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Transcript of the Testimony of **Buddy Maynor**

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Case:

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STATEMENT UNDER OATH
OF
BUDDY MAYNOR

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Saturday, August 21, 2010, beginning at 9:45 a.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

8*

Two

Return Receipt Card

8*

* Exhibit not attached

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ATTORNEY BAXTER:

My name is Derek Baxter. Today is August 21st, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

MR. KOERBER:

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

MS. MONFORTON:

Mr. Maynor, I'm Celeste Monforton. I'm with the Governor's independent team.

ATTORNEY BAXTER:

There are also members of the investigation team present in the room today. Mr.

1 Sherer, Mr. Farley and Ms. Monforton will be
2 conducting the questioning today. Would you please
3 swear in the witness?

4 -----

5 BUDDY MAYNOR, HAVING FIRST BEEN DULY SWORN, TESTIFIED
6 AS FOLLOWS:

7 -----

8 ATTORNEY KOERBER:

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

11 A. Buddy Ray Maynor, M-A-Y-N-O-R.

12 ATTORNEY KOERBER:

13 And would you please state your address
14 and telephone number?

15 A. [REDACTED]

16 [REDACTED]

17 ATTORNEY KOERBER:

18 And sir, do you have an attorney or
19 another personal representative that you would expect
20 to be here today?

21 A. No.

22 ATTORNEY KOERBER:

23 Are you appearing here today because you
24 received a subpoena?

25 A. Yes.

1 ATTORNEY KOERBER:

2 And would this be a copy of that
3 subpoena?

4 A. Yes, sir.

5 ATTORNEY KOERBER:

6 Okay. I'd ask that that be Exhibit One.

7 (Exhibit B. Maynor One marked for
8 identification.)

9 ATTORNEY KOERBER:

10 And this is a copy of the return receipt
11 card signed by a [REDACTED] ---

12 A. [REDACTED]

13 ATTORNEY KOERBER:

14 --- [REDACTED] which is probably your wife?

15 A. That's my wife.

16 ATTORNEY KOERBER:

17 Okay. I'd ask that that be Exhibit Two.

18 (Exhibit B. Maynor Two marked for
19 identification.)

20 ATTORNEY KOERBER:

21 Sir, prior the statute that authorizes
22 the director to issue subpoenas compelling witnesses
23 to come to interviews such as this requires the
24 director to offer to each witness subpoenaed a \$40 a
25 day witness fee, together with mileage at the rate of

1 15 cents a mile two and from your house to here and
2 back and reimbursement for any tolls that you may have
3 had on the way here and back. In order to receive
4 that money, I have two forms that need to be signed.
5 One is an IRS form, W-9, requesting your
6 Social Security number, because the \$40 witness fee
7 considered income and you would receive a 1099
8 miscellaneous at some later time. If you choose not
9 to give me your Social Security Number, you can
10 decline the money if you so choose. However, you need
11 to make a statement as to whether or not you would
12 like to complete the forms to receive the money or
13 whether you decline the money. You need to state that
14 on the record at this point in time.

15 A. I decline the money.

16 ATTORNEY KOERBER:

17 Okay. Thank you.

18 ATTORNEY BAXTER:

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

1 officially released.

2 MSHA and the State of West Virginia shall

3 keep this information confidential so that other

4 ongoing enforcement activities are not prejudiced or

5 jeopardized by a premature release of information.

6 This confidentiality requirement shall not preclude

7 investigation team members from sharing information

8 with each other or with other law enforcement

9 officials. The team members' participation in this

10 interview constitutes their agreement to keep this

11 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. The investigation is being conducted

17 by MSHA under Section 103(a) of the Federal Mine

18 Safety and Health Act and the West Virginia Office of

19 Miners' Health, Safety and Training. We appreciate

20 your assistance in this investigation.

21 You may have your personal attorney

22 present during the taking of this statement or another

23 personal representative if MSHA has permitted it and

24 may consult with your attorney or the representative

25 at any time. Your identity and the content of this

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

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

17 A. Yes.

18 ATTORNEY BAXTER:

19 And do you have any questions?

20 A. Not at this time.

21 ATTORNEY BAXTER:

22 Okay. After the investigation is
23 complete, MSHA will issue a public report detailing
24 the nature and causes of the fatalities in the hope
25 that greater awareness about the cause of accidents

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

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

13 I'd like to thank you in advance for your
14 appearance here. We appreciate your assistance in
15 this investigation. Your cooperation is critical in
16 making the nation's mines safer.

