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**Transcript of the Testimony of Brian Farley**

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STATEMENT UNDER OATH

OF

BRIAN FARLEY

taken pursuant to Notice by Cynthia Piro Simpson, 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 Wednesday, June 16, 2010, beginning at 4:30 p.m.

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1                   A P P E A R A N C E S

2

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

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P R O C E E D I N G S

1  
2 -----  
3 ATTORNEY HAMPTON:

4 My name is Polly Anna Hampton. Today is  
5 June 16th, 2010. I am with the Office of the  
6 Solicitor, the U.S. Department of Labor. With me is  
7 Jasey Maggard, an accident investigator with the Mine  
8 Safety and Health Administration, MSHA, an agency of  
9 the United States Department of Labor. Also present  
10 are several people from the State of West Virginia. I  
11 ask that they state their appearance for the record  
12 now.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. MONFORTON:

20 And Celeste Monforton. I'm with Governor  
21 Manchin's special team.

22 ATTORNEY HAMPTON:

23 There are also a couple members of the  
24 investigation team present in the room today. Mr.  
25 Maggard will be conducting the initial part of the

1 questioning.

2 All members of the State --- excuse me,

3 of the Mine Safety and Health Accident Investigation

4 Team and all members of the State of West Virginia

5 Accident Investigation Team participating in the

6 investigation of the Upper Big Branch Mine explosion

7 shall keep confidential all information that is

8 gathered from each witness who voluntarily provides a

9 statement until the witness statements are officially

10 released. MSHA and the State of West Virginia shall

11 keep this information confidential so that other

12 ongoing enforcement activities are not prejudiced or

13 jeopardized by a premature release of information.

14 This confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. Your participation in this interview

18 constitutes your agreement to keep this information

19 confidential.

20 Government investigators and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine-South on

24 April 5th, 2010. The investigation is being conducted

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

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

4 You may have a personal attorney present  
5 during the taking of the statement or another personal  
6 representative, if MSHA has permitted it, and you may  
7 consult with this person at any time. Your statement  
8 is completely voluntary. You may refuse to answer any  
9 question and you may terminate your interview at any  
10 time or request a break at any time. Since this is  
11 not an adversarial proceeding, formal Cross  
12 Examination will not be permitted. However, a  
13 representative is allowed to ask clarifying questions.  
14 Just so the record is clear, do you have a personal  
15 representative with you today?

16 MR. BRIAN FARLEY:

17 No.

18 ATTORNEY HAMPTON:

19 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.  
6 Also, there may be a need to use the information you  
7 provide to us or other information we may ask you to  
8 provide in the future in other investigations into and  
9 hearings about the explosion. Do you understand or do  
10 you have any questions?

11 MR. BRIAN FARLEY:

12 Yes, I understand.

13 ATTORNEY HAMPTON:

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

24 A court reporter will record your  
25 interview. Please speak loudly and clearly. If you

1 do not understand a question, please ask the  
2 questioner to rephrase it. Please answer each  
3 question as fully as you can, including any  
4 information you have learned from somebody else.

5 I'd like to thank you in advance for your  
6 appearance here. We appreciate your assistance in  
7 this investigation. Your cooperation is critical in  
8 making the nation's mines safer.

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

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(a) of  
20 the Mine Act. If you believe any discharge,  
21 discrimination or other adverse action is taken  
22 against you as a result of your cooperation with this  
23 investigation, you are encouraged to immediately  
24 contact MSHA and file a complaint under Section 105(c)  
25 of the Act. Could you swear in the witness?

1 -----

2 BRIAN FARLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
3 AS FOLLOWS:

4 -----

5 EXAMINATION

6 BY MR. MAGGARD:

7 Q. Brian, could you please give us your address and  
8 telephone number?

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

.

11 Q. And are you appearing voluntarily today?

12 A. Yes.

13 Q. How many years of mining experience do you have?

14 A. About nine.

15 Q. Could you tell us a little bit about your  
16 experience? Where has it been?

17 A. It's all been at Performance. Started out as a  
18 red hat.

19 Q. And when you started out as a red hat, did you  
20 work for Massey or did you work for someone else?

21 A. At Massey.

22 Q. Prior to April 5th, what was your current job  
23 position?

24 A. Outby electrician.

25 Q. And what were you primarily responsible for?

1 A. Working-wise, just everything --- anything that  
2 broke down. We worked on everything.

3 Q. And what shift was you ---?

4 A. Third shift, hoot owl.

5 Q. And who was your supervisor?

6 A. Billy Graham on the hoot owl.

7 Q. I assume that you have an electrical card; ---

8 A. Yes, sir.

9 Q. --- is that correct?

10 A. Yes, sir.

11 Q. When did you get that?

12 A. That would have been about a year --- it was in  
13 October, and I ain't sure of the exact date. I didn't  
14 bring it with me.

15 Q. And do you have any other certifications?

16 A. No.

17 Q. Are you presently employed at UBB?

18 A. No.

19 Q. Are you presently employed at any other Massey  
20 mine?

21 A. No.

22 Q. Where are you currently working?

23 A. ICG.

24 Q. And when did you leave Massey?

25 A. About three weeks after this, three,

1 three-and-a-half. I ain't for sure of the exact date.

2 Q. During your nine years at UBB, have you always  
3 worked third shift?

4 A. All but about six months.

5 Q. And have you been transferred to any other mines  
6 or has it always been at UBB or ---? What I'm saying  
7 is, have you worked in any other Massey mines  
8 temporarily?

9 A. Just I worked --- after the explosion, I worked  
10 one shift at Allegiance Mines, and then I quit.

11 Q. When you ---?

12 A. Which is --- I'm sorry.

13 Q. Go ahead.

14 A. Which is Massey.

15 Q. Other than the six months that you worked third  
16 shift, what did they have you do during that time?  
17 What was that?

18 A. It was trainee electrician. I just worked with  
19 everybody, dayshift, evening shift, just learning.

20 Q. Prior to the April 5th accident, when was the last  
21 shift that you worked at UBB?

22 A. I worked that night. I got out at ten o'clock the  
23 morning of the explosion.

24 Q. And what area of the mine did you work at that  
25 night?

1 A. That night we was at the --- they were setting up  
2 a new section on the Ellis side. We was over there,  
3 getting ready to set up a head for the new section.

4 Q. Okay. And do you ---?

5 A. Do you know where ---?

6 Q. Yeah. Could you kind of show us on the map here  
7 where that ---?

8 A. From the Ellis Portal --- see, we had two portals,  
9 then the new one, which I ain't seeing on the map, to  
10 be honest with you.

11 Q. You can also come over here on this map ---

12 A. All right.

13 Q. --- if that will help you.

14 ATTORNEY HAMPTON:

15 For the record, the witness is  
16 referencing the scale 1 to 500 map.

17 A. That's the Ellis Portal. See it here?

18 BY MR. MAGGARD:

19 Q. Uh-huh (yes). Yes.

20 A. The new section would be ---. I'm sorry. I'm  
21 kind of talking to myself, trying to figure this out.  
22 I guess right in here.

23 ATTORNEY HAMPTON:

24 Okay. Could you mark with a pen ---?

25 A. I'm not sure of ---.

1 MR. MAGGARD:

2 We've marked it on this map.

3 ATTORNEY HAMPTON:

4 Okay.

5 MR. MAGGARD:

6 I think we have the right ---. Is that

7 the one we have out?

8 MS. MONFORTON:

9 That's the one we have out.

10 ATTORNEY HAMPTON:

11 We are now looking at the 1 to 200 map,

12 and the witness is going to mark with a pink

13 marker ---.

14 A. It ain't showing what I'm needing to see. It was

15 about 15 breaks in from the Ellis Portal, is where I'm

16 trying to find it.

