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Transcript of the Testimony of **Dustin Richardson**

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STATEMENT UNDER OATH

OF

DUSTIN RICHARDSON

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, July 1, 2010, beginning at 4:00 p.m.

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

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I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	7 - 12
5	STATEMENT	
6	By Mr. O'Brien	12
7	STATEMENT	
8	By Mr. McGinley	12 - 13
9	WITNESS: DUSTIN RICHARDSON	
10	EXAMINATION	
11	By Mr. Page	13 - 26
12	EXAMINATION	
13	By Mr. O'Brien	26 - 29
14	EXAMINATION	
15	By Mr. McGinley	29 - 46
16	EXAMINATION	
17	By Attorney Babington	46 - 47
18	RE-EXAMINATION	
19	By Mr. Page	47 - 58
20	RE-EXAMINATION	
21	By Mr. O'Brien	58 - 59
22	RE-EXAMINATION	
23	By Mr. McGinley	59 - 61
24	RE-EXAMINATION	
25	By Attorney Babington	61

I N D E X (cont.)

1		
2		
3	RE-EXAMINATION	
4	By Mr. Page	61 - 62
5	RE-EXAMINATION	
6	By Mr. McGinley	62 - 64
7	RE-EXAMINATION	
8	By Mr. Page	64 - 65
9	RE-EXAMINATION	
10	By Mr. McGinley	65
11	RE-EXAMINATION	
12	By Mr. Page	66 - 67
13	CLOSING STATEMENT	
14	By Attorney Babington	67 - 68
15	CERTIFICATE	69
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is July
5 1st, 2010. I'm with the Office of the Solicitor, U.S.
6 Department of Labor. With me is Norman Page, an
7 accident investigator with the Mine Safety and Health
8 Administration, an agency of the U.S. Department of
9 Labor. Also present are several people from the State
10 of West Virginia. I ask that they state their
11 appearance for the record.

12 MR. MCGINLEY:

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

15 MR. O'BRIEN:

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

18 ATTORNEY BABINGTON:

19 There are several members of the
20 investigation team also present in the room today.
21 Norman Page will be conducting the initial
22 questioning.

23 All members of the Mine Safety and Health
24 Accident Investigation Team and all members of the
25 State of West Virginia Accident Investigation Team

1 participating in the investigation of the Upper Big
2 Branch Mien explosion shall keep confidential all
3 information that is gathered from each witness who
4 voluntarily provides a statement until the witness
5 statements are officially released. MSHA and the
6 State of West Virginia shall keep this information
7 confidential so that other ongoing enforcement
8 activities are not prejudiced or jeopardized by a
9 premature release of information. This
10 confidentiality requirement shall not preclude
11 investigation team members from sharing information
12 with each other or with other law enforcement
13 officials. Your participation in this interview
14 constitutes your agreement to keep this information
15 confidential.

16 Government investigators and specialists

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

25 You may have your personal attorney

1 present during the taking of this statement or another
2 personal representative, if MSHA has permitted it, and
3 you may consult with your attorney or representative
4 at any time. Your statement is completely voluntary.
5 You may refuse to answer any question and you may
6 terminate your interview at any time or request a
7 break at any time. You also may ask clarifying
8 questions as appropriate. For the record, do you have
9 a personal representative or attorney with you today?

10 MR. RICHARDSON:

11 Uh-uh (no).

12 ATTORNEY BABINGTON:

13 Is that a no?

14 MR. RICHARDSON:

15 It's just me.

16 ATTORNEY BABINGTON:

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

1 judge orders us to reveal your name or if another law
2 requires us to reveal your name, or if we need to
3 reveal your name for other law enforcement purposes,
4 we may do so. Also, there may be a need to use the
5 information you provide to us or other information we
6 may ask you to provide in the future in other
7 investigations into and hearings about the explosion.
8 Do you understand?

9 MR. RICHARDSON:

10 Yes.

11 ATTORNEY BABINGTON:

12 Do you have any questions?

13 MR. RICHARDSON:

14 No.

15 ATTORNEY BABINGTON:

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

1 A court reporter will record your
2 interview. Please speak loudly and clearly. If you
3 do not understand a question asked, please ask the
4 interviewer to rephrase it. Please answer each
5 question as fully as you can, including any
6 information you've learned from someone else. I'd
7 like to thank you in advance for your appearance here.
8 We appreciate your assistance in this investigation.
9 Your cooperation is critical in making the nation's
10 mines safer.

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

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

1 contact MSHA and file a complaint under Section 105(c)
2 of the Act. John?

3 MR. O'BRIEN:

4 On behalf of the Office of Miners'
5 Health, Safety and Training, I'd like you to also know
6 under West Virginia Code, you have protection rights
7 against discrimination stemming from this interview.
8 What I'd like to give you is some information in case
9 you would experience discrimination, you could use
10 this contact information. Also, I'd like to emphasize
11 that you only have 30 days to file a complaint from
12 the time any discrimination --- that you experience
13 any discrimination. Also, I'd like to give you the
14 business cards for Bill Tucker and Terry Farley. They
15 are our lead investigators. And if you have any
16 questions, please contact them. Thank you.

17 ATTORNEY BABINGTON:

18 Pat?

19 MR. MCGINLEY:

20 Just a brief comment, Mr. Richardson.

21 What we're trying to do here is to find the answers to
22 what happened at Upper Big Branch. The families of
23 the miners we lost are looking to us to do that, so
24 your open and truthful answers to our questions would
25 be very much appreciated, and we appreciate you coming

1 in here today.

2 MR. RICHARDSON:

3 Okay.

4 -----

5 DUSTIN RICHARDSON, HAVING FIRST BEEN DULY SWORN,

6 TESTIFIED AS FOLLOWS:

7 -----

8 ATTORNEY BABINGTON:

9 Norman?

10 EXAMINATION

11 BY MR. PAGE:

12 Q. First of all, I'd like to thank you for coming in
13 today. And just like Pat said over there, we
14 appreciate it and we want to get to the bottom of the
15 investigation --- or to the accident, and any
16 information that you can give us can be helpful.

17 First of all, I'd like for you to state your full name
18 and spell your last name.

19 A. Dustin Scott Richardson, R-I-C-H-A-R-D-S-O-N.

20 Q. Okay. Please state your address and your
21 telephone number?

22 A. [REDACTED], ---

23 Q. Okay.

24 A. --- [REDACTED]

25 Q. Are you appearing here voluntary?

1 A. Yes.

2 Q. Yes?

3 A. Yes.

4 Q. Okay. Has anyone interviewed you, asked you
5 questions about the ---

6 A. No.

7 Q. --- company? No one ---

8 A. No.

9 Q. --- no one's asked you or interviewed you? No
10 lawyers?

11 A. No.

12 Q. How many years mining experience do you have?

13 A. About seven or eight months.

14 Q. Seven or eight months?

15 A. Yeah.

16 Q. How long have you worked at --- how long did you
17 work at UBB?

18 A. About five months.

19 Q. Okay. Can you just tell me what you did during
20 that timeframe?

21 A. I moved belt and did a lot of outby work.

22 Q. What shift did you work?

23 A. Third shift.

24 Q. Third shift. Who did you work for?

25 A. Sean Walker.

1 Q. Did Mr. Walker give you your instructions on what
2 to do? Did anyone --- was you ever around when
3 someone come down there and gave Mr. Walker his
4 instructions?

