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**Examination Under Oath of Gregory Crouse**

**Date:** June 1, 2010

**Case:**

**Printed On:** June 4, 2010

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Phone: 814-536-8908

Fax: 814-536-4968

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

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

STATEMENT UNDER OATH

OF

GREGORY CROUSE

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Tuesday, June 1, 2010, beginning at 8:08 a.m.

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

BILL TUCKER  
West Virginia Office of Miners' Health,  
Safety and Training  
Welch Regional Office  
891 Stewart Street  
Welch, WV 24801-2311

DAVID STEFFEY  
National Mine Safety and Health Academy  
1301 Airport Road  
Room C-137  
Beaver, WV 25813-9426

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BETH SPENCE

West Virginia Independent Investigation

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(b) (7)(C)

DANNY JARRELL

West Virginia Office of Miners' Health,

Safety and Training

137 Peach Court

Danville, WV 25053

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ATTORNEY BAXTER:  
My name is Derek Baxter. Today is June  
1st, 2010. I'm with the Office of the Solicitor, U.S.  
Department of Labor. With me is David Steffey, an  
accident investigator with the Mine Safety and Health  
Administration, MSHA, an agency of the United States  
Department of Labor. Also present are several people  
from the State of West Virginia. I ask that they  
state their appearance for the record.

MR. TUCKER:  
Bill Tucker, the Office of Miners'  
Health, Safety and Training.

MR. JARRELL:  
Dan Jarrell, Office of Miners' Health,  
Safety and Training.

MS. SPENCE:  
Beth Spence, with the Governor's  
independent team.

ATTORNEY BAXTER:  
There are several members of the  
investigation team also present in the room today.  
Mr. Steffey, Mr. Tucker and Ms. Spence will be  
conducting the questioning today.

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

19 Government investigators and specialists  
20 have been assigned to investigate the conditions,  
21 events and circumstances surrounding the fatalities  
22 that occurred at the Upper Big Branch Mine-South on  
23 April 5th, 2010. The investigation is being conducted  
24 by MSHA under Section 103 of the Federal Mine Safety  
25 and Health Act and the West Virginia Office of Miners'

1 Health, Safety and Training. We appreciate your  
2 assistance in this investigation.

3 You may have your personal attorney  
4 present during the taking of this statement or another  
5 personal representative, if MSHA has permitted it, and  
6 may consult with your attorney or the representative  
7 at any time. Do you have a personal attorney or  
8 representative here today?

9 MR. CROUSE:

10 Why, no. I don't need one.

11 ATTORNEY BAXTER:

12 Your statement is completely voluntary.

13 You may refuse to answer any question and you may  
14 terminate your interview at any time or request a  
15 break at any time. Since this is not an adversarial  
16 proceeding, formal Cross Examination will not be  
17 permitted. However, your personal legal  
18 representative may ask clarifying questions as  
19 appropriate. Your identity and the content of this  
20 conversation will be made public at the conclusion of  
21 the interview process and may be included in the  
22 public report of the accident, unless you request that  
23 your identity remain confidential or your information  
24 would otherwise jeopardize a potential criminal  
25 investigation. If you request us to keep your

1 identity confidential, we will do so to the extent  
2 permitted by law. That means that if a judge orders  
3 us to reveal your name or if another law requires us  
4 to reveal your name or if we need to reveal your name  
5 for other law enforcement purposes, we may do so. We  
6 request that you refrain from discussing your  
7 statement with others who may be interviewed. Also,  
8 there may be a need to use the information you provide  
9 to us or other information we may ask you to provide  
10 in the future in other investigations into and  
11 hearings about the explosion. Do you understand or  
12 have any questions?

13 MR. CROUSE:

14 No. I understand and I don't have any  
15 questions.

16 ATTORNEY BAXTER:

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

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

7 I'd like to thank you in advance for your  
8 appearance here. We appreciate your assistance in  
9 this investigation. Your cooperation is critical in  
10 making the nation's mines safer. After we have  
11 finished asking questions, you'll have an opportunity  
12 to make a statement and provide us with any other  
13 information that you believe to be important. If at  
14 any time after the interview you recall any additional  
15 information that you believe might be useful, please  
16 contact Norman Page or have your representative  
17 contact, as the case may be, at the telephone number  
18 or e-mail address provided to you. Any statements  
19 given by miner witnesses to MSHA are considered to be  
20 an exercise of statutory rights and protected activity  
21 under Section 105(c) of the Mine Act.

22 -----  
23 GREGORY CROUSE, HAVING FIRST BEEN DULY SWORN,  
24 TESTIFIED AS FOLLOWS:  
25 -----

1 EXAMINATION

2 BY MR. STEFFEY:

3 Q. Please state your full name, and spell your last  
4 name.

5 A. Gregory Lane Crouse, C-R-O-U-S-E.

6 Q. Please state your address and telephone number.

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

8 (b) (7)(C)

9 Q. Are you appearing here today voluntarily?

10 A. Yes.

11 Q. Has anyone made any promises concerning the  
12 testimony you're about to give?

13 A. No.

14 Q. Has anyone given you anything in exchange for the  
15 testimony you're about to give?

16 A. No.

17 Q. Has anyone made any threats concerning the  
18 testimony you're about to give?

19 A. No.

20 Q. Has anyone else interviewed you concerning the  
21 accident and your knowledge of the conditions in the  
22 mine?

23 A. I believe it was the Massey lawyers or something.

24 Q. Okay. Do you know --- do you remember when they  
25 interviewed you?

1 A. It seems like it was possibly a month ago maybe.

2 Q. Where did this interview take place?

3 A. Marfork office.

4 Q. Do you remember the type of questions they asked?

5 A. Just asked me about the ventilation, if we ever  
6 had trouble with ventilation and air, you know, just  
7 if I knew of any shortcuts or wrongdoings that were  
8 going on.

9 Q. Okay. Were you cautioned about what you were to  
10 say in this interview?

11 A. I don't believe, no.

12 Q. Did they tell you anything else or give you any  
13 other instructions?

14 A. No.

15 Q. Okay. How many years of mining experience do you  
16 have?

17 A. I only have five with Massey, but I started in  
18 1977 with Westmoreland. But I took a hiatus in 1989  
19 and went trailer trucking for 15 years, and I came  
20 back in '05.

21 Q. Were you with Westmoreland up to '89?

22 A. No. I was --- when I --- '89, it was I guess a  
23 subsidiary of Pittston Coal Company, Ranger Fuel.

24 Q. Who did you go to work for when you came back?

25 A. Marfork Coal Company.

1 Q. Marfork Coal Company. Okay. Do you have any  
2 mining certifications?

3 A. I do. I don't like to --- just underground and  
4 shot firer, that's all I have.

5 Q. That's all you have?

6 A. I don't like to reveal the shot firer because I  
7 don't like to shoot.

8 Q. Okay. Are you presently employed?

9 A. Uh-huh (yes).

10 Q. Where at?

11 A. Allen Powellton.

12 Q. Okay.

13 A. It's Horse Creek.

14 Q. When did you start there?

15 A. Two weeks after the explosion. What was it, 19th,  
16 I guess, maybe the 20th.

17 Q. What's your present job title?

18 A. Shuttle car.

19 Q. Where did you work prior to being hired at Upper  
20 Big Branch?

21 A. Marfork Eagle, just below Shumate up there at  
22 Gold's --- just above Gold's plant down there.

23 Q. And how long were you there?

24 A. That's when I came back in '05, so it was probably  
25 a year-and-a-half maybe. Then we worked it out and

1 then they transferred us down to UBB.

2 Q. Okay. And how much of your mining history did you  
3 say was with Massey?

4 A. Just five years.

5 Q. Five years?

6 A. '05 --- '05 to now.

7 Q. Okay. When was your first day of employment at  
8 Upper Big Branch? Do you remember?

9 A. No, I can't remember.

10 Q. Approximately?

11 A. I can't honestly remember. No, I can't remember.

12 Q. Okay.

13 A. Goodness gracious.

14 Q. When you started with Massey, did you receive the  
15 Massey initial training, ---

16 A. You mean the ---?

17 Q. --- where they show you the videos?

18 A. Yeah.

19 Q. Do you remember when that was?

20 A. Well, it was that same day, the first day. I  
21 don't know when it was. I can't remember the date.

22 Q. Do you remember what subjects they covered?

23 A. Yeah, the self-rescuer and the roof control plan  
24 and that oxygen chamber we're supposed to go to, air  
25 chamber, the safety part of it.

1 Q. Okay. Did the training seem to be more safety and  
2 regulation oriented or was it more company oriented?

3 A. I thought it was leaning --- I thought it leaned  
4 more toward safety than production.

5 Q. Okay. What was your job assignment on your first  
6 shift at UBB?

7 A. Motorman, I believe.

8 Q. Motorman. Now, did you receive any training prior  
9 to being assigned that job on your first day of work,  
10 task training, anything like that?

11 A. Yes. I was task trained on it before I got on the  
12 motor, yeah, because I used to run the motor at ---  
13 Marfork Eagle is where we worked at.

14 Q. Any other training? Did they ---?

15 A. For that job?

16 Q. For that job or any other training that day, prior  
17 to beginning that shift?

18 A. Just the task training. I can't remember, but I  
19 think I had a couple hours orientation. I can't  
20 remember.

21 Q. Okay. Do you remember who provided that training?

22 A. You're talking to somebody that suffers from CRS.

23 Q. Okay.

24 A. I can't remember.

25 Q. Can't remember? All right. Do you remember any

1 training on the AMS system?

2 A. I probably do, but I can't ---

3 Q. Okay.

4 A. --- think about it right now.

5 Q. You've been at Upper Big Branch for at least the  
6 last two years?

7 A. Uh-huh (yes).

8 Q. Did you receive the annual refresher training?

9 A. Yes.

10 Q. Do you remember who gave that training?

11 A. Well, you know, it was three or four people. I  
12 can't remember the names. I remember Jonah, and I  
13 can't remember the little lady for the first aid and  
14 stuff.

15 Q. All right. Where did you receive that training  
16 at?

17 A. I know the last time was at UBB, on the Ellis  
18 side, ---

19 Q. Okay.

20 A. --- the Ellis punchout.

21 Q. Do you remember what all they covered during the  
22 annual refresher?

23 A. Mostly it was just the self-rescuers, first aid,  
24 just the --- the roof and ribs, but just safety  
25 oriented.

1 Q. Okay. On your first day of work at UBB, do you  
2 remember what areas of the mine you visited or  
3 traveled to?

4 A. Oh, Lord. Being on a motor, the only thing I did,  
5 I just loaded a supply car and took it to the end of  
6 the track, unloaded it and ---.

7 Q. So they just ---

8 A. Yeah.

9 Q. --- put you on the job and went straight to work?

10 A. Yeah.

11 Q. Okay. Are you qualified by MSHA to conduct  
12 methane and oxygen deficiency checks underground?

13 A. You mean with a spotter?

14 Q. Yes.

15 A. No. I just run the shuttle car. I don't ---  
16 well, you mean --- yeah, I can. I am qualified to do  
17 that, but I don't do it because I run the buggy. The  
18 miner man, the bolt men and the outby guys do that  
19 stuff. I don't mess with it.

20 Q. So you don't have a spotter?

21 A. No. I don't carry one.

22 Q. Have you participated in the quarterly evacuation  
23 drills from your assigned work area?

24 A. Uh-huh (yes).

25 Q. When was the last time?

1 A. Goodness gracious. It seems like it was like  
2 November maybe we walked out ---

3 Q. Okay.

4 A. --- the escapeway.

5 Q. So that's how they did that drill, you walked out  
6 the escapeway? Did you walk out the primary?

7 A. Uh-huh (yes).

8 ATTORNEY BAXTER:

9 Can you please say yes or no so he can  
10 hear what you're saying?

11 A. Okay.

12 BY MR. STEFFEY:

13 Q. How often did they do these drills?

14 A. Like you said, every three months.

15 Q. Okay. What other kinds of training did the  
16 company provide prior to you starting? Any other kind  
17 that you can remember?

18 A. No, just --- no. I can't remember.

19 Q. Okay. Do you remember any other type of training  
20 they provided during --- at any point during your  
21 employment, anything that they offered that you took  
22 them up on?

23 A. Just that air chamber that they trained us on and  
24 when they --- after Sago, I guess that's when that  
25 came into effect.

1 Q. Okay. Who's the --- who's designated as the  
2 responsible person for each shift?

3 A. You want names or ---? Well, the dayshift would  
4 be superintendent. At that time I guess it was  
5 Everett. And second shift would be my boss, I guess,  
6 Pat.