17 BY MR. MAGGARD:

18 Q. Okay. What was you guys doing?

19 A. We was setting the belt head for a new section,

20 which would have been in this area, yeah, coming in

21 from Ellis Portal, it was a switchback. I guess it

22 would have been up in here. I'm not sure. I

23 mean, ---

24 Q. Okay.

25 A. --- I might need another map.

1 Q. That would be around spad 22176 --- between 22108,  
2 somewhere in that area?

3 A. Yeah, somewhere in that area.

4 Q. Okay.

5 ATTORNEY HAMPTON:

6 Okay. The witness has just marked with a  
7 pink hatch mark the area he was referencing. If you  
8 would label it.

9 A. Yeah.

10 MR. FARLEY:

11 Was the section you were talking about to  
12 establish a new longwall panel?

13 A. No. Well, no. As far as I know, it wasn't going  
14 to be a longwall panel. It was just a new section.

15 MR. FARLEY:

16 Okay.

17 A. They hadn't even started mining it yet.

18 MR. FARLEY:

19 Okay. All right.

20 A. We was setting to drive a different way.

21 MR. FARLEY:

22 Okay.

23 BY MR. MAGGARD:

24 Q. Put installing head drive.

25 A. It was a non-working section.

1 ATTORNEY HAMPTON:

2 Could you write the label installing head

3 drive in the area that you're referencing right now

4 right here?

5 WITNESS COMPLIES

6 BY MR. MAGGARD:

7 Q. And was you moving any equipment in at that time

8 or --- didn't move in any equipment in, in that area?

9 A. No. Well, we didn't. I don't know what they done  
10 on dayshift or evening shift.

11 Q. And was that as far inby as you traveled that ---?

12 A. No.

13 Q. Okay.

14 A. That night we went to 78. Is this 78 Break?

15 Q. Right.

16 A. I'm not seeing the breaks. This is the split at  
17 78. We went up here and got a starter box, loaded it  
18 up and we brung it back to here.

19 ATTORNEY HAMPTON:

20 Okay. When you say here, can you

21 describe the areas that you're ---?

22 A. Well, they was calling it LBB, the new section,  
23 LBB.

24 ATTORNEY HAMPTON:

25 Okay.

1 A. I usually go by breaks.

2 ATTORNEY HAMPTON:

3 The section you were just pointing to,  
4 could you please circle with this orange pen, orange  
5 marker?

6 A. I'd say it was --- I'm not seeing the breaks. I  
7 don't know how far this --- we just went up in here.

8 BY MR. MAGGARD:

9 Q. Did you go through these double doors?

10 A. Yeah. And the next thing, I passed a door and  
11 picked up a starter box. And it don't show that on  
12 here; right?

13 Q. Uh-uh (no). So how many breaks do you think you  
14 went inby those double doors?

15 A. I'd say ten maybe. I don't know where the head  
16 was. If I seen break numbers, I might have.

17 ATTORNEY HAMPTON:

18 Could you label that?

19 A. What I was doing?

20 ATTORNEY HAMPTON:

21 Yeah.

22 A. Yeah. Picking up the starter box at the belt  
23 head.

24 ATTORNEY HAMPTON:

25 The witness just labeled the map with the

1 word bringing up starter box, belt head, in orange.

2 BY MR. MAGGARD:

3 Q. And who was working with you at that time?

4 A. Greg Shrewsbury.

5 Q. Did you notice anything unusual that night when  
6 you were in the mine or hear of anything that could  
7 --- any kind of hazards that anybody noticed before  
8 the accident?

9 A. No. Honestly, I --- no.

10 Q. When was the last time you was up at the longwall  
11 section?

12 A. I been to the longwall one time in my eight years  
13 there. It's been about seven years ago.

14 Q. Have you been to any of the other sections, like  
15 Headgate 22 ---

16 A. Yes.

17 Q. --- or Tailgate 22? When's the last time you've  
18 been at those sections?

19 A. It was probably like, I'd say, two weeks before  
20 the explosion. If they needed help on working on  
21 something, we'd go help.

22 Q. And can you remember what you was doing up there?  
23 Which one was you at last?

24 A. Okay. See, they're calling them headgates. I  
25 call them One and Two section.

1 Q. Okay.

2 A. Okay.

3 Q. What we usually --- what we understand this One  
4 section is Headgate 22.

5 A. Okay. See, I didn't know ---.

6 Q. And Two section is the Tailgate 22 section.

7 A. Okay. I was on One section.

8 Q. Okay.

9 A. Got through it probably before this.

10 Q. And what was you doing up there?

11 A. Welding on the pan on the miner.

12 Q. You said that was --- you said the Two section?

13 A. One section.

14 Q. One section.

15 A. Welding a pan on the miner.

16 Q. Could you tell us a little bit about what you saw  
17 up there? Will you tell us about the procedures you  
18 used when you were cutting and welding and ---?

19 A. I was with --- this guy is also a chief, Greg  
20 Shrewsbury, and --- a chief. He took his --- I guess  
21 he already took his gas test and all that because  
22 I --- he was already welding when I got up to him.  
23 But he carried a spotter all the time. We just welded  
24 all night.

25 Q. What was the location of the miner in that

1 headgate?

2 ATTORNEY HAMPTON:

3 Before we put this away, I'm going to

4 mark it Exhibit Number One Farley, dated 6/16/10, this

5 map that we've just been referencing, which is the

6 1/200 scale map.

7 (Farley Exhibit One marked for

8 identification.)

9 A. This is Headgate 22.

10 BY MR. MAGGARD:

11 Q. Okay. Which is One section.

12 A. One Section.

13 Q. And then that's also labeled MMU-029 on the map.

14 Could you tell us about what --- where the miner was?

15 A. Where the miner was?

16 Q. Where would the face be, here, at the end of the  
17 yellow?

18 A. It was about a break in front of the feeder.

19 Q. A break in front of the feeder?

20 A. Yes. See, where we're ---.

21 Q. Okay. Would that be over at One entry or ---?

22 A. I think this is the beltline right here. It would  
23 have been probably this entry.

24 Q. In Number Two?

25 A. Yeah. Wherever the --- no, if this is the

1 beltline, I was right in front of the feeder.

2 Q. Okay.

3 A. But I don't know where the feeder would have been  
4 on the map. See what I'm saying?

5 Q. Right. Just a rough guess. So you're saying it  
6 was in the Number One ---?

7 A. Yeah.

8 Q. How many breaks outby the face?

9 A. I don't recall. I don't ---.

10 Q. Was all the --- could you tell us anything about  
11 the ventilation control? Was the curtains up? Could  
12 you go into that a little bit?

13 A. Best I remember, all the curtains was up.

14 Q. How about the air up there on that section?

15 A. I know they had air trouble. That's all I know.

16 Q. Had they had any recently, like recent weeks or  
17 anything ---?

18 A. Not that I know of, but it was just always the  
19 talk, air trouble. I mean, that's all I can tell you.

20 Q. What about the roof conditions up there and ribs?

21 A. When I was up there, I didn't notice nothing out  
22 of the ordinary. Like I say, I didn't go up there  
23 every day.

24 Q. Was there any water conditions up there? Did you  
25 run into water traveling up to Headgate 22 or ---?

1 A. Not that I recall. Nothing no more than --- you  
2 know, might have been a little bit here or there.

3 Q. Did you all detect any methane over in the  
4 headgate/face area where you was cutting and welding  
5 there?

6 A. No. I mean, the most I ever detected in the whole  
7 mine outby is .3 percent.

8 Q. And what area was that?

9 A. Probably it was in the return when we was checking  
10 the intake phone, but I don't --- that's been a year  
11 ago.

12 Q. Have you heard if anybody detecting methane  
13 anywhere else in the mine, the longwall, face,  
14 Headgate 22 or Tailgate 22, that they had mentioned  
15 that you heard of that there was a high amount or ---?

16 A. Just I heard maybe on the longwall, but I'm not  
17 sure. I just heard --- you know, you hear people  
18 talking in the mine. I heard they'd hit gas. That's  
19 all I heard. Like over the weekend, that weekend we  
20 was off.