5 A. No.

6 Q. So to your knowledge, no one --- you was not
7 around when anyone called in and told him to do ---
8 get certain work done or ---?

9 A. No.

10 Q. Okay. And you moved --- what kind of work did you
11 do, move belt?

12 A. Yes.

13 Q. What else did you do?

14 A. Just outby work, dusting and laid track, built
15 stoppings and all of that.

16 Q. Did you ever tear any stoppings out and rebuild
17 them somewhere else or anything like that?

18 A. Yes.

19 Q. Could you tell me where that was at? Could you
20 show me on the map or ---?

21 A. No, not right off.

22 Q. Which area of the mines was you usually working
23 when those type of jobs ---?

24 A. Down there at the Glory Hole. Down in the Number
25 One section and stuff, the longwall.

1 Q. Down in here?

2 A. Yes, sir.

3 ATTORNEY BABINGTON:

4 At the Glory Hole area?

5 A. Yes.

6 BY MR. PAGE:

7 Q. And which side of --- which side did you work on,
8 the right side, going in or the left side when you
9 built stoppings? Do you have any idea?

10 A. No, not right off.

11 Q. About what was the time frame when you was doing
12 that type of work?

13 A. Nightshift. Are you talking about the date?

14 Q. Yes, the date. I'm sorry.

15 A. No, I can't remember.

16 Q. Was you working up until the explosion?

17 A. Yes.

18 Q. Okay. So how long had you been working when the
19 explosion occurred?

20 A. I got out that morning.

21 Q. No. How much experience? Had you worked three
22 months, four moths or five months?

23 A. From October.

24 Q. October of '09 ---

25 A. Yes.

1 Q. --- until the explosion?

2 A. Yes.

3 Q. Okay. So you was working at --- during that
4 timeframe?

5 A. Yes.

6 Q. You had about what, six months' experience then?

7 A. Five or six, something like that. I started late
8 in October.

9 Q. Yeah.

10 A. Roughly five ore six months.

11 Q. Okay. so when you was down here doing that, was
12 that a month --- approximately a month before the
13 explosion or close to the time the explosion? Can you
14 recall? Within --- we just want approximation.

15 A. Two months before the explosion, something like
16 that.

17 Q. Just when you was working on these controls?

18 A. Yeah. Our superintendent had us down there doing
19 it one night.

20 Q. Who was your super?

21 A. Wayne Persinger. Or vice-president, whatever.

22 Q. He had you down on third shift?

23 A. Yeah. He was down there with us.

24 Q. On third shift, building controls in this area?

25 A. Yes.

1 Q. And at that time had --- do you recall if the new
2 tailgate entry, the old 44 section --- I guess it's 22
3 Tailgate, had it started work when you was working
4 down here?

5 A. Yes.

6 Q. Okay.

7 MR. MCGINLEY:

8 Yes, you recall or ---?

9 A. Yes, it was working.

10 MR. MCGINLEY:

11 That's where you were.

12 BY MR. PAGE:

13 Q. This had started up prior to --- they had started
14 this section when you were building --- tearing down
15 and building ventilation controls in this area?

16 A. Yes.

17 Q. Okay. I think that cleared it up.

18 ATTORNEY BABINGTON:

19 Yeah. Just to clarify, this area where
20 you're building and tearing down stoppings was the
21 Glory Hole area?

22 A. Yes.

23 ATTORNEY BABINGTON:

24 And Norman was referring to that work had
25 started at the Tailgate 22 section around that same

1 period?

2 A. Yes.

3 ATTORNEY BABINGTON:

4 That's a yes?

5 A. Yes.

6 BY MR. PAGE:

7 Q. Good. Persinger, was he up there with you guys?

8 A. Yeah.

9 Q. Did he say why they wanted those controls ---

10 A. No.

11 Q. --- tore down and rebuilt in different locations?

12 A. No. He just come in one night and started
13 building and tearing them out.

14 Q. Okay. So it was in this area here, and you really
15 don't know for sure, or you do?

16 A. I don't really know, ---

17 Q. Okay.

18 A. --- to be honest.

19 Q. What's what you said earlier. I was just --- I
20 just wanted to verify that. Okay. This section, the
21 22 Headgate section I guess was up in there a pretty
22 good ways?

23 A. Yes.

24 Q. Okay. Did your supervisor, Mr. Walker, did he
25 ever talk about the ventilation of --- in the Glory

1 Hole area or the Eight North area?

2 A. Not to me he didn't.

3 Q. Okay. Were they producing coal when you were
4 still --- when you guys were working on this, was
5 changing those controls at the Glory Hole area? Was
6 they running coal?

7 A. On third shift?

8 Q. Yes.

9 A. No, not on third shift.

10 Q. Not on third shift.

11 A. No.

12 Q. So was anyone inby? Were they working on doing
13 maintenance on the sections or the longwall?

14 A. Not that I know of.

15 Q. The longwall didn't run coal on third shift?

16 A. Not that I know of. I don't know.

17 Q. Okay.

18 A. They did every now and then sometimes, but
19 normally they just went down there to do maintenance.

20 Q. Okay. Did you ever do any work on the headgate of
21 the longwall?

22 A. No.

23 Q. Never built any controls or nothing?

24 A. No.

25 Q. What about the tailgate area, which was over on

1 the other side, the tailgate area of the longwall, did
2 you go in there and have to build any controls or
3 anything?

4 A. No, I didn't. I just ---.

5 Q. Are you aware of anyone on your shift or your
6 crew?

7 A. Not right off.

8 Q. Okay.

9 A. Did anyone --- did you hear of anyone on third
10 shift or second shift talk about the ventilation,
11 where they had good or poor ventilation on the 22
12 Headgate section?

13 A. I've heard all kind of people talk about how bad
14 it was.

15 Q. When you was in the bath house at the mines?

16 A. Yes.

17 Q. This is prior to the explosion ---

18 A. Yes.

19 Q. --- that you've heard talk?

20 A. Yes. There's one that I was talking about up
21 there that works up ICG with me. He was talking about
22 it. He used to work up there, too.

23 Q. Who is this?

24 A. Mike Williams.

25 Q. Mike Williams?

1 A. Yes.

2 Q. Williams?

3 A. Williams.

4 Q. Okay.

5 A. He was up there talking about it.

6 Q. What did he do at UBB?

7 A. I'm really not for sure.

8 Q. Do you know what shift he worked?

9 A. I'm pretty sure he was on dayshift.

10 Q. Okay. And are you --- do you know if Mr. Williams
11 worked in the longwall side or the barrier side?

12 A. I'm not too sure.

13 Q. But if he was talking about lack of
14 ventilation ---?

15 A. He had to work somewhere around there. He was ---
16 I forget what he said he was doing, but he was talking
17 about how bad it was and stuff, how hot it was and all
18 that.

