 A. I was an electrician.

9 Q. Okay. Did you work on any particular section as
10 an electrician?

11 A. I started there on third shift on the Three
12 section. It's on --- we trammed UBB on the left side
13 of the mountain ---.

14 Q. Would that be on the south end, south end of the
15 mine?

16 A. I believe that's what they call it.

17 Q. Okay. And did you portal at the UBB Portal at
18 Montcoal?

19 A. Yes.

20 Q. Okay. And was Three section also known as the
21 portal section later?

22 A. Yeah. They changed that later on.

23 Q. Okay.

24 A. That used to be Three section, but I think they
25 changed it to Portal section.

1 Q. Okay. Now, you started there on your midnight
2 shift. Did you move to some other shift at some other
3 section?

4 A. Yeah. I went to Two section on the other side of
5 the mountain. And I was up there for about --- I was
6 18 months on dayshift. And they said they had a
7 problem with the longwall flooding out and they pulled
8 us off there, and I get sent back up to Three, Three
9 section.

10 Q. Okay. Now, when you say Two section, ---

11 A. Yeah.

12 Q. --- would that be the section now known as
13 Headgate 22?

14 A. No.

15 Q. Would that be ---?

16 A. Whenever Two section was down in here
17 (indicating).

18 Q. Okay. All right. You're pointing to the ---

19 A. I'm pretty sure.

20 Q. --- to what's called the crossover entries, which
21 are immediately outby the mouth of the longwall panel?

22 A. Yeah, I'm thinking we come up here (indicating),
23 make this turn, come up, and we was in here somewhere.

24 Q. Okay. Now ---.

25 A. Right about here.

1 Q. Now, do us a favor, if you can. When you're
2 referring to a place on the map, ---

3 A. Uh-huh (yes).

4 Q. --- sometimes it's difficult to describe where you
5 are. So if you would, please, just take a marker and
6 mark the area and draw a line up from it and specify
7 you worked here from whenever to whenever.

8 ATTORNEY BAXTER:

9 And we'll mark this map as Mills' Exhibit

10 One.

11 (Mills' Exhibit One marked for
12 identification.)

13 BY MR. FARLEY:

14 Q. Okay.

15 A. Like this across ---?

16 Q. Yeah. Just draw --- draw a circle around the
17 whole thing, if you like.

18 A. I'm circling ---. I don't know when the dates
19 was.

20 Q. Did you go there in 2009?

21 A. Yes.

22 Q. So sometime in 2009?

23 A. I can't remember when, exactly.

24 Q. Okay.

25 A. I can't remember.

1 Q. Okay. Anyhow, you've indicated that you were
2 there about three ---?

3 A. Two, maybe --- maybe a month.

4 Q. Maybe a month?

5 A. Maybe a month.

6 Q. Okay. All right. Now, let's --- let's just move
7 forward, then, to 2010. What area of the mine did you
8 work in, in 2010?

9 A. 2010, I was down in here (indicating).

10 Q. And you're pointing to the area of the Glory Hole?

11 A. Yes. Right in here.

12 Q. Okay. You're actually ---. I think you're
13 pointing to ---

14 A. The block split.

15 Q. --- to the area where the 22 Headgate belt dumps
16 onto ---

17 A. Seven.

18 Q. --- Seven North belt?

19 A. Yeah.

20 Q. Okay. So you were working in that area this year?

21 A. Yeah.

22 Q. Okay. What'd you do in that area?

23 A. Really just we took equipment. They had some
24 equipment up here (indicating).

25 Q. Were you working on a conveyor belt construction

1 or something like that?

2 A. Yeah. What we done is we split these two blocks
3 right here, to make this beltline laid up with Seven
4 North.

5 Q. Okay. Now, when you say, right here, again you're
6 pointing to ---

7 A. The block.

8 Q. --- the area in the vicinity of where 22 Tailgate,
9 22 Headgate belt dumps onto the Seven North belt?

10 A. Yeah. Yeah, this would be it right here.

11 Q. Okay. Now, if I'm following you correctly, you
12 were working --- you've been working in --- you were
13 working in that area this year prior to the explosion?

14 A. Yes.

15 Q. Now, were you working there up to the time of the
16 explosion?

17 A. No.

18 Q. Okay.

19 A. We got big blocks split and they pulled me off
20 there.

21 Q. Okay. Where'd they send you after that?

22 A. To Ellis, the new Ellis setup.

23 Q. Okay.

24 A. And that would be ---.

25 Q. You mean the area where they're going to establish

1 a new longwall near the Ellis Portal?

2 A. Yeah. Went 14 breaks in through the left. Then I
3 think it was about 11 breaks down.

4 Q. That's pretty good. That'll work. That's much
5 better than I can do.

6 A. Thank you.

7 Q. All right. And how long were you there before the
8 explosion?

9 A. I probably been taking equipment in from outside
10 at Ellis for maybe a month. We'd just, you know, get
11 different equipment in, ---

12 Q. Okay.

13 A. --- put cables on ---.

14 Q. Are you talking about section equipment,
15 production equipment?

16 A. Yes.

17 Q. Okay. Do you recall what you was taking in ---
18 what you were taking in, in the month preceding the
19 explosion on April 5th?

20 A. Feeder. They got a feeder in and we hadn't got a
21 roof bolter yet. And we took the miner in, I'm pretty
22 sure in that time frame.

23 Q. Okay.

24 A. But I'm thinking we got our last shuttle car in,
25 in the time frame, too.

1 Q. Okay. Now, did you transfer it in?

2 A. Yes.

3 Q. What'd you use for the power source, something on
4 the surface or ---?

5 A. A D box, yeah. And we call it a move box.

6 Q. Okay. If I would show you a blow-up map of that
7 Ellis Portal area, could you trace the travel route
8 you took with that equipment when you moved it in?

9 A. Yeah, I should be able to.

10 OFF RECORD DISCUSSION

11 ATTORNEY BAXTER:

12 And we'll mark this ---. Are we back on
13 the record? We'll mark this as Mills' Exhibit Two.
14 (Mills' Exhibit Two marked for
15 identification.)

