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**WEST VIRGINIA MINE SAFETY AND
HEALTH ADMINISTRATION**

IN THE MATTER OF:

**THE INVESTIGATION OF THE
APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE.**

**The interview of STANLEY STEWART, taken upon
oral examination, before Lynne M. Rodriguez,
Registered Professional Reporter and Notary Public
in and for the State of West Virginia, Wednesday,
January 5, 2011, at 2:25 p.m., at the Mine Academy,
1301 Airport Road, Beaver, West Virginia.**

**JOHNNY JACKSON & ASSOCIATES, INC.
606 Virginia Street, East
Charleston, WV 25301**

(304) 346-8340

APPEARANCES

OFFICE OF MINERS' HEALTH, SAFETY & TRAINING
Bill Tucker, Health & Safety Administrator
1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425

U.S. DEPARTMENT OF LABOR
Office of the Solicitor
Matthew N. Babington, Esquire
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209
(202) 693-9389

GOVERNOR'S INDEPENDENT INVESTIGATION PANEL
Patrick McGinley, Esquire
Suzanne Weise, Esquire
Davitt McAteer, Esquire

On behalf of Stanley Stewart:

Marty Hudson, Miner's Rep.

Also Present:

Polly Hampton, Solicitor's Office
Sandin Phillipson, MSHA Tech Support, AI Team
Jasey Maggard, MSHA
Thomas Morley, MSHA, AI Team
Richard Stoltz, MSHA, AI Team
Mindy Stewart

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1 MR. BABINGTON: My name is Matt
2 Babington. Today is January 5, 2011. I'm
3 with the Office of the Solicitor, U.S.
4 Department of Labor. I'll be asking
5 questions on behalf of the Mine Safety &
6 Health Administration today.

7 We also have several other people
8 who are going to be interviewing. I would
9 ask they state their appearance for the
10 record.

11 MR. TUCKER: Bill Tucker with the
12 Office of Miners' Health, Safety &
13 Training.

14 MR. MCGINLEY: Patrick McGinley,
15 with the Governor's Independent
16 Investigation Team.

17 MR. BABINGTON: And Mr. Stewart,
18 before I go through the rest of my opening
19 script, can we have the people who are
20 with you identify themselves for the
21 record?

22 MR. HUDSON: Marty Hudson,
23 miner's rep.

24 (b) (7)(C)

1 MR. BABINGTON: And let's have
2 just people in the rest of the room
3 identify themselves.

4 MR. MAGGARD: I'm Jasey Maggard
5 with Accident Investigation Team, MSHA.

6 MR. MORLEY: Tom Morley, with
7 MSHA.

8 MR. STOLTZ: Rich Stoltz, also
9 with MSHA.

10 MS. HAMPTON: Holly Hampton,
11 Solicitor's Office, for the Department of
12 Labor.

13 MR. PHILLIPSON: Sandin
14 Phillipson, with MSHA.

15 MR. HUDSON: Could I get a list
16 of those names or pass around a sheet,
17 because I didn't write them all down.
18 That way, it will save--

19 MR. BABINGTON: Holly, can you
20 rip out a piece of paper and have
21 everybody sign it? Thank you.

22 Okay, we went through this script
23 the first time so I'll just try to hit the
24 high points.

1 As you know, thank you so much
2 for coming in. You know, as you know,
3 this interview is completely voluntary.
4 You can refuse to answer any questions.
5 You can take a break at any time. You can
6 ask any clarifying questions that you
7 want. This is really mainly about fact
8 finding and trying to get your
9 understanding of certain facts.

10 Of course, the team members also,
11 by agreeing to be here, agree to keep this
12 information confidential. Just to note
13 with your representative, this is not a
14 adversarial proceedings so there won't be
15 formal cross examination but your
16 representatives may ask clarifying
17 questions at any time.

18 To note also, there may be a need
19 to use the information that you provide to
20 us or other information we may ask you to
21 provide in the future may be used in other
22 investigations into and hearings about the
23 explosion.

24 We note since you'll we're going

1 to be interviewing other individuals, we
2 request you not discuss your testimony
3 with person aside from personal
4 representative or counsel.

5 The court reporter will record
6 your interview. Please speak loudly and
7 clearly. If you do not understand a
8 question, please ask the interviewer to
9 re-phrase it and please answer each
10 question as fully as you can, including
11 any information you've learned from
12 someone else.

13 And again, you'll be able to make
14 a statement at the end, and we discussed
15 before we went on the record of certain
16 items that you'd like to cover from your
17 first interview.

18 Before I begin, I just want to
19 thank you one more time for appearing and
20 answering questions and for your
21 candidness both in the first interview,
22 your candidness in front of Congress and,
23 you know, you've really put yourself out
24 there and gave us a lot to work with.

1 Okay, the main thing we'd like to
2 talk about is there was an event in 1997
3 at UBB, and we mentioned it in passing
4 during your first interview and I just
5 wanted to go through more information
6 about that.

7 And again, I understand this was
8 now ten plus years ago, so if you don't
9 remember certain things, if there are
10 approximations, just let me know. This
11 isn't a test here, we're just looking for
12 what you can recall.

13 I would ask the court reporter to
14 now swear the witness.

15 (WITNESS, STANLEY STEWART,
16 SWORN.)

17 EXAMINATION

18 BY MR. BABINGTON:

19 Q. So let's start with in the days, I guess
20 this happened, this event, did it occur in January
21 of 1997?

22 A. Yes, sir.

23 Q. Okay. Now was this ignition on the
24 longwall?

1 A. Yes, it was.

2 Q. Okay. Can you kind of describe how
3 working conditions had been in say the weeks
4 leading up to weeks leading up to the ignition?

5 A. The working conditions?

6 Q. Right. So the conditions of the longwall,
7 whether there had been any odd occurrences.

8 A. I don't recall any odd occurrences. We
9 were on a good panel and loading a lot of coal, and
10 that particular morning, I think we already had ran
11 four cuts and it wasn't but 10:00 approximately
12 when it happened.

13 Q. Uh-huh.

14 A. And that morning, I didn't feel like the
15 air was what it should be, but we did have air.
16 Would you like for me to explain what all I
17 remember?

18 Q. Yes. I mean, before we get there, in
19 terms of the air not being as good, do you remember
20 at all, you know, the air readings that you were
21 used to and the air readings you might have had on
22 that day?

23 A. No, I really don't remember.

24 Q. Okay. In terms of say how the temperature

1 was, sometimes when the air is really moving
2 swiftly, you have to wear a jacket on the
3 longwall.

4 Had it been like that in the weeks leading
5 up to it?

6 A. Sometimes it would be but I wasn't wearing
7 a jacket that day.

8 Q. Okay. Then basically starting from that
9 morning, just walk me through what happened.

10 A. Okay, we had cut out on the tail and I was
11 pulling shields so I was standing on jack 174,
12 waiting on a sheer operator to get done finishing
13 his shuffle, and I just happened to look toward the
14 tail and there was a glow from back behind the
15 wall, and everyone knows that's no-man's land back
16 there. You know, this all happened real quick, you
17 know. I said, "Uh-oh, this is bad," and I just
18 pointed to the sheer operator and I just took off
19 running, and I honestly felt like I was a dead man
20 that morning. I said each step will probably be my
21 last. I could feel a little bit of heat and the
22 smoke, and I would pass other guys, the other sheer
23 operator, every one of them I went by and say, "Get
24 the hell out of here," you know. And the line was

1 still running. I think it was probably
2 approximately mid face, I just slowed down enough
3 to kill it, turn it off, and everyone else -- the
4 main thrust of it went down the tail. Some of it
5 came back up the face.

6 The other sheer operator, he got some hair
7 singed, the one that was on the tail end of the
8 sheer. Well, of course, I didn't die and felt
9 like, you know, that was an awful feeling, but we
10 all proceeded out to the head end of the longwall
11 and the boss and Jeannie Blair decided to walk back
12 down the face and they saw blue flames shooting in
13 between the toes of the shields and they quickly
14 got off of the face and we got in the mantrip and
15 headed outside.

16 Q. Who were the two individuals who saw the
17 blue flames?

18 A. That would have been Jack Roles and
19 Jeannie Blair, whose actual first name is Elmer.

20 Q. And it was after they saw the blue flames
21 that they withdrew everybody and left the area?

22 A. Yes. For some reason, they went back down
23 the face. I remember looking at somebody and
24 saying, "Ain't no way I'd walk back down that

1 face." We should have been getting out of there
2 anyway.

3 Q. Is this the same Jack Roles that was, I
4 believe, longwall coordinator at the time of the
5 April 5th accident?

6 A. Yes, it is.

7 Q. To go back, you said there was the sheer
8 operator on the tail was the first guy that you
9 yelled at to get out?

10 A. Yes.

11 Q. What was his name?

12 A. Rick Farrell. He's deceased now.

13 Q. Just to clarify, I believe there's a Mike
14 Farrell who currently works at the mine. Do you
15 know if Mike Farrell and Ricky Farrell are related?