19 Q. Are we talking about 22 Section, ---

20 A. Yes.

21 Q. --- the headgate? What about the tailgate, 22
22 Tailgate section?

23 A. I don't know.

24 Q. Okay. What about in the bath house when you would
25 be out there and everything, shift come out, would you

1 talk to some of your buddies or anything?

2 A. They was just all talking about how poor the
3 ventilation was.

4 Q. Did they say anything about the ventilation on the
5 longwall?

6 A. No, not to my knowledge. I didn't hear
7 anybody ---.

8 Q. Most of it was on which section?

9 A. One section.

10 Q. One section, is that 22 Headgate?

11 A. Yes.

12 Q. Okay. So they didn't say much about the
13 tailgate ---

14 A. No.

15 Q. --- 22 Tailgate section?

16 A. No.

17 Q. Anything else can you think of about the
18 ventilation or ---?

19 A. Not right off.

20 Q. What kind of conditions were the belts in? Were
21 they black, white ---?

22 A. No. We kept them dusted. That's what I did a
23 lot.

24 Q. You did a lot ---?

25 A. Yeah, we kept them dusted.

1 Q. How did you dust them?

2 A. With one of them big track dusters you put behind
3 the motors and fill up the pods with a hose.

4 Q. Did you have to walk the hose ---

5 A. Yes.

6 Q. --- over to the belt?

7 A. Yes.

8 Q. Okay. How often did you --- just tell me the
9 sequence of how you did your dusting? How was it ---
10 did they dust so much two nights a week, three nights
11 a week or ---?

12 A. They dusted every night.

13 Q. Every night?

14 A. Every night.

15 Q. How many people were dedicated to dusting?

16 A. Me and Cliff Stover dusted for a while and then
17 there was as couple other of us. We did that every
18 night there for a while.

19 Q. Someone --- two people did it every night, is that
20 what you're saying?

21 A. Yeah, two people every night.

22 Q. Okay.

23 A. You'd only get two or three loads in.

24 Q. And if the other two guys were dusting, then you
25 was doing something, pumping water or building

1 ventilation controls or something?

2 A. Yes. Yes.

3 Q. Okay. You said you get what, two or three loads a
4 night?

5 A. Yes.

6 Q. About ---?

7 A. About two. You got two pods on there. You'd fill
8 them up ---.

9 Q. Where did you have to go fill them up at?

10 A. Outside.

11 Q. Outside?

12 A. Outside.

13 Q. So you dusted your way out?

14 A. Yes.

15 Q. About how much --- about how far could you get
16 dusted in a shift?

17 A. Normally about 30 breaks, something like that,
18 just with one load and it depends on where you was at
19 if you could get another load. But normally just with
20 two pods you can normally get about 30 breaks.

21 Q. Thirty (30) breaks?

22 A. Yes.

23 Q. That's one load?

24 A. Yeah, one load.

25 Q. So on a good day ---?

1 A. Normally about a night we got about 45 in.

2 Q. That's what I was getting at. Okay.

3 EXAMINATION

4 BY MR. O'BRIEN:

5 Q. Just kind of bear with me, if you would. I may be
6 hopping around here a little bit. Since we are on
7 rock dusting, let's stay on that. Did you ever rock
8 dust the neutral entries next to the belt or just the
9 belt and the track?

10 A. I just did belt and track.

11 Q. Just belt and track?

12 A. Belt and track.

13 Q. Do you know in the Glory Hole area if it was
14 warmer --- hotter than normal, about the same as the
15 rest of the mine or colder?

16 A. It was pretty warm down there.

17 Q. Pretty warm?

18 A. Pretty warm.

19 Q. Could you feel the air moving pretty good?

20 A. Not really.

21 Q. Not really?

22 A. No.

23 Q. Did you ever smell anything different in there
24 than the other places?

25 A. I didn't.

1 Q. Did you ever have any burning sensations like your
2 eyes burning or skin burning or itching?

3 A. No.

4 Q. When you were building stoppings you said Wayne
5 Persinger was directing where to put the stoppings and
6 take them out?

7 A. Yes.

8 Q. Did you ever knock one out and maybe the next
9 night have to come in and rebuilt it?

10 A. No, I don't remember every doing that. I remember
11 building them back to back, but I don't remember doing
12 that.

13 Q. What about the --- do you know if any other shifts
14 were working in that area on the stoppings or just the
15 third shift?

16 A. I don't know.

17 Q. All right. Did you ever help install any supply
18 doors on the track?

19 A. A couple of them.

20 Q. Just how often did that happen, just once or twice
21 or ---?

22 A. I've only put in one or two sets.

23 Q. Okay. Why did you have to replace them? Do you
24 remember?

25 A. No.

1 Q. Okay. Do you know --- do you remember whether
2 they were --- which set of doors?

3 A. Maybe going down to the One section. We had to
4 put two sets right there on the track going down in
5 there.

6 Q. Were there some there before? Was this the first
7 set of doors that had been put in there?

8 A. The first set.

9 Q. Okay. Did you ever hear --- did you ever see your
10 foreman take a methane examination or Wayne Persinger
11 or anyone other foreman, anybody else take a methane
12 examination with a detector?

13 A. I don't remember seeing him.

14 Q. Did you ever hear one alarm, go off in alarm mode?

15 A. No, I didn't.

16 Q. All right. What about overcasts, did you ever
17 help build any overcasts?

18 A. Yes.

19 Q. Do you remember where those were and about when?

20 A. Not right off I don't remember.

21 Q. Was anything in the Glory --- any overcast in the
22 Glory Hole area that you were building?

23 A. I know we built one towards --- when they started
24 going towards the Two section, we built one right
25 there. Other than that, I can't explain it.

1 Q. Okay. Do you remember how high it was where you
2 were building the overcast? Was it way up there?

3 A. It was a pretty good ways over there.

4 Q. Do you have any idea roughly?

5 A. Fifteen (15) foot, I think.

6 Q. Fifteen (15) foot, okay. Cool. All right. Did
7 you ever work in the other part of the mines down
8 around the barrier section or ---?

9 A. No.

10 Q. Okay.

11 EXAMINATION

12 BY MR. MCGINLEY:

13 Q. I have a few questions. So is the first place you
14 worked in a coal mine UBB?

15 A. Yes.

16 Q. And after the explosion, you had gone to work for
17 ICG?

18 A. Yes.

19 Q. What mine are you working at?

20 A. The one up there in Eccles.

21 Q. And were you working for Massey as a contractor
22 employee?

23 A. Yes

24 Q. As a contractor?

25 A. Contractor.

1 Q. And who did you work for?

2 A. David Stanley.

3 Q. Do you remember your first day at work at UBB?

4 A. Yes.

5 Q. What did you do there?

6 A. I dusted.

7 Q. Before you went in, did they tell you where you
8 were going in the mine?

9 A. No.

10 Q. You've had a little bit of a --- you haven't been
11 able to point out where you were working on the map.
12 Did you get any training about the locations you would
13 be working in?