16 BY MR. FARLEY:

17 Q. I never seen this before. Do you want to take a
18 marker and just show me which way you took that
19 equipment in? Why don't you use this. You want to
20 use a ---? Tell me which way you brought that
21 equipment in, if you can.

22 A. Okay. Down this way. There was no regulator.

23 Q. Okay.

24 A. So that's not here. Come up through here, all the
25 way up. Let me see. Is that double doors? From I

1 think two breaks in ---.

2 Q. Just keep --- keep your line moving.

3 A. I'm pretty sure down this way.

4 Q. Okay. Now ---?

5 A. It was either --- let's see.

6 Q. Well, did you go up the track entry?

7 A. No, they put the beltline, belt structure in
8 through here.

9 Q. Okay. When you say, in through here, you --- as
10 you said earlier, you would come in the area of Ellis
11 Portal, going up 14 crosscuts and hang a left?

12 A. Yeah. Come down here and that's where we dropped
13 it.

14 Q. And that belt you're referring to be would be in
15 the ---

16 A. This right here.

17 Q. --- middle entry?

18 A. Yeah.

19 Q. Which where you make the turn would be the Number
20 Three or Four --- Three entry, I believe; right?

21 A. Yes.

22 Q. Okay. All right. Now, when you brought this ---
23 when you trammed this equipment in, did anybody help
24 you?

25 A. Yes.

1 Q. Who? Who usually helped you?

2 A. Usually Rick Nicolau ---.

3 Q. What was his position?

4 A. He was the dayshift chief.

5 Q. Okay. Now, this last, last month prior to the
6 explosion, when you were working in this area, who was
7 your immediate supervisor? Who'd you report to every
8 day?

9 A. Everett Hager and Rick Nicolau.

10 Q. Okay. Rick Nicolau was your maintenance foreman?

11 A. Yeah. Well, he's the dayshift chief.

12 Q. Okay.

13 A. He's over at the hole.

14 Q. All right. So you were working dayshift, ---

15 A. Yes.

16 Q. --- prior to the explosion for about a month?

17 A. Yes.

18 Q. Okay. When you trammed the equipment in, in that
19 entry from the Ellis Portal, was the air always ---
20 which way was the air moving?

21 A. The best I can recall, the air was moving out.

22 Q. Outby direction toward the ---?

23 A. Outby.

24 Q. Does that mean it would've been hitting you in the
25 face as you were advancing inby ---?

1 A. As I'm going inby.

2 Q. Okay. All right. Now, prior to moving to the
3 Ellis Portal area about a month before the explosion,
4 did you ever work on the longwall ---

5 A. No.

6 Q. --- at any time?

7 A. No.

8 Q. Did you visit it for any reason?

9 A. When I first went up to --- well, on that side of
10 the mountain ---

11 Q. Uh-huh (yes).

12 A. --- they had me go up there and cut a belt head
13 out. It was just the whole belt head and one of the
14 bolts got loose, so I could take it out of there. And
15 it was --- you know, it was way back in here
16 (indicating) and ---.

17 Q. When you say, way back in here, you got any idea
18 where that might've been?

19 A. At that time, I have no idea.

20 Q. Okay. Was it somewhere where the longwall face
21 was at the time?

22 A. No. No, it was on their beltline.

23 Q. On the longwall beltline?

24 A. Yeah. That was way up, up through there.

25 Q. Okay. So this would be outby where they were

1 mining then; right?

2 A. Yes.

3 Q. Okay. Prior to your month at Ellis, did you ever
4 work on the 22 Headgate section?

5 A. I'd filled in like once or twice for an
6 electrician over there.

7 Q. When you say you filled in, was that like a
8 production section?

9 A. Yes.

10 Q. Okay. When they were running coal? Do you
11 remember when that was?

12 A. No.

13 Q. This year? Okay. Do you remember who the section
14 boss was at the time?

15 A. Pat Hilbert.

16 Q. Pat Hilbert was the dayshift, evening shift or do
17 you recall?

18 A. I remember I doubled back for it and that was the
19 evening shift.

20 Q. Okay. Do you remember if they were having any
21 ventilation problems on 22 Headgate there?

22 A. Not that I know of. I mean ---.

23 Q. Okay. All right. Do you remember any --- any
24 problems with the roof and the ribs or the floor, the
25 mine floor?

1 A. No. But when I did get up there toward that
2 evening, the evening shift, ---

3 Q. Uh-huh (yes).

4 A. --- I noticed they had a lot of water in the
5 return side of their section.

6 Q. Now, when you point to the return side, would that
7 be on the ---. You're pointing to the right side of
8 the section, which would be the Number Three entry
9 there?

10 A. They had a big water hole there. And they had ---
11 you know, it wasn't too bad of a section overall.

12 Q. Okay. Now, this may seem like a silly question,
13 but when you saw the water on the 22 Headgate section,
14 did you see any bubbles in it? Did it bubble at any
15 time, as if air were escaping?

16 A. Yes. Yeah. Yeah, it bubbled.

17 Q. Okay.

18 A. I didn't have a methane monitor or methane
19 detector.

20 Q. Okay. And, you know, while you were working on 22
21 Headgate section, did you --- were you around at any
22 time when someone's monitor detected some quantity of
23 methane in any of the working faces?

24 A. No.

25 Q. Okay. And during your conversations with people

1 on the Headgate 22 section, did anyone refer to having
2 detected some methane in any of the working faces?

3 A. When I was at UBB, I never heard of any methane
4 problems, no.

5 Q. And you ---?

6 A. I would hear of things --- everything, because I
7 like to keep track of that, ---

8 Q. Sure.

9 A. --- but I never heard of any methane problems.

10 Q. Now, and let me make sure I got --- get you right
11 on this. You were at UBB for about a year before the
12 explosion?