21 Q. So had you --- did you notice anything about ---  
22 while we're in this area, in the headgate, was it ---?

23 ATTORNEY HAMPTON:

24 Can we mark maybe with an X, the area  
25 that we're discussing right now on this map maybe in

1 orange because that will show up better?

2 A. The headgate? You're talking about One section  
3 headgate?

4 ATTORNEY HAMPTON:

5 Yeah. Yes.

6 A. Like I say, I don't know where the feeder would  
7 have been.

8 ATTORNEY HAMPTON:

9 You can generally circle the area.

10 A. Okay.

11 ATTORNEY HAMPTON:

12 And label that ---.

13 MR. FARLEY:

14 If I got you correctly, you were on that  
15 section about two weeks before ---?

16 A. Before the explosion, yes, sir.

17 MS. MONFORTON:

18 And that was the general area where the  
19 miner was, is what you ---?

20 A. That was the general area. It wasn't in the face.  
21 It was back --- it was just directly in front of the  
22 feeder, but you don't know where the feeder was.

23 MR. FARLEY:

24 It was one crosscut inby the feeder ---?

25 A. The feeder is here.

1 MR. FARLEY:

2 At that time?

3 A. Yes, sir.

4 MR. FARLEY:

5 Whatever that was.

6 ATTORNEY HAMPTON:

7 Maybe label that as two weeks prior to  
8 accident.

9 WITNESS COMPLIES

10 ATTORNEY HAMPTON:

11 And I'm going to mark this exhibit ---

12 this is 1/200 scale map, focusing on the longwall and  
13 Headgate 22 area. This exhibit will be marked as Two  
14 Farley 6/16/10.

15 (Farley Exhibit Two marked for  
16 identification.)

17 BY MR. MAGGARD:

18 Q. Getting back on the floor, have you ever noticed  
19 any cracks or heard anybody talk about the bottom  
20 cracking, hooving up or anything and detecting any  
21 methane? Could you talk about that?

22 A. No, not in the recent --- in years past I heard  
23 it, like on some of these other headgates, but none of  
24 this. I mean, not new stuff, no.

25 Q. And you said that the rib conditions were good up

1 here and the roof conditions, is that right, or ---?

2 A. The best I recall ---.

3 Q. Was it good or fair or ---?

4 A. I mean, I was up there, like I say, maybe once a  
5 month. I mean, I don't remember. But where we was  
6 at, everything was good. Roof, ribs, everything was  
7 good. I hadn't heard no complaints about roof and  
8 ribs.

9 Q. So let me ask you a little bit about doors, double  
10 doors in the mine. Have you ever seen double doors  
11 left open, two doors left open in the mine?

12 A. Like just one set of double doors?

13 Q. Yeah.

14 A. Yeah, I have.

15 Q. And how often did you find it left open?

16 A. Maybe once a week.

17 Q. And when was that? Why wasn't they closed? What  
18 would you say the reason was?

19 A. Somebody was just too lazy to get out of the ride  
20 and shut them.

21 Q. And could you kind of show us what areas that you  
22 might have went through double doors ---

23 A. That would have been ---.

24 Q. --- and the ones that you've seen open the most?

25 A. Okay. I'm looking for the mainline going ---

1 where is the split?

2 Q. Seventy-eight (78).

3 A. Seventy-five (75) Break. Right here. Back here.

4 Q. Okay. Several doors up through here.

5 A. That's the ones I'm talking about.

6 Q. You're talking about between 75 and 85, right, two  
7 sets of double doors? You can mark those on the map.

8 A. Okay. That's the ones we frequently --- the ones  
9 I found there.

10 ATTORNEY HAMPTON:

11 The witness is marking the area with the  
12 pink marker. This is Exhibit Number Two. And he is  
13 drawing an arrow and labeling it doors open ---

14 A. Sometimes.

15 ATTORNEY HAMPTON:

16 --- sometimes.

17 A. I mean, you know, if I found them open, I'd shut  
18 them. You can't go through one set and leave the  
19 other set open.

20 BY MR. MAGGARD:

21 Q. Would you notice a change in air direction, you  
22 know, when you was going --- you know, going through  
23 them? Could you talk about that, and do you think  
24 that might have been causing air reversals or ---?

25 A. No. I mean, I didn't notice no air difference. I

1 just know to shut the door. I didn't notice nothing.

2 Q. Did you notice the doors being damaged very often?

3 A. Yeah. They were damaged quite often.

4 Q. What about two weeks prior to the accident, do you  
5 remember anything about the doors?

6 A. No.

7 Q. Could you kind of show us maybe from 70 --- Break  
8 78 there ---

9 A. Right here.

10 Q. --- on up through here to Headgate 22 and how you  
11 traveled up through there?

12 A. The best I remember, it's been so long, the  
13 mainline, you just come to the switch and go around  
14 the curve, stay straight, there's another --- they was  
15 setting up a longwall panel up here.

16 ATTORNEY HAMPTON:

17 Could you draw your path using the pink  
18 marker?

19 A. Well, I don't know which one's the roadway.

20 BY MR. MAGGARD:

21 Q. That's the beltline.

22 A. The orange is the beltline?

23 Q. Yeah, right through here.

24 A. So the road would have been here; right?

25 Q. We're just saying that it would have been through

1 here ---

2 A. Up the yellow ---.

3 Q. --- if you went through the double doors.

4 A. You go through the doors --- the doors are on the  
5 track.

6 Q. Okay.

7 A. Well --- see, I don't know where the road is --- I  
8 mean, the track.

9 Q. I don't know if this map over here ---. Does the  
10 track run along the beltline any up through here ---

11 A. Yes.

12 Q. --- in Six North and Seven North?

13 A. Yeah. Your track would be here and then the  
14 beltline is one break over.

15 ATTORNEY HAMPTON:

16 Okay. Please, I would like to remind you

17 that when you say here and point to the map, that is  
18 not going to come through on the transcript at all.

19 So we need to be using our words to describe the area  
20 or draw a path on the map.

21 A. I can't draw a path until I figure out where I'm  
22 at.

23 ATTORNEY HAMPTON:

24 That's fine, but ---.

25 MS. MONFORTON:

1 Maybe we can go off the record.

2 ATTORNEY HAMPTON:

3 Yeah, we can go off the record.

4 OFF RECORD DISCUSSION

5 ATTORNEY HAMPTON:

6 So let's go back on the record. The  
7 witness is looking at Exhibit Number Two, and he is  
8 now going to draw the path that he took in an orange  
9 marker. And this is his best guess as to the path.

10 A. So draw it from 75 Break, ---

11 ATTORNEY HAMPTON:

12 Correct.

13 A. --- is that what you're saying, to that headgate?

14 WITNESS COMPLIES

15 ATTORNEY HAMPTON:

16 Could you maybe darken that? It's very  
17 hard to see.

18 WITNESS COMPLIES

19 MR. O'BRIEN:

20 Now, your double doors was down here?

21 A. Yeah. Yeah, right here.

22 MR. O'BRIEN:

23 So are you ---?

24 A. Right here. I'm sorry. Do you want me to just  
25 mark this out?

1 ATTORNEY HAMPTON:

2 How about let's choose a new color.

3 Let's take the green ---. Okay. We are now changing  
4 the path slightly. Disregard the path in orange, and  
5 we are going to redraw the path in green.

6 WITNESS COMPLIES

7 ATTORNEY HAMPTON:

8 Okay. And could you draw a line and  
9 label this as estimate of path taken on the track?

10 WITNESS COMPLIES

11 BY MR. MAGGARD:

12 Q. Okay. With all that ---

13 A. Sorry.

14 Q. --- being took care of, you normally --- you rode  
15 the track a lot at this mine; right?

16 A. Yes, sir.

17 Q. And you examined the belt drives, probably some of  
18 them; is that correct?

19 A. I took care of the distribution boxes.

20 Q. You did that up for a weekly exam or monthly exam?

21 A. Weekly and monthly.

22 Q. Okay. So a lot of these distribution boxes, are  
23 you talking about belt power centers and distribution  
24 boxes or just distribution boxes?