14 A. They showed me one time when I first got there,
15 showed me the whole map. Other than that, ---.

16 Q. Is that before you had gone in the mine?

17 A. Yeah.

18 Q. And they never talked to you about the map or
19 where you would be working after that?

20 A. No. I didn't have no training on the map.

21 Q. What about when you'd go in the mine with Mr. ---
22 Mr. Walker was it?

23 A. Uh-huh (yes).

24 Q. Did he point out on the map where you would be
25 working?

1 A. No.

2 Q. Did you ever walk any escapeways?

3 A. Yes.

4 Q. When did you do that?

5 A. Whenever I first started.

6 Q. First day?

7 A. Yes. That morning.

8 Q. Where did you walk from? Where id you go in?

9 What portal did you go in?

10 A. It wasn't the new one. It was the old one ---

11 Q. Okay.

12 A. --- that was over there. we wasn't that far up in
13 there, and we walked out.

14 Q. So how long do you think the --- you took in
15 walking the escapeway?

16 A. About 20 minutes.

17 Q. And is that --- you walk as far as where you
18 subsequently --- after that you were working?

19 A. Yes.

20 Q. You said you put one set of doors in and that
21 would have been somewhere around the Glory Hole?

22 A. Yes, going down into the One section.

23 Q. Into the One section?

24 A. Yes.

25 Q. And you had been working there. Do you remember

1 what day in October you started?

2 A. Not right off, no.

3 Q. Toward the end of October?

4 A. It was near then.

5 Q. Okay. So how long after you started work did you
6 build that door? Have any sense it was more close to
7 the time of the explosion?

8 A. It was more closer.

9 Q. Real close, I mean, a couple weeks before the
10 explosion?

11 A. A couple weeks, a month, something like that.

12 Q. Okay. Did you have to go through any other doors
13 to get anywhere?

14 A. Yes. They had all kinds of doors.

15 Q. Did you go through double airlock doors?

16 A. Yes.

17 Q. And did they work automatically, push button, or
18 did you have to get out and open them?

19 A. A lot of them you had to get out and open.

20 Q. And were some of them hard to close and swing
21 open, you'd close them and they would swing open?

22 A. A couple of them.

23 Q. Do you know --- have some general idea where those
24 doors would have been located?

25 A. I can't show you on the map, but I can try to

1 explain it to you.

2 Q. Okay. Go ahead. That's fine.

3 A. You had a full set of doors right there before you
4 reached the mother drive, them ones right there.

5 Q. And that's the ones that were a little hard to
6 open --- or hard to close, I should say?

7 A. Yes.

8 Q. Were they banged up pretty much?

9 A. They were crushed.

10 Q. Did at least one of them have a hole banged in it;
11 do you recall?

12 A. I don't recall no holes, but I recall the whole
13 bottom of them and stuff all bent up and pulled up and
14 all that.

15 Q. Is there a certain way you had to close them or
16 they'd swing open?

17 A. No.

18 Q. Did you get out and ---?

19 A. Yeah, I did.

20 Q. You did it? So the junior person, ---

21 A. Yeah.

22 Q. --- they had you do it?

23 A. Yeah.

24 Q. In your training, either before you went into the
25 mine at UBB or after you started working there, what

1 did you learn about ventilation?

2 A. I don't really know too much about ventilation. I
3 ain't really had nobody teach me.

4 Q. Do you know what the importance of ventilation is
5 in a coal mine?

6 A. Yes.

7 Q. What is it?

8 A. Get the methane and stuff.

9 Q. So when you were working up by the Glory Hole and
10 it was hot and there wasn't much air moving, what did
11 that mean to you about ventilation, if anything?

12 A. I didn't really pay much attention to it. I just
13 went there to do my job. I was starting out.

14 Q. But you knew people up on the Headgate 22
15 section --- there was a lot of talk about not enough
16 air there?

17 A. Yes.

18 Q. You didn't think about that with regard to where
19 you were working?

20 A. I was just doing my job.

21 Q. Sure. Anybody on your crew talk about how hot it
22 was and there wasn't air moving where you were
23 working?

24 A. Just talk about how hot it was up there.

25 Q. Sure. What kind of training did Massey give you

1 when you came to the mine, both before you started and
2 when you --- after you started working underground?

3 A. I had the annual retraining I went to, and that
4 was a couple days before the explosion. And I went
5 --- right before I went underground I had to go to an
6 eight-hour class. I had to sit in there and talk
7 about safety and they made us put on rescuers and
8 stuff.

9 Q. Where was that? Where did that take place?

10 A. Marfork.

11 Q. Did they talk about ventilation during that class?

12 A. Not that I recall.

13 Q. What about during your --- was that the retraining
14 you're talking about?

15 A. No. That was before I even started in the mines.

16 Q. Do you think you could have found your way out ---

17 A. Oh, yes.

18 Q. --- from where you were working ---

19 A. Yes ---.

20 Q. --- if there was a problem?

21 A. Yeah, I know them mines. I was everywhere in it.

22 Q. You knew about the water problems they were having
23 at the longwall in ---

24 A. Yeah.

25 Q. --- both the 22 Headgate and Tailgate?

1 A. A lot of that water I packed pumps back there.

2 Q. You did?

3 A. Yeah. The discharge line, that's what I did
4 through Thanksgiving break.

5 Q. There was a lot of water?

6 A. I was wading in water up to my chest.

7 Q. Did they give you any chest waders?

8 A. After about the second night of doing it.

9 Q. After what?

10 A. About the second night of wading.

11 Q. Did those waders help?

12 A. Yeah, they helped after they gave them to us.

13 Q. Did you ever get water that went over the waders?

14 A. There was one certain spot where the wind would
15 blow so hard it would go up in them.

16 Q. Did that scare you?

17 A. No.

18 Q. Well, let me withdraw that. Did you have some
19 concerns about working there in that water?

20 A. I didn't like it.

21 Q. And the other men on your crew, they worked ---
22 they had to go in water as well?

23 A. Yes.

24 Q. And so you worked over the Thanksgiving holiday?

25 A. Yes.

1 Q. And were you hand carrying the pumps?

2 A. Yes.

3 Q. Was that on the 22 Headgate area? Where was it,
4 if you recall?

5 A. We went down that way, but that's --- yeah, we
6 went down that way and packed them all. They said we
7 was behind the longwall, ---

8 Q. Right.

9 A. --- so ---.

10 Q. And how long --- do you have any sense of how long
11 you had to work back there, you know, a couple days, a
12 couple weeks?