13 A. Yeah.

14 Q. You say you didn't --- you never heard of any
15 methane problem?

16 A. Me personally, no.

17 Q. Okay. All right. Anybody else --- nobody
18 mentioned any --- any issues anywhere?

19 A. Just they had mentioned low air, you know. Just
20 they'd talk about it.

21 Q. When they say low air, did they link that with a
22 particular section?

23 A. Not really. Just, you know, mostly I would be in
24 the bath house with the Headgate 22 guys.

25 Q. Okay.

1 A. Yeah. Those was all ---

2 Q. Okay.

3 A. --- ever talked about.

4 Q. All right. Okay. In the month preceding the
5 explosion on April 5th, when you were working at the
6 Ellis Portal area, were you ever removed from the mine
7 because of a ventilation problem that you know of?

8 A. Not the month prior. I'm thinking maybe a month
9 or two. We was --- we was somewhere down in here
10 moving equipment.

11 Q. When you said, we're somewhere down in here,
12 you're ---?

13 A. When we was pulling the equipment down to the
14 Glory Hole ---.

15 Q. Moving equipment from the Glory Hole area?

16 A. Well, we was moving it from up in here, down this
17 way.

18 Q. Okay. Now, when you ---. Let me, let me ---.
19 You're referring to the area on --- area on the map in
20 the vicinity of 78 Switch; is that right?

21 A. No, we wasn't that far up. This belt head right
22 here.

23 Q. Six North belt head? Is that what you're pointing
24 to?

25 A. Yes.

1 Q. Okay. When were you moving that --- what
2 equipment were you moving from there?

3 A. We was moving a miner, bolter and a shuttle car
4 and a feeder. And that day, I think we was moving the
5 feeder.

6 Q. Okay. Where did you move this equipment to?

7 A. We moved it down here.

8 Q. Okay.

9 A. We moved it to down in here.

10 Q. Okay. You've indicated --- you've drawn a ---
11 marked a location shortly outby Crosscut 130 on Seven
12 North?

13 A. Yes.

14 Q. And that's where the equipment was moved to that
15 you were just referring to from ---?

16 A. Yes.

17 Q. Okay. Now, this equipment that you moved, what
18 shift did you move it on?

19 A. It's dayshift.

20 Q. Dayshift?

21 A. Yes.

22 Q. Okay. Do you know --- do you recall which entry
23 you moved the equipment through? Did you tram it?

24 A. Mine ---.

25 Q. Did you move it on a track-mounted car?

1 A. It was trammed, but I just --- I put the cat heads
2 on, stuff like that.

3 OFF RECORD DISCUSSION

4 A. The cat heads. On in the face --- the face to
5 make sure it run right, but other than that, you know,
6 I didn't ---.

7 BY MR. FARLEY:

8 Q. Was someone else actually tramping the equipment?

9 A. Yeah. There was, I think four or five of us up
10 there.

11 Q. Okay. And that was sometime this year, ---

12 A. Yeah.

13 Q. --- at least a month prior to the explosion?

14 A. No. It was longer than a month prior.

15 Q. Okay. Do you recall which entry was used when the
16 equipment was trammed?

17 A. It's about over your track. Right over here,
18 through this entry here.

19 Q. You think the Number Two entry, as you're
20 traveling the inby direction?

21 A. Yes. Down through here.

22 Q. Okay. All right. Now, which shift were you
23 working when you moved this equipment?

24 A. Dayshift.

25 Q. Dayshift. Okay. Now, which way was the air

1 moving in that entry? As you were traveling inby,
2 what --- as you were moving inby, was the air hitting
3 you in the back or hitting you in the face?

4 A. I can't remember.

5 MR. FARLEY:

6 Okay. Okay. Did you have anything?

7 MR. MAGGARD:

8 Yeah, I guess.

9 EXAMINATION

10 BY MR. MAGGARD:

11 Q. I'm not real sure. Did you ever go to the
12 tailgate section?

13 A. I walked up there one time, just to see how it was
14 set up. I never went to the face or anything like
15 that. The farthest I went was right here.

16 Q. And this is close to spad 24502, a couple breaks
17 from the crossover?

18 A. Yes.

19 Q. Okay. And how long ago was that?

20 A. To be honest with you, I don't know. Maybe a
21 month prior.

22 Q. What can you tell us about that area? Did you
23 notice anything unusual?

24 A. The only unusual thing, because I crossed up this
25 (indicating) way and come down, was they did have a

1 fall right here. And it had been cleaned up, because
2 it's real high right here.

3 Q. Was it here on the beltline or ---?

4 A. No, it wasn't the beltline. It was the next break
5 across from the beltline.

6 Q. Okay.

7 A. It would've been that area there.

8 MR. MAGGARD:

9 He's showing us a --- looks like a roof
10 fall area that's already marked on the map.

11 BY MR. MAGGARD:

12 Q. Could you tell us about the --- did you see the
13 beltline? Did you travel through that?

14 A. No. There were stoppings down through here
15 (indicating). I couldn't see the ---

16 Q. Okay.

17 A. --- the beltline.

18 Q. Did you go through this intake split area right
19 here, (indicating) that's toward the headgate side of
20 the roof fall?

21 A. Uh-huh (yes).

22 Q. Could you tell anything about the air going
23 through there?

24 A. Not really. They had a set of double doors here
25 and ---.

1 Q. And you're pointing to ---?

2 A. Let me find it here.

3 Q. Okay.

4 A. Here. We were around ---.

5 Q. Was these overcasts there?

6 A. Yes.

7 MR. MAGGARD:

8 Okay. And this is --- he's showing where

9 the intake air splits and starts going to the Number
10 Two entry of the headgate section.

11 BY MR. MAGGARD:

12 Q. What was the condition of the doors there?

13 A. They were new, as far as I know. They looked in
14 good shape.

15 Q. Where they opened or closed or ---?

16 A. They was closed.

17 Q. How did the rock dust look in the area that you
18 traveled in the crossover area?

19 A. I can't really remember dust.

20 Q. How about the roof conditions and floor
21 conditions? See any bottom heaving in that area
22 or ---?

23 A. Just the only thing was that roof fall that I ---

24 Q. Okay.

25 A. --- kind of walked fast through.

1 Q. Okay. When you worked on the headgate section,
2 you said you subbed there for a couple --- a couple
3 shifts or something --- one shift?

