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Transcript of the Testimony of Kevin Lyall

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Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

KEVIN LYALL

taken pursuant to Notice by Brett Steele, 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 Wednesday, May 12, 2010, beginning at 11:22 a.m.

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A P P E A R A N C E S

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

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

JAMES BECK
West Virginia Independent Investigation
(b) (7)(C)
(b) (7)(C)

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

2

3 JOHN O'BRIEN

4 Safety Inspector

5 West Virginia Office of Miners' Health,

6 Safety and Training

7 Welch Regional Office

8 891 Stewart Street

9 Welch, WV 24801-2311

10

11 JOHN GODSEY

12 Miners' Safety and Health Administration

13 P.O. Box 560

14 Norton, VA 24273

15

16 BETH SPENCE

17 West Virginia Independent Investigation

18 (b) (7)(C)

19 (b) (7)(C)

20

21 REBA ANN CRAWFORD

22 National Council for Field Labor

23 100 Bluestone Road

24 Mount Hope, WV 25880

25

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 We're here today with Kevin Lyall. My
5 name is Bob Wilson, I'm with the Office of the
6 Solicitor, United States Department of Labor. With me
7 is John Godsey, an investigator with the Mine Safety
8 and Health Administration. Also present on the panel
9 here today are several people with the State of West
10 Virginia. I would ask that they state their
11 appearance on the record.

12 MR. BECK:

13 My name is Jim Beck, I work for Davitt
14 McAteer on the independent team.

15 MR. FARLEY:

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

18 MR. O'BRIEN:

19 John O'Brien, with the Office of Miners'
20 Health, Safety and Training.

21 MS. SPENCE:

22 Beth Spence with the Governor's
23 independent team.

24 ATTORNEY WILSON:

25 There are also several members of the

1 investigation team present in the room. All members
2 of the Mine Safety and Health Administration Accident
3 Investigation Team and all members of the State of
4 West Virginia accident investigation team
5 participating in the investigation of the Upper Big
6 Branch Mine explosion shall keep confidential all
7 information that is gathered from each witness who
8 voluntarily provides a statement until the witness
9 statements are officially released.

10 MSHA and the State of West Virginia shall
11 keep this information confidential, so that other
12 ongoing enforcement activities are not prejudiced or
13 jeopardized by a premature release of information.
14 This confidentiality requirement shall not preclude
15 investigation team members from sharing information
16 with each other, or with other law enforcement
17 officials. Your participation in this interview
18 constitutes your agreement to keep this information
19 confidential. Mr. Lyall, government investigators and
20 specialists have been assigned to investigate the
21 conditions, the events and circumstances surrounding
22 the fatalities that occurred at the Upper Big Branch
23 Mine-South on April 5th, 2010. The investigation is
24 being conducted by MSHA pursuant to Section 103(a) of
25 the Federal Mine Safety and Health Act, and by the

1 West Virginia Office of Miners' Health, Safety and
2 Training. We appreciate your assistance in this
3 investigation.

4 After the investigation is complete, MSHA
5 will issue a public report detailing the nature and
6 the causes of the fatalities in the hope that greater
7 awareness about those causes can reduce the occurrence
8 of accidents in the future. Information obtained
9 through witness interviews is frequently included in
10 those reports. You should know that if you request
11 confidentiality, confidentiality will be granted on a
12 case-by-case basis. Your statement may be used in
13 other enforcement proceedings as well. You may have a
14 personal representative present during the taking of
15 this statement, and you may consult with the
16 representative at any time. Do you have a
17 representative present with you?

18 MR. LYALL:

19 Yes.

20 ATTORNEY WILSON:

21 All right. And I would ask the
22 representative to state her appearance for the record,
23 please?

24 MS. CRAWFORD:

25 My name, Reba Crawford.

1 ATTORNEY WILSON:

2 And your with who?

3 MS. CRAWFORD:

4 Local 3181.

5 ATTORNEY WILSON:

6 Okay.

7 MS. CRAWFORD:

8 AFGE.

9 ATTORNEY WILSON:

10 Thank you. Mr. Lyall, you may refuse to
11 answer any question, and you may request a break at
12 any time. This is not an adversarial proceeding,
13 formal Cross Examination will not be permitted;
14 however, your personal representative may ask
15 clarifying questions as appropriate. A court reporter
16 will be recording the interview. Please speak loudly
17 and clearly. If you do not understand a question
18 asked, please ask that the question be rephrased.
19 Please answer each question as fully as you can,
20 including any information that you may have learned
21 from someone else. Again, I would like to thank you
22 in advance for your appearance here today. We
23 appreciate your assistance in this investigation.
24 Your cooperation is critical to making the nation's
25 mines safer.

1 After we have finished asking questions,
2 you will have an opportunity to make a statement and
3 provide us with any additional information that you
4 believe to be important. If at any time after the
5 interview, you recall additional information, that you
6 would like to provide to the investigation team, you
7 can contact Norman Page, the lead accident
8 investigator at the telephone number that's been
9 provided to you. Okay. At this time I'm going to ask
10 the court reporter to swear you in.

11 -----
12 KEVIN LYALL, HAVING FIRST BEEN DULY SWORN, TESTIFIED
13 AS FOLLOWS:

14 -----
15 ATTORNEY WILSON:
16 Okay. And for the record, would you
17 state your full name, please?
18 A. Kevin Eugene Lyall.

19 ATTORNEY WILSON:
20 Okay. And at this time I'll turn the
21 questioning over to John.

22 MR. GODSEY:
23 Okay. Before I ask you questions, I
24 understand we have a map on the wall if you'd want to
25 refer to it, and we also have one on the table that

1 you can use.

2 A. Okay.

3 EXAMINATION

4 BY MR. GODSEY:

5 Q. State your full name and spell your last name.

6 A. Kevin Eugene Lyall, L-Y-A-L-L.

7 Q. And what is your address and telephone number?

8 A. (b) (7)(C)

9 (b) (7)(C)

10 Q. Are you appearing here today voluntarily?

11 A. Yes.

12 Q. How long have you worked for MSHA?

13 A. Four years in August.

14 Q. And what is your current duty station?

15 A. Mount Hope.

16 Q. And how long have you worked at Mount Hope?

17 A. Four years in August.

18 Q. What is your present position?

19 A. Underground inspector.

20 Q. And you've been in that for three years ever

21 since ---?

22 A. Right. It's been about three years.

23 Q. And who is your current supervisor?

24 A. Tom Moore.

25 Q. Okay. Tell us about your mining history and your

1 mining experiences?

2 A. Well, I've been around mining all my life. My dad
3 was a coal miner, my grandpa, and I started in the
4 mines after graduating in '93.

5 Q. Do you have any certifications from the state or
6 anything in mining?

7 A. No.

8 Q. What are your areas of responsibilities?

9 A. Now?

10 Q. Uh-huh (yes).

11 A. Just enforce the law and inspect coal mines.

12 Q. Are you the authorized representative assigned to
13 the Upper Big Branch Mine the quarter of January to
14 March, or this third quarter, are you assigned --- are
15 you the AR assigned to that mine, the responsibility
16 of it?

17 A. The quarter before?

18 Q. The one in January through March?

19 A. No.

20 Q. Okay. When was the last time that you inspected
21 at the Upper Big Branch Mine?

22 A. I done an EO2, I'm not for sure on the date, it'd
23 be in my notes, but I want to say middle of February,
24 somewhere in there, I done an EO2.

25 Q. Okay. You did an EO2. And that is a ---?

1 A. Spot inspection.

2 Q. Due to a --- was that for a 103(i)?

3 A. Yeah. 103(i).

4 Q. Okay. Okay. Did you go underground that day?

5 A. Yes.

6 Q. Did anyone from the company or MSHA accompany you
7 that day?

8 A. Someone from the company.

9 Q. Who was it?

10 A. I'm not for sure if I went to the longwall. The
11 last time I was there we went to the Headgate 22
12 section.

13 Q. Okay.

14 A. But when I went to the longwall, I think it was
15 Jack Roles, and if I went to the headgate section, it
16 was Everett Hager.