7 Q. Okay. And how did they inform you of who this  
8 was?

9 A. Had it written on the bulletin board, responsible  
10 person.

11 Q. Is that how they informed you if this person  
12 changed?

13 A. My boss let us know most of the time ---

14 Q. Okay.

15 A. --- who the responsible people were.

16 Q. Okay. All right. Let's talk about the section  
17 there. How many miners typically worked on the 22  
18 Headgate section?

19 A. Nine.

20 Q. Which portal did you enter traveling to the  
21 section?

22 A. Ellis.

23 Q. Do you remember who did your pre-op check on the  
24 mantrip prior to departure?

25 A. Had to be Pat because he always drove. That's the

1 boss.

2 Q. Approximately, how long was your travel time to  
3 the section?

4 A. An hour.

5 Q. Now, when you say Pat, what's his last name?

6 A. I can't remember. I know it starts with an H.  
7 Pat --- goodness gracious, I can't remember his last  
8 name. I'm just drawing a blank right now.

9 Q. Okay. Need a break or anything?

10 A. No.

11 Q. All right.

12 A. Just can't remember nothing.

13 Q. Can't remember, okay. On your way to the 22  
14 Headgate section, did you travel through any equipment  
15 doors?

16 A. Uh-huh (yes).

17 Q. Okay. Can you indicate the locations of these  
18 doors on the map? Do you remember about where they  
19 were in the mine?

20 A. Let's see. Goodness gracious.

21 Q. That being the Ellis Portal right there.

22 A. There was a set of --- let's see. This is the  
23 portal here?

24 Q. Uh-huh (yes). The yellow line is the secondary  
25 escapeway or the track entry.

1 A. Right. There was a set of doors when we first  
2 came in, about four or five breaks inby, I guess. I  
3 can't exactly remember where they were at. What's  
4 that X for?

5 Q. That is a section chamber.

6 A. Okay. They had a set of doors here, roughly in  
7 this area right here.

8 Q. Uh-huh (yes).

9 A. And then we didn't get to our next set of doors  
10 until --- goodness gracious. Is this 78 here?

11 Q. Okay.

12 A. Is this 78? That's what I'm asking. Is this 78?

13 Q. Yes.

14 A. There's a set of doors right here.

15 Q. Okay.

16 A. There were two sets of doors here.

17 Q. Okay.

18 A. And on up toward Headgate 22 we had another set of  
19 doors up there, too, right before the section.

20 Q. Okay. Now, were these doors automatic or did they  
21 have to be open by hand?

22 A. They were manual, yeah.

23 Q. Manual. Were they ever automatic?

24 A. Yes.

25 Q. What happened to them?

1 A. I'm not real sure. They --- something happened to  
2 them. They just quit working. And they fixed one set  
3 of doors over here. Now, these over here at 78, just  
4 past 78, they were the only automatic doors that we  
5 had. The first set they fixed. I don't know why they  
6 didn't fix the second set. And it was actually just  
7 the first set you came up on to opened up. You know,  
8 you open them, you go in, you shut them, and then you  
9 had to manually open the other set.

10 Q. The inby set?

11 A. Yeah, the inby set.

12 Q. Okay.

13 A. And then when you get to the second set of doors,  
14 I'm pretty sure that they weren't operating at the  
15 time, but they were supposed to have been hydraulic.

16 Q. What kind of condition were these doors in?

17 A. Well, they had been hit a few times, but they were  
18 still in pretty good shape.

19 Q. Well, they were hit a few times. Did the people  
20 typically bump them to open them or did they ---?

21 A. I can't say for sure. And whenever I ran a  
22 mantrip, I never did, but I can't say that they  
23 weren't hit.

24 Q. Did you ever notice any leakage around them?

25 A. You mean like air?

1 Q. Yeah. Did you ever feel the air direction change  
2 or anything?

3 A. Well, I don't know, you never could actually seal  
4 them. I thought you could never actually seal them to  
5 keep the air tight like they wanted it.

6 Q. Why was that?

7 A. I don't --- I just --- I don't know. I just think  
8 that they --- I don't know. Whoever put them in ---  
9 I'm not exactly sure who put the doors in, but it  
10 seems like after they got hit or ever how they got  
11 bent, I can't --- I never saw anybody hit them, but  
12 after they get bent or beat up, then the air started  
13 getting short-circuited through there.

14 Q. Okay.

15 A. And I think that they just never went back and  
16 fixed the doors. As long as they opened and shut,  
17 that's all --- I guess that's all they were concerned  
18 about.

19 Q. So these doors didn't form an airlock?

20 A. No. They were supposed to, I know, but ---.

21 Q. Did you ever find a set of these doors open, like  
22 whoever just leave them open?

23 A. I've seen that a couple of times, yeah. I don't  
24 know. I can't remember --- no, it wasn't these doors.

25 Q. So it wasn't the doors at Break 78?

1 A. No, it wasn't those doors. Now, I remember seeing  
2 these doors here.

3 Q. At the Ellis Portal?

4 A. At the Ellis Portal. They were open a couple  
5 times.

6 Q. What about the doors on the 22 Headgate section?

7 A. Those were always shut when we came through there,  
8 and we shut them back when we left.

9 Q. When you were approaching --- let's say you were  
10 approaching --- traveling to the section ---

11 A. Uh-huh (yes).

12 Q. --- and you were approaching this --- the outby  
13 set and the most outby doors, was there a way to tell  
14 if this inby door of the outby set was open or closed?

15 A. Well, they had a window. Now, say that again.

16 Q. This outby set right here, ---

17 A. Uh-huh (yes).

18 Q. --- if I was traveling inby, ---

19 A. Right.

20 Q. --- approaching this first door, ---?

21 A. Could you look at the second door and see if it  
22 was open?

23 Q. Yeah.

24 A. Yeah. They had windows in that door, I'm pretty  
25 sure, in the first door, that you could see through

1 it. And they had it lit up, had lights in there where  
2 you could see. I'm pretty sure. Plus they had a man  
3 door in it. But you had to get off the mantrip to go  
4 look through that man door.

5 Q. Now, these doors right here at Break 78, ---

6 A. Uh-huh (yes).

7 Q. --- when these doors were open --- now, the intake  
8 crosses over an overcast here and then crosses over  
9 the track.

10 A. Right.

11 Q. And essentially it appears as though they used  
12 these equipment doors in lieu of an overcast. When  
13 these doors were open, could you feel the air change  
14 or a pressure change or anything?

15 A. Where at?

16 Q. At Break 78.

17 A. I mean, like if I was standing here, opening a  
18 door?

19 Q. If you were standing here, opening this door.

20 A. Yeah. You can feel the air. If both doors were  
21 open, if you were standing here, I'm pretty sure the  
22 air would be hitting you in the face if you were ---.

23 Q. If you were standing ---.

24 A. If I was standing here, looking inby, the air ---.

25 Q. In the track entry?

1 A. In the track entry.

2 Q. The air would pull back and hit you in the face?

3 A. The air would hit you in the face, I believe.

4 Q. Okay. Now, ---.

5 A. Now, let me think about that. The doors --- I  
6 can't remember how the doors even opened. I'll tell  
7 you, you're talking to the wrong guy.

8 Q. Well, we have to talk to everybody.

9 A. Yeah, I know. Yeah, it just seems ---.

10 Q. But it seems like you remember the air would hit  
11 you in the face?

12 A. No, maybe it couldn't have been because the doors  
13 didn't open like that. The doors opened backwards to  
14 where the pressure was --- you were following the air.  
15 Yeah, the doors opened backwards, towards you. Man, I  
16 can't remember.

17 Q. Okay. That's fine.

18 A. Maybe it hit you in the back. I don't know.

19 Q. Do you know why they used equipment doors here  
20 instead of putting in an overcast?

21 A. No, sir. They were there when I started there,  
22 and I just thought --- I just wondered why they had so  
23 many damn doors.

24 Q. Could a supply motor with supply cars hooked to it  
25 pass through these doors without --- could they pass

1 through the first set without having to open both  
2 doors? Do you remember?

3 A. Yes. As far as I remember, yeah. I've never  
4 actually seen a motor and flatcar in there because,  
5 you know, ---.

6 Q. Do you remember about how many feet was between  
7 those doors?

8 A. No.

9 Q. No? Typically, how many flatcars could they  
10 attach to a supply motor?

11 A. See, that's --- you're --- I never --- well,  
12 hardly ever saw a motor loaded. You know, I was  
13 straight evening shift. But during the hoot owl now,  
14 I --- you know, they bring in one motor, two flatcars  
15 and a motor behind it, pushing it.

16 Q. Okay.

17 A. They would have --- they'd bring in two flatcars.  
18 I know the longwall would do that, but they had two  
19 motors hooked to them.

20 Q. Could a motor with two flatcars and another motor  
21 pushing, could it pass through this area; do you  
22 remember?

23 A. No. Between the doors?

24 Q. Uh-huh (yes).

25 A. No.

1 Q. Okay. Now, you mentioned that some of these doors  
2 were bent. Do you know if they had a procedure for  
3 replacing these doors?

4 A. Well, they should have, but I don't know if they  
5 had one.

6 Q. Okay. Do you know --- we'll come back to this set  
7 of doors right here again.

8 A. Uh-huh (yes).

9 Q. This intake crosses right here.

10 A. Uh-huh (yes).

11 Q. You worked on the Headgate 22 section.

12 A. Right.

13 Q. Did anybody ever --- were you ever on a section  
14 when you lost your air, all of a sudden you didn't  
15 have any intake air?

16 A. Well, I remember on one occasion. It's funny you  
17 should bring that up. We were --- you know, we had  
18 --- we'd normally start --- we'd start underground at  
19 three o'clock and we're usually trying to run coal at  
20 least by 4:15, 4:20. And we started running, and I  
21 think we were in One entry at the time there --- well,  
22 we had three, but yeah, we started running and we had  
23 good air to run with, but then all of a sudden we lost  
24 it. About five o'clock we lost it, and then we shut  
25 down. We had to walk back to our set of doors that

1 were on the section there and look for our air, to  
2 find it, and we tightened up some curtains. And the  
3 boss went over --- it's not on that map, but the boss  
4 went over in the other part of the old works and stuff  
5 and looked at stoppings and things like that to see if  
6 we were losing air over there. Actually, he went  
7 over ---.

8 Q. Now, we have other maps.

9 A. Yeah, I saw that. But he was over at the --- up  
10 toward the Glory Hole side there.

11 Q. Uh-huh (yes).

12 A. And somehow or another we --- I didn't go with  
13 him, but he said he just sealed up stoppings and got  
14 the air coming back over this way, to our section.  
15 Yeah, but we --- and then we got air after that.  
16 About an hour-and-a-half later we had air.

17 Q. Anybody ever saw what they did to restore the air?

18 A. No. The only thing I know, that --- is that we  
19 resealed the curtains. We had curtain up there. We  
20 put curtain over the stoppings that were leaking. I  
21 think there was a few foam packs used to bring the  
22 stopping and the overcasts ---. And that's all I can  
23 remember about that.

24 Q. How often did you lose your air on the section?  
25 Was that a common occurrence?

1 A. Well, it seemed like it was there for a while, but  
2 instead of --- you know, we had air, but it was like  
3 the minimum amount of air we could have to run with.  
4 And if anything changed, we wouldn't have enough air  
5 to run.

6 Q. So it was pretty tight?

7 A. Yeah, it was tight.

8 Q. Do you remember about when was the last time that  
9 you lost your air up there?

10 A. Let's see. It was --- it seemed like three weeks  
11 before the 5th. It seemed like it was like about a  
12 couple --- maybe three weeks before is when we had to  
13 go back and look for our air and stuff.

14 Q. Do you ever remember any air reversals, where the  
15 air --- you didn't just lose it, it just reversed?

16 Were you ever underground when that happened?

17 A. Just that day.

18 Q. Just that day? What day was that?

19 A. Oh, that was the explosion.

20 Q. Oh, okay.

21 A. That's the only time it reversed.

22 Q. Okay. On the Headgate 22 section, how would you  
23 describe the roof, rib and floor?

24 A. It was --- from what I remember now, the roof  
25 was --- if I remember, the roof was hard to keep up

1 because it was --- kept falling, if I remember  
2 correctly, and the bottom was busting up.

3 Q. How were the ribs?

4 A. Now, we had some bad corners. Some of the corner  
5 places had --- the ribs would roll out. It would have  
6 to be spot bolted ---

7 Q. Okay.

8 A. --- or a sand jack set or something like that.

9 Q. Did you ever have an incident where the floor  
10 suddenly hooved up either in the face or just outby?  
11 Do you ever remember an incident like that?