4 A. Uh-huh (yes).

5 Q. Okay. Did you notice the miner running up there
6 on the section, that ---

7 A. Yeah, they ---.

8 Q. --- miner? And you probably already said, but how
9 long ago did you guess that that was?

10 A. I would say over a month ago.

11 Q. Okay. When that miner was running, could you ---
12 did you notice the methane monitor on the miner?

13 A. No.

14 OFF RECORD DISCUSSION

15 MR. MAGGARD:

16 Methane monitor.

17 A. No, just ---.

18 ATTORNEY BAXTER:

19 Did you mean --- I'm sorry. Did you mean
20 a month prior to the explosion?

21 A. Yes.

22 ATTORNEY BAXTER:

23 Okay.

24 BY MR. MAGGARD:

25 Q. And was any ventilation controls missing or

1 anything unusual you seen up there when they was
2 running?

3 A. No.

4 Q. Was they using curtain?

5 A. Yeah. There was curtain up when we went up there.

6 Q. All right.

7 A. It's well rock dusted up there, I know that.

8 Q. Did you travel the beltline in the Number One
9 entry at all?

10 A. No. I think the track was brought in here
11 (indicating) somewhere and we walked through ---.

12 Q. Are you talking the track that's probably
13 somewhere midway, like at spad 24401's where you
14 pointed?

15 A. It's around there, that area.

16 Q. Around there.

17 A. But we walked the rest of the way.

18 Q. Have you ever had to do work on Five North around
19 the belt starter box or Six North starter box? You
20 ever visited those areas around the head drives
21 or ---?

22 A. Six North I've looked at. Five North ---.

23 Q. It's probably off this map, but we have this
24 Exhibit One map, but ---.

25 A. No.

1 Q. Do you remember anything --- can you tell us
2 anything about any belts you traveled or any head
3 drives you stopped at? Tell us a little bit what you
4 seen. I mean ---.

5 A. This belt head, Seven North belt head, you know,
6 it was nasty conditions. Other than that, you know,
7 just a belt head underground.

8 Q. Yeah. Did they have a lot of dropoffs?

9 A. Well, where --- this is what was told to me, where
10 this (indicating) right here was the longwall belt
11 before, they had a lot of gob under --- underneath
12 this beltline. It was real thick. It was
13 waterlogged, so it was real soupy. Other than that,
14 you know, it was just --- this whole beltline is nasty
15 from what I know, you know.

16 Q. How was the rock dusting?

17 A. They rock dusted good up in that area.

18 Q. Just under the bottom belt, though, was a lot of
19 gob and stuff?

20 A. Well, it was --- I would say it's probably three-
21 and-a-half foot deep, you know, just mud.

22 Q. Any other belts you visited in the mine, ---

23 A. I've went to ---.

24 Q. --- other than going down the track entry on
25 toward Ellis?

1 A. I went to the 42 Break belt head, and we had to
2 change a bearing on it.

3 Q. How did that belt look? Which belt was that?

4 A. Whatever 42 Break's at. It's probably ---
5 well ---.

6 Q. Five North belt head?

7 A. That's possibly it.

8 Q. Okay.

9 A. All I know it as is 42.

10 OFF RECORD DISCUSSION

11 A. All I know it as is 42 Break head.

12 BY MR. MAGGARD:

13 Q. Okay. How did that --- what you could see of that
14 beltline, how did it look?

15 A. It was white as the walls ---.

16 Q. And they just recently rock dusted it, or
17 could ---?

18 A. It didn't look like it. It looked like old rock
19 dusting, but it was just --- it was a dry area. It
20 was a good looking belt head.

21 Q. Have you ever been up in the Glory Hole area in
22 the north part of the mine?

23 A. Very little.

24 Q. Do you recall anything about that area, anything
25 about the roof conditions, bottom heaving?

1 A. Just spooky.

2 Q. Where did you go to up in there? What was you
3 doing up in there?

4 A. They had a parts' car left in that area that I
5 went and got parts for --- parts off of.

6 Q. Okay. And how was the ventilation up in that
7 area? Was it hot up there or do you recall anything
8 about it or ---?

9 A. From what I recall, it, you know, seemed ---
10 seemed like there was good ventilation, because there
11 was a set of doors down here (indicating) or a
12 stopping with a man door in it down here. And we had
13 to go through that and go up to it, and it was cool on
14 that side of the door.

15 Q. Was that like in one of these (indicating)
16 entries, like ---

17 A. It would be --- it was in the track entry.

18 Q. In the track entry. Is that like Number ---
19 Number Four entry?

20 A. It would be --- it would be this entry right here,
21 I believe, ---

22 Q. Okay.

23 A. --- which would be Number Four.

24 Q. All right. Okay. Where else in the mine have you
25 worked at? Have you visited the longwall? I don't

1 recall what you said about that.

2 A. I was at the longwall when I first went over there
3 to cut a belt head loose so they could drag it out.

4 Other than that, no.

5 Q. And do you recall anything about the longwall,
6 what you seen? What part --- where do you think they
7 was at when you was --- had visited there?

8 A. I wish I had a list of the belt heads I cut out,
9 so I could guess. I would say that I was probably
10 right in here.

11 Q. You're talking about around Break 40 of the ---?

12 A. Maybe. Maybe it wasn't that far. I think --- I
13 don't know.

14 Q. Do you recall anything about the roof conditions
15 in this --- in that area that you went to, on the
16 headgate side?

17 A. I know they had a lot of jacks, sand jacks set up
18 the beltline, and that a lot of them ---. No, that's
19 not the only thing. You could tell there had been a
20 lot of weight in the area.

21 Q. Okay.

22 A. And that was also on this (indicating) side. They
23 had an old beltline going up this way and they had a
24 lot of weight. And the sand jacks ---.

25 Q. Do you ever have to do any kind of examination on

1 equipment or anything?

2 A. Just when I first started, they did. And then the
3 longer I was there, the less I've done.

4 Q. Did you ever do any examinations over at the new
5 construction that you was doing on the --- by the
6 Ellis Portal?