17 Q. Okay. Did the companying person, did they take
18 any notes, or any photographs when you ---?

19 A. No, not that I recall.

20 Q. Now we'll get into talking about the inspection.
21 What time did you arrive approximately that day?

22 A. Most of the time, let me see, probably between
23 7:00 and 8:00 probably, somewhere in that area. I'm
24 not 100 percent sure.

25 Q. What are your normal procedures when you, you

1 know, go to mine office, what do you ---?

2 A. Well ---.

3 Q. What do you do?

4 A. When I arrive at the office, the first thing I do
5 is I bump test my spotter. I get my light, my
6 self-rescuer and then I proceed to the locker room,
7 get dressed. And then I go up and look at the mine
8 files. If it's an E02, I'll see if there's any changes
9 since last time, review it, sign it, and sign the
10 sign-out book, get my computer and load my vehicle and
11 travel to the mine.

12 Q. Okay. Since January you've done, I guess, the
13 majority of what I looked at of the E02 inspections.

14 A. Right.

15 Q. And I think you about visited every section from
16 29 to 40 to 50, and I don't know about the barrier
17 section, I don't know whether you've been --- I can't
18 remember if you've been to the barrier section or not.
19 But say if you went to the headgate entry, which
20 travelway would you travel from the portal most of the
21 time?

22 A. I recall walking up the intake, you know, like we
23 parked here and walked ---.

24 Q. What I'm saying is when you left from the surface,
25 you know.

1 A. Oh.

2 Q. Would you come from ---?

3 A. If I was coming up --- I'm sorry.

4 Q. Go ahead.

5 A. If I was coming to the longwall or the headgate
6 section, I would come from Ellis Portals, which
7 would ---.

8 Q. Okay. And that is by track?

9 A. Yeah. Right.

10 Q. And what is usually the time it takes you to get
11 from --- with other traffic to get to ---?

12 A. Majority of the time it would take an hour to an
13 hour and a half.

14 Q. Okay.

15 A. To get to the section.

16 Q. Okay. When you leave the portal, and you come up
17 and you inspect --- you know, you're inspecting from
18 the time you get on the property, I understand that.
19 Let's say you're going and your entering underground,
20 and let's just travel up through there, you're looking
21 at the roof, the ribs, rock dust, stoppings,
22 construction, what are the --- this a roof supported
23 well all the way up? Do they have a lot of problems
24 with areas that need additional or had additional
25 support ---?

1 A. There was a lot of timber set along the track and
2 stuff, so they did have some timbers set and stuff
3 like that.

4 Q. Now, I'm going to stop at construction. Do they
5 wet lay, or do they dry stack, or ---?

6 A. Dry stack most of it.

7 Q. Unless they're on ---.

8 A. Yeah.

9 Q. What, one or two sides?

10 A. Most of the time it was one side.

11 Q. One side?

12 A. Yeah, one side.

13 Q. And on traveling through there, it's adjacent from
14 the beltline, I believe?

15 A. Right.

16 Q. Have you ever had a chance to go over and look at
17 the beltlines and check the velocities on the belt,
18 or ---?

19 A. I don't recall checking velocity on the belts.

20 Q. Well, did you ever notice the seal system, or ever
21 look at the seal system ---?

22 A. Yeah. Yeah.

23 Q. Now, which way does air travel now from the Ellis
24 Portal in, does it travel out, or does it travel ---?

25 A. It's all intake up through there.

1 Q. Okay. At any time during your inspection, do you
2 ever balance air velocity --- not velocity but
3 ventilation at the portals, you know, like take the
4 air readings at fan intakes and all that?

5 A. Yeah.

6 Q. Yeah. And you just make sure the air balances?

7 A. Right.

8 Q. Okay. And then you say you're coming on up the
9 track, and you know, then would come to some of these
10 mandoor. What condition do you usually find a
11 mandoor, are some of them open? Are they always
12 closed? Are they damaged? Are they --- they bump
13 them?

14 A. I have cited on my E01 --- I'm not for sure,
15 several times, once or twice, but I cited a door being
16 damaged, the four double doors they had going across
17 the intake.

18 Q. Uh-huh (yes).

19 A. Down here somewhere (indicating), between 78 Break
20 and what, 90 Break?

21 Q. Yes.

22 A. They had, you know, two sets of double doors. And
23 I cited the inby doors for being damaged where it
24 looked like somebody bumped into it. And I think I
25 also --- I wrote a violation on the Ellis --- right

1 before you --- when you pass the LBB --- before you
2 get to the --- I forgot what they call it now, the
3 Plumley switch. They had a set of double doors and I
4 cited them for leaving it open one time, I can recall.

5 Q. Are you aware, have you ever heard of them having
6 been written several violations for maintaining ---
7 leaving the doors open and the company maybe having a
8 safety talk or safety ---?

9 A. Right. I issued a violation one time and told
10 them to have a conference, you know, terminating that
11 violation was for them to speak with every employee
12 about closing doors at all times.

13 Q. Because the doors have a very big play with this
14 ventilation system. Okay. So say we went to the
15 headgate, and we'll probably --- from the headgate
16 down to 040 --- 050, because you been there so many
17 times, you know, ---.

18 A. Forty (40), I've never been to 40.

19 Q. Never ---?

20 A. They never run while I was there.

21 Q. Okay. Okay. But one time you went, I think, to
22 Headgate One section, I think you call it?

23 A. Right.

24 Q. And you went up and you --- into the track, and
25 you checked, I guess, the rock dust. How does it look

1 up through there?

2 A. I didn't feel like it was citable.

3 Q. Okay.

4 A. You know, I thought they'd done a pretty decent
5 job with rock dusting the outby and stuff.

6 Q. Well, while you were up there, did you have any
7 reason, or did you go over towards the Glory Hole,
8 what they call the Glory Hole?

9 A. No. Not on my EO2s or ---. I have traveled past
10 the Glory Hole going up into the --- North Mine.

11 Q. Okay. Have you ever detected any methane or CO or
12 anything around that area?

13 A. Around the Glory Hole?

14 Q. Uh-huh (yes).

15 A. No.

16 Q. Okay.

17 A. Not that I recall.

18 Q. Okay. Now we're up to the end of the track,
19 getting ready to go on the section, how did you travel
20 up the --- what course or what entry did you travel?

21 A. The last time I can recall traveling to 29 we
22 traveled up the intake.

23 Q. Okay. How was the stopping construction on that;
24 was it ---?

25 A. The stoppings were fine. I'm thinking I might

1 have wrote about main door signs or something.

2 Q. Okay.

3 A. Maybe like ---.

4 Q. And the plaster and all that, that was ---?

5 A. Yeah. That was fine.

6 Q. And the roof support in that area, it was ---?

7 A. It was fine.

8 Q. Did you enter any of the other entries belt or the
9 return?

10 A. Yeah, you know, I went across the faces and ---.

11 Q. Just take us on up there. Did they have --- say
12 you went to intake, you had your escape way route and
13 you had your lifeline and everything was ---?

14 A. Everything seemed fine, but like --- I don't know
15 exactly where it was, you know, I would say it was
16 about halfway the last time I was up there, you know
17 what I'm saying?