12 A. Not me. I don't remember that, but I heard about  
13 it. Just hearsay.

14 Q. You heard about it?

15 A. Just hearsay, that's all I heard.

16 Q. Where did you hear about it at? Was it up there  
17 on the Headgate 22 section?

18 A. Yeah, our miner men. And I was a buggy man, and I  
19 never noticed anything.

20 Q. When was this?

21 A. I can't say for sure, but it's been a while, I  
22 guess. It seems like it was probably maybe a month  
23 before the explosion and stuff maybe. Maybe a little  
24 longer.

25 Q. Okay. Was it reported to management? Do you

1 remember that? Beyond your section boss.

2 A. Not to my knowledge.

3 Q. Okay. So nobody ever came to check this out,  
4 nobody from engineering or anything like that?

5 A. No, not to my knowledge.

6 Q. Did the section ever mine through a gas well,  
7 known or unknown?

8 A. Not to my knowledge, no.

9 Q. Did you ever ---?

10 A. We always --- the maps always showed them where  
11 they were, and we'd go around them.

12 Q. Did you ever encounter any problems with unknown  
13 gas wells or suspect that you might have one?

14 A. No, not to my knowledge.

15 Q. Okay. Anybody ever discuss the lower Eagle seam  
16 below you?

17 A. Nope.

18 Q. Nobody ever talked about a seam of coal just a few  
19 feet underneath you?

20 A. That might have been what they were talking about  
21 where the gas was coming from, coming up through the  
22 bottom.

23 Q. When was this?

24 A. Well, that's --- you know, that was, you know, all  
25 last year.

1 Q. All last year?

2 A. Because whenever we had a --- we were in one part  
3 of the section before we got to Headgate 22.

4 Q. So was this on the gate road that you were driving  
5 for the longwall panel that they're currently on?

6 A. No. It was before that. It was like right around  
7 this panel here.

8 Q. Uh-huh (yes).

9 A. We --- you know, we had --- you could see it was  
10 real wet, muddy, and you just sat there and watched.  
11 You could see bubbles come up out of the water. You  
12 had gas coming up that way. I always thought it was  
13 air until they stuck that methane monitor down there.

14 Q. What did that methane monitor do?

15 A. It went off.

16 Q. It went off. How high did it go?

17 A. Oh, I'm not sure.

18 Q. Anybody ever --- did you ever have to pull out of  
19 that area because of gas?

20 A. I really can't remember. I don't believe.

21 Q. Now, you said --- you mentioned that that was  
22 right here in the cut-through just next to the first  
23 longwall panel; right?

24 A. Yeah, I believe, if I remember. This is going up  
25 toward the old Two section, then we cut up this way.

1       Yeah, it seemed like that was ---.

2       Q. Did you ever hear about the longwall having  
3       problems with that?

4       A. I know they had a lot of water problems at one  
5       time. I mean, the tail end of the thing was like four  
6       feet under water, something like that. I know the  
7       water was deep and they were having to pump it out  
8       before they could run.

9       Q. Okay. Let's go back and let's talk about this  
10       methane coming out of the floor. Now, you mentioned  
11       that right here in this cut-through area. Was there  
12       any other areas that stand out in your memory where,  
13       you know, you had methane coming up through the floor?

14       A. No, just that particular area is the only thing I  
15       can remember right now, if I remember that correctly.  
16       But I didn't pay it any mind because, you know, at the  
17       time we had a lot of good air on this section. And  
18       you know, just being in the coal mines, you just don't  
19       think about it.

20       Q. Did anybody tell management about that methane?

21       A. Yeah.

22       Q. What ---?

23       A. We told our boss, but I'm not exactly sure how far  
24       it went with that, after the boss. I'm sure he told,  
25       at the time, the superintendent what was going on, but

1 I don't know what went on after that.

2 Q. Okay. So you didn't have to withdraw from the  
3 area or anything. You all just ---?

4 A. Not to my knowledge. I can't remember withdrawing  
5 anything.

6 Q. Okay. And you said you don't remember any other  
7 areas on the gate roads for the current longwall panel  
8 where this occurred?

9 A. No.

10 Q. You just know they had some water?

11 A. Right.

12 Q. Okay. Now, what about on your current Headgate 22  
13 section, did you have any water there?

14 A. Yes. I used to think it was manmade, you know,  
15 from the miner.

16 Q. Uh-huh (yes).

17 A. From water leaks. But I think we were in that  
18 Three entry there and Goose, the miner man, told me  
19 that water was coming out of the bottom.

20 Q. Okay.

21 A. And I'm not exactly sure where that was coming  
22 from.

23 Q. So it was coming from the floor there. How much  
24 water are we talking about?

25 A. If we didn't keep it loaded out or pumped, it

1 could have roofed out.

2 Q. That much water?

3 A. That much water. Well, I'm sorry. It could have  
4 roofed out in like a weekend's time or something.

5 Q. Yeah. What did mine management have to say about  
6 this? Did anybody ever talk about that outside? Did  
7 anybody ever go over that with you guys?

8 A. No. Well, just like, you know, the super would  
9 talk to the boss and tell him what he wanted done, set  
10 the pump --- set pumps up and discharge it outby.

11 Q. Okay.

12 A. That's all we could do, and try to load it out  
13 with a miner.

14 Q. Did you guys hot seat on that headgate section?

15 A. Occasionally, not very often.

16 Q. Who did the pre-shift for your section when you  
17 were going in the mine?

18 A. You mean for the next shift?

19 Q. Uh-huh (yes).

20 A. I can't even remember his name. Halstead.

21 Q. Anybody ever go over the hazards that were found  
22 noted in the pre-shift book with you and your crew?

23 A. No, not to my --- no, not to --- they didn't talk  
24 it over with me.

25 Q. Do you know of any hazards that were ever talked

1 about or listed in the pre-shift book? Do you ever  
2 recall anything? Does anything stand out?

3 A. No. I didn't read it, so ---.

4 Q. Did you ever go the section and actually find a  
5 hazard, either roof, methane, water, otherwise?

6 A. Well, the only thing I ever found was mostly  
7 water, ---

8 Q. Okay.

9 A. --- if it was bad enough to mention, but you know,  
10 you just go on. You just drive through it and keep  
11 getting the coal out.

12 Q. Okay. Were there any --- you mentioned problems  
13 with the roof there, that the roof was kind of bad.  
14 What ---?

15 A. Well, it seems like the sand --- the sand rock  
16 that we were --- it was sand rock top, but the --- it  
17 had little coal seams in it, and the coal seams would  
18 let that sand rock fall out.

19 Q. Was there anything special they were having to do  
20 up there to deal with this sort of roof?

21 A. Oh, the ---.

22 Q. Cable bolts, ---

23 A. Yeah.

24 Q. --- anything like that?

25 A. They were --- I think we were --- at the time we

1 were putting up eight-foot cable bolts and sometimes  
2 ten-foot cable bolts, torque tension bolts, which was  
3 normal anyway. We were using six-foot torque tension  
4 bolts.

5 Q. Now, you mentioned you didn't have a spotter. You  
6 said something about, I believe, it was the section  
7 boss and the miner man had one?

8 A. And the roof bolter.

9 Q. And the roof bolters.

10 A. And the scoop man had one.

11 Q. Do you know what type of a methane detector it  
12 was?

13 A. I can't remember the name of them things. It was  
14 a little blue one.

15 Q. A little blue one?

16 A. The outby guy had the blue one and the boss had  
17 the silver one.

18 Q. Okay. Do you remember any methane readings on the  
19 section? Do you ever remember pulling up to the  
20 bumper of the miner to get a cut of coal and just  
21 happen to notice the methane reading on the miner?

22 A. Every trip.

23 Q. Every trip? How high did it get?

24 A. The highest I've ever seen it was like .5.

25 Q. .5? Did you ever remember the miner gassing off

1 or hear of it gassing off?

2 A. Well, I thought it was supposed to shut down at  
3 one percent, I thought, but you know --- and there was  
4 one time I think it did quit because the sniffer was  
5 bad. Something happened to the sniffer. But the ---  
6 as far as the methane monitor on the miner, it never  
7 went above a half percent.

8 Q. Now, you mentioned when the sniffer went bad there  
9 once. What happened then? What did they do?

10 A. Well, they ---.

11 Q. Did they just keep mining or did they stop or ---?

12 A. Yeah, they stopped. I'm not exactly sure. They  
13 have some sort --- whenever the sniffer goes bad, you  
14 can't start the thing back up, I think, when it gasses  
15 off or something, whatever it does, whatever the  
16 sniffer does to --- it shuts the miner down. And they  
17 have this code or something they push in that remote  
18 box that they can back the miner out to get it  
19 underneath the bolts, then they just change the  
20 sniffer out, clean it, whatever they have to do to get  
21 it out.

22 Q. Now, do they do that immediately?

23 A. As soon as possible, yes.

24 Q. As soon as possible? Okay. Did you ever hear of  
25 anybody bridging out the methane sensor?

1 A. No. Not me personally, nope.

2 Q. Did you ever hear of this anywhere in the mine, on  
3 the longwall or anything?

4 A. It's just hearsay now. I don't --- it's just  
5 hearsay, what I heard.

6 Q. What did you hear there?

7 A. The longwall had a plastic bag over the damn  
8 sniffer. That's what I heard.

9 Q. Was this a common occurrence?

10 A. I don't know. I don't know.

11 Q. Okay.

12 A. I didn't work up there. I couldn't tell you.

13 Q. On your headgate section, did anybody ever go over  
14 the approved methane and dust control plan with you  
15 and the section crew?

16 A. Uh-huh (yes). We'd have meetings, you know. He'd  
17 read out of his little bit every morning --- or every  
18 evening, and they'd talk about the roof control plan  
19 and dust parameters and stuff.

20 Q. Now, when you said he, who ---?

21 A. Smurf --- the boss, Richard Hutchens.

22 Q. Okay. And he did this every day?

23 A. Uh-huh (yes).

24 Q. Okay.

25 A. And Pat --- you know, Smurf quit. We called him

1 Smurf. He quit and went to Speed, but then Pat --- I  
2 almost had his name.

3 Q. What did they discuss? What did they go over?

4 A. Mostly roof and ribs, just --- and then to  
5 watch --- watch the top and make sure --- pull down  
6 any loose stuff that you see and just watch for  
7 stumbling hazards and rocks in the road and stuff.

8 Q. What about changes to the approved ventilation  
9 plan? Did anybody ever discuss that the ventilation  
10 plan was changing?

11 A. Well, they didn't right out discuss it with me,  
12 but I knew that somebody was talking about it, you  
13 know, above me, about changing the ventilation and  
14 stuff. And I just left it to those guys upstairs. I  
15 just did what I'm told. And when they'd want to  
16 change the air, that's what we did. We'd knock a  
17 stopping, build a stopping.

18 Q. Did they ever post --- do you remember them  
19 posting the map to note that there was about to be a  
20 change?

21 A. Yes.

22 Q. Okay. Now, when you said they told you to knock a  
23 stopping, who told you to knock a stopping?

24 A. Well, it's just passed on down from the super ---  
25 from Everett, whoever told him to do it. I don't

1 know. Then the boss would tell us what --- he would  
2 have a list of what stoppings needed to be knocked and  
3 the ones that had to be built.

4 Q. Did you ever see any engineers up on the section,  
5 not spad crews but engineers taking air readings and  
6 ---? Never saw that?

7 A. I can't remember. No, I can't remember seeing  
8 any.

9 Q. Okay. Do you ever remember the on-shift exam  
10 being conducted while you were working? Do you  
11 remember a section boss ever doing that?

12 A. Now, what do you call an exam?

13 Q. Just the required on-shift examination.

14 A. Well, you mean the --- making the face runs and  
15 stuff?

16 Q. Uh-huh (yes).

17 A. Yeah.

18 Q. Do you know about when he typically did this?

19 A. We'd leave outside at 3:00. We'd get on the  
20 section at 4:00. He would talk about his --- about  
21 the roof control and safety and what we --- just told  
22 us to be safe. And then about 4:05 maybe --- maybe it  
23 didn't take us an hour to get to --- about 45 minutes,  
24 close to an hour, then he would give our safety talk  
25 and then he would run up toward the face and do his

1 face runs, and then we would put the power in. When  
2 he came back and told us, we would put the power ---  
3 and when he came back to the power center, we'd put  
4 the power in and check our roadways and make sure  
5 everything was working right, then we'd start running.

6 Q. Okay. So you went up there and you got --- after  
7 you did all this, you got on the machine and you went  
8 to work? You didn't service it or anything prior?