7 A. Well, we had checked the equipment before we took
8 it underground.

9 Q. Okay. Was that equipment available --- could you
10 plug it in or could you energize that equipment?

11 A. Just through a D box, ---

12 Q. Okay.

13 A. --- or a move box.

14 Q. But it was available to be used the last time you
15 seen it or not?

16 A. The last time that I'd seen it, they was using it,
17 but ---.

18 Q. What was they doing?

19 A. They was cutting a belt head overtop of the track.

20 Q. Okay. Could you maybe mark that area in? I don't
21 know --- maybe make a marking like you did on that map
22 right here on Exhibit Two.

23 A. Let me think.

24 Q. Maybe use this pink marker this time.

25 A. Okay. It would be cut --- was cutting this way to

1 set a belt head over in here, to give the clearance
2 under the belt from the track.

3 MR. FARLEY:

4 Could you maybe draw an arrow or make ---
5 make that an arrow so we know the direction they were
6 cutting, please?

7 A. Okay.

8 BY MR. MAGGARD:

9 Q. And when was the last time they was working on
10 that, if you know?

11 A. The day of the explosion.

12 Q. The day of the explosion? Okay. Did you work the
13 day of the explosion?

14 A. Yes.

15 Q. And where was you at? Was you in this
16 (indicating) area?

17 A. Yes. I was down here, actually (indicating).

18 Q. Okay.

19 A. Go ahead.

20 Q. Go ahead. What was you doing in that --- down
21 south of the ---?

22 A. Right in here. I was right in here. I put a door
23 on a scoop and on down I put a ---.

24 Q. Could you maybe put down scoop, door on the scoop
25 or something like that? Door? Okay. All right.

1 A. It was a good ways on down through ---.

2 OFF RECORD DISCUSSION

3 A. It was a good ways on down through there, which
4 would be --- we put a kVA probably eight or nine
5 breaks further down through here.

6 MR. MAGGARD:

7 Okay. Maybe we could mark that on this
8 map on this 500-scale map.

9 ATTORNEY BAXTER:

10 If you can speak up, ---

11 A. Okay.

12 ATTORNEY BAXTER:

13 --- so she can hear better.

14 A. Okay.

15 ATTORNEY BAXTER:

16 If you want, you can take the map down
17 there, so ---

18 A. Okay.

19 ATTORNEY BAXTER:

20 --- the reporter can hear what you're
21 saying.

22 MR. MAGGARD:

23 He's going to mark a power center that
24 they would stop, that day of the accident.

25 ATTORNEY BAXTER:

1 Let's mark this as Mills' Exhibit Three.

2 (Mills' Exhibit Three marked for
3 identification.)

4 A. I would say that kVA was right in here
5 (indicating).

6 BY MR. MAGGARD:

7 Q. And what time of day --- how long was you in that
8 area from where the scoop was to where the power
9 center that you said was?

10 A. Before what?

11 Q. During the day of the accident, what time did you
12 get done? Was you still ---?

13 A. I think I went in at about ten o'clock. I walked
14 up there and I was up there the rest of the day.

15 Q. Until what time?

16 A. Two or three o'clock.

17 Q. So you was underground when it occurred or you
18 just got outside?

19 A. I walked outside at exactly three o'clock because
20 I didn't want to get in trouble. Walked outside. I
21 opened the bath house door and the lights went out.
22 Well, I looked over to the right where the portals was
23 and it looked like someone put a fan or something ---.
24 It was blowing stuff out of there.

25 Q. And was it blowing rock dust and ---?

1 A. Rock dust and cribs and rolling people out of it.

2 Q. Did you see any ---? Well, tell us what went on
3 when that --- after you seen that. Who was over there
4 at the Ellis and ---?

5 A. I don't quite understand.

6 Q. Just you went in the bath house. The lights went
7 out. What did you do next? Just go through what you
8 seen, ---

9 A. I walked upstairs.

10 Q. --- who you spoke to.

11 A. I walked upstairs and talked to Rick Nicolau,
12 asked him what was going on. And he said he didn't
13 know. And everybody just started talking on the mine
14 phones, trying to get ahold of people. They thought
15 they'd had a big roof fall.

16 Q. And then what went on? What did they tell you?

17 A. It was pretty much just wait for however long. I
18 couldn't put a time frame on it, but I know they
19 called outside and said, get us an ambulance as soon
20 as you can.

21 Q. And who called outside?

22 A. I don't --- I don't know who it was.

23 Q. Did you see anybody enter the mine ---

24 A. No.

25 Q. --- while you was over there?

1 A. I seen people walking around the drift mouth but
2 nobody entered that I seen.

3 Q. And how long was you there?

4 A. That day?

5 Q. Yeah.

6 A. Twenty-two (22) hours.

7 Q. So as you was there, who was the first person you
8 seen arrive that wasn't already there, at Ellis?

9 A. I don't understand your question.

10 Q. Did you see anybody arrive on the property who was
11 --- anybody you knew?

12 A. Yeah, Jennifer Chandler and Craig Boggs.

13 OFF RECORD DISCUSSION

14 A. Jennifer Chandler and Craig Boggs. And what was
15 his name? That's the two main I can think of right
16 now, but I kind of thought it was funny, because they
17 wasn't there, because they were mainly Elk Run. And I
18 thought ---.

19 BY MR. MAGGARD:

20 Q. And what time did they get there? Do you know?

21 A. I don't know.

22 Q. And then what happened? Who else was ---?

23 A. And then the ambulances started showing up and
24 more and more people.

25 Q. Was there ambulances before mine rescue or mine

1 --- did you ever see mine rescue teams show up?

2 A. Mine rescue teams did show up. They suited up, I
3 think. They never went under. And I think they
4 pulled them out off the property and went up to UBB
5 side.