16 A. That's Ricky's son.

17 Q. Now what did Rick Farrell do after you
18 yelled at him to get out?

19 A. He was behind me. Once the fire, I guess,
20 got to him and singed his hair, I'm going to assume
21 that he was running.

22 Q. Uh-huh.

23 A. Because, you know, I just passed
24 everybody. You know, I'd tell them, "Hey, go," and

1 some guys was on up the line, they didn't really
2 know what was happening, but I wasn't slowing down.

3 Q. Smart of you. You said you felt heat on
4 your legs?

5 A. Yes, I could just feel it at my back, and
6 the smoke, you know, it got smokey where the
7 visibility wasn't really great and so, you know,
8 like I said, I thought that was it, game over.
9 Luckily, it wasn't.

10 Q. Now do you remember seeing -- I mean, I
11 don't know if you had a spotter on you or if you
12 saw the methane detector on the sheer.

13 Did you see any detections of methane, did
14 you hear any warnings of methane or CO or anything
15 like that?

16 A. No, I didn't. I didn't have a detector
17 and I hadn't looked at the one on the sheer, but
18 that morning, I just remembered we was getting some
19 big falls back behind the face and it was sand rock
20 and booming like thunder, and in my opinion, it had
21 accumulated behind the face and the sand rock or
22 the roof bolts in the tail entry itself had to be
23 the ignition source. That's my opinion.

24 Q. You're saying the rock hitting the roof

1 bolts?

2 A. I'm saying sand rock can create a spark
3 itself, you know, but also in the tail entry that
4 we've already mined by, the roof bolts can pop out
5 and create a spark also, but sand rock, by itself,
6 can make a spark, you know, and it was falling big
7 that morning, like, you know, thunder.

8 Q. Now on that part of the longwall face,
9 what percentage did you think it was coal to
10 sandstone or sand rock?

11 A. I don't exactly understand.

12 Q. Well, if I understand correctly, on the
13 current longwall, there was an area of the wall as
14 they cut through that was sandstone. It wasn't
15 just entirely coal so they had to cut through this
16 -- it was about maybe that much sandstone that was
17 in the wall that they had to cut through in order
18 to get to the coal on the top and the bottom.

19 A. You're referring to like middle band?

20 Q. Sure, yes.

21 A. Okay, I'm really not familiar with how
22 much was on their face, on the current one at the
23 time.

24 Q. Well, that's what I'm saying, did they

1 have any kind of middle band on the longwall face
2 in '97?

3 A. Yes, we usually did. It wasn't always
4 sand rock. Sometimes it would be sand rock and
5 very hard to cut and other times it would just be
6 slate, but I can't remember that particular day
7 what we -- I can't go back and remember that.

8 Q. You remember surprising a lot from 13
9 years ago so I won't fault you for that little
10 detail.

11 A. I can tell you the date. I done told you
12 the time; January 4th, I'm pretty sure.

13 Q. And you said it was around 10 a.m. in the
14 morning?

15 A. That's correct.

16 Q. Now Rick Farrell was the one who had his
17 eyebrows singed?

18 A. Yes.

19 Q. Did anyone else suffer any injuries out of
20 it?

21 A. No.

22 Q. So after you withdrew, what happened then?

23 A. We went outside and you could see smoke
24 coming out of one of the portals and, of course, we

1 went home. I remember, I'm not a hundred percent;
2 it seems like we couldn't go back for a couple days
3 because CO levels in those tail entries were too
4 high, you know, deadly levels, and when we finally
5 went back to work, they had an investigation and
6 they would call us out of the mine one at a time,
7 and if I recall correctly, there was approximately
8 six inspectors, state and federal, would question
9 us.

10 Pete Hendricks, who was over all Massey
11 mines, provided us with a lawyer, just, you know,
12 for our benefit. I kind of looked and I said, "I
13 don't need a lawyer for anything, I haven't done
14 anything," but, you know, it doesn't take a genius
15 to figure it out. That was Pete Hendricks eyes and
16 ears, in case anyone said anything, they would be
17 looking for a job soon, I felt certain of that.

18 Q. As a result of the investigation, do you
19 know if any report was created or produced out of
20 that investigation?

21 A. I personally don't know if there was. I'm
22 sure there was but I never saw it. And here's
23 another little fact. Well, I say it's a fact; that
24 we weren't even aware of. I heard from several

1 different sources, and I can't recall any of their
2 names, that the owl shift had tore out an overcast
3 that night and somehow short-circuited the air to
4 the longwall. I don't know exactly which overcast
5 it would have been or exactly what purpose it was,
6 but I had heard they had torn that overcast out,
7 and I also heard when the mine was evacuated, that
8 they left people in there to get it built back.

9 Now, you know, that's hearsay but I think
10 it's fairly accurate.

11 Q. So you're saying that the night before the
12 ignition on the longwall, so on the night of
13 January 3th, that the owl shift tore out an
14 overcast, that's what you heard?

15 A. That's what I heard.

16 Q. And then they put in people after the
17 ignition to re-build that same overcast?

18 A. Yes. I believe they were already in there
19 working on it, and rather than leave the mine, they
20 remained -- the mine was supposed to be evacuated;
21 they remained to get it built, and we all know why.

22 Q. Okay. So you didn't see any report out of
23 it. What actions, if any, did the company take in
24 response to the ignition?

1 A. Pete Hendricks changed the ventilation
2 plan after that. Before that, the return was going
3 down the face and out-by, and if I recall, that's
4 when we started ventilating in-by, toward the gob.

5 Q. Thank you. Did the company hold any kind
6 of meeting or training session to address what they
7 thought happened during the ignition or how to
8 react to that sort of situation in the future?

9 A. I don't remember them having any meetings
10 or special goings over of what occurred outside of
11 that ventilation change. That's all I remember.

12 MR. BABINGTON: I'm going to let
13 these gentlemen ask some follow-ups and
14 then I'll come back with more.

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. I just have a couple. You mentioned once
18 you all pulled out of the mines, you was gone a
19 couple days before you went back to work, you
20 recall, two or three days, or how long that was
21 that the longwall was down?

22 A. I feel like it was at least two, Bill, and
23 I can't say three for certain, but the mine was
24 shut down until them CO levels came down.

1 Q. When you went back to the longwall first
2 shift after the ignition, was your all's crew the
3 first crew that produced coal after the ignition or
4 do you recall?

5 A. I don't really recall exactly if we were
6 the first ones to go back or not. I do remember
7 Jack Roles asking me if I was okay going down the
8 face, you know. He knew I was on the point of
9 where it happened and he wanted to know if I was
10 all right with going down the face or not, and I
11 said, "Yes, I'm fine, buddy."

12 Q. Do you remember anything significant that
13 was different when you went back other than on your
14 first shift back, had they changed the vent plan?

15 A. I can't remember exactly when that
16 ventilation change happened. I don't think they
17 could have changed it that quickly. It may have
18 still been the same. I really just can't remember
19 a hundred percent.

20 Q. So you said they were right there at the
21 tail cutting out when it ignited. Do you recall if
22 they was cutting any top rock?

23 A. I don't think we were cutting top rock at
24 that time. And like I stated, it came from back

1 behind the face. There was no fire ball or
2 anything around the sheer at the time.

3 MR. TUCKER: Okay. That's all I
4 have.

5 EXAMINATION

6 BY MR. MCGINLEY:

7 Q. How many ignitions happened that day? Was
8 it more than one?

9 A. That's the only one that I'm aware of, the
10 one that I stated before, and like I said, when
11 Jack and Jeannie went down the face, they told me
12 the blue flames were shooting between the jack
13 toes, it scared them. I mean, I think they went
14 down the face maybe because what I had told them,
15 they was going to go see if I was just telling them
16 one, but when they saw that, out they came.

17 Q. If there was more than one ignition on
18 that day, would you expect that management would
19 have told you or somebody would have told you?

20 A. I wouldn't expect management to tell if
21 there was, no.

22 Q. Would you have liked to have known if
23 there was more than one ignition that day?

24 A. Yes, I would liked to have known.

1 Q. Why?

2 A. Just so I'd have the facts and know
3 something was going on, something big, and, you
4 know, that's where I work and I would just like to
5 be informed of what's happening in my workplace,
6 especially in a dangerous situation like that.

7 Q. Do you remember, you said Elmer Blair,
8 Jamie?

9 A. Jeannie.

10 Q. Jeannie?

11 A. Uh-huh.

12 Q. If he was an electrician?

13 A. Yes.

14 Q. Who was the head end sheer operator, do
15 you remember?

16 A. Richard Hutchins. We call him Smurf.

17 Q. James Green, does that sound familiar to
18 you?

19 A. Yes, it does. I think he may have just
20 started there. Green, yes, I believe he was kind
21 of new. He was down the face that day, I'm pretty
22 sure, if it's the same guy you're referring to.

23 Q. Jack Roles, at the time of the explosion,
24 he was the longwall coordinator at UBB, is that

1 right?