13 A. I was back there for about a week-and-a-half just
14 packing pumps and waterline.

15 Q. Did you ever fall in the water and go under?

16 A. I didn't.

17 Q. Do you know some other people that did?

18 A. One of my buddies did, but I never did.

19 Q. Were you there when that happened to your buddy?

20 A. Yes.

21 Q. Who was that?

22 A. Casey Bailey.

23 Q. So did his hat float?

24 A. Huh?

25 Q. Did he go under and his hat was floating or ---?

1 A. No, his hat just stayed on top of the water. He
2 come back up as soon as he fell.

3 Q. That would be a matter of concern, I guess?

4 A. Yeah.

5 Q. When you were rock dusting you said that during
6 the night you might cover 45 or 50 breaks?

7 A. (Indicates yes).

8 Q. You have to say yes or no just because she's
9 taking this down.

10 A. Yes.

11 Q. Was that all you were asked to do?

12 A. That's all I was asked to do was rock dust.

13 Q. But did they say I want you to --- did your boss
14 say I want you to cover 50 breaks or 45 breaks or
15 would --- what was your job?

16 A. He would just tell us where to go and get as much
17 done as we could.

18 Q. And was there ever a time when you couldn't get it
19 all done?

20 A. In one night?

21 Q. Yes.

22 A. Yes.

23 Q. So were you rock dusting most of the time or ---
24 can you give me some sense of how much rock dusting
25 you were doing versus all this other work, building

1 cribs, carrying pumps?

2 A. I rock dusted, the biggest part, about three
3 months.

4 Q. I'm sorry, about ---?

5 A. About three months.

6 Q. And would that have been toward the end of --- up
7 until the explosion or ---?

8 A. Yes.

9 Q. You were asked about whether the area where you
10 were working in the Glory Hole or near the Glory Hole
11 was --- whether the 22 Headgate section was being
12 developed. Do you remember that question a few
13 minutes ago?

14 A. Yes.

15 Q. So when you first went up there was it
16 already --- been developed and they were up there some
17 distance?

18 A. I can't even remember. I don't --- I don't
19 exactly know what you're saying there.

20 Q. Do you have any sense of --- in terms of time,
21 when you first went up to the Glory Hole, I mean, you
22 were --- around Thanksgiving you were carrying
23 pumps ---

24 A. Right.

25 Q. --- back behind the longwall. When was the first

1 time you got over to the Glory Hole and started doing
2 the rock dusting? Was that after that or before that?

3 A. Before that. We always kept everything dusted
4 real good.

5 Q. And then after Thanksgiving, where did you go,
6 after you did the pumps?

7 A. I went back dusting.

8 Q. So they sort of pulled you out from dusting?

9 A. Yeah, just for a week they put me on dayshift.

10 ATTORNEY BABINGTON:

11 Sorry to interrupt, Pat, but just a
12 clarifier on one thing you said there. You said that
13 while he was working at the Glory Hole they were
14 working on Headgate 22, but I think the questions ---
15 when we were talking about it before, we were talking
16 about that Tailgate 22 had just started driving that.

17 MR. MCGINLEY:

18 Yes, let's clarify that. I don't want to
19 confuse the record at all.

20 BY MR. MCGINLEY:

21 Q. So was Headgate 22 being developed when you were
22 working there?

23 A. Yes. We was putting in all the belt structures
24 and stuff.

25 Q. Okay. And so you were going --- how far up

1 Headgate 22 did you go? Do you have any sense of
2 that, I mean, by you know, breaks?

3 A. I didn't go too far up in there.

4 Q. A little ways?

5 A. A little ways.

6 Q. How many breaks, just a rough ballpark estimate?

7 A. Eight or nine.

8 Q. Where were you working on track?

9 A. I was putting track in down there.

10 Q. That's the place ---?

11 A. Yeah.

12 Q. So that would have been when you first started
13 working or after Thanksgiving?

14 A. After thanksgiving.

15 Q. And then you were also --- do you know whether you
16 were on the Headgate --- at the Tailgate 22 section?

17 A. Uh-uh (no).

18 Q. Somehow you got back behind the longwall, though;
19 right?

20 A. Yeah, I did go back behind the longwall. I was
21 packing pumps.

22 Q. Right. Did you have any way to transport them or
23 just carry them?

24 A. We took them down there on the mantrip as far as
25 we could go and we just carried them the rest of the

1 way.

2 Q. Pretty long walk?

3 A. Yes.

4 Q. Through water?

5 A. Yes.

6 Q. You said in the bath house you heard all kinds of
7 people talking about bad ventilation. And was it
8 Headgate 22?

9 A. Yes. They was talking about how hot it was and
10 stuff up there and how they needed to do something.

11 Q. And when did you first start hearing people talk
12 about that problem? Was it the whole time you worked
13 there or the last couple weeks or --- do you have
14 any ---?

15 A. About the last month or two they was talking about
16 how hot it was and stuff.

17 Q. Were those the people that were working up in that
18 section ---

19 A. Yes.

20 Q. --- that were talking about ---?

21 A. Yes.

22 Q. Did you know any of those people?

23 A. I knew a couple of them.

24 Q. Who do you remember?

25 A. Derek Petry was one of them, and I think we called

1 him Gumby. I don't remember his last name.

2 Q. Gumby?

3 A. Yeah. I don't remember his last name.

4 Q. Was he a young guy?

5 A. About 30.

6 Q. So was the ventilation at Headgate 22 a topic of
7 discussion a few times a week, every day?

8 A. I heard people talk about it every now and then.

9 I mean, it wasn't like a big thing. I heard people
10 talk about it, but --- every now and then I heard
11 people talk about it.

12 Q. Enough that you remember it?

13 A. Yes.

14 Q. When Wayne Persinger came in the mine and you were
15 building stoppings, you talked about that, was that
16 somewhere near when you started work in October 2009
17 or close to the time of the explosion?

18 A. Closer to the time of the explosion.

19 Q. Would it have been the last couple weeks or the
20 last week?

21 A. Probably about a month, something like that.

22 Q. Roughly a month before the explosion?

23 A. Yeah.

24 Q. Had you ever seen Wayne Persinger in the mine
25 before?

1 A. No. That was the first time I seen him down
2 there. And he'd come down there with us.

3 Q. You probably didn't even know him to see him, or
4 did you ---?

5 A. I knew who he was, but I never personally talked
6 to him.

7 Q. Did you ever see Chris Blanchard under ---?

8 A. I never did.

9 Q. So most of the time you were working third shift;
10 is that right?

11 A. Yes, all besides the week of Thanksgiving.

12 Q. What was the last day you worked?

13 A. April 5th, got out that morning.

14 Q. What did you do that night?

15 A. I went down there and dusted.

16 Q. And the area was --- strike that.

17 About how much did you get done that night?

18 A. It was about 30 or 35 breaks. Started from the
19 mother drive and started working our way down.

20 Q. Did anything unusual happen or do you remember
21 anything that kind of stands out now after that
22 explosion that happened on that shift that ---?

23 A. Nothing different happened whenever I was down
24 there. Everything seemed normal.

25 Q. Have you talked to anybody that --- about

1 something unusual happening that weekend, the Easter
2 weekend?