25 A. Just distribution boxes.

1 Q. Okay.

2 A. Not the belt heads, not the power centers.

3 Q. How often did you travel or get around belt heads  
4 or belt conveyors, I mean, other than riding the track  
5 and being adjacent to them and looking at them? How  
6 often --- did you see them quite often?

7 A. About every night.

8 Q. Okay. What condition were the beltlines in, in  
9 your opinion?

10 A. In my opinion, they were good.

11 Q. And as far as rock dusting goes, was it well rock  
12 dusted or fair or less than fair?

13 A. I would say fair.

14 Q. Okay. What about accumulation? Did you ever  
15 notice any accumulations along the belt there at UBB?

16 A. Coal dust or ---?

17 Q. Coal dust, coal, gob-offs? Just tell us what ---.

18 A. I didn't notice nothing out of the ordinary. I  
19 mean, ---.

20 Q. When you were there on third shift, was there a  
21 rock dust crew on that shift or was ---?

22 A. Yes. I don't know about every night, but several  
23 nights a week we had a rock dust crew.

24 Q. And how many was on that crew?

25 A. Two that I remember.

1 Q. And were they working prior to the accident?

2 A. That night or ---?

3 Q. Yes, days prior or ---.

4 A. I don't recall.

5 Q. Had you been to the silo portal area or East Mains  
6 Portal area, East Mains belt? Do you go down in the  
7 south side of the mine any?

8 A. Yeah, very rarely.

9 Q. When was the last time you was in that area?

10 A. Probably, I'd say, maybe a month before this  
11 happened.

12 Q. Did you examine boxes in that part of the mine or  
13 just in the north part?

14 A. Just the north part.

15 Q. What boxes? Where are they located that you  
16 examined them? And I can get back up on this map on  
17 the board here. Just kind of ---.

18 A. I can't --- I got to have breaks.

19 ATTORNEY HAMPTON:

20 Let's go off the record.

21 OFF RECORD DISCUSSION

22 ATTORNEY HAMPTON:

23 Let's go back on the record. We are not

24 going to be marking the area where the boxes are at  
25 this point.

1 BY MR. MAGGARD:

2 Q. You normally portal from what area?

3 A. UBB side.

4 Q. Is that the North Portal?

5 A. Yeah.

6 Q. Okay. And you checked which box --- where is the  
7 boxes you checked from North Portal up to what point  
8 up to the sections? How far do you normally go?

9 A. Up to the mouth of One and Two section on the  
10 mainline and then I have one D box at 160 Break, all  
11 the way up.

12 Q. Okay.

13 A. I can't remember what they called that.

14 Q. And you're talking about toward the Glory Hole  
15 area?

16 A. Yes.

17 Q. Was that box midway of Eight North or could you  
18 kind of give us a roundabout area it was in?

19 A. It was towards the end.

20 Q. Towards the end?

21 A. Yeah.

22 Q. Okay. Could you kind of tell us what was fed off  
23 of those two boxes?

24 A. It was just a two-panel distribution box and a  
25 pump was fed off of it.

1 Q. Was it one pump or two pumps?

2 A. One.

3 Q. And where was that pump located?

4 A. I don't know where the pump went to.

5 Q. Was it --- how close was --- can you kind of mark  
6 a general area on the map how close the --- you know,  
7 the Glory Hole is in this area right here. Let's see.  
8 I'm way off.

9 A. Yeah.

10 Q. In this area right here. And was it in close to  
11 that area or was it up in Eight North here?

12 A. I had one here at the Glory Hole for sure that I  
13 remember.

14 ATTORNEY HAMPTON:

15 The witness is circling the area in blue  
16 on Exhibit Number Two, and he's drawing a line and  
17 labeling this ---.

18 A. Distribution box.

19 ATTORNEY HAMPTON:

20 Dist box?

21 A. Distribution box, yeah. And you're calling this  
22 what?

23 BY MR. MAGGARD:

24 Q. Eight North.

25 A. I had a box plum at the end up here. I guess ---

1 I don't know what it's called. I never heard it  
2 called Eight North. North Mains is what ---.

3 Q. Okay. Just kind of --- on this map right  
4 here --- go ahead.

5 A. What is this here, the end?

6 Q. Yeah. This is --- I don't know if they called  
7 that --- this map is terrible.

8 A. I always called it North Mains.

9 Q. Okay. I understand that there's a pump in here at  
10 this area of the map close to what they're showing to  
11 be Break 165.

12 A. Okay. And here was my box. Let me see. This is  
13 the break right there.

14 Q. That's Break 160.

15 A. Yeah. That's where the distribution box was.

16 ATTORNEY HAMPTON:

17 Right now the witness is labeling the  
18 second area as Dist Box Two, and we are again  
19 referencing Exhibit Number Two.

20 BY MR. MAGGARD:

21 Q. And when you examined these boxes, did you examine  
22 them alone?

23 A. Most of the time I had somebody with me, but I  
24 have done this one several times alone, ---

25 Q. Okay.

1 A. --- at 160 Break.

2 Q. Okay. And did the company supply you with a  
3 multi-gas detector?

4 A. Yes.

5 Q. And did you carry it with you at all times?

6 A. Yes, when I wasn't with the chief that had one on  
7 him.

8 Q. And when you left the company, but before that,  
9 what did you do with your gas detector?

10 A. I left it in the desk drawer in the electrician's  
11 office room.

12 Q. Did it have your name on it?

13 A. No. We just got whatever we can --- whichever one  
14 we could get.

15 Q. What type would you normally pick up when ---?

16 A. Solaris I believe is the name of it.

17 Q. Okay. And when you was wearing your Solaris, did  
18 you ever detect any methane? Had you ever been right  
19 at the Glory Hole?

20 A. Yes. Yes, I have.

21 Q. Have you ever detected any methane in that area?

22 A. No, I did not. I didn't.

23 Q. What about up here, where you put Distribution Box  
24 Two, in this area? Have you ever detected any up  
25 there?

1 A. I started up in here. I turned it on and I went  
2 up there, and no, I didn't detect any. No, I did not.

3 Q. Could you --- how was --- let me change there.

4 Let's get back on the belt entries ---

5 A. Okay.

6 Q. --- that you were in. How did the air normally  
7 travel in the belt entries from, let's say, the Ellis  
8 belts on the Ellis Portal side all the way up to the  
9 Seven North belt? How did that travel, the air  
10 direction, if you know?

11 A. It seemed like it was hitting you like towards the  
12 back of the head.

13 Q. Okay. And that's looking inby?

14 A. If you're traveling in, it was going with you.

15 Q. Okay. Was there any areas --- beltlines that you  
16 were in that the air felt like it was hitting you in  
17 the face looking inby?

18 A. Not that I recall.

19 Q. And did you ever take care or help with installing  
20 any CO sensors in the mine or ---?

21 A. I've been with the two chiefs when they installed  
22 them. I didn't actually do it myself, no.

23 Q. And in relations to head drives and tailpieces,  
24 where would they install the CO sensors, inby or outby  
25 or ---?

1 A. Usually have one inby and one outby. And then  
2 it's supposed to have been one every ten breaks along  
3 the belt.

4 Q. Okay.

5 A. But our dayshift electricians took care of the CO.  
6 The only reason we would --- they would change one is  
7 if one was bad, like that night, and I was usually  
8 with them.

9 Q. Did you have your own personal radio?

10 A. Yes.

11 Q. And could you tell us a little bit about the  
12 system, how well it worked or if there was areas you  
13 couldn't --- it wouldn't work for you?

14 A. Yeah. There was areas it would not work. Like if  
15 somebody --- like if they was doing a belt move and  
16 the power knocked, they knocked the power down to the  
17 --- like say down to the box, wherever it was, you  
18 know, you wouldn't have it from there.

19 Q. How far up on the sections would it work? I know  
20 you've been, you know, to the headgate section, to the  
21 tailgate section.