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

25 Any statements given by miner witnesses

1 to MSHA are considered to be an exercise of statutory
2 rights and protected activity under Section 105(c) of
3 the Mine Act. If you believe any discharge,
4 discrimination or other adverse action is taken
5 against you as a result of your cooperation with this
6 investigation, you are encouraged to immediately
7 contact MSHA and file a complaint under Section 105(c)
8 of the Act. Terry?

9 MR. FARLEY:

10 Mr. Maynor, on behalf of the Office of
11 Miners' Health, Safety and Training I'd like to inform
12 you that the West Virginia Mine Safety Regulations,
13 specifically West Virginia Code Chapter 22(a), Article
14 1, Section 22, provide protection against potential
15 discrimination which might result for participating in
16 these type interviews. I'd like to pass along a
17 memorandum to you that has the address for the West
18 Virginia Board of Appeals. That's a board which hears
19 complaints from miners regarding discrimination and
20 other matters.

21 Should you experience any problems, I
22 would urge you to contact the Board. Also, you have
23 my business card there in case I can be of any
24 assistance to you. Also, we'd caution you that should
25 you have a problem with discrimination, you would need

1 to file a complaint within 30 days of when it occurs.

2 Okay. Thank you.

3 EXAMINATION

4 BY MR. SHERER:

5 Q. Okay. First thing I want to do is, Mr. Maynor, is
6 thank you for coming down here. We're looking into
7 the conditions and practices and circumstanced that
8 lead up to this explosion. There's two reasons we're
9 doing that. The first one is the families and the
10 friends and the coworkers of these miners, they
11 deserve some answers.

12 The second reason is we have to prevent this type
13 of explosion from every occurring attain, and the only
14 way we can do that is to understand why it happened
15 this time. So any information you can provide to us
16 is greatly appreciated. Roughly, how many years of
17 mining experience do you have?

18 A. Thirty-four (34).

19 Q. Thirty-four (34). When did you start with the
20 Massey organization?

21 A. In '94.

22 Q. Okay. When did you first go to Upper Big Branch?

23 A. Been about April --- I think about April or May of
24 '09.

25 Q. Okay. Where were you working prior to the

1 explosion?

2 A. I was on Marfork property at White Queen Mine, and
3 Marfork property is just one of Massey's --- still one
4 of Massey Energy Mines.

5 Q. Okay. Now, just right before the explosion at
6 Upper Big Branch, where were ---?

7 A. Oh, right just before the explosion?

8 Q. Yeah.

9 A. I was on Tailgate 22 section.

10 Q. Okay. Which shift did you work?

11 A. Dayshift.

12 Q. Dayshift. Who was your boss?

13 A. Steve Harrah.

14 Q. Okay. We're sorry ---.

15 A. He was known as Head there.

16 Q. Yeah. We certainly express our sympathies for the
17 loss of your coworkers up there. Let me ask you a
18 little bit about ---. Well, first of all, what'd you
19 do?

20 A. Miner operator.

21 Q. Okay.

22 A. Just miner operator.

23 Q. Did you normally operate the left or the right
24 miner?

25 A. Right.

1 Q. Okay. What did you think about the air on that
2 section?

3 A. We had good air.

4 Q. Good air? Was the air always going in the right
5 direction?

6 A. What time I was there, yes.

7 Q. Okay. Did you ever hear of the air being reversed
8 on the belt?

9 A. At one time --- let me get this right for you. I
10 believe it was ---. Wait a minute, now. Let me see.
11 What belt was it?

12 At one time on the section, on the section belt
13 that was coming down, they caught the air and it was
14 going the wrong way, but as soon as they caught it,
15 they just stopped it, you know. Then they fixed it.

16 Q. Okay.

17 A. It was wanting to come back, back toward the
18 section.

19 Q. Do you recall what somebody had to do to fix that
20 air?

21 A. No, sir, I don't. I just know they --- when they
22 caught it, they just stopped everything and worked on
23 it to get it right.

24 Q. Okay. Did you ever notice any fluctuations in the
25 air on that section?

1 A. Not that I can really tell. I mean ---.

2 Q. Okay. When you were mining coal, did you ever
3 just start getting a lot of dust where it was hard to
4 see the head of the miner?

5 A. Yeah, you will if, you know, if the curtain got
6 interrupted.

7 Q. Okay.

8 A. You would.

9 Q. Okay. Did Mr. Harrah ever have to keep you from
10 starting in the morning or have to stop you during the
11 shift and try to get some more air up there?