9 A. Yes, we did that. We had to grease it every day.

10 Q. Okay. How many production shifts ran each day on  
11 the 029-MMU?

12 A. Two, I guess.

13 Q. Two? And the third shift was the maintenance  
14 shift?

15 A. Are you talking about my section?

16 Q. Yes.

17 A. Right.

18 Q. Did they ever run coal on the maintenance shift?

19 A. Not to my knowledge.

20 Q. Okay. How many entries were on your section, on  
21 the 22 Headgate section?

22 A. Three, I believe.

23 Q. Three. Okay. Now, in your approved methane and  
24 dust control plan there is a cut sequence. Did  
25 anybody ever go over that cut sequence with you and

1 your crew?

2 A. They would --- now, if we're talking about the  
3 same cut sequence, what I think a cut sequence is,  
4 they would write it out on the board outside.

5 Q. So they would write it on the whiteboard?

6 A. Yeah, what --- where they wanted us to start, you  
7 know, one, two, three, four, five, six, ever how many  
8 cuts we could get.

9 Q. They never went over the typical one that's in  
10 your approved methane and dust control plan with you,  
11 though, did they?

12 A. Not to my knowledge, not with me.

13 Q. Okay. What entry did your intake come up?

14 A. Why don't you ask me something I know? Goodness  
15 gracious. It had to be One. Came up the --- came up  
16 One. No, that's not true either. Nope. How did we  
17 have that worked? At that particular time --- yeah,  
18 it came up the track entry.

19 Q. Okay.

20 A. Then we diverted it over to One, and then swept it  
21 across the section.

22 Q. And what entry was your belt air course?

23 A. Two. Oh, I'm sorry. Belt, One.

24 Q. One. Okay. And then Number Three was your  
25 return?

1 A. Right.

2 Q. Okay. And you had two continuous miners on the  
3 section?

4 A. Uh-huh (yes).

5 ATTORNEY BAXTER:

6 Sorry. Is that a yes?

7 A. Oh, yes. Sorry.

8 BY MR. STEFFEY:

9 Q. So you had three entries and two continuous  
10 miners?

11 A. Yeah. It was a headache, yes.

12 Q. Crowded, huh?

13 A. Oh, crowded, yeah.

14 Q. How many shuttle cars did you have up there?

15 A. Three --- I'm sorry, two.

16 Q. Two? How many roof bolters?

17 A. Two.

18 Q. Two? And one scoop?

19 A. And one scoop. We only --- see, I'm getting  
20 confused with Allen Powellton and UBB now.

21 Q. Oh, okay.

22 A. Wait a minute. Yeah, we had two bolters.

23 Q. Okay. Now, you mentioned that your intake came up  
24 your beltline, your belt air course was in Number One  
25 and your return was in Number Three, and you had two

1 continuous miners.

2 A. Uh-huh (yes). Yes.

3 Q. Did you ever remember them running both continuous  
4 miners at the same time?

5 A. No.

6 Q. Okay. What about when a cleanup car was being  
7 loaded, did you go ahead and start the other miner  
8 when the cleanup car was being loaded?

9 A. It seems like, yeah, that's what they would do.  
10 When I was loading the last car, the other buggy would  
11 be over there, getting the first load out of that  
12 other one.

13 Q. Did the shuttle cars run in the last open break?

14 A. No.

15 Q. Okay. Where was your change-out point, typically?  
16 Where were you instructed to change out?

17 A. As close to the miner as possible. I can't ---  
18 with those three entries, it was really screwed up,  
19 the way they had the belt. See, my buggy was ---  
20 supposed to be the center buggy, but we were in Number  
21 One, and so I really had no place to go but One and  
22 Two, occasionally go to Three. So we'd go to Two, but  
23 it would be right there behind the miner. We had to  
24 switch out there.

25 Q. And did you use exhaustive face ventilation or did

1 you use blowing?

2 A. Blowing.

3 Q. Blowing?

4 A. I believe. No, the curtain --- no, exhaust.

5 Q. Did you ever see them take a cut without a  
6 curtain?

7 A. Occasionally, yes.

8 Q. Occasionally. They'd typically roll that curtain  
9 up or did they just jerk it down and make them get the  
10 shuttle car so you could change it out closer?

11 A. We'd roll it --- not to change out closer, no.

12 No. The only curtain they rolled up was right there  
13 beside the miner, where they could get that  
14 exhaust --- the scrubber to work off of the miner, so  
15 they'd blow out behind the curtain instead of in front  
16 of the curtain.

17 Q. So they could use a scrubber?

18 A. Yeah. I couldn't understand that because we were  
19 only doing 20-foot cuts, and we're not supposed to use  
20 it, but we used it. We'd roll the curtain up to where  
21 the exhaust of the scrubber would go behind the  
22 curtain, and we just couldn't understand --- I still  
23 can't understand why we can't use it on 20-foot cuts,  
24 but we can use it on 40-foot --- 35-foot cuts and ---.

25 Q. Did they ever take a cut deeper than 20 foot?

1 A. Oh, you mean when we were ---? No. At the most,  
2 21, maybe 22 feet.

3 Q. What did management tell you about that scrubber?  
4 Anybody ever talk about that? What did they say about  
5 that?

6 A. Well, just what I can understand, what they ---  
7 whatever --- they never talked to me about it  
8 personally, but just what I picked up, that you  
9 couldn't use a scrubber on 20-foot cuts. I guess  
10 that's some sort of a law for you guys or something,  
11 inspectors.

12 Q. Who made the decision to kick that scrubber on?

13 A. The miner operator.

14 Q. The miner operator? What about the section boss,  
15 where was he when all this was going on?

16 A. Out running around.

17 Q. Out running around?

18 A. Yeah. He was there. You know, three sections,  
19 three entries --- I mean, three entries, he couldn't  
20 have gone far.

21 Q. So he could hear it?

22 A. Yeah. But I don't know. It just seems like to me  
23 it was a quicker, faster way to get any impurities out  
24 of the air, behind the curtain and gone.

25 Q. What about --- did you ever see Chris Blanchard up

1       there on the section?

2       A. You know, I --- to this day, I wouldn't recognize  
3       him, ---

4       Q. You wouldn't recognize him?

5       A. --- so I don't --- I really don't know what he  
6       looks like.

7       Q. What about Jason Whitehead, did you ever see him?

8       A. Yes.

9       Q. Was he ever up there when you guys were running?

10      A. I can't recall. No, not to my knowledge.

11      Q. Just showed up when there was a problem?

12      A. Maybe.

13      Q. Maybe?

14      A. I don't know.

15      Q. Okay. We've been going at this about an hour now.  
16      Do you need a break?

17      A. No. You got any more coffee? Okay. I take that  
18      as a no when you all start looking at each other.

19      Q. We can probably try to get you some coffee.

20      A. That's all right. I still got a little bit left  
21      here.

22      Q. Are you sure? I think we can make arrangements to  
23      get you some.

24      A. I'm fine.

25      Q. Okay. So you did see him occasionally take a cut

1 without a curtain. It occasionally took place.

2 A. The curtain was there. It was just rolled up.

3 Q. Just rolled up. Typically after a belt move, how  
4 many breaks outby the face was that feeder?

5 A. We only made one break move, so ---.

6 Q. They keep it pushed up, typically?

7 A. Yeah. Yeah.

8 Q. What did that do to your haulage right there? Did  
9 it make it ---?

10 A. Well, it cut it in half if you'd only use one  
11 buggy. The center car couldn't come to One, and I'd  
12 have to run One by myself, One entry by myself.

13 Q. Make it difficult to get to the miner then, as far  
14 as ---?

15 A. Yeah. Yeah.

16 Q. Okay. And you mentioned they use exhaust and face  
17 ventilation there.

18 A. Uh-huh (yes).

19 Q. Now, after a belt move, how would they go about  
20 mining those outside entries? Let's say --- let's  
21 take the Number One entry. How would they go about  
22 that after a belt move?

23 A. After a belt move, that was --- if we'd only use  
24 one buggy, they would --- we would cut, the miner  
25 would back up, the bolter would go in there. It was

1       like, you know, load a cut, bolt a cut, that's all it  
2       was.

3       Q. Did they ever cut from the return side into the  
4       intake?

5       A. I'd be lying if I said no. We've done it  
6       occasionally.

7       Q. Done it occasionally. Lost my train of thought  
8       there. Okay. Let's go back to those outside entries  
9       there in that Number One entry. Your belt was in the  
10      Number One; right?

11      A. Uh-huh (yes).

12      Q. Okay. And you mentioned that you had to run one  
13      buggy over there and had your intake coming up there  
14      and the track, and the return was over there in the  
15      Number Three; ---

16      A. Uh-huh (yes).

17      Q. --- right? Okay. And you said occasionally you'd  
18      have to cut from your return back into your intake.  
19      Typically what direction did you turn your breaks  
20      from?

21      A. From Three --- I mean, from Two --- we turned from  
22      Two to Three, and then typically --- then we'd go  
23      around the block and hit Two left head on to cut into  
24      One. But somehow or another, circumstances wouldn't  
25      let us do that all the time. I don't know how they

1 worked that out, but sometimes we couldn't do that.

2 Q. When you would take a cut in Number One right  
3 after a belt move, when they brought their intake air  
4 up, did they have to pass that intake air over the  
5 feeder and then take it up the entry to Number One?  
6 How did they ventilate that head when you were taking  
7 a cut right after the belt move?

8 A. Right after the belt move, now, we put a curtain  
9 in front of the tailpiece to block the air from going  
10 up the belt. The air came down Two --- came down to  
11 Two. We diverted it over to One, had a fly pad  
12 sitting here, and just bring it over to One. Now, it  
13 wasn't supposed to go up the belt, but you know, with  
14 that curtain there, it just leaked through there  
15 occasionally. You couldn't keep it all from going  
16 into the face, but you got most of it up there.

17 Q. Do you have a regulator in the belt air course  
18 just outby the feeder, fed from your intake into your  
19 beltline? Do you remember that?

20 A. I remember somebody mentioning a regulator, but  
21 I'm not --- I can't remember exactly where it was at.

22 Q. Okay. Let's go back to that scrubber, when they'd  
23 kick that on. Did you ever see anybody check that  
24 scrubber?

25 A. Uh-huh (yes). The miner man would clean it.

1 Q. The miner man would clean it?

2 A. If it wasn't pulling out --- Morris, it seems like  
3 his scrubber wasn't operating like it was supposed to  
4 most of the time.

5 Q. What was wrong with it?

6 A. I'm not exactly sure. It wasn't pulling the air  
7 out of it like it was supposed to, pulling the air  
8 around.

9 Q. Now, how did he check the air volume in it? What  
10 did he use?

11 A. I'm not sure. I'm not exactly sure he used  
12 anything. I just know he'd take the screen out and  
13 clean it and wash it down, wash it out, wash out the  
14 --- where the air comes from the head there.

15 Q. Okay.

16 A. But I'm not --- I don't know exactly what he used  
17 to measure the air volume.

18 Q. What about your water sprayers on the miner, he  
19 ever look at that?

20 A. Uh-huh (yes).

21 ATTORNEY BAXTER:

22 Is that a yes?

23 A. Yes.

24 BY MR. STEFFEY:

25 Q. Did you ever take a cut without water pressure?

1 Do you remember him ever not having any water and then  
2 go ahead and sump it up or the water pressure was low?  
3 Did you ever have any problems with water pressure on  
4 the section?

5 A. Yes, a couple times we had water problems, but not  
6 very often.

7 Q. Not very often. Did you stop production to get  
8 the water problem fixed or did they just go ahead and  
9 keep cutting and work on the water while they were  
10 cutting?

11 A. Well, if we had low water --- if we had water  
12 coming out of the water sprays, we'd --- he'd keep  
13 cutting. But if we had no water, he wouldn't cut ---  
14 or they wouldn't, Morris or Goose, either one, they  
15 wouldn't cut.

16 Q. Okay. You ever been underground working on the  
17 section when a ventilation change was being made?  
18 Did you ever hear anybody talk and saying they're down  
19 there knocking some stoppings right now, but it's not  
20 going to affect us, we just need to keep working?

21 A. Well, I think we did that. I think we were the  
22 ones --- we notified the section what we were doing.  
23 What were we doing that day? But we notified the  
24 section that we were going to knock some stoppings.