2 A. Which explosion?

3 Q. In April of 2010.

4 A. Yes, he was.

5 Q. But at the time of the 1997 event, in
6 January, what was his position? He wasn't a
7 coordinator, was he?

8 A. No, he wasn't a coordinator. He was a
9 face boss.

10 Q. Foreman?

11 A. Yes, sir.

12 Q. And do you remember who the longwall
13 coordinator was?

14 A. It was either Bill Downey or Virgil
15 Joyce. No, I correct that. John Hubbard.

16 Q. Were there any communications between
17 Roles and the outside when this ignition took place
18 in January, 1997?

19 A. I personally didn't hear them. I'm going
20 to assume he went to the phone and called out.

21 Q. Did Mr. Roles have you all work on the
22 ventilation before you left, do you remember?

23 A. Now that you mention that, I believe we
24 did hang a few curtains and try to direct more air

1 toward the face all we could before we left. I
2 think we did.

3 Q. Did that make you nervous to do that or do
4 you think that was an appropriate thing to do?

5 A. Yes, I was nervous and I wanted to get out
6 of there, but yes, it needed done, I thought.

7 Q. Judgment call?

8 A. Excuse me?

9 Q. A judgment call?

10 A. Yes.

11 Q. So your recollection is that the mine shut
12 down for a couple of days?

13 A. Yes, it seems kind of foggy but I believe
14 we were down for a couple of days.

15 Q. So there was an investigation and those
16 who had information about the ignition were called
17 out of the mine one by one and they were asked
18 questions by inspectors?

19 A. Yes, that's correct.

20 Q. So you were called out while you were
21 working on your shift and somebody said come out
22 and talk to the inspectors?

23 A. That's correct.

24 Q. And do you remember where that

1 conversation took place?

2 A. It was upstairs at the UBB portal in their
3 mine office area.

4 Q. And you remember there were a number of
5 inspectors present, all of whom were asking
6 questions, or just one, do you remember?

7 A. I can't remember if each and every one of
8 them asked me a question, but I was asked questions
9 by more than just one.

10 Q. And were they federal and state inspectors
11 or one of the other, do you recall?

12 A. I believe they were federal and state.

13 Q. So there were federal and state
14 inspectors, as you recall. You were there and the
15 there was the lawyer that Mr. Hendricks provided
16 for you, is that right?

17 A. That's correct.

18 Q. Was there anybody else present?

19 A. No, not that I can remember.

20 Q. What kind of introduction did you have to
21 this lawyer? I mean, if he was supposed to be your
22 lawyer, did you meet with him before the interview
23 with the inspectors?

24 A. No; when we would get outside, that's when

1 Mr. Hendricks would told me that "I got a lawyer
2 here for you. That way, that will help protect
3 you," you know, and that's the only introduction we
4 had.

5 Q. So that was when you were asked to come
6 out of the mine, you got outside right before the
7 interview and Mr. Hendricks said, "Here's your
8 lawyer. We got for you to protect you?"

9 A. Right.

10 Q. Did you ever see that lawyer again?

11 A. No.

12 Q. Did that lawyer talk to you before you
13 went in to be interviewed by the inspectors?

14 A. I don't recall talking to them.

15 Q. Was it a man or woman?

16 A. I remember it being a woman.

17 Q. Was she a lawyer with Massey or from some
18 outside firm, do you have any idea?

19 A. I really don't know. I'm assuming she was
20 tied to Massey some way.

21 Q. Did she give you a card?

22 A. No.

23 Q. But she did introduce herself and tell you
24 what her name was, or do you remember?

1 A. We were told her name but I can't
2 remember.

3 Q. So you went in. How long did the
4 interview last?

5 A. I'm going to say mine approximately 30
6 minutes. I can't really recall exactly, but in the
7 neighborhood of 30 minutes.

8 Q. Do you recall whether other people on the
9 shift when the ignition took place were interviewed
10 by the inspectors?

11 A. Are you referring to people that didn't
12 work on the longwall?

13 Q. No, the ones that you were working with
14 when the ignition occurred.

15 A. Yes, sir, they were interviewed also.

16 Q. Do you know whether they were provided
17 lawyers by Massey?

18 A. Yes, they were.

19 Q. Was it the same person, the same woman?

20 A. Yes, sir.

21 Q. Did she take notes, do you recall, while
22 this questioning was going on?

23 A. I don't recall if she was taking notes or
24 not.

1 Q. If she was your lawyer, you'd probably
2 like to see those notes.

3 A. I sure would.

4 MR. HUDSON: May I ask a
5 question?

6 MR. BABINGTON: Sure, go ahead.

7 EXAMINATION

8 BY MR. HUDSON:

9 Q. Stanley, you talked about Pete Hendricks
10 changing the air at some point in time, you don't
11 recall exactly when, but my question to you would
12 be, was there a new ventilation plan posted on the
13 bulletin board and did you guys spend any time in
14 the lamp house with anybody going over the new
15 ventilation plan with you or you just knew the air
16 had changed? I mean, do you recall any of that?

17 A. I don't recall it being posted on the
18 bulletin board, which doesn't mean it wasn't. I
19 don't remember if we were talked to in the bath
20 house or not, but I remember them saying they were
21 going to change the ventilation system, the return
22 to the gob instead of going out-by.

23 Q. But I mean, was there a sit-down of
24 everybody who worked on the longwall and somebody

1 come in and said, "Hey, we're going to do it like
2 this," or was it just you know because somebody
3 told you they was changing the air?

4 A. I don't remember having a big sit-down, to
5 tell you the truth.

6 Q. And I was going to ask, and you asked, but
7 I was going to ask the same question was, do you
8 think the lawyer took notes when you were in that
9 meeting?

10 A. I'm going to assume she did, but when I
11 was in the interview, I was just focused on the
12 inspectors in front of me so I really never paid
13 her any attention, because I didn't need her
14 anyway.

15 Q. Yes. Well, the question would come if she
16 had notes of you and other people, I mean, you
17 certainly have a right to yours, but they would
18 have a right to everybody's, and the question would
19 be, you know, a good lawyer would probably take
20 notes, you know, and if it's an indication she was
21 there to protect Pete Hendricks or there to protect
22 you is, you know, two different points, but it's
23 just whether or not, you know.

24 A. Uh-huh.

1 MR. MCGINLEY: I've got some more
2 questions.

3 MR. BABINGTON: Do you mind if we
4 come back to your follow-ups?

5 MR. HUDSON: Yes.

6 EXAMINATION

7 BY MR. MCGINLEY:

8 Q. Do you know the name Joe Evans?

9 A. Yes, I do.

10 Q. Was he at Performance Coal back in 1997?
11 Would he have been the president?

12 A. Joe was the president but I don't remember
13 exactly what years he was there.

14 Q. Okay.

15 A. Yes, he was, because I believe that
16 ignition happened on the very first panel and I
17 just remember when we were moving the longwall, Joe
18 was there. He made me mad a couple of times.

19 Q. Would that have been the two west longwall
20 panel; does that ring a bell? I know you've gone
21 through a lot since then.

22 A. No, head gate 1 is all I can remember us
23 calling it.

24 Q. How about Eddy Lester, does that name

1 sound familiar to you?

2 A. Yes, it does.

3 Q. What was his job back in 1997, if you
4 remember?

5 A. I'm not a hundred percent on whether he
6 was the superintendent or just a general mine
7 foreman, but yes, he was over the mine.

8 Q. How about Larry Bain?

9 A. Larry Bain, that sounds like one of the
10 safety men.

11 Q. Safety director maybe?

12 A. Uh-huh. Yes, sir.

13 MR. MCGINLEY: Okay, that's
14 enough for now.

15 EXAMINATION

16 BY MR. HUDSON:

17 Q. Can I ask one more question about the
18 interview?

19 During the interview that the lawyer was
20 with you with the state and federal inspectors, do
21 you recall if the lawyer asked you any questions
22 during that time or was it just state and federal
23 that asked you questions?

24 A. It was only the state and federal. I

1 don't remember my lawyer, or --

2 Q. Or the lawyer?

3 A. I don't remember the lawyer asking
4 anything.

5 Q. Okay.

6 MR. BABINGTON: Thank you.

7 EXAMINATION

8 BY MR. BABINGTON:

9 Q. Besides being interviewed by MSHA and
10 state inspectors, do you recall ever being
11 interviewed by company officials?

12 A. No, I don't.

13 Q. Okay. Returning back to the ignition and,
14 you know, those seconds afterwards, let's start
15 with I guess you said Roles and Blair saw blue
16 flames running along the ground between the toe of
17 the sheers?

18 A. That's what they came back and said, yes.

19 Q. Okay. Did they say anything about seeing
20 the flames anywhere besides hugging the floor?

21 A. I don't remember them saying they saw them
22 anywhere else. They just said that they were
23 shooting out from the toes of the shields and they
24 left. It scared them.

1 Q. I'm sure. Did you or did you hear anyone
2 else say that they saw any flames or sparks on the
3 face itself?

4 A. No, I personally didn't see any and I
5 don't remember anyone else saying they saw any.
6 The answer is no.

7 Q. Okay. So you saw the glow coming from
8 behind the shields?

9 A. Yes.

10 Q. And then you said you heard Roles and
11 Blair see the blue flames shooting out the toes?

12 A. Yes.

13 Q. Okay. Do you remember any unusual smells
14 either before or during, before seeing the glow or
15 after the glow?

16 A. Now that's a good question, because
17 sometimes we would smell things that would seem a
18 strange smell, because Richard Hutchins and I would
19 even talk about it, and I can't remember a hundred
20 percent if we could smell it that morning or not,
21 but I vaguely feel like that we did.