12 A. Not on that section, no, but when we come in that
13 far, I mean we had the air, but we may have --- we'd
14 have to go back and tighten up a curtain or put up,
15 you know, a check or something like that ---

16 Q. Okay.

17 A. --- to get it directed where we needed it.

18 Q. Okay. What's the most methane you ever saw on the
19 methane monitor on that miner?

20 A. On the methane monitor, if it ever did anything it
21 was .1, .2 percent.

22 Q. Okay. What about the roof on that section? What
23 sort of shape was that in?

24 A. It wasn't real bad. I mean, now, of course I
25 don't know. What I'd call real bad and what you'd

1 call real bad may be different.

2 Q. Oh, yeah, sure.

3 A. As far as I was concerned, it wasn't real bad. It
4 was a roof that could be kept safe.

5 Q. Okay. Did you ever have to take the miner and go
6 back and brush up parts of that roof to get any dry
7 rock down or anything like that?

8 A. No, no, just while we was loading, we'd take it as
9 we go.

10 Q. Okay.

11 A. Never had no problems.

12 Q. Okay. What about the ribs?

13 A. Ribs would --- there are times when ribs would
14 roll. You would get some rib rolls.

15 Q. About how high were you mining down there?

16 A. It was running around five and a half to seven
17 feet.

18 Q. Okay.

19 A. It varied.

20 Q. How thick was the coal, just roughly?

21 A. Roughly you were getting four and a half foot,
22 maybe, you know. Sometimes it was five foot. We was
23 taking 18 inches to two foot of draw rock.

24 Q. Okay. Was it mainly off the top?

25 A. Off the top.

1 Q. Okay. What was the floor like?

2 A. The floor was --- it wasn't real hard, but it was
3 where you could keep it under control. I mean, you
4 know, you could keep it level where you could run.

5 Q. Okay. Was it tending to hoove up any outby the
6 face?

7 A. Yes, I'd seen places that it'd hooved up some,
8 yeah.

9 Q. Okay. Did you ever have to back the miner up and
10 cut out some of that hoovage?

11 A. Yeah, a time or two we'd have to cut out where it
12 had hooved up, a few times, especially in the belt
13 entry or in the power entry.

14 Q. Okay. Do you recall, roughly, how much you'd have
15 to cut out? Six inches, eight inches?

16 A. Anywhere from six inches to a foot.

17 Q. Okay. Did you ever see a puddle up there where
18 something was bubbling up through it?

19 A. Yeah.

20 Q. Was that common?

21 A. Not really. There was one time, and of course
22 Woody would ---. We called him Woody, James Woods.
23 He's the one --- he's the one that survived, one of
24 the ones that survived.

25 Q. Sure.

1 A. He saw it. It was in by the feeder, water bubbling
2 up, and he took his Solaris and he picked up a little
3 bit of methane. And I was coming by and he told about
4 it and I just took mine out. But at that time it was
5 still only getting, like, two-tenths of a percent or
6 something. And that was sticking the screens right
7 down almost touching the water.

8 Q. Okay.

9 A. By the time you got three inches off the water,
10 you didn't have anything.

11 Q. Okay. What was the cutting like in there? Was it
12 hard or was it easy?

13 A. It was easy cutting.

14 Q. Okay. Do you think it was taking a pretty good
15 bit of weight?

16 A. Yes.

17 Q. Would it thump around once you pulled out of a
18 cut?

19 A. Yeah, there was times it would thump. The bottom
20 --- the bottom would bust and the top, yeah, it would
21 thump ---

22 Q. Okay.

23 A. --- because ---. What it was, we was driving our
24 new tailgate for a longwall block. See, we was
25 driving right up the side where the longwall had

1 already pillared out, and the old tailgate that
2 already had cribs setting in it, because it was taking
3 weight. And they was trying to get a new tailgate set
4 in there so they could mine that block. So therefore,
5 it did have weight on it.

6 Q. Sure. Did you ever get over into that headgate?

7 A. No, sir.

8 Q. Okay. Let's talk about the mouth of this tailgate
9 section. We understand that at one point in time the
10 belts had run down to the longwall belt. I guess
11 they'd changed that around.

12 A. Right; when we went down there, they changed that
13 around. We had thumping on the headgate belt ---

14 Q. Oh, okay.

15 A. --- on what you got marked here.

16 Q. Yeah, up on the 22 Headgate. Do you recall any
17 problems getting all this outby connections put in,
18 the overcasts and the belt drives, anything like that?