25 Q. Now, what section did you notify?

1 A. Two section, I believe.

2 Q. And what's Two section? Is that the tailgate  
3 section?

4 A. Yeah.

5 Q. And when was this?

6 A. That seemed like that was like, you know, three or  
7 four weeks before that, too, before the explosion.

8 Q. What were you knocking the stoppings for?

9 A. To get more air up to our section, ---

10 Q. Okay.

11 A. --- One section.

12 Q. Who instructed you to knock those stoppings out?

13 A. Smurf. He was ---.

14 Q. Now, Smurf, who was ---?

15 A. He was the boss.

16 Q. And what was his name?

17 A. Rick Hutchens.

18 Q. And who did he take his orders from?

19 A. At that time it was Everett, I guess, Everett  
20 Hager. But we notified the section what we were  
21 doing. I'm not exactly sure what they did, but I  
22 think they were supposed to wait, stop production.

23 Q. Okay. Were you ever told to stop cutting coal and  
24 do other work because an inspector was on his way to  
25 the section?

1 A. Yes.

2 Q. Who would tell you this?

3 A. The boss.

4 Q. Okay. And where did he get his information?

5 Somebody called?

6 A. Yeah. I guess somebody --- yeah, somebody called  
7 and told him, I believe.

8 Q. Did you ever hear who called in and told him?

9 A. No. I can't say for sure who called and told.

10 ATTORNEY BAXTER:

11 Is that Hutchens you're talking about  
12 again?

13 A. Huh?

14 ATTORNEY BAXTER:

15 Is that Hutchens, Mr. Hutchens?

16 A. Yes, the boss.

17 BY MR. STEFFEY:

18 Q. Okay.

19 A. Somebody would call underground and inform him or  
20 inform somebody that the inspectors were coming.

21 Q. Okay. Anybody in mine management ever tell you to  
22 be careful about what you said to an inspector,  
23 implying that they're not here to help and, you know,  
24 we can take care of our own problems? Did they ever  
25 tell you anything like that?

1 A. No.

2 Q. No? Do you know of any complaints about unsafe  
3 conditions being made in this mine?

4 A. Unsafe conditions?

5 Q. Any complaints to MSHA or to management?

6 A. I can't recall any at this time. I can't ---. I  
7 can't think of any. Just the ventilation part of it.

8 Q. Were you ever on a section when a citation was  
9 issued?

10 A. I had to have been. I know --- yeah. I guess I  
11 was on the section when it had a citation for  
12 ventilation.

13 Q. Now, what --- a citation for ventilation?  
14 What ---?

15 A. Not enough air behind ---

16 Q. Not enough air behind ---?

17 A. --- the line curtain, last open break.

18 Q. How long did it take you to abate that condition?  
19 How long did it take?

20 A. I don't know. Maybe an hour, probably, for us to  
21 correct it and then him to leave.

22 Q. What did they do to correct it?

23 A. Just tightened up the curtains.

24 Q. Tightened up the curtains?

25 A. Tightened up the curtains and ---.

1 Q. What was mine management's reaction to the  
2 citation? Did you ever find out?

3 A. Uh-huh (yes). No.

4 Q. Okay. What about after the inspector left, what  
5 happened then?

6 A. We ran coal.

7 Q. Did you take the curtain back down?

8 A. Yes. We had to, because we couldn't run through  
9 them. But we did double them up with fly pads and  
10 that seemed to help a little.

11 Q. What happened to your air after he left? Did you  
12 have low air again?

13 A. Well, I noticed a difference, that air wasn't  
14 hitting me in the face as hard, but --- yeah. I don't  
15 know exactly how much air we had, but ---.

16 Q. But it was noticeable?

17 A. It was noticeable.

18 Q. Did you ever discuss any mine plans of any of the  
19 inspectors? Did they ever come up there? Did they  
20 ever talk to you?

21 A. No. They talked to me, but they wouldn't ---  
22 seems like I knew a couple --- two or three of them,  
23 and they wouldn't talk to me about anything pertaining  
24 to mining. They --- something outside the mine.

25 Q. What do you think management's attitude was toward

1 the inspectors? Did they like them?

2 A. I don't believe, no. Because, you know, just like  
3 you said, they're there to help, but they --- I think  
4 they thought that they were there to hurt, you know,  
5 to make it bad for the company.

6 Q. Make it bad for the company. So do you think they  
7 looked at maybe citations as just a cost of doing  
8 business? Did it kind of seem that way? Did they  
9 ever talk about how much a citation costs?

10 A. Occasionally, yeah.

11 Q. Occasionally.

12 A. But I wouldn't think somebody --- that they would  
13 think like that, though. I can't honestly say that  
14 that's how they were thinking, that it was just the  
15 cost of business.

16 Q. But they didn't like getting the tickets?

17 A. They didn't like it, no.

18 Q. You mentioned --- it seems like the way you've  
19 been discussing this here, we've had some ventilation  
20 problems on this section. Do you remember about when  
21 they started? Did you have them the whole time you  
22 were driving the Headgate 22 section or was there just  
23 one particular point where they began?

24 A. It seems like we've had the problems ever since we  
25 started that Headgate 22.

1 Q. What kind of problems were they?

2 A. Not enough air.

3 Q. Not enough air?

4 A. I don't know. Maybe they were --- at one point,  
5 you know, the longwall had so much air, those guys  
6 were actually freezing to death on the jack line.

7 Q. Okay. Now, that was ---?

8 A. And then before the explosion, you know, in the  
9 little time before, like three or four weeks before,  
10 we had our air --- we had more than enough air to do  
11 what we had to do, and I think that cut the longwall's  
12 air in half. But I'm not exactly sure what they did.  
13 I know they had to redirect the air.

14 Q. Who made the decision to redirect the air?

15 A. I'm not sure.

16 Q. You're not sure?

17 A. It was probably Chris.

18 Q. Were you ever --- Chris --- what Chris?

19 Blanchard?

20 A. There's another one.

21 Q. Adkins?

22 A. Yeah, Chris Adkins.

23 Q. Okay. Have you ever been withdrawn from this mine  
24 due to an unsafe condition?

25 A. Yeah.

1 Q. Was it just your section or the entire mine  
2 withdrawn?

3 A. Let me think. I know they told us to go home for  
4 some reason. Goodness gracious. I know we were off  
5 three days for that or something. I can't even  
6 remember what it was now. Had to be something with  
7 ventilation. But that was a while back, you know,  
8 like last year or something.

9 Q. Have you ever had an upcoming work shift delayed  
10 due to an unsafe condition?

11 A. Yeah, I think that's what I'm trying to remember  
12 because I came to work and they didn't let us work.  
13 They sent us home. I can't remember what it was.

14 Q. Do you remember who told you, you had a problem?  
15 Did they ever explain what was going on?

16 A. Well, I always heard it from the guys I worked  
17 with. I hardly ever associated with management, just  
18 my boss. If I heard anything, it was from my boss.

19 Q. Okay. Did you have a lot of concerns about the  
20 ventilation in the mine prior to the explosion? Did  
21 everybody --- was anybody really concerned? I mean, I  
22 know how coal miners talk.

23 A. Uh-huh (yes). Yeah, we talked about it every day,  
24 but as far as --- I thought we had enough air to run.

25 Q. Did anybody ever express those concerns to anybody

1 in management?

2 A. Sure. I'm pretty sure the miner men, Goose,  
3 Stewart --- or Stanley Stewart, I guess, that's his  
4 name. I guess he talked --- every once in a while  
5 Everett would come down to the bath house and Goose  
6 would talk to him about the air.

7 Q. Well, what was Everett's reaction?

8 A. He would just --- you know, he'd just say shut her  
9 down and get it right before you start. It seemed  
10 like he said that all the time.

11 Q. Has the carbon monoxide monitoring system ever  
12 gone into alarm or alert mode while you were  
13 underground?

14 A. Yeah. But they always told me it was --- that  
15 word for --- they were testing it or something.  
16 There's another word I'm trying to think of.

17 Q. Okay.

18 A. A false reading or something. I can't remember  
19 what they used, what they said, but they said they  
20 were just testing the thing or they were getting an  
21 inaccurate reading or something was using torches  
22 somewhere.

23 Q. Do you remember when?

24 A. No. It's been in the last six months.

25 Q. Been in the last six months. Do you remember if

1 it was an alert or an alarm, or did they tell you?

2 A. As far as I know, it was just an alarm.

3 Q. Was there a lot of pressure to run coal?

4 A. I don't think so.

5 Q. You don't think so?

6 A. No.

7 Q. Didn't seem like the bosses smothered out a lot?

8 A. Smurf didn't smother. We just ran what we could  
9 run. We didn't smother.

10 Q. Anybody --- nobody ever came in and said, guys,  
11 you know, we got to get our production up. You know,  
12 if we don't, we may not be able to take vacation this  
13 year. Anybody say anything like that?

14 A. Yeah. It seems like I heard something like that  
15 last year or even --- probably even the first part of  
16 this year. But then ---.

17 Q. Did anybody ever say anything about maybe shutting  
18 down the mine if production didn't pick up?

19 A. I never heard that.

20 Q. Never heard that?

21 A. Uh-uh (no).

22 Q. Do you think anybody ever took shortcuts to run  
23 coal? Did you ever hear of anybody taking any  
24 shortcuts?

25 A. I can't honestly say right now. I just can't

1        imagine anybody taking shortcuts to jeopardize their  
2        lives or somebody else's lives just to get some coal  
3        out.

4        Q. I understand. Let's go back after the inspector  
5        left. You said they took that curtain down, but you  
6        tried to hang some fly pad up and that ---.

7        A. Doubled them up, yeah.

8        Q. Now, your approved methane and dust control plan,  
9        now did it specify those curtains?

10       A. I can't tell you. I didn't read it. And I know  
11       Smurf went over it a couple times, the dust control  
12       plan and stuff, but like I said, I can't remember.

13       Q. I guess what I'm driving at there is that you feel  
14       like your plan was ---

15       A. Adequate.

16       Q. --- adequate, reflective of what you had  
17       underground?

18       A. Yeah.

19       Q. And you said that you didn't think the company  
20       really --- they didn't really like those tickets?

21       A. They don't like them. Nobody likes them.

22       Q. I can imagine so. Did you ever see Chris Adkins  
23       or Don Blankenship at the mine?

24       A. No. Now, Chris Adkins, yes, but I've never seen  
25       Don, I don't believe.

1 Q. Did Chris ever talk to the crew?

2 A. Uh-huh (yes).

3 Q. What did he say?

4 A. He talked to us a couple times. The only thing I  
5 can remember is he told us what the --- what our plan  
6 was for the future of this --- of UBB and what we were  
7 doing, and he just --- at the end of it he would tell  
8 us just to run coal, but you know, run it safe, work  
9 safely and run coal.

10 MR. STEFFEY:

11 I think I'm going to let some other  
12 people ask questions.

13 ATTORNEY BAXTER:

14 Take a short break maybe.

15 SHORT BREAK TAKEN

16 ATTORNEY BAXTER:

17 Back on the record.

18 BY MR. STEFFEY:

19 Q. Got a few follow-up questions here, Mr. Crouse.  
20 What is the approximate date that you started at UBB?  
21 Was it a year ago, two years ago, three?

22 A. Three. It seems like I started there in '07. I  
23 could be wrong.

24 Q. Okay.

25 A. It was like March of '07 maybe. Because I started

1 in May, in '05, and I worked --- yeah, a  
2 year-and-a-half, at Marfork Eagle. And then we worked  
3 it out, and they transferred us to UBB, I believe. I  
4 believe that's how that worked.

5 Q. Okay. The floor hoove that occurred up there on  
6 Headgate 22, who was the miner man that noticed the  
7 floor hoove?

8 A. Goose.

9 Q. Goose?

10 A. Stanley Stewart.

11 Q. Okay. And who was the fire boss that told you  
12 about the methane in the cut-through section on --- I  
13 guess 02 section is what you call it.

14 A. What's his name? Halstead? Goodness gracious, my  
15 mind is --- I can't even remember his name. It's  
16 Halstead, but ---.

17 MR. TUCKER:

18 Would you know if you heard it?

19 A. I'd know if I saw him.

20 MR. TUCKER:

21 Scott?

22 A. Scott Halstead, there you go.

23 BY MR. STEFFEY:

24 Q. Who is your current section boss on this section?

25 A. Pat --- do you know his name?

1 MR. TUCKER:

2 Would it be Hilbert?

3 A. Hilbert, that's his name, yeah. You're pretty  
4 good at this.

5 BY MR. STEFFEY:

6 Q. When did he become section boss?

7 A. Let's see. It wasn't maybe --- three weeks before  
8 the explosion, I think, maybe. It wasn't long before  
9 the explosion. It could have been longer, but he was  
10 the boss right after Smurf left.