22 Q. Are you able to describe what that unusual
23 smell was?

24 A. It's hard to describe. It was just a

1 strange like smell. I can't come up with any
2 adjectives to explain what it smelled like.

3 Q. Would you describe it as smelling like
4 stale kerosene?

5 A. That could be a close assumption,
6 something stale, just different.

7 Q. I guess it could also smell like, I mean,
8 propane, gasoline, any of those different things.
9 Would you say kerosene closer than a different kind
10 of --

11 A. Yes, more like kerosene but not a hundred
12 percent kerosene. I mean, it's just tough, because
13 I can remember in the future, we would smell that
14 sometimes and we would look at each other, you
15 know. We would actually get concerned. That's why
16 I'm pretty sure we could smell it that morning.

17 Q. Were there certain areas of the mine where
18 the smell was stronger than others?

19 A. I couldn't pinpoint any certain areas. It
20 just seemed like times it would be there.

21 Q. So was there anything that you would do
22 beforehand? I mean, was it like you would cut on
23 the tail and you would smell it, you would be on
24 the head gate side, you would cut on the head and

1 you would smell it? Were there situations that you
2 could say that the smell appear there?

3 A. What I remember is when we would smell,
4 you could smell it anywhere on the face usually.

5 Q. Okay. Do you remember seeing any sparks
6 coming off the bits on the sheer drum?

7 A. Are you referring to --

8 Q. In '97.

9 A. No, I don't remember seeing any.

10 Q. Do you recall, as you were running back up
11 towards the head gate on the longwall, do you
12 recall whether the lights were still on across the
13 face?

14 A. Yes, the lights were still on and the line
15 was still running, because I shut it down.

16 Q. Do you remember anyone calling the head
17 gate to kill the power?

18 A. I don't remember if they did or not.

19 Q. Besides you killing the line, do you
20 remember anyone else de-energizing anything else,
21 any other machinery on the wall?

22 A. I don't remember anyone while I was trying
23 to get off the face. Once we got out to the head,
24 you know, and everyone followed, then we knocked

1 the power. I don't remember who may have gave the
2 order or what exactly transpired, but we got the
3 power knocked but not at the moment while I was
4 running.

5 Q. Okay. So the power, if you remember
6 correctly, the power wasn't knocked until you
7 reached all the way to the head gate of the
8 longwall or had the power been knocked before you
9 got all the way off the face?

10 A. I really can't remember exactly when it
11 was knocked.

12 Q. Uh-huh.

13 A. So I can't say after we got -- My mind
14 says after we all got to the head. I don't know if
15 anyone got on the box and called out and told them
16 to knock the power while I was running or not.

17 Q. Uh-huh.

18 A. But I do remember lights on and the line
19 running and I know I made it approximately mid face
20 when, you know, for some reason I just thought to
21 reach over there and lock it out.

22 Q. Okay.

23 A. It didn't need to be running. It could
24 make a spark.

1 Q. Do you remember how the head gate man was
2 contacted about the ignition?

3 A. No, I don't remember how for certain. I'm
4 sure someone called him. I remember who the head
5 gate man was.

6 Q. And who was that?

7 A. Gary Calliope.

8 Q. Do you recall about what shield numbers
9 the glow was behind?

10 A. I was standing on shield 174. We had 176
11 shields, and so what I could see out in the tail
12 entry and back behind the tail shields. It would
13 be those three. If it was any further up the line,
14 I don't know. I just seen the glow coming.

15 Q. You saw enough at that point?

16 A. Yes.

17 Q. You said you remember seeing smoke. Did
18 you see what shields the smoke was coming out of or
19 was it --

20 It sounds as though you as were running,
21 smoke kind of started moving passed you. That's
22 kind of a bad question but I think if you could
23 talk about that a little bit.

24 A. My opinion was I'm not a hundred percent.

1 You know, I hadn't really ever thought of it coming
2 through the shield, but of course, it could. You
3 know, I just thought it was coming up the line
4 behind me, but I'm sure some came through the
5 shields also because the whole line seemed smokey
6 after that happened. Even when I got way up the
7 line, you know, the whole face was smokey, so I'm
8 sure some came in between the shields along from
9 the tail.

10 Q. So even basically as you were running away
11 from the glow, there still ended up being smoke in
12 front of you?

13 A. The line looked smoke I, yes.

14 Q. See if you can remember this. So when
15 they would cut out at the tail, would the crew ever
16 shut off the water prior to cutting out?

17 A. I don't remember ever shutting it off when
18 we cut out on the tail. It would happen sometimes
19 out at the head, especially if we had a lot of air,
20 we might shut it off sometimes to keep the water
21 from blowing all over you, but on the tail, I don't
22 remember it being shut off.

23 Q. And so on the head, though, you would cut
24 the water off before you finished cutting out?

1 A. Sometimes. Later on, it seems like the
2 sheer was made where you couldn't turn it off, but
3 I don't recall them ever shutting it off to cut out
4 at the tail.

5 Q. Where would you normally change bits on
6 the sheer?

7 A. Normally, we would change them out toward
8 the head, after we would finish a cut, unless we're
9 in tough conditions and we would have to stop and
10 set them on the tail or sometimes mid face, but if
11 they were dull, we would set them on the tail, but
12 normally it would be at the head if everything
13 would go okay.

14 Q. So you would change the bits for both
15 drums at the head?

16 A. Yes.

17 Q. How common was it for the water sprays on
18 the drums to come out?

19 A. I don't remember water sprays. Okay, I'll
20 just answer it this way. I don't feel like it was
21 very common for them just to lose a water spray,
22 pop it out, I mean, you know. It could happen and
23 it did but it wasn't common.

24 Q. Do you recall anyone removing the water

1 sprays for any reason?

2 A. I can remember going in and there might be
3 one or two removed, and the only reason I could
4 think of in removing them would be to lessen the
5 pressure, but we would usually, our crew would
6 usually replace them because it did lessen the
7 pressure.

8 Q. As soon as you noticed the sprays were
9 missing, would you replace them or would you wait
10 until you were back on the head, or how frequently
11 would you replace them if they needed to be
12 replaced?

13 A. We wouldn't usually replace them until we
14 would stop and have to set bits, and we would
15 already be loading coal before we would know they
16 were missing.

17 Q. Uh-huh.

18 A. And so that means your bits are already
19 set, so we would load and just go ahead and replace
20 them, normally when we would have to set bits is my
21 recollection.

22 Q. Just as an aside to that, you know, these
23 questions, as I've been asking about the sprays,
24 you know, we've been asking about in the context of

1 '97.

2 Has your answers, would those be
3 applicable to the other experiences you have had on
4 long walls at UBB?

5 A. Could you repeat?

6 Q. Sure. Let me try that again. So we've
7 been talking the '97 ignition and the practice on
8 the longwall at that time.

9 Were there different practices with regard
10 to the water sprays at other times that you worked
11 on the longwall at UBB?

12 A. Were they different?

13 Q. Uh-huh. You know, you're talking about
14 just in terms of how frequently you would replace
15 the sprays, you know, whether the water would be
16 shut off before you cut out on the tail, how would
17 you change bits. Like those questions, you know,
18 we've talked about how it was in '97. Do you
19 recall different practices at other times that you
20 worked at UBB?

21 A. I really don't understand what you
22 actually mean by different, but I don't recall
23 different practices. Usually just whatever the
24 conditions warranted is what we'd do, like

1 referring to setting bits.

2 If you was in good conditions, of course,
3 you know, you could milk them bits to the head or
4 whatever. We would get in conditions sometimes
5 where it would be so dag-gone hard, you couldn't
6 load four or five shields, you'd have to stop and
7 set bits, but as far as the water sprays goes, I
8 don't remember anything being different.

9 Q. Okay. Let me think about that one. Maybe
10 I can come up with a better way to ask it.

11 So returning back to '97 and what you
12 recall from that, do you ever remember either you
13 or other people on your crew removing sprays to
14 allow the sheer motors to be cooled?

15 A. I don't recall removing them to allow the
16 sheer motors to be cooled. Now at the time, I was
17 a jack setter. If the sheer operators did it, I
18 can't really answer for them, but I personally
19 didn't do it.

20 Q. Now this talking about all your experience
21 on longwalls at UBB, did you ever encounter any air
22 reversals on any of the longwall panels you ever
23 worked on?

24 A. It seems like there was one or two

1 occasions that the air came the wrong way but I
2 can't remember which panels or what panel it may
3 have been on, but yes, it had happened a couple of
4 times when I was still on the longwall.

5 Q. And how would you react to that? Would
6 you shut down, or what's the protocol for reacting
7 to a longwall reversal on the longwall face?

8 A. No, we didn't shut down. We would just
9 look at each other, "Air is going the wrong way,"
10 and I don't remember shutting down for it. It
11 didn't seem like it stayed going the wrong way but
12 I do recall that happening.