19 A. What do you mean with problems?

20 Q. Does anything stand out as being a problem ---

21 A. No.

22 Q. --- other than just what you normally run into?

23 A. Nothing more than we always run into.

24 Q. Okay. Did you actually work on cutting out those
25 overcasts and stuff?

1 A. No, sir, I never cut any of those overcasts.

2 Q. Okay. When you first got on the section, where
3 were they at? Had they actually turned into it or did
4 you actually start turning those entries out?

5 A. Yeah, we actually started on these. Of course,
6 naturally when we got up there we had to cut these
7 overcasts right here and then start these, because
8 these weren't started.

9 Q. Okay.

10 A. One, Two and Three entry there.

11 Q. Okay. So you were there right when they turned it
12 out?

13 A. I was there when we started.

14 Q. Okay.

15 A. Because we'd finished up Number Two panel and they
16 brought us up here to start this panel.

17 Q. Okay. Did you ever go through these --- I guess
18 these are supply doors down here in the headgate of
19 the longwall.

20 A. Come back out on ---? Are you talking about come
21 back out on the ---

22 Q. Yeah.

23 A. --- longwall, on the longwall block?

24 Q. Uh-huh (yes).

25 A. Yeah. I've been through them.

1 Q. Did you ever go down and find any of those doors
2 open?

3 A. Yeah.

4 Q. How many times?

5 A. Oh.

6 Q. One time, several time?

7 A. I'm trying to --- I found them open a few times.

8 Q. Okay. What would that do to the ventilation on
9 the section when those doors were open?

10 A. Okay. Now, right at the time when we started over
11 there, I don't think they'd even had completely
12 changed that ventilation at that time; ---

13 Q. Yeah.

14 A. --- right? At the time we first started there.
15 After a while, then it's going to --- I don't think it
16 would hurt us, because the way our air was coming in,
17 but it might would've --- it would've changed the
18 ventilation on the longwall a little bit.

19 Q. Okay. Do you know why those doors may've been
20 left open?

21 A. No, sir.

22 Q. Okay. Did you ever hear anybody, maybe somebody
23 calling in and say, open up some doors just to get
24 more air?

25 A. Not those doors. I don't see --- you know, I

1 don't see where those doors would get more air.

2 Q. Well, any other doors that you might open up to
3 get more air?

4 A. Yeah, now, the other --- there would be other
5 doors that you would have to open to --- that they'd
6 use them maybe like a regulator.

7 Q. Okay. Well, which doors would you open up to get
8 a little bit more air?

9 A. On these?

10 Q. Uh-huh (yes).

11 A. Well, I don't really know where their --- for
12 their longwall, I don't really know where their ---
13 where they would've been. I know they had a check
14 coming down the --- coming down the track entry,
15 coming onto the longwall face. That would probably be
16 over here. They had a check coming down, but what
17 they did, they had doors that they would regulate your
18 air, but you had half of your --- one side of your
19 doors was out.

20 Q. Oh, okay.

21 A. And they left that to regulate their air. Of
22 course if they needed more air, then, you know, the
23 only thing they'd had to do was just open up the doors
24 or open a door ---

25 Q. Oh, okay.

1 A. --- but there was so much air coming down through
2 there.

3 Q. Okay. And that was out near the mouth of the
4 longwall headgate?

5 A. Right, right.

6 Q. Okay.

7 A. Where that longwall was actually at.

8 Q. Okay.

9 A. And that's where we was going when we started.
10 When we was actually coming in here to start this
11 panel, that's the way we was running. You know, we
12 was having to come in.

13 Q. Okay.

14 A. Once we got in here and changed the belt, then we
15 come in, come across this way.

16 Q. Okay.

17 A. And then of course after we did that, then I don't
18 know anything else about that, about what happened
19 over that way.

20 Q. Okay. So you used to bring your mantrip up on the
21 longwall headgate side and then ---?

22 A. When we first --- while we was doing this work in
23 here.

24 Q. Okay, okay.

25 A. But once --- like I say, once we got in, once we

1 got in, then brought the track up this way.

2 Q. Now ---?

3 A. --- and we come in off the headgate side to go on
4 up, on up, you know, on the headgate section, and we
5 come across and come up this way.

6 Q. Okay. Did you guys ever use any explosives on
7 that section?

8 A. No, sir.

9 Q. Okay. Did you know that there was a box of
10 explosives stored just outby between the headgate and
11 tailgate sections?