3 A. I ain't ---.

4 Q. Have you heard anything about ventilation changes
5 being made over the weekend?

6 A. Uh-uh (no). I ain't heard nothing.

7 Q. Did you ever hear of the term S1 and P2?

8 A. Uh-huh (yes).

9 Q. You have to say yes or no.

10 A. Yes.

11 Q. Do you know what those mean?

12 A. Safety first, and I'm not really sure what P2
13 means.

14 Q. Other than S1 meaning safety first, do you know of
15 anything else that it means?

16 A. No.

17 Q. Just sort of a slogan?

18 A. Yes.

19 Q. Have you ever heard of an S1 manual?

20 A. Uh-uh (no).

21 Q. Never?

22 A. (Indicates no).

23 Q. You have to ---.

24 A. No.

25 MR. MCGINLEY:

1 That's all the questions I have. Thanks.

2 EXAMINATION

3 BY ATTORNEY BABINGTON:

4 Q. I just want to throw in a couple clarifiers. You
5 said earlier that you entered the mine at the old
6 portal. Were you referring to the UBB Portal or the
7 Ellis Portal?

8 A. UBB Portal.

9 Q. Okay. And you said that you traveled the
10 escapeway that first day when you entered the UBB
11 Portal?

12 A. Yes, that first night.

13 Q. That took you only 20 minutes. Does that mean you
14 were just inby?

15 A. We wasn't that far in there.

16 Q. You keep referring to the mother drive. Do you
17 know --- do you have an approximate location in the
18 mine where that was?

19 A. About five or six breaks before you get to the
20 longwall and down towards One section, right before
21 you hit that switch.

22 Q. Okay. So is it fair to say it's in this general
23 area here, where both the Headgate One section starts
24 off of the Six North belt?

25 A. Uh-huh (yes).

1 Q. You also talked about you traveled --- carried the
2 pumps down beyond the longwall. Do you recall if you
3 were on the headgate or the tailgate of the longwall?

4 A. I really don't know.

5 RE-EXAMINATION

6 BY MR. PAGE:

7 Q. When you brought the pumps up, how did you bring
8 them up?

9 A. Brought them up in the mantrip as far as we go.

10 Q. On the track?

11 A. Yes.

12 Q. Did you go by the mother drive?

13 A. Yes.

14 Q. And so if you came up by the mother drive, then
15 you probably came up by the headgate, ---

16 A. Yeah.

17 Q. --- would you think, or the tailgate?

18 A. Probably the headgate.

19 Q. Okay.

20 A. We went this way, going towards One section, a
21 couple days and then we'd go down to the longwall and
22 start packing them. We went both ways.

23 Q. Okay. Let me ask you a question. This is the
24 longwall right here.

25 A. Okay.

1 Q. And this ---.

2 MR. MCGINLEY:

3 Let the record show that Mr. Page is
4 pointing to where the longwall ceased operation on
5 April 5th on the map.

6 BY MR. PAGE:

7 Q. You was talking about the mother drive.

8 A. Right.

9 Q. All right. The mother drive is at the mouth of
10 Six North belt? Is that the mother drive?

11 A. Yes. It was right there before you get to the
12 switch, about five or six breaks.

13 Q. Okay. So it's in that vicinity, ---

14 A. Yes.

15 Q. --- just below the 45, heading up the headgate?

16 A. Right.

17 Q. And you traveled up the headgate in a mantrip ---

18 A. Right.

19 Q. --- with the pumps?

20 A. Right.

21 Q. Do you know if you --- if the track went up close
22 to the longwall face or how far outby?

23 A. I'm not too sure how far. We went up there a
24 pretty good ways, though.

25 Q. And you walked by the longwall ---

1 A. Yes.

2 Q. --- on the way up?

3 A. Yes.

4 Q. Okay. Now, if --- through what you said, you
5 traveled up the headgate entry track, ---

6 A. Right.

7 Q. --- okay, and you went inby the longwall?

8 A. Right.

9 Q. Okay. So that put you in the headgate entry in
10 the bleeders ---

11 A. Okay.

12 Q. --- in the longwall.

13 A. Okay.

14 Q. About, approximately, how far did you go down in
15 past the longwall face?

16 A. It was a long way up in there.

17 Q. Okay. Were they electric pumps or air pumps?

18 A. They was air pumps.

19 Q. Air pumps?

20 A. Air pumps. Okay. And do you know if you went all
21 the way back to where they set the longwall up, the
22 recovery rooms, or ---?

23 A. I'm not sure. They said it was back there where
24 the longwall used to be, way back in there, where it
25 first started or something like that. That's all I

1 know.

2 Q. When it first started, when the longwall first
3 started, if you traveled the headgate entries, that
4 put you back in the set-up rooms at Crosscut 80?

5 A. Okay.

6 Q. Okay. Did you go that far? Did you go 80 breaks
7 carrying pumps?

8 A. It was a long, long way.

9 Q. Okay.

10 A. A lot of times on nightshift we couldn't --- or
11 dayshift we couldn't even get everything back there.

12 Q. What was the conditions as you traveled back in
13 there?

14 A. A lot of water.

15 Q. What about the top?

16 A. It was a lot of pieces hanging down.

17 Q. Hanging down?

18 A. Yeah.

19 Q. I know you've not been in the mines long, ---

20 A. Yeah.

21 Q. --- but so some draw rock was hanging down?

22 A. Yeah.

23 Q. What about the ribs, was there a lot of sloughage?

24 The bottom --- was the bottom hooving up or could you
25 even see it?

1 A. The bottom was hooved up in a lot of places. I
2 remember having to crawl over that stuff a couple
3 times.

4 Q. Was your foreman with you?

5 A. Uh-huh (yes). Not Sean.

6 Q. Who was with you?

7 A. Jaybird.

8 Q. Was he a foreman?

9 A. Yes.

10 Q. What's Jaybird's name, do you know, real name?

11 A. I think it's just Jason Byrd. I'm not sure.

12 Q. Okay.

13 A. I'm not positive, but I'm pretty sure.

14 Q. Do you ever recall seeing him take a gas test or
15 anything?

16 A. I didn't. I just went back ---.

17 Q. Did anyone --- how many was with you? How many
18 people besides the foreman?

19 A. There was all kinds of us.

20 Q. Four? Five?

21 A. Nine, ten.

22 Q. Nine, ten. All of them contractors?

23 A. Most of them.

24 Q. Okay. Any of them say anything about detecting
25 methane?

1 A. No.

2 Q. Did you ever see anyone take a methane test?

3 A. No, I didn't.

4 Q. Did your buddies ever hear any of your coworkers
5 make any statements about methane or see any ---

6 A. No.

7 Q. --- taking the tests?

8 A. No.

9 Q. A gas test is what I'm talking about.

10 A. Yes.

11 Q. And the whole time you worked at this mines you
12 worked for a contractor?

13 A. Yes.

14 Q. When you would go out or when you would come in of
15 the night, did you ever come in and come up through
16 there and the doors be open?

17 A. Yes.

18 Q. All of the doors open or ---?

19 A. A couple of them. About one or two sets were
20 normally open. They would just swing open.

21 Q. Were they close to the mother drive?

22 A. Yeah, right before you get to it.

23 Q. So the ones outby were ---?

24 A. They also stayed shut and stuff.

25 Q. The closer you got to the longwall, the most

1 likely the doors would be open?

