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Transcript of the Testimony of Gordon Sweeney

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STATEMENT UNDER OATH
OF
GORDON SWEENEY

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia, on Tuesday, June 22, 2010.

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Okay. Let's go on the record. Good
5 afternoon. My name is Bob Wilson. I am with the
6 Office of the Solicitor, United States Department of
7 Labor. With me is John Godsey, an investigator with
8 the Mine Safety and Health Administration, an agency
9 of the United States Department of Labor. Today is
10 June 22nd, 2010. We're here to conduct an interview
11 of Gordon Sweeney. Mr. Sweeney, there are several
12 other persons present here from the State of West
13 Virginia. I'll ask that they state their appearance
14 for the record, starting with Davitt.

15 ATTORNEY MCATEER:

16 My name's Davitt McAteer. I'm the
17 Governor's independent investigator.

18 MR. O'BRIEN:

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

21 MR. JARRELL:

22 I'm Dan Jarrell, West Virginia Office of
23 Miners' Health, Safety and Training.

24 ATTORNEY WILSON:

25 Also present in the room is Jerry Vance.

1 He's also an investigator with the Mine Safety and
2 Health Administration. Other individuals from either
3 the State or MSHA may come in during the interview.

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

22 Mr. Sweeney, government investigators and
23 specialists have been assigned to investigate the
24 conditions, the events and circumstances surrounding
25 the fatalities that occurred at the Upper Big Branch

1 Mine-South on April 5th, 2010. The investigation is
2 being conducted by MSHA pursuant to Section 103(a) of
3 the Federal Mine Safety and Health Act and by the West
4 Virginia Office of Miners' Health, Safety and
5 Training. We appreciate your assistance in this
6 investigation.

7 You may have a personal attorney present
8 during the taking of this statement or another
9 personal representative, and you may consult with
10 you're your representative at any time. Do you have a
11 representative with you?

12 MR. SWEENEY:

13 No.

14 ATTORNEY WILSON:

15 All right. Your statement is completely
16 voluntary. You may refuse to answer any questions.
17 You may terminate your interview at any time. You may
18 also request a break at any time. This is not an
19 adversarial proceeding, so formal Cross Examination
20 type questions are not be permitted; however,
21 clarifying follow-up questions will be allowed as
22 appropriate.

23 Your identity and the content of this
24 conversation will be made public at the conclusion of
25 the interview process, and your statement may be

1 included in a public report of the accident unless you
2 request that your identity remain confidential or your
3 information would otherwise jeopardize other potential
4 criminal investigations. If you request us to keep
5 your identity confidential, we would do so to the
6 extent permitted by law. In other words, if a judge
7 orders us to reveal your name or another law requires
8 us to reveal your identity, we may need to reveal your
9 name. We may also need to reveal your identity for
10 other law enforcement purposes. Also, there may be a
11 need to use the information you provide to us or other
12 information we may ask you to provide in the future in
13 other investigations into and hearings about the
14 explosion. Do you understand or do you have any
15 questions concerning your right to a confidential
16 statement?

17 MR. SWEENEY:

18 I understand.

19 ATTORNEY WILSON:

20 After the investigation is complete, MSHA
21 will issue a public report detailing the nature and
22 the causes of the fatalities in the hope that greater
23 awareness about the causes of accidents can reduce
24 their occurrence in the future. Information obtained
25 through witness interviews is frequently included in

1 those reports. Since we will be interviewing other
2 witnesses, we request that you not discuss your
3 testimony with any person following your interview her
4 today.

5 A court reporter will record the
6 interview. Please speak loudly and clearly. If you
7 do not understand a question, please ask the
8 questioner to rephrase the question. Please answer
9 each question as fully as you can, including
10 information that you may have learned from someone
11 else.

12 Again, I'd like to thank you in advance
13 for your appearance here today, and we appreciate your
14 assistance in this investigation. Your cooperation is
15 critical in making the nation's mines safer.