12 A. No, sir.

13 Q. We found that during the mapping a couple weeks
14 ago.

15 A. Between the headgate and the tail?

16 Q. Yeah.

17 A. No, sir. I was never ---. The farthest ---. Are
18 you talking --- now, are you talking about coming
19 across this a-way?

20 Q. Yeah, uh-huh (yes). Yeah, we found it up just
21 right next to this big fall that the track came up.

22 A. I knew where the fall was, but I didn't know
23 anything about any explosion.

24 Q. Just it looked like a day box of explosives, just
25 a few sticks of power in it.

1 A. No, no, sir. I didn't know anything about that.

2 Q. Okay.

3 A. Because the fall, they cleaned the fall up with a
4 miner and bolted it back.

5 Q. Yeah, sure. Did you guys normally turn the breaks
6 away from there or cut into there?

7 A. You'd turn them away from there.

8 Q. Did you ever have to cut into there?

9 A. Yeah, sometimes you would have to.

10 Q. Had you had to do that while you were on the
11 tailgate section?

12 A. No, sir.

13 Q. Okay. Did you ever see a --- well, was there ever
14 any problem with the methane monitors on either one of
15 those miners?

16 A. Not that I'm aware of, sir.

17 Q. Okay. Who calibrated the methane monitors?

18 A. Electricians.

19 Q. On the dayshift?

20 A. Sometimes dayshift would do it; sometimes they'd
21 do it on the out hoot owl.

22 Q. Okay.

23 A. Or if they'd have any trouble just with what ---
24 and if they did have any trouble with it whenever they
25 changed it out, they would just go in and they'd have

1 to calibrate it right then.

2 Q. Okay. Did they ever have to change out any of the
3 components that you know of?

4 A. On the methane monitors?

5 Q. Yeah, sniffers or the splice?

6 A. They had changed out the readout on the left ones.

7 I can recall a time or two on their left ones they had
8 to change a readout.

9 Q. Okay. On this tailgate section?

10 A. On the tailgate section.

11 Q. Okay. Do you know about when that --- the last
12 time they did that?

13 A. Probably maybe --- might've been maybe three weeks
14 or a month before the explosion, in that area.

15 Q. Okay. Do you recall who the electrician was that
16 did that?

17 A. No, I think they had to order one. I don't know
18 which one is the electrician that did that. I'm not
19 sure if it was James Woods ---

20 Q. Okay.

21 A. --- because he was our electrician.

22 Q. And you say you think they had to order the
23 monitor?

24 A. Yeah, sometimes, you know, they'd have to call
25 out. Sometimes they'd have them outside. You'd have

1 to go outside and get it. But you know, it just ---
2 it was down until you got one.

3 Q. Okay. Do you recall about how long it was down?

4 A. There's times it'd be down two or three hours
5 before we could get one in there.

6 Q. Oh, okay, okay. Thank you. What'd you think
7 about the overall ventilation in this mine?

8 A. Well, from what I know about it, you know, the
9 ventilation was good.

10 Q. Okay. Did you ever hear anybody complaining about
11 a lack of air or no air?

12 A. Yeah, yeah, you'd hear people complaining. Of
13 course you still hear people complaining.

14 Q. Sure. Anyplace in particular people would
15 complain about?

16 A. Well, I remember a couple times on the longwall
17 they had air problems they had to work on. They'd
18 shut it down until it was fixed.

19 Q. Okay. Do you recall when the last time they had
20 to do that was prior to the explosion?

21 A. It wasn't long. To give you an exact time,
22 though, I can't give you an exact time.

23 Q. Roughly a week, two weeks?

24 A. Couple weeks, maybe.

25 Q. Couple weeks.

1 A. In that area somewhere.

2 Q. Did you guys have to stay out or go out because of
3 that on the dayshift that you were working?

4 A. Let me think. Now, there was one ---. One time
5 there we was down for ---- we was down for two or
6 three days, because they had to change the air. Yeah,
7 there was a time or two the section was down because
8 they'd had to change the air on that end. They had to
9 work on it, close it, reroute it, different things,
10 whatever they had to do to it to get it fixed.

11 Q. Sure. Do you know who was in charge of
12 ventilation at this mine?

13 A. No.

14 Q. If Mr. Harrah was having a problem with air, who
15 would he call?

16 A. He'd call the mine foreman.

17 Q. And who was that?

18 A. That was Rick Foster.

19 Q. Okay. Mr. Foster ever come in to help straighten
20 up any ventilation type problem?

21 A. Yes, if he was called, you know, he would come and
22 help do whatever he could to help get it right.

23 Q. Okay. Do you recall the last time you saw him in
24 there working on something like that?

25 A. No, not right off.

1 Q. Okay. How about the curtains on the section? Did
2 you guys have to keep the curtains pretty tight?

3 A. Yeah, in order to keep air. I had to keep curtain
4 pretty tight on my side in order to get air across to
5 the left side.