2 A. Yes.

3 Q. Was that a regular practice?

4 A. They was normally open.

5 Q. Okay.

6 A. It was one set that stayed open all the time
7 pretty much.

8 Q. How close was that to the mother drive?

9 A. Right before you get to it.

10 Q. Okay. That was when you came in on third shift,
11 so ---

12 A. Right.

13 Q. --- the evening shift? Was you generally one of
14 the first ones --- your crew one of the first ones
15 that come in?

16 A. I wasn't.

17 Q. Or the maintenance crew come in ---?

18 A. I was one of the last ones because 90 percent of
19 the time I did dusting, so I had to stay outside and
20 keep going, ---

21 Q. So when you were ---?

22 A. --- packing pumps?

23 Q. Yeah, packing pumps or setting building controls.

24 A. Whenever I was packing pumps we was like the only
25 ones there.

1 Q. With the doors open?

2 A. Right.

3 Q. When you were building the ventilation controls
4 over in the Glory Hole area were the equipment doors
5 open then?

6 A. Yes.

7 Q. So it seems like they were open?

8 A. Yeah. It was pretty much open all the time.

9 Q. Okay. When you guys went --- when you went out,
10 did you leave them open or did you close them?

11 A. We shut them. We'd take roof hangers, try to tie
12 them together or something just where people could
13 open and swing them and stuff, and it wouldn't work.

14 Q. Was your supervisor with you most of the time ---

15 A. Yes.

16 Q. --- when you went in and out, okay, up around the
17 mother drive? Did he always make you guys close them
18 or sometimes you'd do it and sometimes you didn't?

19 A. We always closed them, but they didn't really stay
20 closed.

21 Q. Okay. Did your supervisor ever say anything about
22 the doors when you came in and they were open?

23 A. No.

24 Q. Never mentioned it?

25 A. No. He just said we were going to make a

1 replacement, but he never did.

2 Q. But he never said nothing about them being open?

3 A. No.

4 Q. Okay. Why were the doors --- in your opinion,
5 what was the purpose of the two sets of doors?

6 A. I have no idea.

7 Q. Okay. That's fine.

8 A. Well, I'm telling you, I ain't been in the mines
9 long.

10 Q. Hey, that's not a problem. And I'm asking some
11 questions, but don't --- that's not a problem. That's
12 not your fault by no means. Okay. And I'm kind of
13 picking your brain real hard, and ---

14 A. Uh-huh (yes).

15 Q. --- don't take it personal. I'm not trying to
16 judge you by any means. I just want to know what
17 happened here and about how the ventilation controls
18 were maintained, so --- when you worked over there
19 around the Glory Hole did --- tell me a little bit
20 about it over there, the conditions or anything,
21 anything that you remember about the Glory Hole when
22 you was over there, especially with the controls and
23 when Persinger was with you?

24 A. He just had me build a lot of stoppings that
25 night. That's ---.

1 Q. And that was in November?

2 A. I don't believe it was in November.

3 Q. No, I'm wrong. November was when you was packing
4 the pumps. That was ---

5 A. Yeah, Thanksgiving.

6 Q. --- Thanksgiving.

7 A. Whenever Wayne went down there ---.

8 Q. That was in probably January, February, March,
9 somewhere in there?

10 A. February, March, something like that.

11 Q. February, March?

12 A. Yeah.

13 Q. And did the evening shift work up there, building
14 controls? Do you have any idea?

15 A. I don't ---.

16 Q. Did you work more than one shift up there?

17 A. No. We just did it all one shift. They come in
18 that night. We had a whole bunch of us.

19 Q. Was Walker --- was he an employee of UBB or was he
20 an employee of David Stanley?

21 A. UBB.

22 Q. UBB?

23 A. He was with Massey.

24 Q. Okay. So he was the one that gave you the
25 instructions and he ---

1 A. Right.

2 Q. --- took you in and ---? What about when you ---
3 did you run equipment?

4 A. No, I didn't.

5 Q. Just the motors, mantrips when you dusted?

6 A. Yes.

7 Q. So you didn't run any type of scoop or ---?

8 A. I didn't, not up there.

9 Q. Yeah, that's ---. And when you was taking those
10 pumps down in there, did Jaybird say anything about
11 the ventilation or ---?

12 A. No.

13 Q. And how deep was the water when you had to take
14 the pumps out there?

15 A. Most of them was backed up to your chest.

16 Q. Chest high?

17 A. Yes.

18 Q. Did you have good ventilation? Could you feel
19 good air coming across on it?

20 A. I --- yeah, I could feel air.

21 Q. Okay. Up around the Glory Hole, did you ever hear
22 any of them talk about the nuclear sensor?

23 A. No, I ain't never heard of that.

24 Q. I haven't either until this, after the explosion,
25 when we started talking to some people. Did you hear

1 about anyone ever getting sick or anything up around
2 the Glory Hole and have to take them out?

3 A. Not that I know of, no.

4 RE-EXAMINATION

5 BY MR. O'BRIEN:

6 Q. Just tell me --- get my head straight. You said
7 you were knocking and building stoppings in the Glory
8 Hole?

9 A. Right.

10 Q. How long a period had you been working there
11 knocking and building stoppings?

12 A. I was just there that one night. He took a whole
13 bunch of us whenever Wayne came in.

14 Q. Which night was that?

15 A. I can't remember exactly which night it was.

16 Q. Was it the last night you worked?

17 A. Right.

18 Q. Where did you work the last night?

19 A. Dusting down near the mother drive of the
20 longwall.

21 Q. When you were knocking and building these
22 stoppings, did you feel it getting cooler and fell the
23 air pick up any?

24 A. You felt it pick up and change and stuff.

25 Q. About when was that? Do you remember, roughly?

1 A. About a month before the explosion.

2 Q. When you were building the stoppings --- helping
3 build the stoppings, did you dry stack them and
4 plaster them and seal them on both sides?

5 A. Yes.

6 Q. The last night you were there, did you see
7 Persinger that last night you worked?

8 A. I didn't see him.

9 Q. Did you see anybody else unusual or any upper
10 management that you may not see on the ---

11 A. No.

12 Q. --- midnight shift?

13 A. No, I didn't.

14 Q. Okay. Thank you.

15 RE-EXAMINATION

16 BY MR. MCGINLEY:

17 Q. You said you didn't see Persinger or any
18 management. Did anybody you talked to see any upper
19 management that Sunday night?

20 A. No. I ain't heard nobody say they have.

21 Q. Okay. A couple more questions. When you were
22 hauling the pumps, did you see any entries that were
23 roofed out with water?