18 Q. Right.

19 A. Not all the way up here.

20 Q. Okay. Headgate 22?

21 A. Right. On Headgate 22, and I would say --- I
22 don't know what the right number would be but ---.

23 Q. Okay. That's the furthest point they were then?

24 A. Yeah. I would say about little bit over halfway,
25 somewhere in there.

1 Q. How many miners do they usually have on this
2 section?

3 A. Two miners.

4 Q. I'm talking about workers.

5 A. Workers?

6 Q. Uh-huh (yes).

7 A. I can't give you an exact number. You have two
8 shale co-operators and they had one miner operator,
9 and another miner operator, a boom. Let's see. I
10 would say close to 10 to 12 guys.

11 Q. Including the supervisor?

12 A. Yeah.

13 Q. Okay. Okay. Now, you go up on the section, and
14 take us from there. Did you go --- you say you made
15 your ---?

16 A. Yeah. Most of the time what I like to do is I
17 usually like going to the left --- starting from my
18 left and going to the right?

19 Q. Okay.

20 A. Most the time I --- it's my little thing. I went
21 over into number one. It seemed like they had maybe
22 four-tenths or point 35 or something methane in number
23 one. I think I took an air reading. I think he had
24 his minimum because they had in their plan they had to
25 have at least 3,000 in all the places, even if it

1 wasn't working.

2 Q. Okay. Does it relate to what the pre-shift report
3 said, did they have about ---?

4 A. Yeah. Yeah. I mean ---. Yeah.

5 Q. Okay. Did you watch any mining while they were
6 ---?

7 A. The last time, no.

8 Q. Okay.

9 A. I watched bolting in number three. Number three.

10 Q. Did they have sufficient air?

11 A. Right. I took air readings.

12 Q. Okay. Did you check the pressure --- the section
13 on the drill heads, or ---?

14 A. No. I didn't check no pressure on the drill
15 heads.

16 Q. Now, did you check --- did you go to the immediate
17 return?

18 A. I don't recall that.

19 Q. Okay. How close to the --- the stoppings, were
20 they within two crosscuts, three?

21 A. They were within two.

22 Q. Okay. So they was ---. Let me go back little
23 bit. When you started walking up --- did you ever see
24 any conditions like a floor heave or roof conditions
25 or anywhere where it was taking any weight or

1 anything?

2 A. Not that I recall, no.

3 Q. Did you see much of water?

4 A. Water? There was a few little water holes in the
5 intake, you know, not deep, but you know, a few little
6 dips.

7 Q. Did the floor undulate up through there, or did
8 they have any pumps or anything in ---?

9 A. I can't recall pumps being in it.

10 Q. Okay. Take it back to pumps, did you see ---
11 let's go back to the main line, I'm a little ahead of
12 myself. Are there any steep grades on this track?

13 A. I wouldn't call it steep, but I'd say, you know,
14 seven, eight percent, something like that, you know,
15 not a steep grade but you've got ---.

16 Q. Did they have any D-rails in place?

17 A. No, not that I can recall.

18 Q. What about pumps, they maintain pumps, I guess,
19 down ---?

20 A. Yeah. They got pumps along the beltline and
21 different places down through there.

22 Q. Okay. Did you talk to any of the individuals, the
23 miners up there?

24 A. Yeah.

25 Q. Did they ever say anything, you know, they was

1 concerned about anything, anything bothered them or
2 anything?

3 A. No.

4 Q. Okay. After you left there and --- what kind of
5 support do they use up there, roof support?

6 A. They was using six-foot bolts at that time.

7 Q. Did they ever use any supplemental supports?

8 A. They used torque tension sometimes. It just
9 depended on the condition of the top. They had a real
10 good bolt man.

11 Q. Okay.

12 A. They put rib bolts in, they put straps.

13 Q. Uh-huh (yes). Did they ever have any Y entries up
14 there or ---?

15 A. I never caught it.

16 Q. Okay. While you were up through there, when you
17 had the rep with you from the company, was he taking
18 notes as you went up through there?

19 A. I don't recall him ever taking notes.

20 Q. Did he ever take any photographs?

21 A. Never.

22 Q. Did anybody ever see him?

23 A. No. No one ever traveling with me has.

24 Q. Okay. After you did that, do you take your air
25 bottles and stuff when you're up there?

1 A. At that time I didn't know --- I didn't take none.

2 Q. Okay. Then you came back, I guess --- how did you
3 exit the mine that day?

4 A. Walked back down to --- down the intake, and we
5 got over into the track entry and traveled the track
6 back outside.

7 Q. At that time, or at anytime, have you ever found
8 any methane on the track?

9 A. I have found very little over, you know, the times
10 I've been down there.

11 Q. Uh-huh (yes).

12 A. But no, I can't recall it ever being over .2, two
13 tenths.

14 Q. But approximately how much time did you spend on
15 the section that day?

16 A. I would say hour and a half, something like that,
17 two hours.

18 Q. Okay. What all did you do? Did you do anything
19 outby, did you terminate any citations or ---?

20 A. Not that I recall.

21 Q. Okay. Just came on out, and --- talked ---.

22 A. Right.

23 Q. Did you check anything on the tracking or the seal
24 markings outside or check in, check out?

25 A. I check check-ins, check-outs.

1 Q. I'm talking about theirs.

2 A. No, I don't recall, no.

3 Q. Okay. So the next day you --- the next time you
4 came up there --- we'll go back to the longwall. Do
5 you remember the last day you went to the longwall?

6 A. I mean ---.

7 Q. Well, have you been on the longwall in the last
8 six months or ---?

9 A. Yeah. I mean, I have been on the longwall,
10 but ---.

11 Q. Okay. If you can't remember the exact date ---.

12 A. I mean, if I had my notes I could tell you the
13 last time I was there.

14 Q. Well, here's one. You were there several days,
15 first day --- 1/7, you were there. I think that was
16 the same day there was stones or that's when he found
17 the air reversal.

18 A. Yeah. It looks like the last time was February
19 the 8th.

20 Q. Okay.

21 A. I was with Jack Roles.

22 Q. He's the longwall coordinator?

23 A. Yeah, longwall coordinator.

24 Q. And I guess you met him on the surface --- what
25 time did you arrive, I think it's on there?

1 A. 8:00.

2 Q. 8:00. And then what did you do, you talked to
3 him, and made plans to go to the longwall?

4 A. Yes. I had a pre-conference with Jack, I checked
5 the pre-shift book, I got --- they had 87,000 in the
6 intake, 860 at check 9 and 772 at check 160. And we
7 traveled to the longwall on the track and walked from
8 the end of the track to the longwall section.

9 Q. But you didn't --- I don't know when you got to
10 the --- you didn't see anything wrong from the forward
11 to the section that day?

12 A. No. What I wrote was, let's see, traveled to the
13 longwall on the track. I wrote no violation deserved,
14 20.8, and no methane was picked up from the track to
15 the longwall ---

16 Q. Okay.

17 A. --- to the end of the track.

18 Q. Okay.

19 A. And that day I walked from the end of the track to
20 the longwall section, and did not pick up any methane.

21 Q. Okay.

22 A. Walked --- let's see, walked to the longwall belt,
23 going inby, from the number one section, from the
24 number one belt. I had .05 methane over there on the
25 number one belt.

1 Q. When you go up to the longwall, and you go out,
2 usually they have the curtains across the headgate,
3 you know, keep it deflected.

4 A. Right.

5 Q. Do you ever check the pressure on --- make sure
6 how much pressure --- I mean, how much air is going
7 back in behind this area in behind the ---.

8 A. That's something I had to check real-time.

9 Q. Real-time?

10 A. Yeah.

11 Q. Okay. When you went up and across the longwall,
12 usually the pre-shift was similar to what was there,
13 in other words, give or take a few feet per minute
14 on ---?

15 A. Well, I took a reading at Jack 160 that day, and I
16 had 314, and they reported 772.

17 Q. Yeah. Well that could have been like where the
18 jacks were and stuff.

19 A. Right.

20 Q. Did you ever encounter any floor gas up there?
21 Did you ever see anybody --- did you ever have a
22 blower on the floor, or ---?