6 Q. Okay. Did you ever have to hang diagonal
7 curtains?

8 A. Yes, sir.

9 Q. How often did you have to do that?

10 A. Well, probably about every line of breaks you
11 would have to hang at least one ---

12 Q. Okay.

13 A. --- you know, to get --- keep your air directed
14 where you need it.

15 Q. How many buggies were you guys running on that
16 section?

17 A. Three.

18 Q. That's a lot of equipment in ---

19 A. That's a lot of equipment.

20 Q. --- three entries.

21 A. Lot of equipment in three entries, two miners, two
22 bolters, three buggies. Had a lot of equipment to try
23 to deal with.

24 Q. You guys needed some traffic lights or something.

25 A. Sometimes needed more than that.

1 Q. Did you ever hear somebody calling in on the mine
2 phone or somebody telling you that inspectors were on
3 the property?

4 A. Yes, sir, but that's not only there. I've been in
5 the mines 34 years and I've heard that ever since I've
6 been in the mines.

7 Q. Sure.

8 A. And not only inspectors. If any upper management,
9 the president of the company or anybody that, you
10 know, that's --- they'd always say they're on the
11 property.

12 Q. Okay. Once either the upper management or the
13 inspectors or whoever went in the portals, would they
14 give you updates on where they were at or where they
15 were going?

16 A. Sometimes. Most the time they say they don't know
17 where they're going.

18 Q. Okay.

19 A. If they knew they was coming on the section,
20 they'd say they're coming on the section.

21 Q. Sure. We understand there was a fair amount of
22 construction going on at the --- I guess they were
23 setting up a new mother drive on 22.

24 A. At the Glory Hole?

25 Q. Yeah, yeah, near the Glory Hole. I guess you guys

1 went by there as you went in and out of the section.

2 A. Right.

3 Q. Do you know if they'd finished with that
4 construction prior to the explosion?

5 A. No, they weren't finished, I don't believe.

6 Q. Okay. Had any of that construction affected
7 anything down on the 22 Tailgate?

8 A. Not that I know of.

9 Q. Okay. Let's talk about the track doors. We
10 understand there was a lot of doors across the track
11 at this mine.

12 A. Yes, they are --- or was.

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

15 A. No, the doors, they would --- we had to --- you
16 know, they were closed.

17 Q. Okay.

18 A. Because I know we fussed about having to get out
19 and open them.

20 Q. Okay, sure. Were those doors in good shape?

21 A. Most part, yeah.

22 Q. Did they ever get banged up or bunged up?

23 A. Well, occasionally, yeah, one would get hit and
24 knocked up. Then they'd have to replace it.

25 Q. Were they pretty good about replacing those?

1 A. Yeah.

2 Q. Okay. What about the ---? We understand that you
3 guys got a communication and tracking system sometime
4 prior to the explosion. Had they issued you guys the
5 tags and the radios and stuff?

6 A. Yes, sir.

7 Q. How'd those work?

8 A. They worked pretty good. As far --- you know, as
9 far as I know they worked pretty good. Now, I know
10 there at last they had a problem, and then we couldn't
11 take the radios in the face. We had to leave them at
12 the power box.

13 Q. Oh. Well, what sort of problem?

14 A. Well, they had a problem over at one of the other
15 mines where they said that they interfered with the
16 miners, the remote control system on the miners.

17 Q. Oh. Like the radios caused the miners ---?

18 A. The frequency. They said that the frequency was
19 so close to that monitor, or the frequency on that
20 miner that it supposedly interfered with one of the
21 mines, one of the miners.

22 Q. Do you know if it just caused a problem
23 controlling the miner or did the miner actually move?

24 A. No. I don't really know what all they did, other
25 than they just said it was interfering with the remote

1 system on it, ---

2 Q. Okay.

3 A. --- the frequency. So to make sure that we didn't
4 have any problems with them, we had to leave them at
5 the power box ---

6 Q. Okay.

7 A. --- until they got them straightened out, and then
8 they --- then we started carrying them again.

9 Q. Let me ask you about the power center? Most power
10 centers have a sign hanging over them. Did the power
11 center on that tailgate?