22 A. When we first got them, it would work all the way  
23 to the face. And then we got orders not to use them  
24 because they would start up the mining. The head  
25 could not automatically start up, so we had to leave

1       them at the power center.

2       Q. How far away could you get from the cable to  
3       before you'd lose the signal?

4       A. Not --- I'm not sure.

5       Q. When you entered the mine from the North Portal,  
6       did you have any contact with the dispatcher so they'd  
7       know where you was going or how did that work?

8       A. Yeah. Like when we'd get ready to go underground,  
9       you'd holler to the dispatcher and ask for the road,  
10      and he'd tell you how far you could go, where to spur  
11      up and what was coming.

12      Q. Did you ever watch the dispatcher, you know,  
13      outside, in the office, doing his duties?

14      A. I didn't pay no attention. Not really.

15      Q. Did you ever notice him writing stuff down,  
16      keeping logs or have anything you could tell us?

17      A. I know they was supposed to keep a log. I don't  
18      know --- I don't know if ---.

19      Q. When you were underground, was you ever  
20      underground when an inspector arrived?

21      A. Yes.

22      Q. And could you tell us, would you know that he was  
23      coming or not know or ---?

24      A. Sometimes.

25      Q. And tell us about the times that you did know.

1 A. Well, just --- I just heard there's an inspector  
2 on the property.

3 Q. And would they call on the radio or call on the  
4 telephone and tell you that or ---?

5 A. I don't know how they found out. I know that when  
6 there was one coming, they knowed it.

7 Q. Was that nine out of ten times or seven out of ten  
8 times?

9 A. Yeah, probably nine out of ten.

10 Q. Okay.

11 A. But like I say, I don't know how they got the  
12 information. I don't know.

13 Q. Had you ever witnessed or been --- or had to have  
14 come in early or witnessed a section running coal?

15 A. Have I ever seen them running coal?

16 Q. Yeah.

17 A. Yes.

18 Q. And when you were there --- let's say when was the  
19 last time and what section, can you remember, that you  
20 were there when they were running it?

21 A. Well, probably about three weeks before this  
22 happened. We'd --- well, no two weeks. It was the  
23 morning --- the morning of this.

24 Q. Okay.

25 A. That's what I'm talking about.

1 Q. So ---.

2 A. And they was having air trouble that morning  
3 because one of the guys came around and said that they  
4 was having air trouble, and the boss wouldn't start up  
5 until he got the air right.

6 Q. And did you watch them start up?

7 A. No. I just --- we was just down here, getting  
8 ready to go outside, and I just remember talking to  
9 him. No, I didn't see them actually run. But I know  
10 he didn't start up because of the air. That was --- I  
11 don't know if you want names or not. I mean, they're  
12 deceased. Dino.

13 Q. Had you heard any of the men talk about  
14 issues ---? I probably already asked this, but any  
15 kind of --- have you ever heard them express any kind  
16 of safety concerns on the sections and ---?

17 A. Just air.

18 Q. Just air. Had you ever heard them discuss maybe  
19 bridging out methane monitors or bypassing them in any  
20 way on the sections to keep equipment running?

21 A. The only way --- I have seen them bridged out long  
22 enough to back it out and get out of the way and then  
23 fix it, but never to run coal.

24 Q. Prior to coming here, had you ever been  
25 interviewed by any of Massey's attorneys?

1 A. No, I didn't. They didn't talk to me. But like I  
2 said, I don't even work for them now.

3 Q. Is there anything --- you was there that morning,  
4 on April the 5th?

5 A. Yes, sir.

6 Q. What time did you leave?

7 A. I come outside --- we come out about ten o'clock  
8 that morning, and there was an inspector there that  
9 morning. And he was checking --- he checked every one  
10 of our rides and he come out.

11 Q. Could you tell us about when was the last time  
12 that you were involved with an escapeway drill or  
13 evacuation drill or ---?

14 A. I can't recall. I don't know.

15 Q. Have you ever been involved in one?

16 A. In an evacuation drill? Like walking outside?  
17 Yeah, I've done that.

18 Q. And how often would they do that with you?

19 A. I can't recall. I don't remember. Not enough.

20 Q. What did you say, Brian?

21 A. What is it? I said probably not enough. I don't  
22 remember how many times.

23 Q. Can you remember the last one you did?

24 A. Well, it seemed like --- what's getting me, I was  
25 off, hurt. I had (b)(7)(C)

1 (b)(7)(C) in a three-year period. I just had come  
2 back to work in January. I had been off like eight  
3 months.

4 Q. Did you have lost ---?

5 A. Lost time?

6 Q. Yeah.

7 A. Yes, sir.

8 Q. Okay. Had you ever worked light duty?

9 A. No. They wouldn't let me. No.

10 Q. And how did you --- I mean, how did you get  
11 injured? What occurred? How did you report it  
12 and ---?

13 A. I was re-entering a miner cable, and a boot pleat  
14 got hung on chain and snapped them. Then like I say,  
15 it never got right, and I just kept going to the  
16 surgeon until it got better, until it got right.

17 Q. Did you go to the hospital right away or ---?

18 A. Yeah.

19 Q. And what did the company --- did they discipline  
20 you for that or did they say anything to you or ---?

21 A. I'm going to say they didn't. Nobody never gave  
22 me a hard time at all. And that was (b)(7)(C)  
23 and I was off three times, and they never said a word.

24 Q. Could you tell us about the --- what the S1  
25 program is all about?

1 A. Well, in my opinion, they always preached S1, but  
2 I really don't know what S1 --- I know safety first.  
3 That's all I know about.

4 Q. Did they talk about P2, what that meant?

5 A. Yeah. I always heard P2, but I don't even know  
6 what it means, to be honest with you. I mean, ---.

7 Q. Do you feel that the company is more production  
8 oriented or more safety oriented?

9 A. I would say it depends on --- I'd say the company  
10 is safety, but it depends on your mine foreman --- or  
11 not the mine foreman, but the superintendent. I  
12 believe the company is safety oriented, like from the  
13 top.

14 Q. Had you ever noticed --- you know, we've touched  
15 on ventilation just a little bit. Have you ever been  
16 involved with or been in the mine when they've had to  
17 make ventilation changes, you know, regulators, sort  
18 of major changes?

19 A. I don't know how major it was. I was in their one  
20 ventilation change.

21 Q. And what was the problem?

22 A. I don't know the problem. They didn't tell me the  
23 problem. They just told me to stay at the power  
24 center and when they hollered, to put the power back  
25 in. They knocked the power to One and Two section in

1 the longwall. And I can't remember how long ago this  
2 was.

3 Q. Can you give a rough estimate?

4 A. I would say maybe a month before this happened,  
5 before April 5th.

6 Q. And who was working on the ventilation changes?

7 A. Wayne Persinger, Berman, I don't know his last  
8 name.

9 Q. Would that be Berman Cornett?

10 A. The safety --- yes. And there was another guy  
11 they had there for the air. I can't remember his  
12 name. Walker maybe, Jim Walker.

13 Q. Okay.

14 A. I'd say I was just told to go down --- I don't  
15 know what the problem was. I just was told to go to  
16 the power center, and then they hollered, to put the  
17 power back in.

18 Q. Okay. You don't know where they was located,  
19 where they was having problems?

20 A. In between One and Two section.

21 Q. Okay.

22 A. See, they were side to side. It was up in there  
23 somewhere. Like I say, they didn't tell me nothing.

24 Q. And where was you at to --- which circuit did you  
25 de-energize?

1 A. Well, actually I didn't have to. They had a  
2 longwall electrician already there. Me and him just  
3 stood there and talked, and he put the power in it.  
4 But we was there together.

5 Q. Okay. Was he --- did you ---?

6 A. It's, like I told you, One and Two section ---  
7 see, I'm talking to myself. Again, I got to get  
8 through this.