23 A. On the longwall face side, and I don't --- no.

24 Q. Nothing ever found in ---?

25 A. No.

1 Q. Did you ever have much water coming through the
2 roof there?

3 A. Yes.

4 Q. How many times did you see that?

5 A. Basically when they was mining around 50 break
6 they seemed to --- they was having a little bit of
7 water issues.

8 Q. Did they have any roof problems on the headgate or
9 either on the tail at that time?

10 A. From about break 65 to about break 80 they had
11 some wet floors.

12 Q. Did they have any heaving and stuff?

13 A. Yes.

14 Q. Did it make a heavy noise? I don't know if a
15 longwall makes noise, but did it have any extra ---?

16 A. Back in the headgate, yes. I didn't like it. I
17 had my supervisor at the time and another supervisor
18 and they all traveled with me up into that area.

19 Q. Uh-huh (yes). Is that the area also where they
20 used to --- near that or inby that they had the air
21 pumps and stuff?

22 A. Yes. They were set around 85 and 90 and 100.

23 Q. Do you recall exactly, I say roughly, how many air
24 pumps they had?

25 A. I can only recall seeing three of them, but they

1 said --- I think they said they had six of them
2 pumping at the time.

3 Q. Was it making quite a bit of water?

4 A. Oh, yeah.

5 Q. And it was coming ---?

6 A. Oh, yeah.

7 Q. Where do you think it was coming from?

8 A. It was coming from the top.

9 Q. Coming from the top.

10 A. That's what I thought.

11 Q. Okay. And did you ever --- I know you measured
12 longwall faces, you said, you see very little
13 measureable methane.

14 A. Right.

15 Q. They kept the face pretty clean, I assume. And
16 did you ever go into a tailgate entry where you
17 couldn't get into it because of water?

18 A. No.

19 Q. Did you ever make the tailgate to the mouth from
20 the ---?

21 A. Yes. Under E01s ----.

22 Q. What kind of conditions would it have been?

23 A. When I traveled it, it was fine.

24 Q. All of it?

25 A. Yeah.

1 Q. Were there any other problems that you encountered
2 on the longwall that you got concerned with?

3 A. You know, we had the roof issue here at 49 Break.
4 And at that time, you know, that longwall was sitting,
5 and pressure started building up and it was a lot of
6 roof issues and ---.

7 Q. Okay. Have you ever walked from this --- back in
8 towards Bandytown fan?

9 A. Yes.

10 Q. Which route did you go there? Where did you start
11 at and where did you end at?

12 A. Well, what I can remember was, they was mining
13 this section, which was the Old Number Two section
14 which is, you know, how can I say ---.

15 Q. It's between Tailgate One North, and Headgate One
16 North.

17 A. Yeah. They was mining that little area there. It
18 had not been connected yet. And the return come off
19 of here and we went down to --- they had a regulator
20 that went across, and then we went down to ---.

21 ATTORNEY WILSON:

22 Tell you what, why don't you, with this
23 pink highlighter, mark Number Two section. And then,
24 if you don't mind, you can trace the route that you're
25 describing.

1 A. That I think I traveled?

2 BY MR. GODSEY:

3 Q. Yes.

4 A. I'm thinking --- I know for sure they had like a
5 regulator --- they had a regulator somewhere down in
6 here. And we just started walking ---.

7 Q. That's the map of Tailgate Number One North.

8 ATTORNEY WILSON:

9 Well, let's put an R, a big R., where you
10 said there was a ---.

11 A. I'm thinking that's where it was. It might have
12 been this one. It's been a while when I walked it.
13 But we walked it, and we walked this outside entry all
14 the way towards the Bandytown fan. As you can see, it
15 drops off each time so we'd just ease on over,
16 and ---.

17 BY MR. GODSEY:

18 Q. Does the velocity get pretty bad through there?

19 A. The what?

20 Q. Air velocity?

21 A. No. It was good. At that time, One section
22 return, which I was inspecting, which is Headgate 22
23 I'm calling One section, at that time their return ---
24 I'd say they was mining in this area.

25 Q. Uh-huh (yes).

1 A. This had not been developed.

2 ATTORNEY WILSON:

3 And when you say this area, you're

4 talking the crossover from ---

5 A. From the headgate.

6 ATTORNEY WILSON:

7 --- MMU-040 to 029?

8 A. Right. This was 029. This was when they started,
9 you know.

10 BY MR. GODSEY:

11 Q. 040 wasn't in existence at that time, I don't
12 think.

13 A. Right, 040 wasn't existing.

14 Q. Between Headgate One North and Headgate 22, I
15 think.

16 A. Look, this return went down through here, okay,
17 when this return was running down this way.

18 Q. What condition ---?

19 ATTORNEY WILSON:

20 Kevin, I'm sorry, but when you say this
21 return, we can see what you're pointing to.

22 A. Right.

23 ATTORNEY WILSON:

24 But the transcript won't reflect that.

25 A. Okay.

1 ATTORNEY WILSON:

2 So if you can just describe what you're
3 referring to.

4 A. Headgate 22 section at that time went down Number
5 Three entry, down the headgate toward the main panel
6 fan.

7 BY MR. GODSEY:

8 Q. Okay. What condition was that return main fan?

9 A. Like I said, the water and the ribs and stuff like
10 that.

11 Q. Was it rough? Was it narrow, hard to get through
12 those ribs and stuff, or was it ---?

13 A. It was pretty deep water.

14 Q. Did it ever get blocked where you couldn't go
15 through it?

16 A. They ended up submitting a plan and changing the
17 return down to here (indicating).

18 Q. Right. So there was probably a citation written
19 for that?

20 A. Yes. I wrote the citation for not being able to
21 travel ---. But when I traveled this, you know, we
22 traveled the far entry, and as it goes over we just
23 stayed over to the left going inby towards the
24 Bandytown fans. And when you got to the Bandytown
25 fan, I went to all three sides of the fans, took

1 bottle samples, and air readings.

2 Q. And on your way back down there --- excuse me if I
3 interrupted. Did you get those readings at the
4 elevation --- I mean, the evaluation point behind the
5 tailgate, or the ---?

6 A. I can remember getting one or two readings back
7 there. I'm not 100 percent sure, you know. I think
8 we got two of them, I'm not 100 percent sure.

9 Q. Did you ever get any methane or low oxygen or
10 anything back there?

11 A. When you have so much --- no. I can't recall how
12 much methane I had, but --- I can't recall.

13 Q. Did they have this return, additional supports put
14 in that, in those entries as you traveled?

15 A. They had a lot of prop setters and stuff set up
16 through here (indicating). Basically down through
17 here on that return side, they didn't have nothing
18 here really, just, you know ---.

19 Q. Okay. On the elevations it shows it's dipping
20 that way. Is there a lot of --- so they got a deep
21 well pump. Is there a lot of water that's in that
22 area towards that fan?

23 A. Well, when I traveled it the first time, it wasn't
24 bad at all.

25 Q. Uh-huh (yes).

1 A. Nothing over my boot, probably four inches deep,
2 five inches deep at the most. But when you get to,
3 I'm going to say, 125, 127, somewhere in there, going
4 toward the Bandytown fan, they cut the bottom out.

5 Q. Uh-huh (yes).

6 A. So the water can run that way and go towards the
7 big turbine pump they got set up there. But most of
8 the water, they got the bottom cut out where the water
9 runs that way, around 120 or so I believe. I'm not
10 100 percent.

11 Q. But if that pump was to go down, it would take a
12 while for it to ---?

13 A. Oh, yeah.

14 Q. Did you talk to many of the people that was on the
15 longwall, the workers up there?

16 A. I spoke to them.

17 Q. Did they ever voice any concerns or anything?

18 A. No. I'm pretty good at talking to the guys, and
19 the guys on the longwall seemed like they was pretty
20 good, happy, everything was going good. You know,
21 they was concerned up in here when they was having the
22 roof issue, but all those gas issues, no one's ever
23 voiced anything to me about it.