16 After we have finished asking questions,
17 we will give you an opportunity to make a statement or
18 provide us with any additional information that you
19 believe would be important to our investigation. If
20 at any time after the interview you recall any
21 additional information that you believe might be
22 useful, please contact Norman Page, MSHA's lead
23 accident investigator, at the telephone number or the
24 e-mail address contained in this letter which I'm
25 giving to you now. This letter requests your

1 appearance here today. Before we begin, do you have
2 any questions?

3 MR. SWEENEY:

4 No, sir.

5 ATTORNEY WILSON:

6 All right. Then at this time I will ask
7 that the court reporter swear you in.

8 -----

9 GORDON SWEENEY, HAVING FIRST BEEN DULY SWORN,

10 TESTIFIED AS FOLLOWS:

11 -----

12 ATTORNEY WILSON:

13 All right. I'll turn to John Godsey to
14 begin the questioning for MSHA. Oh, did you have
15 something you wanted to say ---

16 MR. O'BRIEN:

17 Yes.

18 ATTORNEY WILSON:

19 --- for the record?

20 MR. O'BRIEN:

21 Just, Mr. Sweeney, on behalf of the State
22 of West Virginia and the Office of Miners' Health,
23 Safety and Training, just like, like to let you know
24 that you do have certain rights under the West
25 Virginia Coal Mine Health and Safety regulations

1 against discrimination. And what I'd like to do is
2 just give you this information in case you would
3 encounter that. Also, there's a card there with Terry
4 Farley. He's one of our lead investigators. So if
5 you have any questions or would like to contact him,
6 his information is on the card. Thank you.

7 EXAMINATION

8 BY MR. GODSEY:

9 Q. Yes. Mr. Sweeney, please state your full name and
10 spell your last name.

11 A. Gordon Dorsey Sweeney, S-W-E-E-N-E-Y.

12 Q. And your home address?

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

14 (b) (7)(C)

15 Q. And your telephone number?

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

17 Q. Are you appearing here today voluntarily?

18 A. Yes, sir.

19 Q. Has anyone made any promises to you for giving
20 your statement or offered you any rewards in exchange
21 for making this statement?

22 A. No.

23 Q. Has anyone threatened you or warned you not to
24 provide a statement?

25 A. No, sir.

1 Q. Has anyone from the company talked to you?

2 A. No.

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

4 A. Thirty (30)-some. I went to work in '76, but I
5 was on strike at the Beckley Coal Mine for two ---
6 about two and a half years and I sat on that, so ---.
7 And then I was out maybe two years. Other than that,
8 I've worked in the coal mines.

9 Q. Just give us a brief description of your
10 employment or coal mining history.

11 A. '76 I went to Slab Fork Coal Company in Slab Fork
12 and worked for about two years and got laid off and
13 went to work at Beckley Coal at the Glenn Daniels. I
14 worked from '76 to '87, I think. And then I sat on
15 the picket line there for about a little over two
16 years. And then I just picked up odd jobs for about
17 two years.

18 And I went to work at East Kingston and worked
19 there. Then I went to Herndon --- I guess, Herndon.
20 No, Tommy Creek. Tommy Creek and worked at Tommy
21 Creek for a while until it worked out. And then I
22 went to Herndon, worked three miles, three mines,
23 three different mines on the Herndon Mountain. Worked
24 two of them up on the mountain, and then I went to
25 work for Massey at White Queen Mines in July '81 and

1 worked there until February or March of 2009 and then
2 went to ---.

3 ATTORNEY WILSON:

4 You said '81? Is that correct? You
5 started with Massey in 1981?

6 A. 2001.

7 ATTORNEY WILSON:

8 2001, okay.

9 A. 2001. And worked there until about --- at that
10 same mines until February or March of 2009. So I
11 wasn't there quite a year, see, at that mines at
12 Performance.