13 Q. How long do you think the reversal, you
14 know, would it be five minutes and then go back the
15 other way or would it be half way through the end of
16 the shift? Do you remember how long those
17 reversals would normally last for?

18 A. What little bit I can recall of them,
19 usually it wasn't very long. I can't actually say
20 if it was a matter of minutes or a minute or 30
21 minutes, but I just remember it going the wrong
22 way, you know, and we would just say "Wow."

23 Q. Whenever you had those air reversals, do
24 you remember reporting them, you know, up the chain

1 of command?

2 A. I don't know if they were reported or not.

3 Q. And I know you can't remember the panels.

4 Do you remember roughly the years?

5 A. No.

6 MR. HUDSON: I mean, could you
7 clarify, was there a chain of command
8 there?

9 MR. BABINGTON: I made an
10 assumption there. I apologize.

11 MR. HUDSON: Yes. I mean --

12 Q. If you were going to report an air
13 reversal, who would you have reported it to?

14 A. Well, I guess the foreman would have
15 called outside to the superintendent, whoever it
16 may have been at that time, which probably was Eddy
17 Lester, but I don't know if he did or not. I guess
18 that would be considered the chain of command.

19 Q. And actually that brings me back to a
20 quick follow-up, which is who was the
21 superintendent in '97?

22 A. I'm thinking Eddy may have been the
23 superintendent.

24 Q. Okay.

1 A. We went through a lot of presidents,
2 superintendents, you know, they bounced around.

3 Q. And we've talked about Pete Hendricks
4 earlier on. Do you remember what his title was at
5 that point?

6 A. I think Pete was overall production at all
7 Massey mines. He was like Don Blankenship's right
8 arm.

9 Q. Are you familiar with Chris Adkins?

10 A. Yes, I am.

11 Q. Is Chris Adkins serving the role now what
12 Pete Hendricks might have been serving back in '97?

13 A. He may be. I remember Chris in '97,
14 because he came up on the longwall when we had the
15 head gate had fallen in, and so I don't know
16 exactly what his title was in '97 but that would
17 be, my guess, that he's probably about what Pete
18 was.

19 Q. We talked about that there was some
20 sandstone on the longwall face.

21 When you would watch the sheer cut into
22 that, do you recall seeing any sparking?

23 A. In the '97 ignition?

24 Q. Yes.

1 A. I don't recall seeing any myself.

2 Q. Have you seen sparking on the longwall
3 shears before?

4 A. On that hard middle man like you're
5 talking? Yes, I have.

6 Q. Okay. But you didn't see it in '97?

7 A. I don't recall seeing it.

8 Q. How long would the bits last for?

9 A. That particular panel, they would go
10 probably five or six passes, because things were
11 pretty soft.

12 Q. Did the crew use shield sprays while you
13 were working?

14 A. We had shield sprays. They all didn't
15 work. Sometimes we would actually just turn them
16 off. You had a valve on each shield; you could
17 turn them off if they was leaking or something, but
18 they were available.

19 Q. Were there any that typically worked and
20 that others that typically didn't work?

21 A. Yes, yes. The shield sprays are supposed
22 to activate when the shield activates and then shut
23 off after it sits, and all of them didn't work.

24 Q. We'll keep going. Do you want to take a

1 break or are you okay? Would you like some water?

2 A. I would like a sip of water.

3 Q. I'll get you a bottle. Here you are.

4 A. Thanks.

5 Q. You're welcome. Just to clarify, when you
6 cut out on the tailgate, the sheer operator did
7 usually have the sprays on?

8 A. To my knowledge, yes.

9 Q. Okay. Remind me about that. I think that
10 you said that morning, the morning of the '97
11 ignition, you had a lot of roof falls behind the
12 shields?

13 A. That's correct.

14 Q. Had there previously been a large area
15 that hadn't caved in yet?

16 A. I don't remember being a large area. We
17 was just into some big Massey sandstone and it was
18 cracking and breaking loudly, but I don't remember
19 there being a large area. It may have been, I just
20 can't remember if there was.

21 Q. We talked about Ricky Farrell and, you
22 know, his eyebrows were singed.

23 A. Yes.

24 Q. Were they singed immediately or did it not

1 happen until he was further up the face?

2 A. He got singed when I ran by him and
3 pointed, and I guess he looked, and he got singed
4 right there.

5 Q. Okay. And he was still in the position
6 right after having cut out on the tail?

7 A. Right. He would have been at about 173
8 shield.

9 Q. Uh-huh. I think you said that you had
10 previously observed -- well, you said, I guess, you
11 were aware of falling sandstones creating sparks on
12 their own?

13 A. That's correct.

14 Q. Have you ever seen either sandstone
15 striking itself or striking roof belts actually
16 igniting methane?

17 A. I haven't seen it actually igniting
18 methane, no. I have seen it make the sparks.

19 Q. Uh-huh.

20 A. But I haven't saw that happen. Don't want
21 to.

22 Q. Smart man. At the interview with MSHA and
23 the federal and state inspectors where you had your
24 personal attorney present, did you feel that her

1 presence at the interview, did you feel that that
2 effected your testimony?

3 A. Yes, I did. Had I known anything, I
4 wouldn't have said it, and none of the others would
5 either, I felt a hundred percent certain of that.
6 We all discussed that was Pete Hendricks' eyes and
7 ears and we knew the consequences if we would have
8 said anything wrong.

9 MR. HUDSON: If I say a couple
10 names, would you remember the name? Do
11 you remember and a Norton, that name?

12 A. No.

13 MR. HUDSON: Or any other Massey

14 --

15 A. No.

16 MR. HUDSON: Okay.

17 Q. Were there any pieces of information that
18 you didn't provide to the federal and state
19 inspectors because that attorney was there?

20 A. At the time that I was there, I wasn't
21 aware of that overcast being knocked out. Had I
22 been aware of it, I still wouldn't have provided
23 the information with her there.

24 Q. Moving away from the '97 event, do you

1 recall any ignition occurring in 1999?

2 A. '99. No, I don't.

3 Q. So you haven't even heard any rumors or
4 hearsay about an event occurring in 1999?

5 A. No, I don't remember.

6 Q. Were you still close to Ricky Farrell at
7 that time?

8 A. Yes. Yes; actually I graduated high
9 school with Rick, so yes.

10 Q. If Rick had been in an ignition or some
11 kind of event in '99, would he have likely told you
12 about it?

13 A. I feel that he would have.

14 MR. HUDSON: Could I ask one more
15 question about the water shears and the
16 sprays?

17 MR. BABINGTON: Sure.

18 EXAMINATION

19 BY MR. HUDSON:

20 Q. You testified that you came in at your
21 shift and at times there may have been two or three
22 that may have been missing that had been plugged.

23 Was there ever a time that there was more
24 than two or three or every time that there was just

1 a water problem in general, that when you guys came
2 in you confronted when you came to the section?

3 I mean, two or three seems like a couple,
4 but was there ever a time there was more than that?

5 A. Well, I don't remember being more than
6 that, Marty. They wasn't plugged, they would just
7 remove them. I don't know if a spray would be
8 messed up and shooting over toward the sheer
9 operator sometimes, or whatever the reason would
10 be, but they would take a spray out and it would
11 lessen the pressure and stop it from spraying over
12 the line.

13 MR. HUDSON: Okay.

14 EXAMINATION

15 BY MR. BABINGTON:

16 Q. Do you recall situations where the water
17 sprays would get clogged or stopped up and you
18 would have to clean them out?

19 A. Yes. Yes, that would happen.

20 Q. How frequently would you have to clean out
21 sprays?

22 A. I don't remember doing it very frequently
23 at all. Sometimes if we were down or something, we
24 could find some stopped up, but they wasn't going

1 to spend a whole lot of time cleaning up sprays and
2 knocking them out of production.

3 Q. Is it possible you would let five, six,
4 seven, eight get stopped up before you would go
5 back and clean them?

6 A. I would say that would be a good
7 possibility, or not cleaning them at all and hope
8 the owl shift would fix it.

9 Q. How good was the owl shift about cleaning
10 and replacing water sprays?

11 A. I'm not really sure, because them boys
12 were expected to get a couple of cuts of coal a
13 night themselves, plus all their other work, so
14 they would set bits. I'm not sure how good they
15 were on the sprays.

16 Q. We talked about a lot of different
17 experiences of what occurred right around that
18 ignition.

19 Do you remember any noises from either
20 right before the ignition or the ignition or after
21 the ignition?

22 A. The only noises I remember was the sand
23 rock falling so big and loud, and you could tell it
24 was Massey falls, and them's the only noises I can

1 remember.

2 Q. Do you remember hearing a fall right
3 before seek the ignition?

4 A. Yes, because it had been breaking all
5 morning and falling, and we was down there on the
6 tail, and yes, it was falling back there then. I
7 sure do remember it.