24 Q. Okay. Did you ever have any concerns on the
25 ventilation on this in the last few months or the last

1 few weeks where they've had --- since January I think
2 they've had five or six air reversals, air going in
3 the wrong direction, like seals and stuff. Did you
4 have any concerns of --- or did you ever talk with
5 anybody about the ventilation?

6 A. Yeah. Keith Stone, he had the EO1, spoke to him,
7 you know. He told me, you know, check this out for
8 me, and talk to Joe Mackowiak about, you know, several
9 things. Joe would say, you know, submit a plan here,
10 you need to make sure they're doing this and ---.

11 Q. You may not know this, but had the company
12 submitted a lot of revisions since September, approved
13 ventilation plans since then?

14 A. Yes. You know, I just heard Joe say, you know,
15 they seem like sent in two or three plans a week just,
16 you know, making little ventilation changes.

17 Q. Has anyone ever mentioned to you off job or in
18 here, too, that someone or some people are making
19 ventilation changes on shift or changing the stoppings
20 or regulators just so it would fit the ---?

21 A. I don't know. I don't know --- anyone saying
22 something to me? No.

23 Q. Had you ever noticed any time a ventilation
24 fluctuating on the section while you were there for
25 --- you know, going up, or going down or ---?

1 A. No.

2 Q. Okay. When you were on the longwall, and I'm sure
3 you watched them run the shearer, did you ever see any
4 methane or any --- on the shearer machine at the head
5 or tail?

6 A. No.

7 Q. That's where you say it was low ---?

8 A. Yeah. It was always low, every time I ever went
9 across that wall.

10 Q. Okay. Had you ever visited any of the other
11 sections outby, you know, other than --- you said
12 you'd never been to the tailgate entry, I mean the 22
13 tail?

14 A. For 40-MMU?

15 Q. Yeah.

16 A. I've never been to that area.

17 Q. What other ones have you visited? Have you been
18 to the portal section?

19 A. Yeah. I've been to both sections. I've done a
20 rock dust survey on --- I've done the rock dust
21 survey, which at that time they called it the Three
22 Section. And I've done a rock dust survey there. I
23 had several inspectors help me when I was on my E01.

24 Q. Okay.

25 A. As far as the E02s, the next time I went to the

1 longwall or the headgate section.

2 Q. Okay. And when you did that, was there a lot of
3 wet samples down there or ---?

4 A. I had a lot of bad samples down there on that
5 section. I think it might have been 100 percent ---.

6 Q. So in other words, you're saying the rock dusting
7 was very laxed?

8 A. On that section it was.

9 Q. Okay. What about on the other ---?

10 A. Well, now, I couldn't do Headgate 22 ---

11 Q. Uh-huh (yes).

12 A. --- because it was wet. Very wet. It's a wet
13 mine. And I think the rock dust sample that we took
14 over here on the Barrier Section, I think it might
15 have been good. I can't recall.

16 Q. Let's get back to the doors there. Were you up
17 there ever when they had these doors in between the
18 040 section and the 050s, you were never in that area
19 when ---?

20 A. No.

21 Q. But they do ---.

22 A. They had these doors here when I was
23 inspecting, ---

24 Q. Uh-huh (yes).

25 A. --- I can recall, at the mouth of the headgate.

1 Q. Are these mechanical or ---

2 A. No.

3 Q. --- are they manual doors?

4 A. Manual doors.

5 Q. Do they have both, manual and mechanical doors?

6 A. The only ones I can recall working were the ones
7 down at ---

8 Q. Okay.

9 A. --- down on the north side. I forget what they
10 were called.

11 Q. Okay. You said you wrote a violation about the
12 doors. Was there any of them up in here anywhere?

13 A. The doors I wrote up was down here at, let me see,
14 yeah, these doors here.

15 Q. Okay.

16 A. This door right here's one of them, the 85 break
17 --- would be 84 Break. I wrote they were damaged. It
18 looked like a motor or a mantrip bumped against it and
19 torn off the top cinderblock down on top of it.

20 Q. Okay. And on March 9th, several of the
21 inspectors, vent specialists went up to this mine, and
22 they did like a ventilation impact, or ventilation
23 survey up there. Did any of them talk to you about
24 that, what the results of it were?

25 A. No.

1 Q. You don't have any ---?

2 A. March the 9th. No.

3 Q. Last December, maybe even been October, you had
4 this for a regular --- you were a regular.

5 A. Right.

6 Q. What are some of the concerns that you had then?

7 A. When I was inspecting ---

8 Q. Yeah.

9 A. --- E01? The water behind the longwall was a
10 concern, and then the roof issue.

11 Q. Did they seem to take care of it pretty --- if you
12 ride them they pretty well take care of the situation?

13 A. Yeah. They done a pretty good job on it.

14 Q. Did you hear the wall when it first started up, or
15 had it already been running?

16 A. It was already running.

17 Q. Okay. And they had pretty good ventilation on it
18 then?

19 A. Yes.

20 Q. And then, did they have any water issues then?

21 A. No.

22 Q. It just all happened when it got down to
23 the ---?

24 A. December/November area.

25 Q. And so you inspected Longwall 22, and 22 Tailgate

1 section. On I think it was your first visit, I think
2 you were there on 1/7/10. I think there was another
3 inspector there, and that's when they had the air from
4 the one section's return was going into the secondary
5 escapeway of the longwall; were you aware of that?

6 A. I was aware after the fact.

7 Q. I mean, after the fact.

8 A. Yeah.

9 Q. And then also, that he found the air going in the
10 wrong direction in another place.

11 A. Right.

12 Q. Did you know any other time that --- were you
13 involved any time that they found air reversal on a
14 belt or ---?

15 A. Not that I can --- I think that day he asked me to
16 check the belt, the longwall belt ---

17 Q. Uh-huh (yes).

18 A. --- right around where Headgate 22 section belt
19 met. He asked me to check the air there.

20 Q. Okay. And what about at the other --- was you
21 ever up, was that Eight North or whatever, was you
22 ever up in that area?

23 A. Yeah. We called it Old North Main, that's what
24 most people down there was calling it at that time.

25 Q. What did you find up there?

1 A. Over here, Number Six entry you had serious
2 hooving of the bottom.

3 Q. Okay. What about the roof and ribs?

4 A. They weren't bad because usually, it's one thing
5 or the other that gives, the roof, rib or bottom. And
6 evidently the bottom was the weakest point there. But
7 you know, over in that entry, you could hear bubbling
8 down in there.

9 Q. Okay. Was it coming from the bottom?

10 A. Right.

11 Q. And are you aware of a seam possibly a short
12 distance below this one? It's called something like,
13 I don't know, Little Eagle or something. It's a small
14 seam?

15 A. Uh-uh (no).

16 Q. You've never --- what about the overmining, were
17 you concerned about any of the mines over top or ---?

18 A. Well, I mean, deep inside, I thought about, you
19 know, Logan Fork Longwall that they had --- the seam
20 above them, where it was and stuff like that.

21 Q. What was your main concern about that?

22 A. Just as far as having roof issues here. And then
23 the water. I mean, I know there were some seals over
24 at Logan Fork that had a lot of water come out of
25 them.

1 Q. Uh-huh (yes).

2 A. And, you know, I was thinking that might be where
3 the water was coming from that was on the headgate.

4 Q. I'm just going to ask you this and you can just
5 speculate on it, just your conjecture on it, do you
6 think that when the longwall --- mined under it, the
7 roof fell, you know, do you think they failed to maybe
8 do that ---?