6 Q. And who was the --- what teams was there first?

7 A. I'm thinking Massey's team was there. Yeah, it
8 was Massey Energy's team was there first.

9 Q. Was there anybody underground that you knew of
10 during the time when you was outside that ---?

11 A. You mean besides these people?

12 Q. Yeah. Beside --- besides anybody that was
13 affected?

14 A. No.

15 Q. Had you ever seen Everett Hager or Berman Cornett
16 or any of those guys over there?

17 A. Yeah, I've seen them. Actually, I think Everett
18 is the one that brought the mantrip up in here
19 (indicating).

20 MR. FARLEY:

21 You mean the mantrip with the deceased
22 people?

23 A. Yes. And we run down there and tried the CPR, all
24 that stuff, but --- was gone.

25 BY MR. MAGGARD:

1 Q. Is there anything else you can tell us about that
2 night?

3 A. About what?

4 Q. About that night, what else you seen or ---?

5 A. I just ---. I just thought the whether was funny.
6 I mean, just a lot of things was funny about that day.
7 It was raining, then it stopped and cleared up sunny.
8 Then it rained again. And they said that there's a
9 earthquake down Logan and everything else going ---.
10 I mean, other than that, nothing out of the ordinary.

11 ATTORNEY BAXTER:

12 Do you want to go next?

13 MS. MONFORTON:

14 Sure.

15 EXAMINATION

16 BY MS. MONFORTON:

17 Q. Nathan, thank you for coming here today. I just
18 have a couple of clarifications. You said that you'd
19 never heard of methane problems here, but that you
20 like to keep track of that or that type of thing.
21 What type of things did you like to keep track of,
22 working in the mines?

23 A. Just --- just overall problems in case I'm in a
24 area that that would be a problem at.

25 Q. Yeah.

1 A. So that's pretty much it.

2 Q. Did you keep track of things like violations that
3 inspectors found? Did you read those or look at them?

4 A. The violations that the inspectors wrote was
5 usually put in Everett's office and people didn't like
6 to go in there.

7 Q. Okay. Now, you've asked --- now I have to ask the
8 question, why don't they want to go in Everett's
9 office?

10 A. Everett's a different breed of person.

11 Q. Okay. I understand that you probably knew some of
12 the men that worked at --- on the Headgate 22 section.
13 You did say that you heard some of them talk about low
14 air.

15 A. Uh-huh (yes).

16 Q. Can you remember any specific individuals who did?

17 A. Not really. You know, it was just loud mouth talk
18 in the bath house. I never really paid much attention
19 to it. The mine is the worst place in the world for
20 rumors and just --- just people talking.

21 MS. MONFORTON:

22 I have no other questions.

23 ATTORNEY BAXTER:

24 Okay. Terry?

25 RE-EXAMINATION

1 BY MR. FARLEY:

2 Q. Did you do any weekly exams of electrical
3 equipment?

4 A. Yeah.

5 Q. Okay. Anything particular, such as ---?

6 A. Well, just whenever I was on the sections, I would
7 do the weekly exam on the section equipment. We'd
8 usually have it split up between hoot owl and
9 dayshift, and each shift had a couple things.

10 Q. Now, in the month before the explosion, did you do
11 any weekly exams of electrical equipment?

12 A. Yeah, I'd check the pumps, the main line.

13 Q. When you say the main line, do you mean from the
14 Ellis Portal?

15 A. From Ellis this way.

16 Q. Ellis towards 78?

17 A. Ellis towards the Glory Hole, ---

18 Q. Okay.

19 A. --- that area.

20 Q. Did you find any problems?

21 A. No.

22 Q. Did you find any violations or hazardous
23 conditions with the equipment?

24 A. I know we had a pump setting down here at the ---
25 underneath the starter box.

1 Q. Okay. And you pointed to the Glory Hole area?

2 A. Yes.

3 MR. FARLEY:

4 Jasey?

5 MR. MAGGARD:

6 Okay.

7 RE-EXAMINATION

8 BY MR. MAGGARD:

9 Q. When you did those examinations, did you record
10 the examinations in the record book or does someone
11 else?

12 A. I record it.

13 Q. So when you put --- let me ask you a question
14 about idle equipment. What does that mean to you?

15 A. Just equipment out of service, not being used.

16 Q. Okay. When you mean out of service, what does ---
17 what do you do to put it out of service?

18 A. Anything that I've seen out of service at the cat
19 head, everything loaded up on it and wasn't being ---
20 nowhere near a power source.

21 Q. Okay. Did you ever see Chris Blanchard or Jason
22 Whitehead enter the Ellis Portal after the accident?

23 A. I know Chris Blanchard was up there, but I never
24 seen him enter.

25 Q. How do you know he was up there?

1 A. I seen him in the building. I've never seen him
2 go underground or suit up.

3 Q. Have you ever seen him underground prior to the
4 accident?

5 A. Maybe one or two times to, you know, talk to
6 Everett. Where's Everett at?

7 Q. Okay. What did he normally do? Did he greet ---?
8 Did he talk to you? Did he not really ask you
9 anything about the condition, anything about the mine
10 or ---?

11 A. No, not really. Just, I was pretty much told to
12 sweep. I never really discussed anything with him,
13 no.

14 Q. How did most of the men ---? When they arrived
15 and stuff, would they say anything about what he was
16 doing, what he made them do or ---?

17 A. No. No, not really, just ---.

18 Q. And when Blanchard was there after the accident,
19 did he have a mine light on? Did he have clothing on
20 that appeared that he was going underground?

21 A. He always wore the Massey clothes with stripes and
22 everything, but that's what he wore underground, too,
23 so ---.

24 Q. You didn't know if he was going underground or
25 not?

1 A. No. Overall I didn't know if he was --- planned
2 on going underground.

3 Q. Had you ever heard of any equipment, methane
4 monitors, being bridged out at the mine or ---?

5 A. Not at UBB, no.

6 Q. Had you ever --- during your examinations, ever,
7 you know, inspected or calibrated a methane monitor?

8 A. When I was on hoot owl, I did.

9 Q. And what sections was you on?

10 A. I was on the ---

11 Q. Three section?

12 A. --- Three section, and I calibrated a methane
13 monitor, but on the old Two section.

14 Q. And how good a shape did they normally keep their
15 methane monitor?

16 A. It was good shape. The methane monitors didn't
17 really seem like they was really reliable. I mean, as
18 for, you know, time lasting parts. You'd change a lot
19 of sniffers and stuff like that off because of water.