8 Q. So it sounds like it was falling fairly
9 continuously throughout morning then?

10 A. Yes.

11 Q. And it was falling continuously right up
12 until you saw the glowing behind the shields?

13 A. That's correct.

14 Q. Mr. Stewart, when you spoke to Congress,
15 you mentioned, I'll read it from your statement, "A
16 young man I personally know was working at a Massey
17 mine as a fire boss and was told by upper
18 management to fix the books to proper air reading
19 when the section had virtually no air. He was so
20 angry he quit Massey. I will provide his name
21 privately."

22 Can you talk a little bit about those
23 circumstances?

24 Let me interrupt you for one second. If

1 you still don't want to provide -- As we've talked
2 about, at some point these transcripts will be
3 released. If you don't wish to have his name
4 included, we can talk about his name off the record
5 but I would still like to discuss the circumstances
6 of the situation, if you're comfortable doing that.

7 A. What I know about that, my son told me he
8 knew this boy and he told me that he had told him
9 that after the explosion, that he was a hoot owl
10 boss, I believe, instead of a fire boss, but he
11 called out there was no air on the section where he
12 was at and they wanted him to fix the books as if
13 there was, and so I saw that boy personally and
14 asked him about it, and he confirmed yes, and he
15 did quit soon thereafter.

16 If I recall correctly, he wouldn't do it
17 and so they said they would get someone that would,
18 so that's basically that story.

19 MR. HUDSON: And further, but
20 they had offered him a place in the mine
21 somewhere else. Do you want to elaborate
22 on that?

23 A. Yes, that's basically what -- offer him to
24 go work for them somewhere else, or whatever, and

1 get somebody up there that would fix it.

2 MR. BABINGTON: Thank you. I'm
3 going to have one last thing at the end
4 but I'm going to hand it over to the
5 fellows for follow-ups.

6 EXAMINATION

7 BY MR. TUCKER:

8 Q. I just have a couple quick ones, Stanley.
9 When was about the last time that you can recall
10 that you worked on longwall?

11 A. The month of December of '08, because I
12 left the longwall and went to a continuous miner
13 the first week of January of '09, so I was on the
14 longwall from day one that Performance Coal started
15 their longwall until January of '09.

16 Q. What was you doing at the last, right
17 before you left and went to miner section?

18 A. I had got off of the face and I worked on
19 the owl shift on longwall. We basically did a
20 little of everything; moved power, go down the face
21 and fix things, hang the monorail, everything that
22 goes with the owl shift on the longwall.

23 Q. You mentioned that a couple times, that
24 you and your co-workers, you would notice the air

1 reversal and it may last a minute or two or a few
2 minutes, or you're not sure exactly how long.

3 Do you happen to recall maybe about where
4 you were at on the jack line when that would
5 happen? Would there be one place that it would
6 tend to happen more often than say another?

7 A. I don't recall where I would be at on the
8 face when it would happen but it would be reversed
9 the whole length of the face.

10 Q. Okay.

11 A. I do remember that.

12 Q. And one last question. I know you
13 mentioned in '97, that the top was working a lot,
14 falling a lot that day right prior to the
15 explosion, or the ignition, you were right there at
16 the tail.

17 Do you recall how it fell behind the
18 shields at the tail? Was it fairly open, had it
19 fell in tight at that point, or do you recall?

20 A. I don't recall a hundred percent but it
21 wasn't in tight. I feel like we had sand rock
22 roof. I can't say how far back it was but it
23 wasn't tight like when we would be mining in slate
24 roof, it would be fell right up tight against the

1 shields. I'm pretty sure these were not tight.

2 MR. TUCKER: Okay. That's all I
3 have. Thank you.

4 MR. BABINGTON: We're going to
5 take a short break and then we'll come
6 back and Mr. McGinley have some follow-ups
7 and then if you have some follow-up. So
8 let's go off the record.

9 (Recess taken.)

10 EXAMINATION

11 BY MR. BABINGTON:

12 Q. I just have one quick question and I'm
13 going to hand it off to Mr. McGinley.

14 Before we went on the break, you were
15 talking about events in December of 2008 and
16 January, 2009. You were talking about your
17 experiences on the longwall.

18 A. Yes.

19 Q. Okay. Was that at UBB?

20 A. No, that was at Logan's Fork.

21 Q. Okay. Now did you follow the longwall
22 when it went from UBB to Logan's Fork and back to
23 UBB?

24 A. I followed it from UBB to Logan's Fork and

1 then I left the longwall in January of '09 to go
2 back to UBB to run a continuous miner. Longwall
3 didn't come until, I think, July of '09.

4 Q. Okay. Did you start working back on the
5 longwall when it came back to UBB?

6 A. No, I didn't.

7 MR. BABINGTON: Okay. Pat?

8 EXAMINATION

9 BY MR. MCGINLEY:

10 Q. You were asked some questions about the
11 sprays, water sprays, on the longwall on the
12 shields, especially with regard to the longwall.

13 For the record, where are the sprays
14 located?

15 A. Those would be sprays on the top of the
16 shield and out at the end of it.

17 Q. Okay.

18 A. Spraying toward the face.

19 Q. And what's the reason for having those
20 water sprays?

21 A. I feel like the ones on the top would be
22 to keep the dust down from the top of the shield,
23 and then same thing on the end, spraying toward the
24 face, just aid in keeping the dust down.

1 Q. The sprays on the sheer, they're to keep
2 the dust down. Is there another reason? Does it
3 have anything to do with cooling?

4 A. Yes, they got cooling motors. Water
5 circulates through the motors and keeps them cool.

6 Q. Is the source of the water in the sprays
7 and the source of the cooling water the same?

8 A. Yes, to my knowledge, it is.

9 Q. Do you know what happens when there's not
10 enough cooling water to cool the equipment?

11 A. It will burn motors up.

12 Q. Have you ever seen that happen?

13 A. I believe I have a couple of times in my
14 mining career.

15 Q. Do you have any sense of how many, you
16 know, how much the water sprays would be reduced in
17 order to burn up the motor?

18 A. No, I'm not really sure if the water would
19 be low, I don't know how low it would have to get
20 to burn the motor up. I know if they run them dry,
21 it doesn't take very long.

22 Q. When you were working on the longwall, you
23 worked on the longwall at UBB and then you left and
24 went to Logan's Fork, is that right?

1 A. That's correct.

2 Q. Then you came back to UBB in what, the
3 spring of, winter of 2009, as a continuous miner
4 operator?

5 A. Yes.

6 Q. In your experience in working at the
7 longwall, whose responsibility was it to keep the
8 sprays operational, unclog them, replace them if
9 they were broken?

10 A. That would normally fall on the sheer
11 operator for the most part, and the owl shift.
12 When they come in there, they should check the
13 sheer out. If there's anything wrong with it, they
14 should fix it, including the water sprays.

15 Q. Now on the owl shift, the sheer doesn't
16 operate, is that right, at UBB?

17 A. Normally. Sometimes they wanted you to
18 run it, wanted the owl shift to run it.

19 Q. Does it take actually operating the sheer
20 to be able to tell if the sprays are working
21 properly?

22 A. You wouldn't really have to operate it.
23 You could just turn the water on and start the
24 sheer and see if there are any out.

1 Q. So who would do that on the owl shift?

2 A. I'm thinking the maintenance, they had the
3 maintenance crew that went over the sheer.

4 Q. Now we had somebody testify that the S-1
5 manual required checking things like the water
6 sprays on the sheer on every shift. Do you have
7 any knowledge about that?

8 A. I personally didn't know that that was in
9 the S-1, but if you're asking did we check them
10 every shift, I don't remember actually seeing them
11 checked.

12 Q. It wasn't your job?

13 A. No, not when I wasn't the sheer operator.

14 Q. Okay. When you were the sheer operator,
15 would you check, or you would know by just
16 observing when you started up?

17 A. That's correct.

18 Q. How often did you see someone on the crew
19 hook up a pressure gauge to the sheer to check the
20 water pressure? Was that ever done?

21 A. Yes, I've seen it done on some occasions,
22 check the pressure. It wasn't done a lot but it
23 was done.

24 Q. Who would do that?

1 A. That would be one of the maintenance men.

2 Q. Would that be on the owl shift or in each
3 shift?

4 A. I've seen it done on our shift but the owl
5 shift probably should be the ones to check it the
6 most often. I've seen it done on production shift
7 a few times.

8 Q. You mean half dozen times over 15 years?

9 A. That's probably close.

10 Q. Okay. Very infrequently?

11 A. Right.

12 Q. What's involved with the pressure gauge on
13 the sheer to check the water? Does it take very
14 long?

15 A. I believe they would take a spray out and
16 put the pressure gauge in, then you turn the water
17 on to see what pressure reading you would get.

18 Q. Then how long would that take?

19 A. It would vary and depend.

20 Q. I mean just roughly?

21 A. Normally not very long. Five, ten
22 minutes.

23 Q. What about replacing sprays if they were
24 either broken or too clogged and just wouldn't

1 function, how long would that take?

2 A. If you had the proper tools, it wouldn't
3 take long to replace a couple sprays.

4 Q. Give me a ballpark estimate.

5 A. One spray, you should be able to change it
6 out in a minute or less if the keeper will come out
7 okay.

8 Q. What do you mean by that, the keeper?
9 Just people will be reading this record that won't
10 understand those terms.