12 A. Yes.

13 Q. Did you ever notice how that sign was moving? Was
14 it still or was it swinging back and forth?

15 A. It was swinging. Where the air was going through
16 it made it swing.

17 Q. Okay. Did it always seem to swing about the same
18 amount?

19 A. That would be hard to say. I mean you know ---.

20 Q. Okay; sure. Yeah, yeah. Just if you noticed it.

21 A. Yeah. Most of the time, I mean, you know, unless,
22 you know, unless a curtain would get interrupted or
23 something, you know. Some rock would fall and knock
24 the curtain out or took the entire curtain down or
25 whatever. But it was always --- you could tell it was

1 swinging. It was making all kinds of racket.

2 MR. SHERER:

3 Okay, okay. That's all the questions

4 I've got for right now.

5 EXAMINATION

6 BY MR. FARLEY:

7 Q. Mr. Maynor, I want to try to just clarify some
8 things just to make sure I understand. I think Erik
9 asked you if you had any thumping from the bottom or
10 the roof at any time, and I think you indicated on a
11 few occasions.

12 A. Right.

13 Q. Now, we talked to one of the boys from the evening
14 shift on that section. Now, of course he may not have
15 been as experienced as you are, but he described an
16 event where they had some sudden thumping and it was
17 in the face where they were operating the roof bolt
18 machine, and he said it scared him quite a bit,
19 because he said it was really loud and the roof bolt
20 men just ran. Now, the thumping that you experienced
21 on the dayshift, was it anything like that?

22 A. No. Of course, like ---. Of course, now, like
23 you say, especially evening shift, they had a lot of
24 young men, a lot of inexperienced men. I think that's
25 one of the reasons they took us up there, because we

1 were an old, experienced crew. And I mean I'd hear
2 thumping. It was nothing I thought was dangerous.

3 Q. Okay.

4 A. I mean there comes a time it might be thump enough
5 that you --- any time you hear a thump you're going to
6 stop and look to see what's going on. I mean you
7 know, you ain't going ---

8 Q. Okay.

9 A. --- to be stupid, just keep on going until it
10 falls or something.

11 Q. Okay. All right. Now, you said you had good air
12 on the Tailgate 22 section.

13 A. Right.

14 Q. Now, was it always consistent? Did you have ---?
15 Let's say from the time you started mining on 22
16 Tailgate, did you have any days where you had
17 noticeably more air or days where you had noticeably
18 less?

19 A. Yes, there were a few times where we would ---
20 where it would change, but we would --- but when we
21 caught it, you know, we stopped it. We found out what
22 was wrong.

23 Q. Okay. Well, the reason I ask it is just in
24 looking at the air readings recorded in some of the
25 pre-shift/on-shift books, around the 1st of March

1 you've got about roughly 115,000, 116,000 cubic feet
2 per minute on the longwall intake recorded in the pre-
3 shift book. Now, by the end of the month that's down
4 in the --- their recording consists of about 55,000,
5 give or take.

6 And in reading the pre-shift/on-shift book for
7 Headgate 22 section and toward the end of the month
8 there, at least if I can believe what's in the book,
9 the air increased somewhat, but not greatly. And I'm
10 just trying to put together some picture of where it
11 went.

12 A. Sir, I can't help you.

13 Q. Okay.

14 A. And I don't know.

15 Q. All right, okay. See, I'm just --- maybe I'm
16 explaining why I'm asking. Did you have confidence in
17 Mr. Harrah as a section foreman?

18 A. Yes. You mean to --- if he saw curtain or saw
19 something ---

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

21 A. --- bad that he would take care of it?

22 Q. Yeah.

23 A. Yes, sir.

24 Q. Okay. Do you recall when you actually started
25 mining coal on Tailgate 22?

1 A. Yes, sir. I mean I can't give you a date or ---.

2 Q. Thereabout, give or take.

3 A. Oh, that was on the ---. We'd been up there
4 probably what, a month, probably a month or six weeks,
5 I guess, before when we was actually running coal.

6 Q. Okay.

7 A. Trying to run coal, because we was having, still
8 having problems trying to get everything set up on a
9 Three entry section.

10 Q. Okay. Now, we understand that there was a
11 ventilation change on February 10th --- now, to narrow
12 that down a little bit, that was Super Bowl Sunday ---
13 where they changed their returns, return air coming
14 off Headgate 22, where it originally went down Seven
15 North into Number One entry, rerouted it through the
16 crossover and down the Number Four and Five entries
17 along with the return from 22 Headgate. Do you
18 remember when that happened?