24 A. Yes.

25 Q. For a long distance?

1 A. Pretty good.

2 Q. What about roof falls in that --- when you went
3 back behind the wall, the longwall, did you see any?

4 A. Seen a few of them, nothing major, major.

5 Q. You said most of the water was chest high. Did it
6 ever go higher than your chest?

7 A. I wasn't in nothing higher than my chest. I
8 didn't go in it.

9 Q. Were other people in higher than their chest?

10 A. No.

11 Q. Not that you know of?

12 A. Not that I know of.

13 Q. You mentioned with regard to the airlock doors
14 being difficult to close, and I think you said you had
15 to tie them or fasten them together?

16 A. Yeah, we tried to fasten them together. People
17 could still open them from the other side, but it
18 didn't work.

19 Q. What did you use to try to fasten them together?

20 A. Rope, hangers and stuff.

21 Q. Was it just that set of doors by the mother drive
22 or were there ---?

23 A. They were the only ones that normally stayed open.

24 Q. Okay. I just want to make sure I understand.

25 When Persinger was in there I think --- Mr. Page asked

1 you about February or March. Mr. O'Brien and myself,
2 the recollection was you thought it was a month before
3 the explosion. Which of those do you think was most
4 likely?

5 A. I think it was about the end of February or the
6 beginning of March. It was somewhere around then.

7 Q. Okay. Good. Thank you.

8 MR. MCGINLEY:

9 That's all I have.

10 RE-EXAMINATION

11 BY ATTORNEY BABINGTON:

12 Q. You mentioned the water level was at about chest
13 height?

14 A. Uh-huh (yes).

15 Q. For the record, do you mind just saying your
16 height for the record?

17 A. About six foot.

18 Q. About six foot. Okay.

19 ATTORNEY BABINGTON:

20 Let's take a quick five-minute break.

21 Off the record.

22 SHORT BREAK TAKEN

23 ATTORNEY BABINGTON:

24 Let's go back on. Norman?

25 RE-EXAMINATION

1 BY MR. PAGE:

2 Q. Are you aware of any of the guys that worked in
3 the water behind the longwall or anything --- do you
4 know of any of them that broke out in any type of rash
5 or anything like that?

6 A. I don't. I never broke out in no rash, and I was
7 in it for a long time.

8 Q. Okay.

9 A. I was in it.

10 RE-EXAMINATION

11 BY MR. MCGINLEY:

12 Q. You worked Easter night? You went in Easter
13 night?

14 A. Right.

15 Q. What about Friday and Saturday night before
16 Easter, did you work then?

17 A. Friday night, I'm not sure.

18 Q. Do you recall whether --- you know, Easter was
19 coming up ---?

20 A. What day was Easter on?

21 Q. Sunday.

22 MR. PAGE:

23 Sunday.

24 BY MR. MCGINLEY:

25 Q. It's always on Sunday.

1 A. I figured I worked Friday night. I didn't work
2 Saturday night. I don't know, to be honest. I can't
3 remember.

4 Q. When did you typically work during? During, you
5 know, a seven-day week, when did you work?

6 A. My last night was normally Friday night.

7 Q. So is it likely you worked Friday night?

8 A. Yes.

9 Q. Would it be unusual if you ever worked on a
10 Saturday?

11 A. I worked a lot of them.

12 Q. You did?

13 A. (Indicates yes). There for a while I was working
14 seven days a week for about a month-and-a-half
15 straight.

16 Q. Wow. Just rock dusting?

17 A. No. It was whenever I was putting in all that
18 belt structure down there.

19 Q. So that would have been early on when you started
20 working there, or when was that?

21 A. That was two months before the explosion we
22 started doing all of that.

23 Q. When you said --- where was the belt structure
24 working out, if you recall, just generally?

25 A. Right there before you go down in --- right before

1 you get to One section.

2 Q. Okay. That last couple of days that you worked,
3 including that Sunday night or a couple days before
4 then, did you notice any new stoppings or anything new
5 in that area where you were working?

6 A. I didn't notice anything.

7 Q. Do you recall any --- some major changes, any new
8 stoppings, stopping removed, at some point, you know,
9 you said, wow, things are different here?

10 A. No, not right off.

11 MR. MCGINLEY:

12 Okay. That's all the questions.

13 ATTORNEY BABINGTON:

14 Norman?

15 RE-EXAMINATION

16 BY MR. PAGE:

17 Q. You said you rock dusted the longwall belt form
18 the mother drive towards the longwall ---

19 A. Right.

20 Q. --- on the last shift you worked?

21 A. On the last shift I worked.

22 Q. Okay. Was that belt running?

23 A. Yes.

24 Q. Was the longwall running that night? Was coal on
25 the belt?

1 A. I don't remember seeing no coal, but the belt ---
2 the belts were on.

3 Q. Wonder why the belts would be on if there was no
4 coal?

5 A. I have no idea.

6 Q. So they could have been running coal?

7 A. They could have been, but I don't remember seeing
8 any on them.

9 Q. But the belts were running?

10 A. The belts were running.

11 Q. Okay.

12 MR. PAGE:

13 That's all I have.

14 RE-EXAMINATION

15 BY MR. MCGINLEY:

16 Q. So what you recall is they were running the whole
17 shift, the belts?

18 A. I seen the belts on. I don't know if they were or
19 not.

20 Q. Whenever you were near them you remember them
21 running?

22 A. I do remember them running.

23 ATTORNEY BABINGTON:

24 Do you recall which direction the air was
25 flowing along the beltline?

1 A. Not right off.

2 RE-EXAMINATION

3 BY MR. PAGE:

4 Q. Which way were you dusting?

5 A. I started from the mother drive and worked my way
6 up the longwall, so the air was going that way.

7 Q. Okay. You was traveling inby ---

8 A. Right.

9 Q. --- with the hose, so which way was the dust
10 going?

11 A. Inby.

12 Q. On the belt?

13 A. Right, because I remember opening up --- they had
14 two little pressurized man doors where they would open
15 them up and shovel it through and take it down in
16 there.

17 Q. So the rock dust was going from the --- up the
18 belt towards the longwall?

19 A. Right.

20 Q. Okay.

21 ATTORNEY BABINGTON:

22 John, anything else?

23 MR. O'BRIEN:

24 No, nothing.

25 ATTORNEY BABINGTON:

1 Pat?

2 MR. MCGINLEY:

3 No.

4 ATTORNEY BABINGTON:

5 Norman, you got anything else?

6 BY MR. PAGE:

7 Q. The entire length that you dusted ---?

8 A. What is it?

9 Q. From the time you started rock dusting the
10 longwall belt, ---

11 A. Yeah.

12 Q. --- it was traveling inby the entire time?

13 A. Right.

14 Q. Okay. And you started at the mother drive?

15 A. Started at the mother drive and went up.

16 Q. Okay.

17 MR. PAGE:

18 That's all I have.

19 MR. MCGINLEY:

20 Thanks very much.

21 ATTORNEY BABINGTON:

22 On behalf of MSHA and the Office of

23 Miners' Health, Safety and Training, I want to thank

24 you for appearing and answering questions today. Your

25 cooperation is very important to the investigation as

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

12 A. No.

13 ATTORNEY BABINGTON:

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

16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 5:12 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Alison Salyards