11 A. Okay, you put the spray in, you have a
12 little horseshoe keeper that you pound in to hold
13 it in place.

14 MR. BABINGTON: Is another word
15 for the keeper the staple?

16 A. Right, staple.

17 Q. But if you noticed or if it was noticed
18 that there were five, six, seven, eight sprays that
19 weren't functioning properly on the sheer, you
20 wouldn't stop production, you would wait until the
21 end of the shift, is that what you said before?
22 Was there a rule or expectation?

23 A. I think I was referring to like two or
24 three. If there were seven or eight out, you're

1 not going to have any water spray, it's just going
2 to be running, so if there were seven or eight out,
3 I would like to think a man would fix that.

4 Q. Why would that be?

5 A. To keep the dust down and get his water
6 right on that drum.

7 Q. In your testimony back in June, last year
8 now, you mentioned at least one time when the
9 oxygen level was 18.8 or something, I think on head
10 gate 22. Do you recall that? You said it was
11 really hot.

12 A. I recall saying that about one of the
13 longwall panels.

14 Q. Okay.

15 A. And yes, it was miserable hot, and yes,
16 the oxygen seems like it was down to under 19
17 percent.

18 Q. Now you carried a spotter the last few
19 years you worked at UBB?

20 A. I didn't carry one until I become miner
21 operator.

22 Q. Okay.

23 A. I didn't carry it on the longwall face
24 when I was a jack setter. Sheer operators carry

1 it.

2 Q. So how would you know what the oxygen was
3 if you didn't have a spotter?

4 A. The boss told us.

5 Q. And would that have been sometime in the
6 last couple of years, last year?

7 A. No, it was in the early days of UBB
8 longwall. It was a long time ago, probably in
9 '90s, it may have been '98. Yes, it may have been
10 '98. I ain't a hundred percent on that.

11 Q. So when you went to UBB and worked as a
12 miner operator, you had a spotter with you, right?

13 A. Yes.

14 Q. How often did you check the spotter?

15 A. Check it?

16 Q. Just take a look at it.

17 A. Daily.

18 Q. Did you only look at it right there where
19 you were working on the mine or did you look at it
20 sometimes when you were going in or going in
21 different places? On the mantrip going in, did you
22 have any occasion to look at it?

23 A. I carried it in my bucket and I would get
24 it out of my bucket. I'd look at it, like I say,

1 on a daily basis, and plus when I take my test,
2 looking at it.

3 Q. Sure. Was there ever a variation reading
4 other than 20.8? Was it always 20.8 or did you
5 have some variations?

6 A. I didn't --

7 Q. The oxygen, on the oxygen.

8 A. Oh, well, the spotter I had, it was just
9 methane, just a methane spotter.

10 Q. What kind of spotter was it?

11 A. It just had the square readout for
12 methane. I didn't have one like the boss carried.

13 Q. It wasn't a multi gas?

14 A. No.

15 Q. Did you ever go up to the Bandytown fan?

16 A. No, I never did.

17 Q. We had a number witnesses say that
18 Massey's S-1 program required 20,000 cfm at the
19 last open break. Have you ever heard that before?

20 A. No, I hadn't.

21 Q. We were also told that if the air was less
22 than 20,000, it was required to shut the section
23 down.

24 A. I would have liked to have known that.

1 Q. Were there ever times, to your knowledge,
2 when there was less than 20,000 cfm at the last
3 open break where you were working?

4 A. On the head gate 22. I'm estimating the
5 majority of the time it was less than 20,000.

6 Q. Did work stop when it was less than 20,000
7 to fix the air to get it up to 20,000?

8 A. No.

9 Q. Do you think the shift foreman knew about
10 that 20,000 rule?

11 A. I really don't know if the shift foreman
12 knew that was in their S-1 policy or not.

13 Q. Were you ever in the mine at UBB when
14 there was a Massey safety audit? We understand the
15 auditors were the Massey mine rescue teams. They
16 doubled.

17 A. It seems like I was in the mine once or
18 twice when they was having an audit but it's been a
19 long time ago. I don't recall any personally
20 myself in recent time.

21 Q. Did any safety auditors ever, Massey
22 safety auditors ever come up to gate 22 when you
23 were working there?

24 A. Not during my shift. I don't remember

1 seeing any.

2 Q. How about when you worked over at Logan's
3 Fork, any safety auditors come on your shift?

4 A. I worked the owl shift down there and I
5 never saw any.

6 Q. Did you know anything about Massey safety
7 auditors?

8 A. I had heard about them and --

9 Q. Did you hear about it from management or
10 just men talking?

11 A. Both.

12 Q. What did management say about safety
13 auditors?

14 A. They would just say that maybe they were
15 going to be here a certain day or something like
16 that.

17 Q. So that when the safety auditors were
18 going to show up, people working in the mine had
19 prior knowledge, is that right?

20 A. Yes, that's pretty good assumption.

21 Q. Sort of like the same thing that happened
22 with regard to state and federal inspectors?

23 A. Yes.

24 Q. Did you have responsibility for rock

1 dusting?

2 A. Did I have a responsibility?

3 Q. Yes. Did you ever have?

4 A. I would maybe help the scoop man sometimes
5 rock dust, you know, if I wasn't loading coal in my
6 miner. I wouldn't actually consider it my
7 responsibility, but when you look at it another
8 way, it's everyone's responsibility.

9 Q. Right. So how did Massey indicate to you
10 and other people that worked in the mine how to
11 identify rock dusting that wasn't in compliance
12 with the non-combustibility standards of MSHA?

13 A. I don't recall anything of that nature.
14 Just, you know, we would rock dust, just make
15 everything white and consider it good.

16 Q. But you couldn't tell whether it met MSHA
17 standards?

18 A. No, I wouldn't have a clue.

19 Q. Does the name Drexel Short ring a bell,
20 going back to '97?

21 A. Yes, it does.

22 Q. Did he have anything to do with that
23 methane ignition, do you remember?

24 A. I don't recall seeing him around. I don't

1 know if he ever came to the mine site or not. I
2 know he was high up in the Massey hierarchy.

3 Q. Does the law firm of Smith, Heenan &
4 Althen ring a bell to you, Smith, Heenan?

5 A. No.

6 Q. Does the name Donna Kelly ring a bell?

7 A. No, sir.

8 Q. You don't know whether she was your lawyer
9 or not?

10 A. No.

11 Q. I mean the lawyer that Mr. Hendricks told
12 you was going to represent you.

13 A. Even if she was sitting right here, I
14 wouldn't recognize her today.

15 Q. Sure.

16 A. And her name, I wouldn't --

17 Q. You only saw her for half an hour?

18 A. Just a few minutes, yes, half hour.

19 Q. Was Wendell Wills the mine foreman at the
20 time of that ignition?

21 A. Wendell was there at the time. I'm not
22 sure if he had become the mine foreman yet or not,
23 to tell you the truth, but I remember when he
24 started there, he was just an owl shift mine

1 foreman, or something like that, so I don't know if
2 at that time he had done moved up or not.

3 Q. Does the name James Kinder sound familiar?

4 A. Jim Kinder, yes.

5 Q. Was he working back in '97 at UBB?

6 A. I can't remember if he was there at that
7 time or not. He was, I think, a chief maintenance.

8 Q. On the shield sprays, whose job was it to
9 make sure the shield sprays were working properly?

10 A. That one, I don't know. I don't know if
11 it was a maintenance man responsibility or just
12 whoever. They weren't worked on much.

13 Q. Do you know when you were working at UBB,
14 a fellow by the name of Thomas Harrah?

15 A. Thomas Harrah?

16 Q. H-A-R-R-A-H.

17 A. Yes, I think that's the boy we called
18 Pickles.

19 Q. Do you know whether he was ever a foreman
20 at UBB?

21 A. Yes, he was an acting foreman.

22 Q. You know that from recent knowledge in the
23 last month or so?

24 A. Yes.

1 Q. Does that surprise you?

2 A. Yes, it did surprise me. Of course, we
3 all know he never had his papers, and I never had a
4 clue he never had his papers. Actually he was
5 wanting me -- when I told him I was going to get
6 off the longwall and get a continuous miner job, he
7 was wanting me to come to his section, and I
8 didn't, I went to Richard Hutchins' section, but
9 yes, it surprised me when all that came out.

10 Q. You mentioned Jack Roles had been at UBB,
11 was the longwall foreman back in '97 when the
12 ignition occurred, and most recently, he was
13 longwall coordinator at UBB, right?

14 A. That's correct.

15 Q. Do you know any other people by the name
16 of Roles that worked at UBB?

17 A. There was a --

18 Q. Foreman maybe.

19 A. Well, this one Roles that I knew, and I
20 can't remember his first name, I think he was in
21 maintenance, but I can't remember any other Roles
22 that were foremen.

23 Q. Do you know Rick Hodge or Hodges?

24 A. That name is familiar, I just can't bring

1 him up.