9 A. Oh, yeah. I think it fell, cracked, or
10 whatever ---.

11 Q. Are there any seams above that that you're worried
12 about or had any experiences with?

13 A. Well, I had a guy tell me, he was always worried
14 about a seam of coal that's been burning for a few
15 years that was underneath his mine.

16 Q. Uh-huh (yes).

17 A. I'm not for sure what mine or what seam of coal
18 he's in, but it was the Black Knight Mine. And he
19 mentioned to me, he said --- you know, this was after
20 --- April the 5th. He said, you know Kevin, he said,
21 I always wondered, you know, that longwall how much
22 has as it affected my section. And that was a top
23 seam.

24 Q. Uh-huh (yes).

25 A. And how I had --- I forgot the number of roof

1 falls, 10 and 12, whatever roof falls in a certain
2 period, you know, certain time period there. He said
3 I was just wondering if it's possible, you know, that
4 mine's cracked and that crack is leading up to that
5 seam that's been burning all these years. He said, I
6 just wondered that. The main thing I always wanted to
7 go look.

8 Q. And what your saying is, in the fall area here the
9 mountain cracks all the way up, that that methane
10 would follow it up and get into that seam.

11 A. Yeah. That's what we were talking. And I said
12 yeah, you know, that's always a possibility.

13 MR. FARLEY:

14 Forgive me for interrupting you, but so I
15 don't lose this. Number Six entry, you talk about the
16 hooving, even at Eight North?

17 A. Yeah.

18 MR. FARLEY:

19 Okay.

20 A. They call that Eight North now, but at that time,
21 we just called it Old North Main.

22 MR. FARLEY:

23 Okay.

24 BY MR. GODSEY:

25 Q. Have you ever had any experience with that seam on

1 fire above you?

2 A. No. I never knew nothing about it.

3 Q. Have you ever seen it burning?

4 A. No. Well, when we was at the Bandytown fan on
5 April the 5th, we had smoke, it was pretty smoky. And
6 there was a forest fire up there burning around the
7 fan, on the mountain, a forest fire.

8 Q. Uh-huh (yes).

9 A. And then I think it was the second night, or the
10 third night, you know, the fire department were called
11 to come over there and put the fire out on Bandytown
12 --- around the Bandytown fan.

13 Q. Was that from the seam, or is that --- I think I
14 asked you that?

15 A. Yeah.

16 ATTORNEY WILSON:

17 We're at a good breaking point now.

18 Okay. So if anyone's in agreement, it's five after
19 12:00, why don't we break for lunch. We can go off
20 record.

21 SHORT BREAK TAKEN

22 ATTORNEY WILSON:

23 John?

24 BY MR. GODSEY:

25 Q. Okay. I want to go back to one other --- couple

1 other places. You said, I think, from Eight North,
2 you went up there or Nine North, you said that methane
3 was bubbling out of the bottom. Do you remember
4 taking a gas checker or whatever?

5 A. I took my detector down in there, but as far as a
6 legal reading, no. You couldn't do a legal --- the
7 legal reading was fine. I think it was .3.

8 Q. .3?

9 A. Yeah. I'm thinking. I might not have put it in
10 my notes, I'm not for sure. I probably did, but I'm
11 not 100 percent. But I did stick my arm down in the
12 hole, and I didn't get nothing over one coming out of
13 it.

14 Q. Okay. But it was methane coming out?

15 A. Oh, yeah.

16 Q. Was it coming across the face or was it just that
17 one?

18 A. Well, it kind of --- on the corner of Number Six,
19 right there on the corner, it was hooved up, probably
20 12 to 18 inches, the bottom was, right there. And you
21 know, I just stuck my arm down in it just to see if
22 there was a high level coming out of it but ---.

23 Q. Was it just heaving on that area? Was it all the
24 way across the face, or can you remember?

25 A. I know it was hooving from that corner just a

1 little bit into that crosscut and just in that
2 intersection a little bit.

3 Q. Yeah.

4 A. I can recall that for sure, another six inches.

5 Q. Another six inches. Okay. Face area?

6 A. Yeah. In the face.

7 Q. Okay. And anywhere outby that did you see those
8 same conditions outby on that panel or along the right
9 side?

10 A. No, not that I can recall.

11 Q. And you don't ever recall seeing anything on
12 Headgate 22 hooving like that?

13 A. On the sectional?

14 Q. Outby?

15 A. Outby? I don't recall.

16 Q. On the rib maybe, you know, maybe from just
17 cracking or ---?

18 A. Not on the section. At the time I was inspecting,
19 you know, they was --- I think the furthest they got
20 maybe was right here (indicating).

21 Q. Uh-huh (yes).

22 A. Where the heaviest would be, about two or three
23 breaks inby, two or three breaks inby from the
24 tailgate as far as when I was doing my E01.

25 Q. Okay.

1 A. I think when I ran dust they might have had this
2 place here. They hadn't changed their intake or
3 anything, it was still coming up to here.

4 Q. Okay. And back on the longwall you said there was
5 water, I don't remember if I asked you this or not,
6 but did they ever have any pumps, or water pumps?

7 A. Yes.

8 Q. Along the ---?

9 A. Yes.

10 Q. Do you remember how many they had?

11 A. They had one, the last time I went down the wall
12 on the EO2. I'm thinking it was the last time, I'm
13 not 100 per cent, I'm thinking they had one up on the
14 jack, and they had one like halfway down the wall
15 pumping.

16 Q. Uh-huh (yes).

17 A. And then they said they had one at the tail
18 pumping. At that time I couldn't get to the tail ---
19 I think I couldn't get to the tail because the shearer
20 was coming back towards the head at that time.

21 Q. Okay.

22 A. But they said they had another pump on down.

23 Q. You wouldn't know whether they had a bunch of
24 water in the tail --- you didn't go over there; did
25 you?

1 A. No. Not the last time I was there.

2 Q. Okay. Were any citations or orders written
3 during, you know, any of your visits like that?

4 A. Yes.

5 Q. Did you take any photographs of them?

6 A. No.

7 Q. Did the company take any notes or photographs?

8 A. Not that I'm aware of.

9 Q. Did anyone from the company make any statements or
10 comments about the conditions you cited?

11 A. No. Most of the time, they agreed. You know, I
12 wrote up the escapeway on the longwall, the primary
13 escapeway, it was blocked off. I felt like an injured
14 man could not get off that longwall.

15 Q. How was it blocked?

16 A. They had rib rows and rocks and stuff laying in
17 the escapeway. From the intake to just around that
18 corner it was blocked off. I mean, it wasn't
19 completely blocked, but what I'm saying is, a man that
20 was injured, or in case of emergency, he wouldn't be
21 able to get off that longwall safely.

22 Q. How did they correct it?

23 A. They cleaned it all up, you know, once the order
24 was issued, the wall went down, everybody come outby,
25 they busted the rocks up and cleaned it all up. And

1 they set some timbers also.

2 Q. Did the company say anything to you about that?

3 A. You know, their normal --- you shouldn't write
4 that order and, you know, stuff like that. But no,
5 they didn't say you're wrong or anything like that.
6 The longwall foreman at that time, you know, I asked
7 him and he said it was like that at the beginning of
8 the shift. And this was probably 10:00 or 11:00,
9 somewhere in there.

10 Q. And no one said anything on the pre-shift about
11 that or ---?

12 A. No. He stated, you know, that it was like that
13 when he got there.

14 Q. Okay.

15 A. And I said why didn't you fix it then?

16 Q. Did he have an answer for it?

17 A. No.

18 Q. Did you have any conversations with any mine
19 workers or mine management concerning the conditions
20 at that mine?

21 A. I had spoke to the superintendent, mine foremen
22 about the water in the ribs in the top and the bottom
23 back in this area, from 65 Break towards the Bandytown
24 fan. I spoke to them about the doors. I can remember
25 having a conversation with the vice president, you

1 know, talking about these doors down there at the
2 intake, you know, coming from that top and, you know,
3 like, you all need overcast instead of four doors
4 ventilating all this.