9 Q. It's okay.

10 A. You go down around the curve. I don't know --- it  
11 would probably have been right in here.

12 ATTORNEY HAMPTON:

13 Okay. Could you mark this area that  
14 you're pointing to with the pink marker?

15 A. Like I say, I'm not exact because I don't have  
16 the ---.

17 ATTORNEY HAMPTON:

18 It's okay. It's an estimate. And label  
19 that ---.

20 A. Splitter box.

21 ATTORNEY HAMPTON:

22 Splitter box. And again, we are  
23 referencing Exhibit Number Two.

24 A. This is for the longwall panel. Okay. It was  
25 labeled with Splitter Box Longwall and Panel

1 MR. MAGGARD:

2 I'm going to pass it over to these folks,  
3 and then I'll get back to you.

4 EXAMINATION

5 BY MR. FARLEY:

6 Q. I think you indicated that you were on what you  
7 felt was the One section, which is what I call the 22  
8 Headgate section.

9 A. Right.

10 Q. I think you indicated you were on what you call  
11 the One section and what I would call 22 Headgate  
12 section ---

13 A. Yes, sir.

14 Q. --- two weeks prior to the accident. Now, you  
15 were about one crosscut inby the feeder?

16 A. Yes, sir.

17 Q. Did you happen to walk in the outby direction down  
18 the belt at any time?

19 A. No, just that morning when we got ready to go to  
20 the men's room.

21 Q. Okay. How far?

22 A. I'd say it was 10 to 12 breaks.

23 Q. In the outby direction?

24 A. Yeah.

25 Q. What do they look like?

1 A. Best I remember, they looked good.

2 Q. Okay.

3 A. I mean, I can't --- I just hurried to get the  
4 mantrip and go home. I'm not going to drive nothing.

5 Q. Okay. It's all right. We don't want you ---.

6 A. I know that. I mean, ---.

7 Q. Now, at any time this year, as you went about your  
8 mine doing your checking work, you would ---  
9 electrical installations and so forth, did you travel  
10 any of the beltlines within their entirety from one  
11 end to the other?

12 A. Yes, I have.

13 Q. Which one?

14 A. I've been to Two section, which it was already  
15 shut down. When I shut it down, I went and retrieved  
16 the distribution box. Not this one. See, I'm  
17 getting --- the starter box. The starter box.

18 Q. That's what you did on April the 5th?

19 A. Yeah. When we went and got to the starter box for  
20 the new belt head, I'd been at that beltline. But  
21 like I say, it hadn't run coal. It was already shut  
22 down. It was terrible.

23 ATTORNEY HAMPTON:

24 We are now looking at what is marked as

25 Exhibit Number One.

1 A. But the same time I'm talking about, I was with an  
2 inspector, and he shut them down.

3 BY MR. FARLEY:

4 Q. Which belt was that now?

5 A. That's the old Two section, which would have been  
6 down in here.

7 Q. Now, when was this?

8 A. Probably six months before it started.

9 Q. Okay.

10 A. I was with an inspector, and he shut them down  
11 right then.

12 ATTORNEY HAMPTON:

13 Could you circle the area on Exhibit  
14 Number One in the blue marker?

15 WITNESS COMPLIES

16 BY MR. FARLEY:

17 Q. That's about six months prior to the explosion?

18 A. Yes. Yes.

19 Q. Now, during the year 2010, let's say, did you  
20 travel any days?

21 A. Yeah.

22 Q. Which one?

23 A. The mainline belt.

24 Q. Okay.

25 A. Just like --- I couldn't actually drive beside

1           them.  They were one break over.

2           Q.  But did you walk from one end of the belt to the  
3           other?

4           A.  No, never done that.  No, not the whole beltline.

5  ATTORNEY HAMPTON:

6  Could you please circle that area in blue  
7           and write six months earlier?

8           A.  Well, I didn't actually walk it.

9  ATTORNEY HAMPTON:

10  Okay.

11          A.  I didn't understand your question.

12  BY MR. FARLEY:

13          Q.  My question is, did you travel from one end of the  
14          belt to the other?  Did you travel the belt in its  
15          entirety?

16  ATTORNEY HAMPTON:

17  Got it.

18          A.  And no, I did not.

19  ATTORNEY HAMPTON:

20  Okay.  Then we will not be marking  
21          Exhibit Number ---?

22          A.  Unless I misunderstood it.

23  BY MR. FARLEY:

24          Q.  While we have a map out, Exhibit One, you marked  
25          an area where you --- on April the 5th, 2010, during

1 your shift, you traveled to that point to pick up a  
2 box, starter box?

3 A. Correct.

4 Q. When you --- you traveled the track entry to about  
5 seven --- Break 78; correct?

6 A. Correct.

7 Q. Okay. Now, is there a track in the entries on  
8 that tailgate side of the longwall to the area where  
9 that starter box was?

10 A. Yes.

11 Q. Is that how you traveled to that area?

12 A. Yes. And there's a door --- you go through a  
13 door. I don't know what break it was.

14 Q. Okay. That being the last shift you worked there?

15 A. Uh-huh (yes).

16 Q. And what --- give me a sense of what you saw when  
17 you traveled from 78 to the area where that starter  
18 box is located.

19 A. Just old beltline, old structure. They'd been  
20 repairing structure and belt. Everything was just  
21 tore down, and I just retrieved it.

22 Q. Did the area appear that it needed to be rock  
23 dusted?

24 A. Down in there, yes, sir.

25 Q. Now, when you say it needed to be rock dusted, was

1 it black?

2 A. That's fair. That's fair.

3 Q. Okay.

4 A. I mean, it wasn't black.

5 Q. Okay. All right. How long did it take you to get  
6 that starter box out of there?

7 A. I'd say it took us 20 minutes, because there was  
8 no power going up in there. Power was took out at the  
9 mouth of the section.

10 Q. Okay.

11 A. And we did shut the door because I done it myself.

12 Q. Okay. So what other equipment was in that area?

13 A. Where we was in here, just ---.

14 Q. Where you picked up the starter box.

15 A. Nothing. That was the last thing to come out of  
16 it was the starter box.

17 Q. Okay.

18 A. Just --- well, there was old belt head and just  
19 the rock bottom.

20 Q. Okay. Now, what time were you in that area before  
21 you picked the starter box?

22 A. I would say eight o'clock that morning.

23 Q. 8:00 a.m.?

24 A. Yeah, 8:00 a.m.

25 Q. Okay.

1 A. Because we took it straight down there and got the  
2 rock.

3 Q. Okay. Now, as you were traveling to and from 78  
4 on the mainline track, was there any area between the  
5 78 Break, 78 Crosscut in the Ellis Portal where you  
6 encountered any dust?

7 A. Like just dust in the air?

8 Q. Dust in the air. Dust in the air.

9 A. No. Just we had rock --- them power dusters, they  
10 called it. That was the only dust that was in the  
11 area, that was rock dust.

12 Q. Did you have any --- at any point that you  
13 traveled through that area, did you get any sense of  
14 any location where it was more difficult to breathe  
15 than others?

16 A. No. There was nothing out of the ordinary that  
17 morning.

18 Q. Okay. Did you --- as you traveled particularly  
19 inby the Ellis Switch towards 78 Crosscut, did you  
20 have any burning sensation in your eyes or anything?

21 A. No. I don't recall. No.

22 Q. Okay.

23 A. I mean, if I did, I didn't notice. I guess it  
24 would have been ---.

25 Q. Okay.

1 A. Like I say, I didn't see nothing out of the  
2 ordinary.

3 Q. Okay. Are you aware of any air change made during  
4 your last shift at UBB?

5 A. No.

6 Q. Did you notice any unusual --- I don't want to say  
7 unusual people, but any people during your last shift  
8 who would not routinely be there?

9 A. Not in my last shift. There was one during the  
10 week that Blanchard come underground and said he was  
11 going to help on the air change.

12 Q. When was that?

13 A. I'd say a week before ---

14 Q. Okay.

15 A. --- this happened. I hardly ever seen him  
16 underground. That's the only other unusual person I  
17 seen.

18 Q. And you saw him walking during your owl shift?

19 A. Actually, I didn't see him. I heard him holler  
20 for a road on the phone. And he went to 78 Break,  
21 stayed about --- said he had to check something. I  
22 was listening on the phone. Said he had to check  
23 something and then he went straight back outside.  
24 That's all I know.