2 Q. Would he have been somebody in management?

3 A. I can't remember.

4 Q. So Thomas Harrah was Pickles?

5 A. Yes, that was Pickles.

6 Q. I guess he's in a Pickle. That's it.

7 MR. BABINGTON: Let's actually
8 take a five minute break. Actually do you
9 want to do your follow-up?

10 MR. HUDSON: I just have three
11 things.

12 MR. BABINGTON: Go ahead and do
13 your follow-up, then we'll take a break.

14 EXAMINATION

15 BY MR. HUDSON:

16 Q. At one point, Stanley, you said that Pete
17 Hendricks had provided a lawyer which you felt like
18 it was for them instead of you, but during that,
19 you said you did not know about the stopping had
20 been out and you said, and correct me if I'm wrong,
21 but you said if you did know, you probably wouldn't
22 have told them.

23 Was that out of fear that it would get
24 back to them? You said you didn't know the

1 stopping was out when you during that interview
2 with that lawyer. Can you clarify that a little
3 bit?

4 A. Yes, it was overcast.

5 Q. Overcast, okay.

6 A. Yes, it was out of fear. None of us would
7 say anything if we did know anything, because like
8 I stated before, that was just his eyes and ears in
9 there and he had already made it pretty plain to
10 everybody that he fired people on a regular basis,
11 and so yes, I had a fear that whatever you said, he
12 would find it out, and it would take a week or a
13 month but you knew you would be looking for work,
14 and at that particular time, there wasn't any work
15 in the mines anywhere else.

16 Q. Just two more quick questions.

17 One is, going back to your first
18 testimony, did you ever see the bottom hoove or did
19 you ever take a miner and cut the bottom out if you
20 saw it hooving?

21 A. Yes, we had what we referred to as
22 hooveage, as a bottom hoove up and if it would
23 hoove too much and we still had the miner close
24 enough, we would go back and scrap it out. I done

1 that on several occasions.

2 Q. Was that during the year of 2010, did you
3 do it any during that year?

4 A. It would have been '09 and probably early
5 2010, yes.

6 Q. Okay.

7 A. We would have it hoove up on head gate 22,
8 and, in fact, I probably cleaned some up just the
9 last set of days we worked before April the 5th, I
10 had to go scrap a brake out.

11 Q. Okay.

12 A. At an intersection where it hooved.

13 Q. And just one more point to clarify that
14 wasn't perfectly clear in your first testimony.

15 Would you explain a little bit more who
16 Jake Doss is and what he told you he did? I mean,
17 he told you firsthand knowledge what he did.

18 A. Jacob Doss, we called him Tattoo, he
19 stopped by the house, I can't remember exactly the
20 month, it was early June of '10, and he and I
21 talked and I got to mentioning that illegal air
22 change that we had made. He was on our section or
23 crew at that time, and he volunteered the
24 information to me that that wasn't the only one,

1 that he got off our section and was working
2 out-by. He said they made illegal air changes
3 while our crew was up on the section working, and
4 plus he also told me that he would be stationed at
5 doors, I don't know which sets, to open or close
6 whatever was needed to direct air to a section that
7 maybe an inspector was at and then get a call when
8 the inspectors were leaving, fix the doors back to
9 where there wasn't enough air, so yes, he
10 volunteered a lot of information to me that I
11 didn't know.

12 Q. Do you feel like that was out of guilt
13 that he stopped and told you that or why would he
14 stop and tell you that?

15 A. Yes, he felt a little guilty. I said,
16 "You know what, tattoo? You need to tell somebody
17 this," and he acted like he was scared to, but I
18 said, "Buddy, this is valuable information, you
19 know. We got 29 buddies that were killed and you
20 don't need to protect nobody." And so, you know,
21 when he left, he had a little different attitude.
22 He seemed like he was willing to talk.

23 Q. He did talk to me on the phone, but
24 obviously that's not the state or federal.

1 A. Yes.

2 MR. BABINGTON: The name was Jack
3 Doss?

4 MR. MCGINLEY: Doss.

5 A. Jacob Doss.

6 MR. BABINGTON: Doss, D-O-S-S?

7 A. Yes.

8 MR. BABINGTON: Thank you.

9 EXAMINATION

10 BY MR. TUCKER:

11 Q. Do you know where he's working at now?

12 A. Not exactly, Billy. The last time I
13 talked to him, he told me they had just been
14 bouncing him around from one mine to another. Slip
15 Ridge was one he mentioned. I don't know if he's
16 been to Round Bottom, and I'm not a hundred percent
17 where he's at now. I have his phone number at
18 home. I don't know if you all have access to it or
19 not, or are able to get it.

20 Q. If you can give it to us, it would be
21 appreciated. Was he working at UBB at the time of
22 the explosion?

23 A. Yes. Yes, he was.

24 MR. MCGINLEY: Where does he

1 live?

2 A. He lives around the Ashford area now. He
3 did live at (b) (7)(C) but he told me he had moved over
4 around, I'm pretty sure he said around the (b) (7)(C)
5 area. It's in (b) (7)(C) of course.

6 MR. BABINGTON: So he's still
7 working for Massey?

8 A. Yes. The last I talked to him, he was.

9 MR. BABINGTON: When was the last
10 time you talked to him?

11 A. Probably just a couple months ago, if
12 that.

13 MR. HUDSON: That's all I had.

14 MR. BABINGTON: Let's take a two
15 minute break.

16 MR. MCGINLEY: Can I ask just one
17 follow-up?

18 MR. BABINGTON: Sure, Pat.

19 EXAMINATION

20 BY MR. MCGINLEY:

21 Q. With regard to the lawyer that Massey
22 provided to you back in '97, you said you would
23 have been scared and most folks there would have
24 been scared to talk in front of her.

1 If you had had an opportunity to talk
2 confidentially with federal or state inspectors
3 about any safety problems at Massey, would you have
4 any problem doing that?

5 A. No, I wouldn't have had a problem at all.

6 Q. It was just the fact that there was a
7 lawyer present that you knew was being paid by
8 Massey and was the management's eyes and ears?

9 A. That's correct.

10 Q. And you were afraid that you would get
11 fired?

12 A. Absolutely.

13 Q. But at that time, you really didn't have
14 anything to say to them about violations; the
15 information about the overcast came to you later?

16 A. That's true. I wasn't aware of that
17 overcast being torn out at that time.

18 MR. MCGINLEY: Okay. Thanks.

19 MR. BABINGTON: Let's take a two
20 minute break off the record.

21 (Recess taken.)

22 MR. BABINGTON: Bill, any more
23 questions from you?

24 MR. TUCKER: No, sir.

1 MR. BABINGTON: Pat?

2 MR. MCGINLEY: No.

3 MR. BABINGTON: Mr. Stewart,
4 thank you so much for coming in and
5 talking with us again.

6 We're 2 1/2 hours this time so we
7 only have 5 1/2 hours to go so we can let
8 you go.

9 You know, you did some follow-up
10 from your first testimony but I want to
11 give you another opportunity to make any
12 personal statement you'd like to make.

13 MR. STEWART: Well, I would like
14 to state that my opinion of what caused
15 that or what I feel like caused that
16 explosion, and that was negligence on
17 Massey and the management at Upper Big
18 Branch.

19 The ventilation in that whole
20 area of the mine was lacking, and rather
21 than fix it properly, install new fans at
22 the Ellis portal, or whatever it took,
23 they just kept manipulating the air,
24 trying to get by and keep us loading coal

1 without actually addressing the
2 ventilation problem.

3 It's a known fact that the mine
4 had multiple ventilation problems with the
5 fact that they were shut down so many
6 times the year prior to April 5th due to
7 ventilation, so I feel very strongly that
8 that would have been prevented had they
9 took the measures to make sure that the
10 three sections that were operating in that
11 end of the mine were ventilated properly,
12 and that's the way I feel about it.

13 MR. BABINGTON: Well, thank you,
14 Mr. Stewart. You have Norman Page's
15 contact information. We can provide that
16 again if you like. You have Bill Tucker's
17 contact information.

18 If you have any other information
19 that you would like to provide to us,
20 please feel free to.

21 MR. STEWART: Okay.

22 MR. BABINGTON: And thank you so
23 much for coming in.

24 MR. STEWART: Okay.

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MR. BABINGTON: Let's go off the
record.

(Interview concluded at
4:31 p.m.)

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Lynne Rodriguez, a Notary Public and
3 Registered Professional Reporter within and for the
4 State aforesaid, duly commissioned and qualified,
5 do hereby certify that the deposition of was duly
6 taken by me and before me at the time and place
7 specified in the caption hereof.

8 I do further certify that said proceedings
9 were correctly taken by me in stenotype notes, that
10 the same were accurately transcribed out in full
11 and true record of the testimony given by said
12 witness.

13 I further certify that I am neither attorney
14 or counsel for, nor related to or employed by, any
15 of the parties to the action in which these
16 proceedings were had, and further I am not a
17 relative or employee of any attorney or counsel
18 employed by the parties hereto or financially
19 interested in the action.

20 My commission expires the 2nd day of June,
21 2020.

22 Given under my hand and seal this 7th day of
23 January, 2011.

24

Lynne M. Rodriguez, RPR
Notary Public