5 Q. Did you ever have a talk with them about their
6 ventilation before they got --- how about their
7 overcast, did they build them normal size, did they
8 build them small?

9 A. They built them kind of small for their
10 conditions. I think they should have more area, but
11 no, I never said anything to them about the size of
12 their overcast.

13 Q. Okay. Are you aware of any complaints lodged
14 against this mine?

15 A. No.

16 Q. Are you aware of anytime that they've had to stop
17 a shift from going to work or taking people off this
18 --- out of the mine because of some kind of condition
19 they had at the mine?

20 A. Well, when they had the water issue, they shut
21 down a longwall and shut down like one section,
22 Headgate 22 section. I mean, they were correcting the
23 issues on the roof and the water and stuff back in
24 there.

25 Q. Do you know of anytime they've ever been sent home

1 or curtailed the shift because of a methane problem?

2 A. I've heard rumors of it happening, that they had.

3 I don't know exactly when it was, but evidently it

4 wasn't, you know, February or March, somewhere in late

5 February, early March, that they sent the guys home, I

6 heard that rumor. But this is all kind of afterwards,

7 after the explosion.

8 Q. Okay. The mine map shows three years' gap in the

9 longwall production. Do you know why they did it?

10 A. They moved the longwall to Logan Fork. I don't

11 know why they stopped at UBB. But they moved the

12 longwall to Logan Fork Mine.

13 Q. Okay. Also on the map it shows various portions

14 of the longwall panels were skipped. Do you know why

15 they skipped them?

16 A. No.

17 Q. Have any miners ever approached you during your

18 inspection with concerns regarding unsafe mining

19 conditions at the mine?

20 A. No.

21 Q. At any time during inspections, did you have any

22 concerns regarding the mining conditions at Upper Big

23 Branch Mine?

24 A. Can you rephrase, say it again?

25 Q. Did you ever have any concerns at that mine --- I

1 think you spoke of some before?

2 A. Yeah. The water and the ribs and the top back ---
3 from about 65 break back towards the Bandytown fan, I
4 was concerned.

5 Q. When you're dealing with headgate sections, what
6 kind of curtains do they use, do they use old
7 curtains, new curtains?

8 A. They had various curtains that's been there a
9 while, then some of it's new.

10 Q. Do they usually keep the air ---?

11 A. The last time I went up there, they had curtain
12 hung in all the places, they the minimum of 3,000 in
13 non-working places.

14 Q. Do they keep their lifelines in good shape?

15 A. I had a little issue with the lifeline on the
16 headgate section and the longwall section.

17 Q. What was the problem?

18 A. Being tangled up with other cords, you know, just
19 being open under it or overtop of it, you know. And
20 what I run into on the longwall was their secondary,
21 which they was using down the belt at the time,
22 sometimes the stage loader would be way up against the
23 rib.

24 Q. Uh-huh (yes).

25 A. And you know, you got your monorail and all on

1 your, what I call operator side. And kind of being
2 close and not having much room to get down between the
3 belt and the monorail and lifeline running down there.
4 I did issue violations on that.

5 Q. What about the communications and their intakes?

6 A. I wrote the phone line up --- or the phone not
7 working one time, I can recall.

8 Q. Okay. I guess I'm going to leave the mine stuff
9 and we're going to go to the April 5th event, what
10 happened then. And when and how were you notified of
11 the April 5th accident?

12 A. By telephone.

13 Q. Do you know who called you?

14 A. Tom Moore.

15 Q. He is?

16 A. My supervisor.

17 Q. Were you involved in the recover and rescue
18 efforts the mine?

19 A. Yes.

20 Q. What did you do?

21 A. First night I was getting bag samples and air
22 samples from the Bandytown fan, and running them back
23 and forth from Mount Hope the first night.

24 Q. And when did you arrive to the mine following
25 notification approximately, the time that you arrived?

1 A. I think around 6:00.

2 Q. Okay. Who was in charge at the mine site when you
3 arrived?

4 A. A lady from Massey seemed like she was doing a lot
5 of stuff. I was riding on the Ellis side.

6 Q. Okay.

7 A. I guess her name was Elizabeth Chambers or
8 something like that. She seemed like she was kind of
9 getting everybody --- trying to get everybody
10 organized and stuff like that.

11 Q. Has any miner ever approached you during the
12 inspection with concerns regarding the mining
13 conditions at the mine?

14 A. No.

15 Q. What was your assignment relative to the accident?
16 You told me a while ago that you did run samples and
17 stuff.

18 A. Yeah. I was running samples the first night. I
19 think the second night I was entering data into the
20 computer system to go to Arlington. Third night, we
21 was all running back and forth. I entered data into
22 the computer system, run sampling, set a gas ---
23 drilling of the gas line, the nitrogen being pumped
24 into the mine, you know, going and checking it every
25 hour.

1 Q. Okay. Did you go directly to the mine when you
2 heard about it, when you became aware of the accident?
3 Did you go straight to the mine or did you go to the
4 field office?

5 A. I went to the field office and got my supplies, my
6 computer and all my stuff.

7 Q. How long did it take you to go from home to the
8 field office?

9 A. From home to the field office?

10 Q. Uh-huh (yes).

11 A. It's about ten minutes.

12 Q. And what's your ---?

13 A. Wait. Can you rephrase that one?

14 Q. How long did it take you to go from your home to
15 the field office?

16 A. Okay. Ten minutes.

17 Q. How long did it take you to go from the office to
18 the mine?

19 A. One hour and approximately 30 minutes.

20 Q. Did anyone travel with you?

21 A. Yes. The first night.

22 Q. Who traveled with you?

23 A. Joey Athey.

24 Q. How do you spell that?

25 A. I don't know how to spell it.

1 MS. CRAWFORD:

2 Joey Athey, A-T-H-E-Y.

3 A. Yeah.

4 BY MR. GODSEY:

5 Q. Okay. When you arrived at the mine site, who was
6 in charge of the company; do you remember? In other
7 words ---.

8 A. Elizabeth Chambers.

9 Q. Who was there for the state?

10 A. I can't recall.

11 Q. And MSHA?

12 A. I seen Mike Dickerson there and I think about the
13 time I arrived, there was everybody kind of sitting up
14 to go to the North portal.

15 Q. Okay. Please, just take us through that when you
16 arrived, when you go out there everything --- who
17 assigned you your job or ---?

18 A. When I arrived at the Ellis portals, you know, you
19 had your ambulance and people being all pretty tore up
20 but --- I don't know. Someone said that we need to go
21 to the North portal.

22 Q. You don't remember who?

23 A. No. I think Joey might have told me or --- I
24 can't remember.

25 Q. Okay. So you did that that night. And the next

1 night who assigned you ---?

2 A. Well, what I'm saying is, we left Ellis and went
3 to the North portal, and then Link South told me, you
4 know, go to the Bandytown fan and get that all taken
5 care of.

6 Q. Okay. Did any miners approach you following the
7 accident after the 5th regarding unsafe conditions
8 that they had at the mine? This is after the 5th now?

9 A. No.

10 Q. Okay. Do you have anything that you would like to
11 add that may be relevant to this investigation?

12 A. No. I mean, I said pretty much ---.

13 ATTORNEY WILSON:

14 Okay. Terry?

15 EXAMINATION

16 BY MR. FARLEY:

17 Q. Mr. Lyall, you indicated that when you were in the
18 --- the last time you were in the Eight North area, I
19 may have missed --- when exactly was that?