11 Q. When was the last time they took a cut without a  
12 curtain, just had it rolled up?

13 A. I can remember it had to be that Thursday my last  
14 shift. That Thursday before the explosion.

15 Q. Okay.

16 A. Because we had three days off. And Monday was our  
17 next shift.

18 Q. When was the last time that Hutchens told you that  
19 an inspector was on the way?

20 A. I can't remember that either. But the actual  
21 person --- the last one I can remember was actually  
22 the electrician told me that there was an inspector on  
23 the property.

24 Q. How many times did that happen? Did that happen  
25 about every time there was an inspector there?

1 A. A couple times we got snuck up on, but yeah, it  
2 seemed like they tried to tell us.

3 ATTORNEY BAXTER:

4 And who was that electrician you  
5 mentioned?

6 A. Larry Richmond.

7 BY MR. STEFFEY:

8 Q. When was the citation for a lack of ventilation?

9 A. I can't say for sure, but --- goodness gracious.  
10 March. It seems like the middle of March maybe.

11 Q. Okay.

12 MR. STEFFEY:

13 Do you have questions?

14 MR. TUCKER:

15 Yeah.

16 EXAMINATION

17 BY MR. TUCKER:

18 Q. I'll try not to repeat things you've been asked,  
19 but if I do, forgive me. I might be bouncing around a  
20 little bit just trying to clear up a few things.

21 A. That's fine.

22 Q. How long have you been running the shuttle car?

23 A. Roughly three years maybe. Because I was only  
24 running that motor for maybe a month before they ---  
25 maybe a month or two before I got on the section.

1 Q. You mentioned you did have some hooving on the 22  
2 Headgate. Did that cause you much problems as far as  
3 the shuttle car, the roadways? What kind of condition  
4 was they in?

5 A. No, it didn't cause us any problems. The miner  
6 just --- I'm not sure if we backed up and cut it out  
7 or not.

8 Q. Was the roadway in fairly good shape?

9 A. Them roadways are rougher than hell. The bottom  
10 was breaking up bad. It just seems like there wasn't  
11 a smooth place on the thing.

12 Q. All right. You mentioned down at this crossover  
13 at the mouth of the current longwall about some  
14 methane down there bubbling up.

15 A. Yeah, coming up through the bottom.

16 Q. Through the bottom. Have you ever noticed that on  
17 22 Headgate?

18 A. Yes.

19 Q. Do you recall if they took --- was you around to  
20 see anybody stick a spotter down next to it and take a  
21 gas reading?

22 A. Well, yeah. I saw Pat do it, the boss.

23 Q. Do you happen to recall what he got or if the  
24 alarm went off or anything?

25 A. I know the alarm went off, but I can't remember

1 what the reading was. Just like --- I don't know, two  
2 percent maybe. That's just a guess.

3 Q. All right. Okay. You mentioned at one point you  
4 all started running coal on 22 Headgate and it just  
5 seems like you lost your air and you had to go work on  
6 the air to get ventilation?

7 A. Well, it just --- now that I thought about it some  
8 more, it just seems like somebody left the door open.  
9 And we had to walk back Lord knows how many breaks, 10  
10 or 15 breaks, just to find this door that --- we're  
11 not exactly sure who left it open, but it --- it was  
12 the airlock doors at the start of the section.  
13 Somebody had left one of them open.

14 Q. Did everybody quit working at that time in the  
15 faces?

16 A. Everybody left the section. Yeah, everybody left.

17 Q. When you go underground, you get --- take your  
18 mantrip up to the --- as far as you can go there at  
19 the end of the track. Kind of describe what you do  
20 from that point.

21 A. From the end of the track?

22 Q. When you get off the mantrip.

23 A. Well, we just crawl out of the mantrip. Smurf  
24 would --- we'd sit there and talk about the headline  
25 news and things like that. And Smurf would read the

1 roof control plan --- part of the roof control plan  
2 and go through the cut sequence for the day, where we  
3 were going to start cutting. That would take maybe  
4 --- it wouldn't take long, five minutes maybe, maybe a  
5 little longer. And then we would leave and walk the  
6 15 or 20 breaks it took us to get to the section  
7 because you didn't have a ride. Then by the time we  
8 got there, we'd be out of breath. I'd be out of  
9 breath. And then we'd stop there at the power center  
10 for a couple minutes and get it ready to --- you know,  
11 just get our head in the game, I guess is what you'd  
12 call it, just think about what we're doing. We'd just  
13 tell everybody to be safe and don't get run over. And  
14 then ---.

15 Q. Everybody typically would be around the power  
16 center when you're having this discussion?

17 A. Uh-huh (yes).

18 Q. Did you put your own power in or who put the power  
19 in? Different ones put it in or ---?

20 A. Well, yeah. Occasionally --- no. Come to think  
21 of it, they had a --- goodness gracious. Sometime  
22 before --- like in March or February or something they  
23 had a realignment-like deal. They wanted people to  
24 swing --- swing shift, you know, swing between day and  
25 evening. And they asked me if I wanted to swing. I

1 said, no, I wanted to be permanent evening shift. And  
2 so that's when we got Larry as our permanent  
3 electrician, because he didn't want to swing either.  
4 And you know, before him we, the operators, put their  
5 own breaks in. But Larry --- now, you wouldn't find  
6 him --- you won't find a more safety conscious  
7 electrician because he'd wait until Smurf got back to  
8 the power center, put the power in himself. Larry  
9 would do that.

10 Q. That's Larry ---

11 A. Richmond.

12 Q. --- Richmond? And you say that's been --- how  
13 long ago has he been with --- how long has he been  
14 with you?

15 A. Ever how long we were on Headgate 22. I  
16 can't ---.

17 Q. Okay. Since you started working up on Headgate  
18 22?

19 A. Yeah.

20 Q. So prior to that, when you came in ---

21 A. I think he's been up there a long time.

22 Q. --- and you put your own power in, would you do  
23 that just before you --- everybody had their little  
24 safety meeting there when you was getting ready to go?

25 A. Yeah.

1 Q. The boss would be there with you then typically  
2 when you put your power in?

3 A. No. Not typically, no. But every once in a while  
4 he would be there.

5 Q. Okay. Do you ever find you got to put your  
6 breaker in and it would already be in, find where  
7 people's left power in on ---

8 A. Yes.

9 Q. --- face equipment?

10 A. Yes.

11 Q. Okay. And you mentioned that the track on 22  
12 Headgate is back 15 or 20 breaks and your last shift  
13 up there, you didn't have a ride, had to walk all the  
14 way up from the end of the track.

15 A. Uh-huh (yes).

16 Q. Do you know if they had an emergency ride on the  
17 section?

18 A. We did, yes. There was a three-wheeler. When it  
19 worked, we had one.

20 Q. Just a three-wheeler?

21 A. There's some, you know, stipulation that we can  
22 use a scoop if we chain the ram back or something like  
23 that. I don't know exactly how that works. We could  
24 use a scoop as an emergency ride if we chained the  
25 ramp back.

1 Q. Do you think they may have had a permit with  
2 safety precautions to use the ---?

3 A. I don't know about that, no. I wouldn't know  
4 that.

5 Q. So when you --- once you leave the power center  
6 and you get up to your shuttle car, then do you do a  
7 pre-op?

8 A. You know, walk around it. I walk around. Monday  
9 we would grease everything, U joints and things like  
10 that, the tie rod ends and stuff, and then anything  
11 else --- I mean, greasing it during the end of the ---  
12 during the week, after Monday, we just greased the  
13 perimeter and our pedals and stuff inside the deck  
14 there. And then I'd walk my roadways, see where our  
15 miner was at or see where we were going, make sure the  
16 roadway was clear, no big rocks.

17 Q. Did you check the panic bar and breaks and ---

18 A. Uh-huh (yes).

19 Q. --- things like that on your pre-op?

20 A. Yeah. I'd start it up and I'd tram it a couple  
21 feet and hit the panic bar and see if it stopped.

22 Q. When you'd run through the fly pads, your wheel  
23 ever catch a fly pad and tear it down?

24 A. Yes, sir.

25 Q. What do you do when you tear a fly pad down?

1 A. Well, I cuss everybody, and then I go get it and I  
2 nail it back up.

3 Q. Okay. The section foreman ever get upset with you  
4 if you'd stop working on a curtain or anything?

5 A. No, not Smurf, not Pat. No.

6 Q. Okay. You ever have a mine foreman or any upper  
7 management come up on a section while you're running  
8 coal or any visitors that you can think of their names  
9 that you can mention?

10 A. No. Nobody higher up than Everett. I can't  
11 remember anybody higher up than him coming up there.

12 Q. How would you explain your normal daily  
13 ventilation conditions on the section, on 22 Headgate?  
14 Was it a constant fight with it or how would you  
15 describe it?

16 A. Constant battle. Yeah, it was --- we were  
17 fighting it seems like just to get the minimum amount  
18 of air to run.

19 Q. How much rock were they cutting up on 22?

20 A. Man, I know we were taking two feet of bottom. I  
21 guess maybe about three feet of rock maybe.

22 Q. So was it pretty dusty?

23 A. It was. Nothing we couldn't handle. They gave us  
24 respirators and stuff like that if we needed. And  
25 more often than not we needed them.

1 Q. Did you wear a respirator pretty often?

2 A. Uh-huh (yes).

3 Q. Did most of the guys wear them or just some do and  
4 some don't?

5 A. Right, some do, some don't. The miner men wore  
6 them. I wore it. And the other buggy man, he would  
7 occasionally wear it. He said he couldn't breathe  
8 through them.

9 Q. Did dust ever get so bad, I mean, that it was even  
10 hard to see?

11 A. Uh-huh (yes).

12 ATTORNEY BAXTER:

13 Is that a yes?

14 A. Yes.

15 BY MR. TUCKER:

16 Q. So as far as the scrubber, when you rolled the  
17 curtain up, would you say it happened daily?

18 A. Uh-huh (yes).

19 Q. Okay.

20 A. That's just so the scrubber will blow behind the  
21 curtain and not blow in front of it because it --- you  
22 know, you already know that it blows the air back on  
23 the buggy.

24 Q. So you're cutting the rock and it gets dusty and  
25 basically fires the scrubber up?

1 A. Yeah.

2 Q. Okay.

3 A. And blow it behind the curtain. Make sure it goes  
4 behind the curtain.

5 Q. Did anybody on --- I know you mentioned the miner  
6 operator complained about the ventilation, you heard  
7 him complain about it some. Did anybody --- other  
8 crew members ever complain about the ventilation on  
9 the section to the foreman?

10 A. I'm pretty sure we all did at one time, but the  
11 bolt crew, too.

12 Q. Did you ever hear the foreman complain about the  
13 ventilation to somebody outside?

14 A. Yeah. I'd always --- you know, you'd hear Smurf  
15 and Pat every day say --- telling Everett or --- that  
16 there's just not enough air up there. We don't have  
17 any air. We don't have enough air.

18 Q. Did you ever hear the response or maybe actually  
19 be around when they were talking on the phone and when  
20 they hung up, ---

21 A. No.

22 Q. --- hear what kind of sense --- frustration or  
23 anything?

24 A. Well, frustration on Smurf's part, the boss' part?

25 Q. Right.

1 A. Yeah. Every once in a while, you know, the boss  
2 would like throw his arms up and say this is what they  
3 want me to do. They want me to run coal and they want  
4 me to keep ventilation up, too. And at that  
5 particular time we were having trouble with it. You  
6 couldn't do both. You couldn't ventilate and run  
7 coal, too. So that's one of the times that we would  
8 actually go back and look for our air and get just the  
9 bare minimum of air up there, enough to run with,  
10 enough to run one miner. Of course, we --- now, I  
11 said that wrong. We never --- we didn't run both  
12 miners.

13 Q. So do you think that the section foremen were kind  
14 of pressured to run even though they may not have  
15 enough air?

16 A. It's a possibility.

17 Q. They were kind of caught between a rock and a hard  
18 place, so to speak?

19 A. That's a possibility, yeah.

20 Q. In your opinion, what do you think would happen to  
21 an individual or yourself if you refused to work in a  
22 place with low air, you knew you didn't have an amount  
23 required by law and you just flat out refused to work?  
24 What do you think would happen?

25 A. It's --- I can't say. I really don't know what

1 would have happened because I never had that happen.

2 I never did do that.

3 Q. I guess it's safe to say you'd feel uneasy to do  
4 that?

5 A. I'd feel uneasy, that's right, if I refused to do  
6 my job, because there's somebody standing in line  
7 waiting to take it somewhere. And I'm just afraid  
8 that if I refused, then that would be grounds for me  
9 --- to dismiss me or something if I refused to do it.

10 Q. Okay. Did upper management ever hold, say, a  
11 large safety meeting outside with everybody before you  
12 went underground, that you can recall?