25 Q. The best you can estimate?

1 A. Yeah. I was just listening on the phone about a  
2 week.

3 Q. About a week.

4 A. But I don't know what he did or where he went.

5 Q. Okay.

6 A. I don't know.

7 Q. When you were welding on 22 Headgate,  
8 approximately two weeks before the explosion, one  
9 crosscut inby the feeder, if the welding smoked, did  
10 you move away from the area slowly or quickly?

11 A. I was welding --- I would take turns welding with  
12 the chief. When I was welding it was layered right in  
13 the face.

14 Q. All right.

15 A. That might have been when I was in --- I didn't  
16 know. I don't know how air is supposed to work.

17 Q. How far was the face from the coal feeder at that  
18 time?

19 A. I'd say ---.

20 Q. How many open crosscuts did you have inby the  
21 feeder?

22 A. I'd say four, three-and-a-half, four.

23 Q. Okay.

24 A. I'd say the smoke when I was down in the hole ---  
25 in the fan, I don't know. I don't know air.

1 Q. Okay.

2 EXAMINATION

3 BY MS. MONFORTON:

4 Q. Just a couple of follow-up questions just so I  
5 make sure I understand what you were testifying to.  
6 So you indicated that maybe about a month before the  
7 explosion, that Wayne Persinger, Jim Walker and maybe  
8 Berman Cornett were working on some ventilation  
9 changes?

10 A. Yes.

11 Q. Just to clarify, was that on your hoot owl shift?

12 A. Yes.

13 Q. Okay.

14 A. That was during the hoot owl.

15 Q. And then you also indicated that Mr. Blanchard was  
16 --- you heard this --- you heard on the phone about a  
17 week before the explosion that he was also helping  
18 with some ventilation changes. Was that also on the  
19 hoot owl shift?

20 A. Yes.

21 Q. Was that during your shift?

22 A. Well, actually, it was --- we was getting --- we  
23 was fired up and getting ready to go outside. It  
24 would have been that morning.

25 Q. So the end of your hoot owl ---?

1 A. Yeah, the end of the hoot owl shift. But the air  
2 change was done during the hoot owl.

3 Q. Okay. Thank you. I also think I heard you  
4 testify about the man doors, and you would --- maybe  
5 once a week or so you would see the man doors ---.

6 A. Not man doors, the mainline doors.

7 Q. Mainline doors.

8 A. Man doors are in the stoppings.

9 Q. Okay.

10 A. It's the --- we call them mainline doors.

11 Q. Okay. The mainline doors.

12 A. You know, you had to get out and open them by  
13 hand. And if somebody didn't want to go through, just  
14 they didn't want to shut them.

15 Q. Okay. Was there some reason that the latch didn't  
16 work or the ---?

17 A. Just the remote control and --- maybe that didn't  
18 work or something. They just --- but you can get out  
19 and shut them manually.

20 Q. Okay.

21 A. I don't know if they were working at that time or  
22 not. Probably not or they would have pushed the  
23 button.

24 Q. You talked a little bit about the (b) (7)(C) that  
25 you had and you had to have (b) (7)(C) on

1 that.

2 A. Yeah, three.

3 Q. And just to clarify about light duty, was it your  
4 doctor who didn't want you to do light duty?

5 A. No, Massey.

6 Q. Massey didn't want you to do light duty?

7 A. Yeah. I tried.

8 Q. And you've been working at ICG now after the  
9 explosion. Was there a particular reason that  
10 you ---?

11 A. They transferred everybody. They didn't lay  
12 nobody off. They sent me from way off, and I just  
13 didn't want to drive that far. And I knew --- I  
14 didn't know nobody at that mines, and up here at ICG I  
15 know about ten other guys, and I just wanted to be  
16 around them.

17 Q. Okay.

18 A. And that's just the truth.

19 RE-EXAMINATION

20 BY MR. MAGGARD:

21 Q. Had you ever been through a smoke search at the  
22 mine?

23 A. Yes. Yes, I have.

24 Q. Did they do that regularly?

25 A. No.

1 Q. How often would you get searched?

2 A. Maybe once every two months, but I have been  
3 searched.

4 Q. Was you involved with the annual refresher  
5 training in March ---?

6 A. Yes, I did.

7 Q. Could you tell us a little bit about that? How do  
8 you feel their training program was? Do you  
9 think ---?

10 A. Yeah, I thought it was --- I thought it was all  
11 right. We had the smoke traveling. I don't know what  
12 it's supposed to be, but I liked it. I don't know how  
13 else to answer.

14 Q. During that training program, did you have to fill  
15 out a company survey?

16 A. No. That was before that. Everybody filled out  
17 surveys. Everybody that wanted to fill --- it wasn't  
18 mandatory, but it was confidential.

19 Q. Did they tell you anything about the results of  
20 that survey?

21 A. Yes. Wayne Persinger did. Yes, he did.

22 Q. And what do you recall that he said about that?

23 A. He said that it was --- I can't remember his exact  
24 words. He said it was poor. Everybody rated the  
25 place poor, and he was there to change things. He

1 wanted to make everything better. But he couldn't do  
2 it in a month. My opinion, Wayne Persinger was trying  
3 to ---.

4 Q. Could you --- when you go in these areas outby and  
5 you're all alone, do you turn your Solaris on from  
6 time to time or --- can you tell us how you normally  
7 do your checks and ---?

8 A. I leave my Solaris on all the time. When I'm by  
9 myself --- like when I go to 160 Break, I'd turn it on  
10 and I left it on.

11 Q. Did you notice any other people that were working  
12 outby alone or wherever alone that didn't have  
13 the ---?

14 A. I didn't notice, but I'm sure there was. I  
15 can't --- I didn't notice.

16 Q. How many guys worked on your crew on the third  
17 shift?

18 A. On the whole hoot owl?

19 Q. Yeah.

20 A. Well, you had just the gate, you had the longwall  
21 up there. It was the same amount, about the same  
22 amount it --- I mean, on the hoot owl. I'd say  
23 probably 40. I don't know. There's three on my crew,  
24 me and two chiefs.

25 Q. You said that Billy Graham was your boss?

1 A. Yeah.

2 Q. And who was his boss? Can you kind of talk ---?

3 A. Yeah. Well, Greg Shrewsbury was a chief, too. He  
4 worked with us. But the way I figured, it was me and  
5 then Greg Shrewsbury and then Billy. And then he  
6 would call out to Virgil Bowman and Rick Nicolau, and  
7 then Paul Thompson is the main chief. But Virgil, we  
8 considered him the chief, the boss.

9 Q. And who done the ordering of parts and stuff? If  
10 you needed something, who did you go to?

11 A. Well, if I needed something, I went to my chief,  
12 but he would go to normally like Rick Nicolau. He'd  
13 get whatever he needed.

14 Q. Was they pretty quick about responding to anything  
15 you needed or was it slow or ---?

16 A. It was slow towards the end. Used to we had  
17 everything we needed right there on site.

18 Q. Is there anything else that you can tell us that  
19 might --- you think might be beneficial to the  
20 accident investigation team?

21 A. The only thing I can tell you is I know there was  
22 air trouble. But any time an inspector come, they  
23 done the job, they'd shut them down. That's all they  
24 could do. I mean, that's all --- I just know they had  
25 air trouble. When I was with an inspector, we went to

1 the section and they had lots of air and didn't have  
2 no curtain hung. They'd shut them down, write a (d)  
3 order. I mean, ---.

4 Q. If they didn't have air on the section, how would  
5 they --- what was normally the problem? Would they  
6 send people to other areas to try to fix it or ---?