20 A. What date?

21 Q. Yes?

22 A. I'd have to look at my notes.

23 Q. Okay. Was it ---?

24 A. It was between October to December.

25 Q. Of last year?

1 A. Yeah.

2 Q. Okay. All right. Now, you told us about the
3 hooving in the Number Six. Did you by chance make it
4 over by this gas well, which would be several
5 crosscuts outby the face on the way to the face here?

6 A. No. I think the way we traveled was --- it's like
7 a track through here.

8 Q. Uh-huh (yes).

9 A. But it'd been right past ---.

10 Q. Okay. And did you notice anything unusual about
11 that area or ---?

12 A. No.

13 Q. Did you have your methane detector on?

14 A. Oh, yeah, I leave it on all the time.

15 Q. Okay. I don't suppose it did anything?

16 A. No.

17 Q. Okay. You also mentioned the Seven North
18 construction area at some point, can you point that
19 out for me please?

20 A. Seven North?

21 Q. Seven North construction. Did you mention that?

22 A. No.

23 Q. Okay. All right. You talked about some pumps.
24 You talked about some pumps on the longwall face.

25 A. Uh-huh (yes).

1 Q. And I think you mentioned some back in the
2 headgate entries out towards Bandytown there, down
3 from about 70 Break down to 95 or so?

4 A. Right.

5 Q. That general area?

6 A. Yep.

7 Q. How are those pumps powered?

8 A. A few of those were air pumps.

9 Q. Uh-huh (yes).

10 A. And then they had a couple permissible pumps in
11 there.

12 Q. Okay. Permissible ---?

13 A. Yep.

14 Q. What about the pumps on the longwall face?

15 A. A permissible pump.

16 Q. Okay. All right. I think you expressed some
17 concerns about some of the doors. Now, would I be
18 correct in that the doors are in use because they're a
19 part of the approved ventilation plan?

20 A. Correct.

21 Q. Okay. Also, you indicated that you had traveled
22 the longwall tailgate entrance from, I think the
23 longwall face at least, out and up toward the
24 Bandytown fan at some point?

25 A. Right. Once --- I think when I traveled, I went

1 down the complete face, and then when I traveled these
2 tailgate entries, I traveled down to the tailgate and
3 then went outby.

4 Q. Uh-huh (yes). Okay. And you also traveled in the
5 direction of the Bandytown fan?

6 A. When I traveled, this old number two section
7 return, I did travel to the Bandytown fan.

8 Q. Okay. And forgive me if I missed what you said,
9 when was that?

10 A. Between October and December.

11 Q. Okay. Of 2009?

12 A. Right.

13 MR. FARLEY:

14 Okay. Mr. Beck?

15 MR. BECK:

16 Thanks.

17 EXAMINATION

18 BY MR. BECK:

19 Q. Excuse me. Just a couple questions here. I need
20 you to help with some of those MSHA terminology. You
21 said that the last time you were at UBB was the middle
22 of February of 2010 on an EO2?

23 A. Correct.

24 Q. EO2 is what?

25 A. 103 Spot Inspection.

1 Q. Okay. And what's an E01?

2 A. Triple A or regular inspection.

3 Q. What does 103(i) ---?

4 A. Oh. 103(i) means that the mine liberates methane.

5 Q. Okay. Now, you were sent on a spot inspection,
6 right, ---

7 A. Yeah.

8 Q. --- E02. What does the spot inspection
9 constitute? I mean, what's unique about it?

10 A. E02 is pretty much like a regular inspection, but
11 I go to the extra step of doing more gas checks while
12 on I'm on an E02. You know, I mean, I check more
13 areas, you know, as far as the track. I tell them to
14 stop, do a gas check. I just do more checks of gas.

15 Q. And one last question. Do you know of any
16 violations that have ever been written on methane
17 monitors, on continuous miners, on the longwall?

18 A. Yes. I've wrote them.

19 Q. Can you elaborate on what they were?

20 A. One of my times at Headgate 22 --- 022 MMU, I
21 wrote the, I think it was the right miner methane
22 monitor being out of calibration.

23 Q. You heard the term bridging out the methane
24 monitor or jumping out the methane monitor?

25 A. Yeah.

1 Q. Did you ever find that in your travels?

2 A. No.

3 MR. BECK:

4 That's all.

5 EXAMINATION

6 BY ATTORNEY WILSON:

7 Q. Kevin, I just had a couple follow-up questions, if
8 you don't mind. You mentioned you'd had a
9 conversation with the vice president about the doors.

10 Who was that that you had the conversation with?

11 A. Chris Blanchard.

12 Q. And do you recall about when that was?

13 A. I would say sometime in November because it seemed
14 like he came with me on the roof fall issue.

15 Q. So that would have been November of 2009?

16 A. Yeah. I'm thinking it was November. I'm not 100
17 percent, but I'm pretty sure.

18 Q. And I think you said that you told him
19 that you thought they needed that overcast instead of
20 doors; is that right?

21 A. Yeah.

22 Q. Why did you feel that way?

23 A. Well, I just --- man makes mistakes and sometimes
24 leave doors open. And that's a pretty important part
25 of that mine, you know, that's their intake for, at

1 the time I was inspecting, Number One Section in the
2 longwall, you know, and Two Section, you know, that's
3 pretty important. I mean, you open --- you leave two
4 doors open and you're going to lose air off your
5 longwall and Number One Section. And I just thought
6 it was human error, you know, just not a good thing.

7 Q. Okay. And you also said that you'd heard some
8 rumor that the men had been sent home early, and I
9 understand you don't have any firsthand knowledge of
10 this, but can you tell me anymore about that? Who you
11 heard that from, what it is that you heard?

12 A. I'm trying to think of who told me. I think it
13 was at the Silver Oak mine, while I was there, a
14 couple of the guys just kind of talking about UBB and
15 I kind of just happened to walk in on it. And then
16 one of them asked me, he said, did you hear anything
17 about when they sent all the guys home because that
18 bottom hooved up and gassed the mine --- or the
19 longwall off. And I said, no, I ain't heard nothing
20 about that.

21 Q. And that would have been after April 5th?

22 A. Right.

23 Q. Well, if something comes to mind in the future,
24 you know, or you hear anything else about that, if you
25 could give us a call and let us know, I'd really

1 appreciate that.

2 A. I will.

3 ATTORNEY WILSON:

4 Okay. Why don't we just take a short
5 break, and let everyone just confirm --- check over
6 their notes and then we'll finish up.

7 SHORT BREAK TAKEN

8 ATTORNEY WILSON:

9 John, do you have anymore questions.

10 MR. GODSEY:

11 No, I have none.

12 ATTORNEY WILSON:

13 Terry?

14 MR. FARLEY:

15 I don't think so.

16 ATTORNEY WILSON:

17 Okay. Then we're finished. Kevin, on
18 behalf of MSHA and the Office of Miners Health Safety,
19 and Training, I want to thank you for appearing and
20 answering our questions today. You're cooperation is
21 very important to the investigation as we work to
22 determine the cause of this accident. We require that
23 you not discuss your testimony with anyone else
24 outside of this room because we will be calling other
25 witnesses. After questioning those other witnesses we

1 may call you if we have any follow-up questions that
2 we feel we need to ask you.

3 If at any time you have additional
4 information regarding the accident that you would like
5 to provide to us, please contact us at the contact
6 information that was provided from Norman Page. At
7 this time, I'd like to give you an opportunity, if
8 there's anything else that you'd like to add to the
9 record, or any statement that you would like to make,
10 I'm giving you that opportunity to do so now.

11 A. I just want to thank you all for doing a good job
12 and hope we can get this problem --- get this taken
13 care of.

14 ATTORNEY WILSON:

15 Well, same to you. Thank you for doing a
16 good job. Okay. We're off the record.
17 (Lyll Exhibit One marked for
18 identification.)

19

20 * * * * *

21 EXAMINATION CONCLUDED AT 1:29 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Brett Steele, 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.



Brett Steele