20 Q. Did they keep plenty of spare parts for 'em on
21 hand up on the section?

22 A. Not on hand. Outside they usually would. They
23 didn't like to leave stuff up there, stuff laying
24 around because, you know, they're high dollar parts.

25 OFF RECORD DISCUSSION

1 A. They're high dollar parts.

2 BY MR. MAGGARD:

3 Q. Have you been interviewed by any of Massey's
4 attorneys after the accident?

5 A. Yeah, Massey lawyers contact me to come out from
6 work and come in and talk to 'em.

7 Q. And what did they tell you about --- or what did
8 they ask?

9 A. Just general questions. Have I seen any problems
10 here and there, and mostly hearsay.

11 Q. And did they give you any instructions on this
12 interview that you're conducting?

13 A. That was before y'all had been conducting
14 interviews, I guess. That's the first --- yeah, I
15 hadn't heard of y'all conducting interviews.

16 Q. I'm going to switch gears again. I'm all over the
17 place. You said you didn't have a methane monitor or
18 spotter, methane spotter on, or multi-gas detector on
19 the headgate section when you was up there and you
20 seen the water bubbling. Did you have one assigned to
21 you at all?

22 A. No.

23 Q. Okay.

24 A. I asked for one. They said, we don't have any.

25 Q. And when you were working checking pumps and doing

1 your electrical exam, I assume you was by yourself; is
2 that correct?

3 A. No, Bill Craddock went with me and he had a
4 methane detector with him.

5 Q. Okay. What about when you was working over at
6 Ellis Portal? Would they ever leave you --- leave you
7 alone ---

8 A. Just ---.

9 Q. --- by yourself without one or ---?

10 A. Just my walk-in was by myself. Just like the day
11 that it happened we was supposed to get a roof bolter.
12 That's why I was staying outside, because they called
13 back and said, you know, we've got another problem
14 with it. We're not going to bring it today. And I
15 asked Rick, what do you want me to do? And he says,
16 just go up there and piddle around for the rest of the
17 day.

18 OFF RECORD DISCUSSION

19 A. Piddle.

20 BY MR. MAGGARD:

21 Q. When you were underground at --- did anyone ever
22 call you to inform you that an inspector had arrived
23 or ---?

24 A. Me not per se. I would overhear it on a phone or
25 something like that, but that never really affected me

1 directly.

2 Q. And where would they call from? Who would
3 normally call when you were around the phone and could
4 hear?

5 A. I guess the dispatcher. I don't know.

6 Q. And did you ever travel with any inspectors at
7 this mine? Did you ever see 'em?

8 A. I seen an inspector.

9 Q. And let's --- can you remember the last time you
10 seen an inspector? Where was you at?

11 A. I was down at Ellis on the track, getting a ride
12 outside, and there was two inspectors ---.

13 Q. Had you ever been on the section when an inspector
14 arrived?

15 A. On the Two section.

16 Q. And can you remember what you did before he got
17 there?

18 A. Did nothing, really. We --- the crew that we had
19 up there was, you know, they was a good crew. They
20 took care of everybody, you know.

21 Q. Was you working third shift or ---?

22 A. Dayshift.

23 Q. Okay.

24 RE-EXAMINATION

25 BY MS. MONFORTON:

1 Q. Nathan, when you were interviewed by the Massey
2 attorneys, did they offer to make arrangements to
3 accompany you, if you were interviewed by MSHA
4 or ---?

5 A. No, the only --- the first thing that they said
6 when I walked in is, we don't represent you, we
7 represent Massey. And I said, okay.

8 Q. Did you fill out a confidential survey that Massey
9 did earlier this year?

10 A. No, I didn't fill that survey out, but I know what
11 you're talking about.

12 Q. Okay.

13 A. No, I didn't fill one out.

14 Q. Do you recall the last time you had SCSR training?

15 A. We'd just been retrained within that month.

16 Q. Uh-huh (yes). And you've been a miner for a
17 while, so do you notice --- have you noticed anything
18 different about the way that training is done in the
19 last year or so compared to previously?

20 A. Not really. They just try to change it up a
21 little bit from, you know, hitting one area, like
22 ventilation and stuff, to first aid more ---

23 Q. Uh-huh (yes).

24 A. --- at the time frame. Okay. Pretty much it's
25 the same.

1 Q. Okay. What about on the SCSRs? Anything
2 different you notice with the SCSR training?

3 A. No. We've always donned 'em, donned the SCSR and
4 did the two SCSR change-out and ---

5 Q. Okay.

6 A. --- that's pretty much every year.

7 Q. And did you practice breathing or ---

8 A. Yes, they had ---

9 Q. --- feeling what it was like?

10 A. --- practice canisters that we used for five
11 minutes that simulate the SCSR, how it works.

12 Q. Okay. What were any procedures that you had at
13 UBB to alert your supervisor, upper management, about
14 any safety concerns? What were the procedures
15 that ---?

16 A. Just --- just tell your upper management. Wasn't
17 really a procedure for it.

18 Q. Uh-huh (yes).

19 A. Let 'em know, ---

20 Q. Uh-huh (yes).

21 A. --- and they would try to take care of it.

22 Q. Did you ever have an opportunity to do that or
23 find the need to do that?

24 A. I've told 'em about, you know, pumping some water
25 off the track and stuff like that, but, you know, big

1 things, ---

2 Q. Uh-huh (yes).

3 A. --- no, not really.

4 Q. What about the methane monitor that you requested?
5 How did that play out?

6 A. I pretty much just asked 'em, you know, if I could
7 have one.

8 Q. Uh-huh (yes).

9 A. They said, we don't have 'em. We ain't got enough
10 for who we got now. I said, okay.

11 Q. Did you feel like you needed that in order to do
12 your job safely?

13 A. No. Usually I was around other people that had
14 'em, but safety in numbers, you know. I didn't see
15 where, you know, I'd need one all the time, no.

16 Q. How do you think their refusal to provide a
17 spotter for you was consistent with the S1 program?

18 A. Don't really understand what you mean.

19 Q. Well, we've heard some of the other miners talk
20 about S1 and Safety First.

21 A. Yeah.

22 Q. So if you were asking for a methane monitor, how
23 did that kind of jive with S1? Or what is S1?

24 A. I didn't really think of it as S1. I was just
25 thinking of it as maybe a personal thing. Pretty much

1 every --- everything that I've asked for up there, I
2 haven't got, so it wasn't nothing strange.