19 A. Yeah, I remember, yeah, when they was working on
20 it.

21 Q. Okay. Were you involved in helping them any way?

22 A. No.

23 Q. Who made the change? Do you recall?

24 A. That mostly was done on hoot owl.

25 Q. Okay. Now, was that done about the time you

1 started mining on 22 Tailgate?

2 A. Yeah, it was along about the time we first started
3 in that area. We hadn't been there long ---

4 Q. Okay.

5 A. --- when they started, when they started making
6 that change when they brought the track and everything
7 down from the headgate side over.

8 Q. Okay. All right. Was there any explanation of
9 why they were doing that?

10 A. I don't know. I didn't hear it.

11 Q. Okay.

12 A. Usually when you were working right dead on the
13 section you don't hear too much about outby stuff.

14 Q. Okay. Did your crew portal at Montcoal at ---?

15 A. On the UBB side.

16 Q. Yeah, okay. Did you ever have occasion to run
17 with the people on the 22 Headgate section where you
18 had a chance to talk with them?

19 A. No. After we got started there a little bit, they
20 was coming in on the Ellis side. The Ellis side, the
21 bath house, so I never saw them no more.

22 Q. Okay.

23 A. Because when I first started there, I met --- I
24 got to talk to a couple of them. Of course, they got
25 killed in the explosion.

1 Q. Sure.

2 RE-EXAMINATION

3 BY MR. SHERER:

4 Q. I got one last question, sir. In your opinion,
5 what do you think caused this explosion?

6 A. Well, I'll say what I've been ---. What I've been
7 saying and what I think ---. I mean of course I may
8 be completely wrong. I think it is ---. There's one
9 of three things that's happened, is the top has
10 shifted, got a crack in it that methane come off of
11 out behind one of them seals where they had part of
12 the mine sealed off. Or a big crack's come in the
13 bottom that let methane come in from somewhere, or
14 maybe they've even hit an unmarked gas well.

15 Q. Okay.

16 A. I mean that's the only thing else I can come up
17 with. Because I know either one of the three would
18 let a lot of methane in at one time, and I believe,
19 and I really believe that whatever happened, it just
20 dumped a lot of methane in at one time.

21 Q. Okay.

22 A. And I'll go ahead and go far enough to tell ---.
23 Now, you didn't ask me, but I'm going to go ahead and
24 tell you why I believe that.

25 Q. Okay, sure.

1 A. You got four methane monitors on the longwall.
2 You got one on the tail, one on the head. You got one
3 in the middle and you got one that runs the shearer.
4 Most of the men run around with Solarises on. If it
5 had been something slowly building up, something
6 would've picked it up, ---

7 Q. Sure.

8 A. --- in my opinion.

9 Q. We appreciate your opinion, sir. One additional
10 question. Just for the record, where are you working
11 now?

12 A. I'm at Slip Ridge ---

13 Q. Okay.

14 A. --- outside.

15 Q. Okay. Thank you.

16 MR. SHERER:

17 That's all the questions I got.

18 MR. FARLEY:

19 I'm done. Thank you.

20 ATTORNEY BAXTER:

21 Okay. On behalf of MSHA and the Office
22 of Miners' Health, Safety and Training, I want to
23 thank you for appearing and answering questions today.
24 Your cooperation is very important to the
25 investigation as we work to determine the cause of the

1 accident. We request that you not discuss your
2 testimony with any person aside from your personal
3 representative. After questioning other witnesses, we
4 may call you if we have any follow-up questions.
5 If at any time you have additional
6 information regarding the accident that you would like
7 to provide to us, please contact us at the contact
8 information that was previously provided to you. If
9 you wish, you may now go back over any answer you've
10 given during this interview. You may also make any
11 statement that you'd like to make at this time.

12 A. No, I'm good.

13 ATTORNEY BAXTER:

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

16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 10:30 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5 I, Alison Salyards, a Notary Public in and

6 for the State of West Virginia, do hereby certify:

7 That the witness whose testimony appears in

8 the foregoing deposition, was duly sworn by me on said

9 date and that the transcribed deposition of said

10 witness is a true record of the testimony given by

11 said witness;

12 That the proceeding is herein recorded fully

13 and accurately;

14 That I am neither attorney nor counsel for,

15 nor related to any of the parties to the action in

16 which these depositions were taken, and further that I

17 am not a relative of any attorney or counsel employed

18 by the parties hereto, or financially interested in

19 this action.

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Alison Salyards