7 A. Well, like I told you that morning, I was sitting  
8 there at the end of the track when my buddy --- my  
9 buddy come back and said Dino didn't have enough air  
10 to run and he wasn't going to start up until he got  
11 air. And they seen him down there making sure all the  
12 doors were shut, wasn't no man doors open, trying to  
13 get enough air to the Number One section to run coal.  
14 And that was Ricky Workman, which he's deceased. And  
15 they was trying to get enough air so they could run  
16 it. And Dino would not run. I worked with him. He  
17 would not do it without air. I worked with that whole  
18 crew before.

19 ATTORNEY HAMPTON:

20 Let's take a ten-minute break.

21 SHORT BREAK TAKEN

22 ATTORNEY HAMPTON:

23 Let's go back on the record.

24 BY MR. MAGGARD:

25 Q. You were setting up a head drive down here at this

1 new --- they were going to put in a new section.

2 A. Yes.

3 Q. Is there any other places that there was any  
4 construction going on or ---?

5 A. Probably around the Mother Drive. We was talking  
6 about the Mother Drive.

7 Q. Was that close to Headgate 22?

8 A. Yeah, the mouth of One section we're calling  
9 Headgate 22; ---

10 Q. Okay.

11 A. --- right? Is that right?

12 Q. Yeah.

13 A. Yeah, it was down the mainline about ten breaks,  
14 before you make the turn to One section.

15 Q. And they were setting a new drive for the  
16 belt ---?

17 A. For the longwall.

18 Q. The longwall?

19 A. Yes.

20 Q. Okay. Were there a lot of oxygen acetylene tanks?  
21 Did you see any laying around that wasn't secured  
22 or ---?

23 A. There was a lot there, but they were secured. The  
24 ones I seen were tied up. But there were several  
25 tanks in that area.

1 Q. Was there any in any other areas that may have got  
2 left unattended back, you know, ---?

3 A. There possibly could have been, but I know every  
4 time my chief, Billy Graham, any time he seen them he  
5 got them. He got our supply crew to get them and take  
6 them outside. If he seen them, he'd usually let  
7 somebody know or ---.

8 Q. Had you ever heard of anybody expressing a safety  
9 concern or anything at this mine that got retaliated  
10 against?

11 A. Retaliated? No.

12 Q. Weren't treated fairly, nothing was corrected or  
13 may have been, you know, given --- the operator give  
14 him a bad job to do after they expressed a concern  
15 or ---?

16 A. I wouldn't put it past them. I don't know. I  
17 never actually heard it, but --- well, I have heard  
18 people say about it. I just don't know who or --- I  
19 mean, that was the general feeling that you had. Like  
20 I say, when I come back, they didn't say nothing about  
21 --- they didn't say nothing to me. But I have heard  
22 other people say that they did them. And I was  
23 scared. I was scared. I mean, I ain't going to lie,  
24 when I come back.

25 Q. Was there a general feeling that, you know, you

1 kind of keep your mouth shut, that you don't say  
2 anything, that you don't do anything to lose your job?  
3 Was there a lot of people afraid to lose their  
4 job ---

5 A. Yes, sir.

6 Q. --- at this mine?

7 A. Yes.

8 MR. MAGGARD:

9 That's all I've got.

10 A. Yeah, that's true.

11 RE-EXAMINATION

12 BY MS. MONFORTON:

13 Q. One more question ---

14 A. Yes.

15 Q. --- about ---. You mentioned the  
16 superintendents. I don't know what person you are  
17 talking about.

18 A. Well, I don't remember what I said now.

19 Q. Talking about kind of the --- whether the company  
20 had an interest in safety, and you thought the company  
21 did, but maybe the superintendent ---.

22 A. I think like higher up --- I don't know --- I  
23 don't know their position, but I think they do preach  
24 it, but they put --- I don't know. I guess they put  
25 pressure on your superintendents and stuff to run

1 coal. I mean, I don't know how to explain that. It's  
2 just we're going back to you're scared of losing your  
3 job.

4 Q. So you thought that the superintendent had that  
5 kind of pressure?

6 A. Well, I don't know who the superintendent actually  
7 was. See, they just had brung Wayne Persinger in, and  
8 he was doing a great job. I don't know his position.  
9 And Blanchard, I guess he was the president. I said  
10 super, and I meant president.

11 Q. Okay. Did you ever have any encounters with Mr.  
12 Blanchard?

13 A. No, not personally, but I've heard of people.

14 Q. How did they describe those encounters?

15 A. Just not very polite, you know. But I never  
16 personally dealt with him. But when I said  
17 vice-president, that would be Wayne Persinger. I  
18 wasn't talking about him.

19 Q. Okay. You were talking about Mr. Blanchard?

20 A. Yes.

21 Q. Yeah.

22 RE-EXAMINATION

23 BY MR. MAGGARD:

24 Q. You worked April the 4th through the 5th, ---

25 A. Yeah.

1 Q. --- that is your last shift. When was your shift  
2 prior to that? Did you work any during the weekend,  
3 Friday night or ---?

4 A. Let's see. That was Easter weekend; right?

5 MS. MONFORTON:

6 Uh-huh (yes).

7 A. That was Monday night. I'm trying to recall.  
8 Monday night would have been --- Sunday night would  
9 have been ---. What was the 5th? I don't know ---.

10 BY MR. MAGGARD:

11 Q. Monday.

12 MS. MONFORTON:

13 Monday.

14 A. Okay. I worked Sunday night. And then before  
15 that, I worked Thursday night.

16 BY MR. MAGGARD:

17 Q. Do you know of anybody else working during the  
18 weekend?

19 A. I don't know who worked and who didn't.

20 Q. Okay. Prior to the dayshift starting on the 5th,  
21 had you heard anything that might have been wrong with  
22 the longwall? Was it down? Had you heard anybody  
23 mention that or ---?

24 A. I heard that they'd --- later on, like a month  
25 after this happened, I heard that they'd gassed off

1 maybe during that weekend a couple times, but I don't  
2 know, you know, the sniffer on the longwall. I don't  
3 know that to be fact, true. I don't know.

4 Q. And if it did gas off, what would they normally  
5 do?

6 A. I don't know. I really don't know about the  
7 longwall. The miners, as far as I know, never did gas  
8 off. They just calibrated them --- you know,  
9 calibrated them weekly. The longwall, I don't know  
10 nothing about --- I don't know nothing about it.

11 ATTORNEY HAMPTON:

12 On behalf of MSHA and the Office of  
13 Miners' Health, Safety and Training, I want to thank  
14 you for appearing and answering questions today. Your  
15 cooperation is very important to the investigation as  
16 we work to determine the cause of the accident. We  
17 request that you not discuss your testimony with any  
18 other person aside from a personal representative or  
19 an attorney.

20 After questioning other witnesses, we may  
21 call you if we have any follow-up questions. If at  
22 any time you have additional information regarding the  
23 accident that you would like to provide to us, please  
24 contact us at the information that we provided to you  
25 in that letter. If you wish, you may now go back over

1 any answer that you've already given or make any  
2 statement. Is there anything else that you would like  
3 to say?

4 A. I'd just like to say that Wayne Persinger had been  
5 there about a month maybe and he was trying to improve  
6 that place totally, in my opinion. He was trying his  
7 best. He made the comment he couldn't do it in a  
8 month, what took 12 years to make, you know. In my  
9 opinion, he was trying to do the right thing. And as  
10 far as my chief goes, he done everything right, Billy  
11 Graham and Greg Shrewsbury. If we seen it, we fixed  
12 it. You know, that's how it goes.

13 ATTORNEY HAMPTON:

14 Okay. Anything else?

15 A. No.

16 ATTORNEY HAMPTON:

17 Okay. Again, I want to thank you for  
18 your cooperation.

19 A. You're welcome.

20 ATTORNEY HAMPTON:

21 Off the record.

22

23 \* \* \* \* \*

24 STATEMENT UNDER OATH CONCLUDED AT 5:54 P.M.

25 \* \* \* \* \*

1 STATE OF WEST VIRGINIA )

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CERTIFICATE

I, Cynthia Piro Simpson, 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.



*Cynthia Piro Simpson*