3 Q. You had not got?

4 A. Yeah.

5 Q. Okay. So you'd ask for other things and ---?

6 A. Yeah, you know, tools and things like that.

7 They'd say, yeah, yeah, yeah and ---

8 Q. Okay.

9 A. --- you'd never see it.

10 Q. So a lot of words ---

11 A. Yeah.

12 Q. --- but no action?

13 A. Yes.

14 MS. MONFORTON:

15 Okay. Okay. Nothing else.

16 RE-EXAMINATION

17 BY MR. MAGGARD:

18 Q. Have you ever, when you was on the section, had a
19 dust pump survey done on you?

20 A. Not me, no.

21 Q. Have you ever seen the sections running dust?

22 A. I'm not seen 'em run dust. I've seen 'em check
23 pumps.

24 Q. Okay. Have you ever run across a dust pump that
25 was hanging in the intake that somebody was supposed

1 to be wearing that they didn't?

2 A. I don't jive with that. I don't jive with that.

3 OFF RECORD DISCUSSION.

4 A. I don't jive with that. I don't agree with that.

5 BY MR. MAGGARD:

6 Q. When you first started at UBB, which it wasn't
7 that long ago --- I guess May?

8 A. May.

9 Q. Can you remember anything about your first day?

10 A. It was rough.

11 Q. Did they put you right to work?

12 A. Yeah.

13 Q. What'd they have you do?

14 A. Well, I went on the third shift on Three section.

15 Overall, just nobody talked to you, really give you
16 any information or nothing like that.

17 Q. Yeah.

18 A. Go here and do this.

19 Q. Well, can you remember, did they have you
20 shoveling belts or ---

21 A. No.

22 Q. --- build brattices or what did they put you on?
23 Was that third shift?

24 A. Third shift maintenance.

25 Q. Maintenance?

1 A. Yeah.

2 Q. Have you carry some equipment?

3 A. Yeah.

4 Q. Yeah. How long was it before --- I mean, who was
5 the guy responsible for training you about the mine?
6 Who did that?

7 A. Let's see. When I started there, Homer Wallace
8 was the superintendent and --- I can't remember who
9 the mine foreman was. They've changed so many times.

10 Q. Did they go over plans or anything like that or
11 did they wait and do it later on?

12 A. Did it later on. Just I guess whenever they felt
13 like it.

14 Q. Did they do it like an annual refresher?

15 A. No. If they had something that pertained to your
16 section, they would go over a MMU change or something
17 like that, or a spray pattern change on the miners or
18 something. They'd give you paperwork on it. But as
19 for when you're first starting, going over roof
20 control plans and stuff like that, no.

21 Q. Okay. When do you recall maybe was the last time
22 that you was involved in a fire fighting and
23 evacuation drill? Had it been a long time or ---?

24 A. When I was on Three section. Massey's mine rescue
25 team come up and simulated a fire.

1 Q. Now, one thing I didn't ask you about is, like
2 when you come up from on the --- what they call 78,
3 when you're going up the track, there's a bunch of
4 double doors ---

5 A. Uh-huh (yes).

6 Q. --- up that way. Have you seen those doors open a
7 lot?

8 A. Not a lot. I've seen --- one set of 'em was
9 sitting on a hill kind of downhill. And if you didn't
10 have 'em shut really well and the flaps sealed
11 together, they would drift open. As for all of 'em
12 being open ---.

13 Q. What about damage? Was they damaged a lot?

14 A. Yeah. It looked like they've been hit a few times
15 and the block around them looked pretty rough.

16 Q. Did they work on them a lot, have to work on them
17 or just when they ---

18 A. I don't know.

19 Q. --- got in real bad shape or ---?

20 A. I guess when they wouldn't open no more.

21 MR. MAGGARD:

22 I guess that's about all I got.

23 Anything, Terry?

24 MR. FARLEY:

25 I don't think so.

1 MR. MAGGARD:

2 Okay.

3 ATTORNEY BAXTER:

4 On behalf of MSHA and the Office of

5 Miners' Health, Safety and Training, I want to thank
6 you for appearing and answering questions today. Your
7 cooperation is very important to the investigation as
8 we work to determine the cause of the accident. We
9 request that you not discuss your testimony with any
10 person aside from your personal representative.

11 After questioning other witnesses, we may

12 call you if we have any follow-up questions that we
13 feel that we need to ask you. If at any time you have
14 additional information regarding the accident that you
15 would like to provide to us, please contact us at the
16 information that was previously provided to you.

17 Any statements given by miner witnesses

18 to MSHA are considered to be an exercise of statutory
19 rights and protected activity under Section 105(c) of
20 the Mine Act. If you believe any discharge,
21 discrimination or other adverse action is taken
22 against you as a result of your cooperation with this
23 investigation, you are encouraged to immediately
24 contact MSHA and file a complaint under Section 105(c)
25 of the Act.

1 Remedies under the Mine Act include back
2 wages and immediate temporary reinstatement to your
3 most recent position with the company, pending the
4 complete investigation of your complaint. In order to
5 file such a complaint, you should contact the MSHA
6 District 4 office. For more information concerning
7 your rights as a miner under the Mine Act, please
8 visit MSHA's website at www.msha.gov.

9 If you wish, you may now go back over any
10 answer you've given during this interview. You may
11 also make any statement that you'd like to make at
12 this time.

13 A. I don't need to say anything.

14 ATTORNEY BAXTER:

15 Again, I want to thank you for your
16 cooperation in this matter.

17

18 * * * * *

19 STATEMENT UNDER OATH CONCLUDED AT 7:15 P.M.

20 * * * * *

21

22

23

24

25

1 STATE OF WEST VIRGINIA)

2

3

4

CERTIFICATE

5

I, Cynthia Piro Simpson, a Notary Public in

6

and 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

Cynthia Piro Simpson

23

24

25