13 A. It seems --- yeah. We used to have --- on the UBB  
14 side we used to get the whole evening shift, when we  
15 came in, get us up in the garage there, the motor  
16 barn, and talk to us about --- then again, just  
17 working safe because somebody just had gotten hurt  
18 with a strain or tripping hazard or something. And  
19 they just would tell us to watch where we walk and  
20 don't strain anything.

21 Q. Do you know who --- do you remember who would  
22 typically conduct those safety meetings?

23 A. What's his name? Berman? What's his name? I  
24 think that's his name. Berman, I believe.

25 Q. Did they ever talk about ventilation or methane

1 that you recall?

2 A. No, not that I can recall. No.

3 Q. What if you have a problem with your shuttle car,  
4 something --- got issues, whether it be brakes or  
5 lights or whatever, what do you do?

6 A. Well, if it got too bad to where I couldn't run  
7 the thing, I mean, I'd tell the electrician and I'd  
8 have him fix it. But if I could still run it --- if  
9 it would still roll, I'd run it. If I had at least  
10 one light on the thing, on both ends, on either end,  
11 I'd run it. Some guys out there wouldn't do that,  
12 but ---.

13 Q. Do you ever have anything wrong with it that you  
14 maybe mentioned to him about fixing, and they asked  
15 you to run it so they could just let the third shift  
16 fix it, since they had an idle shift coming in?

17 A. Yeah. There was a couple times with the tires, a  
18 tire coming off a rim or something. They'd say run it  
19 until it falls off. But I think that's about the only  
20 major thing.

21 Q. Is it common for the track to be back behind  
22 that ---?

23 A. It was on that section. I don't know --- it  
24 wasn't too bad on Two section, you know, where we came  
25 from, but --- I don't know what happened up there.

1 They --- I don't know. But no, it wasn't common. It  
2 wasn't common anywhere else but there.

3 Q. You made mention that Mr. Hutchens left a month or  
4 so ago.

5 A. Yeah.

6 Q. Did you hear him say or do you have any idea why  
7 he left?

8 A. Well, I do know why, but it has nothing to do with  
9 the mine.

10 Q. Okay.

11 A. (b) (7)(C)

12 Q. All right.

13 MR. TUCKER:

14 That's all for now.

15 MS. SPENCE:

16 I just have a couple things.

17 EXAMINATION

18 BY MS. SPENCE:

19 Q. What is Smurf's name?

20 A. Richard. Richard Hutchens.

21 Q. Thank you. And approximately, when did you start  
22 driving Headgate 22? Do you remember?

23 A. Oh, man. I really can't recall. It was sometime  
24 last year.

25 Q. Towards the end of the year?

1 A. Like August maybe.

2 Q. Thank you.

3 A. Now, don't quote me on that. I hate to say  
4 something stupid.

5 MS. SPENCE:

6 That's all I have.

7 RE-EXAMINATION

8 BY MR. STEFFEY:

9 Q. Just a couple of real quick questions here, and  
10 then we'll continue on. On the scrubber, what side  
11 did the scrubber discharge on, on the right side  
12 miner?

13 A. Right side miner?

14 Q. Uh-huh (yes).

15 A. The right side.

16 Q. What about the left side miner?

17 A. Right side, because the curtain was on the right  
18 side ---

19 Q. Okay.

20 A. --- on both sides.

21 Q. A couple of quick questions on the longwall.

22 There was a three-year gap in longwall production,  
23 according to the map. Do you know why?

24 A. At this particular mine, at UBB?

25 Q. Uh-huh (yes).

1 A. The only thing I can think of was they moved it to  
2 Logan's Fork. That's the only thing I can think of.

3 Q. Okay.

4 A. But it was gone when I got there. It wasn't  
5 there. They had already moved it to Logan's Fork.

6 Q. The mine map also shows various portions where the  
7 longwall panels --- previous longwall panels were  
8 skipped. Any idea why?

9 A. No, unless --- now, just speculation is bad top,  
10 too low or something.

11 Q. Did you ever hear of a methane outburst from the  
12 floor on the longwall? Did anybody ever talk about  
13 that?

14 A. No. Uh-uh (no).

15 Q. Okay.

16 A. No.

17 Q. When was your last shift that you worked at UBB?

18 A. That would be April 1st. That was a Thursday.

19 Q. Anything happen that day that was out of the  
20 ordinary that you remember?

21 A. No, sir, not that I can remember.

22 Q. Okay. Now, let's talk about the day of the  
23 accident, April 5th. Where were you at the time of  
24 the accident?

25 A. About two breaks in. We just got on the mantrip.

1 We kept them underground.

2 Q. Okay.

3 A. And we were sitting in the mantrip.

4 Q. Okay. Well, how did you know something had  
5 happened initially?

6 A. Because the air started going in the wrong  
7 direction.

8 Q. Were those equipment doors open that you indicated  
9 that were at the Ellis Portal?

10 A. I can't say for sure because you can't see them.

11 Q. Okay. Can you take me through the events  
12 following the accident, what happened? You mentioned  
13 you just walked in about two breaks. What did you do  
14 after that?

15 A. Well, we sat down in the mantrip, me and my other  
16 buddy guy there, Brent Racer. We were sitting in the  
17 mantrip and --- well, actually right before we got in  
18 the mantrip we lost power, because you know, we have  
19 chargers there and lights, and the lights went out.  
20 We lost power and, you know, we just started --- you  
21 know, kept getting in the mantrip. We didn't --- I  
22 didn't think much about it. And then the air started  
23 changing direction. Started gradually getting  
24 stronger and stronger. And then here comes the debris  
25 and flying crib blocks and stuff and then we'd --- me

1 and Racer decided we better get out of there, so we  
2 got up. We couldn't see. Everybody else had already  
3 gone and gotten out. We couldn't see, so we just  
4 turned backwards, you know, turned to where we knew  
5 where the portal was and just started feeling our way  
6 back toward the portal, and we came back outside.

7 Q. Now, when you said you felt your way toward the  
8 portal, what were you feeling?

9 A. Rib.

10 Q. The rib?

11 A. Ribs. Feeling the ribs. And actually, I think I  
12 grabbed ahold of the leaky feeder, the blue radio  
13 line, I think.

14 Q. Was there a lifeline up there?

15 A. Yes, there's a lifeline there, too.

16 Q. When you got outside, did you receive any  
17 instructions from anybody? Did anybody tell you  
18 anything?

19 A. No. We was all standing around, wondering what  
20 had happened. I mean, somebody mentioned the fact  
21 that --- I don't know who. Somebody said it was a  
22 massive roof fall, yeah. We knew better than that  
23 because a massive roof fall, the air would have  
24 stopped. You know, after the fall, the air would have  
25 stopped and went back the other way, but it didn't

1       happen that way.

2       Q. Did your shift start on time that day?

3       A. Well, you know, actually our shift started at  
4       three o'clock. At 3:02 we were sitting in the  
5       mantrip, me and Racer and four other guys maybe, but  
6       we were waiting on the boss and the electrician, yeah.  
7       They were late getting to the mantrip. I guess that  
8       probably saved us a little.

9       Q. Had the pre-shift been done on the section where  
10      you were going?

11      A. As far as I know, because you know, Dino calls  
12      that out. And then somewhere in the middle, him and  
13      Smurf meet --- or him and Pat would meet and then talk  
14      about what was going on on the section.

15      Q. Did you hear of any problems that day on the  
16      section? Did anybody talk about anything going on?

17      A. No. I didn't hear anybody talk about anything.  
18      And the fire boss, Scott Halstead, he came out and he  
19      said that he just had walked the belts. He came  
20      outside about 2:30. He said he walked the belts from  
21      the longwall all the way up ---

22      Q. Okay.

23      A. --- and he didn't see any signs of gas or  
24      anything.

25      Q. Okay. And any other problems that day in the

1 mine? Anybody talk about any other problems they were  
2 having?

3 A. I can't recall. Not that I know of.

4 Q. Do you know of any ventilation changes that were  
5 made over the weekend?

6 A. I don't know about that particular weekend. I'm  
7 not sure. I know we had a ventilation change maybe a  
8 couple weekends, two or three weekendss before that,  
9 and that gave us more air. I think I mentioned that  
10 before. It gave us the air we needed, but I think it  
11 cut the longwall's air in half or something like that.

12 Q. Okay.

13 A. They didn't have the air that they had before.

14 Q. Okay. So you didn't hear anybody call out saying  
15 there'd been any problems or anybody talking outside  
16 saying we'd had a problem prior to you going in and  
17 getting on the mantrip?

18 A. Uh-uh (no).

19 Q. Nothing ---. What about the belts? Did you ever  
20 notice the belts going into the mine, what type of  
21 shape they were in?

22 A. No, I didn't --- we never paid that close  
23 attention to them, but they looked all right.

24 Q. Looked all right? What about float dust? Did you  
25 ever see accumulations of float dust?

1 A. They probably could have been dusted better, but  
2 --- you know, as far as rock goes. You did see little  
3 black spots here and there. But it was --- from the  
4 outside to Headgate --- let's see. This is the Number  
5 Four belt head here, I believe.

6 Q. Uh-huh (yes).

7 A. From there to there it was mostly wet anyways on  
8 --- there was nothing going to happen there.

9 Q. How many rock dust crews did this mine have; do  
10 you know?

11 A. As far as I know, there was only one, and I think  
12 it just consisted of two guys, as far as I know.

13 Q. When did they do the rock dusting?

14 A. It seemed like they did it right before quitting  
15 time on evening shift.

16 Q. Okay.

17 A. Always got in our way.

18 Q. On the day of the accident, after the accident  
19 occurred, did you ever go back underground?

20 A. No.

21 Q. Okay. Did you do anything after that to assist  
22 the rescue and recovery in any way?

23 A. Yeah. We tried --- I helped with CPR on Jason  
24 Atkins.

25 Q. Anything after that? Were you there on any

1 following days?

2 A. No. After that day, I didn't go back.

3 Q. Okay. Do you know how people were accounted for  
4 when entering or exiting the mine?

5 A. Just the check in and out board. That's all I  
6 know.

7 Q. Okay. Do you know of any problems with the  
8 tracking system prior to the explosion? Had it had  
9 any problems?

10 A. I just assumed it was working all right because my  
11 little light kept blinking. I just figured it was  
12 working.

13 Q. Okay. When you came back outside right after the  
14 explosion occurred, did you see anybody from upper  
15 management out there, Jason Whitehead, Chris  
16 Blanchard, anybody, Everett?

17 A. Saw Everett.

18 Q. What did he do?

19 A. He was at the other --- see, you had the track  
20 entry and --- I think he was over here on the other  
21 end of the parking lot, doing something over there,  
22 and then that's when the explosion happened. And he  
23 noticed something, and then he come walking back over  
24 toward the office.

25 Q. Did you see anybody go into the mine after the

1 explosion? Anybody go in ---?

2 A. Now, the only one I can recall is Mike Kiblinger.  
3 He went in to take an air reading right there at the  
4 drift mouth right there.

5 Q. Did you see anybody grab any SCSRs and run in?

6 A. No, I didn't.

7 Q. Okay.

8 MR. STEFFEY:

9 Anybody have any questions?

10 RE-EXAMINATION

11 BY MR. TUCKER:

12 Q. You mentioned when you were sitting in the mantrip  
13 and the air reversed and then the air started picking  
14 up and you started seeing debris come out, how long do  
15 you think that lasted?

16 A. It wasn't long, maybe three our four minutes  
17 maybe. That's --- it wasn't long, but it seemed  
18 longer.

19 Q. Okay. Did you --- before you left the mines, did  
20 you write a statement on what you had experienced ---

21 A. You know ---.

22 Q. --- after the explosion?

23 A. I did that. Yes, I did.

24 Q. And do you remember who you gave it to?

25 A. I don't know the man's name. I wouldn't know him

1 from Adam if I ever saw him again, but it was  
2 somebody. But that particular man, that same man,  
3 told us not to talk to the media. Whoever that man  
4 was, I can't remember his name. I'm sorry. I never  
5 did know him. That's the first time I had seen him  
6 actually, that day.

7 Q. Okay. This stair-step bleeder system that they  
8 liked to use, do you know of any problems that were  
9 associated with that? Anybody ever talk about that?

10 A. No, sir.

11 Q. Okay. Did the company have any type of incentive  
12 program in place in regard to production?

13 A. Like a bonus?

14 Q. Yeah.

15 A. They did for the longwall, but we never saw it.  
16 They didn't have any for the section.

17 Q. Okay. What about for safety? Was there any type  
18 of incentive program in place for safety?

19 A. Well, just that Raymond Safety bolt, if you know  
20 what that is.

21 Q. Yeah. Did everybody benefit from that, salary  
22 people and hourly employees?

23 A. Yeah. I'm pretty sure the bosses did, too, yeah.

24 Q. Okay. Do you know of anybody that was ever  
25 encouraged to take light duty rather than turn in a

1 lost-time accident in order to improve their NFDL  
2 rating? Anybody hobbling around the office because  
3 they couldn't work underground and they'd have them  
4 doing something out there for light duty rather than  
5 taking days off?

6 A. Yeah, I seen a couple of people like that, but I  
7 can't recall who it was. But I thought they were  
8 doing that on their own. I thought they were doing it  
9 on their own and not company.

10 Q. Okay. You mentioned the Glory Hole up in here, in  
11 Eight North, ---

12 A. Uh-huh (yes).

13 Q. --- I think a little while ago. Did you ever  
14 travel to any of those areas?

15 A. Just the Glory Hole maybe twice. Twice in the  
16 three years I was there.

17 Q. What did you find? Anything stand out in your  
18 memory?

19 A. A forklift. That's what I went up there for.

20 Q. Okay.

21 A. That first time, that's --- when I first got here,  
22 that's --- I was working with another motor man and  
23 the --- with --- I can't even remember his name  
24 either. Goodness gracious.

25 Q. Any water or methane up there?

1 A. No, not to my knowledge, but there was just a lot  
2 of mud.

3 Q. Okay. Did you know Josh Napper?

4 A. Uh-uh (no).

5 Q. Didn't know him?

6 A. Uh-uh (no).

7 Q. Okay. Are you aware of the letter that he wrote  
8 to his family prior to the explosion?

9 A. Just what I saw in the paper.

10 Q. Why do you think he'd write a letter like that?

11 A. Why would he write a letter like that? Now, in my  
12 opinion, now --- he was a --- if I remember, he was a  
13 red hat. He had never been in the mines before. Is  
14 that the guy from Ohio?

15 Q. Uh-huh (yes).

16 A. Never been in a mines before. I think he was just  
17 scared. I'm not exactly sure what he did underground  
18 or if he even worked underground, if he was part of  
19 the outby crew or anything like that, but I just think  
20 that he felt like he was a little bit worried about  
21 going underground for the first time. That's all I  
22 think it was.

23 Q. Did you think Upper Big Branch was a safe mine?

24 A. Yes, I do. It was as safe as any mine around  
25 here.

1 Q. Never felt afraid or worried?

2 A. No. Anything that happens underground, it's our  
3 fault. Upper management, they can't run that mine  
4 from the outside. Anything that happens underground,  
5 good or bad, is the guys working down there's fault.  
6 That's my opinion.

7 Q. Upper management ever seem like they tried to run  
8 that mine from the outside?

9 A. I think we were thinking the same thing, me and  
10 the other guys on the section, we were thinking that  
11 when they were doing this ventilation change that  
12 we're talking about. They were just out --- you know,  
13 outside looking at this map and just pointing here and  
14 there where they wanted a stopping. I think they were  
15 trying to do that from outside.

16 ATTORNEY BAXTER:

17 And who was that you're talking about?

18 A. Huh?

19 ATTORNEY BAXTER:

20 Who was that in particular?

21 A. I want to say Chris Blanchard, but you know, it  
22 could have been Chris Adkins.

23 BY MR. TUCKER:

24 Q. And you mentioned you never really saw him  
25 underground, you never saw him up there?

1 A. Not on our section.

2 Q. Okay. Do you think that production and  
3 profitability was placed above safety?

4 A. No, I don't think so.

5 Q. Okay.

6 MR. TUCKER:

7 Got any questions?

8 MS. SPENCE:

9 Yeah, a couple.

10 RE-EXAMINATION

11 BY MS. SPENCE:

12 Q. When you got out of the mine on the day of the  
13 explosion, who told you what to do? Did you have any  
14 instruction from any company official?

15 A. No. When we first come outside we just --- I  
16 think Pat told us just to sit down and wait and see  
17 what happened --- that's Pat, our boss, and see what's  
18 going on. I think that's about all we were told at  
19 that point.

20 Q. And the person that you gave a statement to, was  
21 that a company person or a government person?

22 A. It was company. Then --- man, I can't even  
23 remember what the man looked like, but there was four  
24 or five --- you know, well, I guess you had to --- I  
25 guess everybody had to write a statement.

1 Q. And how soon was that after the explosion,  
2 approximately? Do you have any sense of that?

3 A. Maybe a half hour maybe, after we found out ---  
4 actually after they determined what actually happened.

5 Q. How long did that take before you knew what had  
6 happened?

7 A. Oh, I knew what had happened, but I'm just a peon.  
8 Nobody would listen to me. I knew what happened. Me  
9 and Goose and the guys on the section, we had an idea  
10 what happened.

11 MS. SPENCE:

12 Thank you.

13 RE-EXAMINATION

14 BY MR. TUCKER:

15 Q. Were you shocked or surprised? I mean, you say  
16 you knew what happened, so apparently you all thought  
17 that you had an ignition or an explosion?

18 A. Yeah. I was --- what's that word, shocked, I  
19 guess you --- yeah, disbelief. It wouldn't happen to  
20 me.

21 Q. One more quick question. The headgate section  
22 here for the current longwall, ---

23 A. Uh-huh (yes).

24 Q. --- do you recall if your crew ever worked on  
25 the --- back in behind the longwall toward the

1 Bandytown fan?

2 A. Yeah. We --- now, our crew worked behind here,  
3 putting these Kennedy stoppings up. I can't --- let's  
4 see. I'm not exactly sure what this is right here,  
5 but we put Kennedy stoppings up, just a big, long-ass  
6 wall trying to separate the return air from --- what  
7 were they? I can't even think. I know we put that  
8 longwall down there just to separate the air for the  
9 longwall, the air coming off the longwall. Okay.

10 That's what it was. The air coming down through there  
11 was our return air, and I think one of these was the  
12 longwall return. I'm not real sure how that worked  
13 now, but I know we had to build a big wall down there.

14 Q. Were you on a coal crew ---

15 A. Oh, no.

16 Q. --- that worked up here? You were just down there  
17 doing some ---?

18 A. Yeah, this was after ---. I never ran that. I  
19 wasn't here when they were doing that.

20 MR. TUCKER:

21 That's all I have.

22 MR. JARRELL:

23 I got a couple clarifying questions here.

24 EXAMINATION

25 BY MR. JARRELL:

1 Q. The statement you made for the company, now was  
2 that on the same day of the accident?

3 A. Yeah. It was about a half hour, 45 minutes after.

4 Q. Okay. One more question about your section there.

5 When your company ran respirable dust on you on the  
6 section pump, on the miner man, did you run your  
7 scrubber then?

8 A. I'm pretty sure. I can't say for sure, but I  
9 think so, yeah.

10 Q. And hang the curtains then?

11 A. Uh-huh (yes). Yeah, we had to make sure that was  
12 right at that time.

13 Q. What about on other times, just a little lax on it  
14 or ---?

15 A. Yeah. I'd say we were lax, yeah.

16 Q. Okay. You got anything you want to add that would  
17 be relevant to this, anything that could help us in  
18 any way?

19 A. The only thing I want to say is, I don't know,  
20 it's not Massey's fault. It's not Massey. It's the  
21 guys that work underground. It's their fault. We  
22 know what we have to work with down there. And I  
23 don't know, I just don't see how anybody could punish,  
24 you know, Blankenship, anybody, because he's hardly  
25 ever there, if he is there. He just goes by what

1 people tell him. And I just --- those guys on the  
2 longwall, you know, just hearsay about putting plastic  
3 over the sniffer, but they knew they weren't supposed  
4 to do that. So that's the reason I say it's our  
5 fault. It's nobody's fault but our own whatever goes  
6 on down there.

7 MR. TUCKER:

8 I'd like to read a statement to you, Mr.

9 Crouse, just so it will be part of the record. As  
10 previously mentioned, my name is Bill Tucker. Terry  
11 Farley and I are the lead investigators for the state  
12 in the UBB investigation. On behalf of the state, I'd  
13 like to thank you for appearing here today and talking  
14 to us.

15 Mr. Baxter explained to you your rights  
16 under Federal law in the event you're discriminated  
17 against for speaking to us here today. I would also  
18 like to mention that West Virginia law protects you  
19 from discrimination for speaking to us. West Virginia  
20 Code 22A-1-22 protects miners who discuss safety  
21 violations and mine practices that may have  
22 contributed to this explosion. I'm handing you a memo  
23 that contains the addresses of the Board of Appeals.  
24 This is an administrative body that hears and  
25 determines cases of discrimination. If you believe

1       that your employers discriminate against you, in any  
2       way, for speaking with us here today, you can file a  
3       discrimination action by simply writing in a letter  
4       how you believe that you were discriminated against  
5       and then mail that letter to the Board of Appeals.  
6       You have 30 days after that accident occurs to file  
7       your request. The memo that I'm giving you also  
8       contains a phone number where you can reach me if you  
9       think of something later that might be relevant to  
10      this investigation. Again, I'd like to thank you for  
11      speaking to us today.

12      A. You're welcome. What was that about 30 days you  
13      said?

14   MR. TUCKER:

15   If you feel like you've been  
16      discriminated against, you have ---

17      A. After ---?

18   MR. TUCKER:

19   --- for being here today, ---.

20      A. I have 30 days after the time I felt like I was  
21      discriminated against?

22   MR. TUCKER:

23   Correct.

24      A. Not 30 days from today?

25   MR. TUCKER:

1 Exactly. After you feel like you --- at  
2 any time that you feel that you've been discriminated  
3 against, you have 30 days from that point to file a  
4 claim.

5 RE-EXAMINATION

6 BY MR. STEFFEY:

7 Q. One last question for you, Mr. Crouse.

8 A. Yes, sir.

9 Q. When you were working on these Kennedy stoppings  
10 up through here, ---

11 A. Uh-huh (yes).

12 Q. --- do you remember any methane? Did anybody ever  
13 pick up any methane?

14 A. Yeah, we did one time.

15 Q. How much? Do you remember?

16 A. Uh-uh (no). I just know we picked up some because  
17 the boss' --- he held it up and it --- I'm not exactly  
18 sure what the reading was, but I know we had some.

19 Q. Did the spotter go off?

20 A. Uh-huh (yes). Oh, yeah. Yes.

21 Q. What did you all do after that?

22 A. Just continued building the stopping, putting the  
23 Kennedy in.

24 Q. What about water? Did you ever run into any water  
25 up through there?

1 A. You already know this.

2 Q. Yeah, I know.

3 A. Yeah, we --- yeah, we ran into water.

4 Q. A lot of water?

5 A. Where was that at? Somewhere up through there we  
6 had the water topped out.

7 Q. Was it right here between Break 70 and 75?

8 A. No, it wasn't --- okay. No, it wasn't topped out  
9 here, but it was deep. It was ---.

10 Q. What about between 85 and 90?

11 A. Yeah. Yeah. We had a lot of water through there.  
12 It was like knee deep or something like that, I  
13 believe.

14 Q. Any pumps set up through there that you remember?

15 A. Yeah.

16 Q. What kind of pumps were they?

17 A. One was just a --- now, if I remember, this is the  
18 only place where we had just an electric pump, 110, I  
19 guess that's what it was.

20 Q. Where did the electrical drop come from for that  
21 electric pump?

22 A. It had to come from a plow --- or the longwall, I  
23 mean. Yeah, the longwall mule train.

24 Q. Okay.

25 MR. STEFFEY:

1 That's all I've got.

2 ATTORNEY BAXTER:

3 On behalf of MSHA and the Office of  
4 Miners' Health, Safety and Training I want to thank  
5 you for appearing and answering questions today. Your  
6 cooperation is very important to the investigation as  
7 we work to determine the cause of the accident.

8 We request that you not discuss your  
9 testimony with any person, aside from your personal  
10 representative. After questioning other witnesses, we  
11 may call you if we have any follow-up questions that  
12 we feel that we need to ask you. If at any time you  
13 have additional information regarding the accident  
14 that you would like to provide to us, please contact  
15 us at the contact information that was previously  
16 provided to you.

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

1 wages and immediate temporary reinstatement to your  
2 most recent position with the company, pending a  
3 complete investigation of your complaint.

4 If you wish, you may now go back over any  
5 answer you've given during this interview and you may  
6 also make any statement that you'd like to make at  
7 this time.

8 A. I think I'm done.

9 ATTORNEY BAXTER:

10 Okay. I want to thank you for your  
11 cooperation in this matter.

12 A. Yes, sir.

13

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STATEMENT UNDER OATH CONCLUDED AT 10:27 A.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*