13 BY MR. GODSEY:

14 Q. Okay. When was your last day at Performance, UBB?

15 A. December 31st, 2009.

16 Q. And that's the last day you've worked there?

17 A. Yes, sir.

18 Q. And you said the first day of employment was in
19 February of '09?

20 A. I think so, yes.

21 Q. Okay. Well, describe the training that you
22 received when you first came to UBB, if you remember.

23 A. UBB --- when we left White Queen and Marfork, they
24 would send us --- they was up in that one section,
25 that block coal that they had. They sent the whole

1 section up. And we didn't really have much training,
2 because they went over the map and had one fellow take
3 us in that morning and that's about all they did at
4 that time.

5 Q. Where'd they take you?

6 A. They took us to the section.

7 Q. And you're talking about the ---?

8 A. We walked in. They walked us into that section.

9 Q. What portal did you walk from, walk in to get to
10 the section?

11 A. I guess --- I don't really know.

12 ATTORNEY MCATEER:

13 UBB or Ellis?

14 A. UBB.

15 BY MR. GODSEY:

16 Q. UBB.

17 A. UBB.

18 Q. Okay. Did you walk until --- do you know what
19 section you walked to?

20 A. Yeah, Four section.

21 Q. Would that be the one in the barrier section?

22 A. I'm not sure. What are you talking about?

23 Q. The barrier section, the one that they're driving,
24 were driving, the 22 longwall panel.

25 A. No, no. No, it wasn't there.

1 Q. Do you know which way --- where it was?

2 A. When we rode in, you went to Plumley Switch and
3 turned left, got off at this Plumley Switch and went
4 back in there.

5 Q. Okay. So you went ---?

6 A. It wasn't far from the outside, you know, when I
7 worked there.

8 Q. So you say you went south?

9 A. Yes.

10 Q. Okay. What was your section that you last worked
11 on when you retired --- before you retired there in
12 December 31st?

13 A. Well, it was that one block, but they called it
14 --- I don't know. I don't remember what they did call
15 it.

16 Q. Was if, back to this, was it the barrier I was
17 talking about you come in the north UBB? Would you
18 come to the barrier section, I mean the one
19 where ---?

20 A. Where the longwall is?

21 Q. No. Just outby the longwall, so in the south part
22 of the mine.

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

24 ATTORNEY WILSON:

25 And maybe we can refer to the map.

1 Looking at this map, can you determine what areas you
2 worked in at the mine? And the portals are over here.

3 BY MR. GODSEY:

4 Q. This is the North Portal and that's the south, be
5 the South Portal. And here's the mine office and the
6 bathhouse would have to be located in this area on the
7 surface at UBB.

8 A. Well, they got Plumley Switch on the --- we just
9 went in this little ways, went through the double
10 doors, and then it wasn't just a few breaks and you
11 turned off of Plumley Switch and went back into that
12 block where they put that new section. That was the
13 only place I've worked, so ---.

14 Q. Okay. We discussed --- it's safe to say that you
15 may've went in the north UB Portal and went in and
16 went up to the O62 section, which was the barrier
17 section?

18 A. I really don't know.

19 Q. Okay. How many personnel did you have or people
20 did you have on the section?

21 A. Well, I had two miner men and three shuttle car
22 operators. And most of the time just had three bolt
23 men and one scoop man, electrician.

24 Q. And what was your job?

25 A. Shuttle car.

1 Q. And what shift do you --- you say, you told
2 me ---?

3 A. Dayshift, all the time.

4 Q. Dayshift. Take us just through a mining cycle
5 while you were up there. When a miner --- have taken
6 through a --- when he was loading and where he started
7 and just take us there and show us, tell us about what
8 they did, like, with the curtain, just checking their
9 dust parameters?

10 A. Oh, yeah. They always checked --- you know. They
11 would check when we went in, kept the curtain up
12 because that mines had inspectors every day, you know.
13 Every day we had --- you know. So we had to keep
14 everything right, you know. We didn't let the ---
15 keep a curtain down or nothing. And the only thing I
16 see that wasn't safe at that mines, we didn't have the
17 air we were supposed to have. Now, I knew that.

18 And a lot of times we'd have to shut down and
19 tighten up all the curtains, you know. And we have
20 shut clear down and went back and tried to patch holes
21 and stoppings and stuff. I knew that. That's the
22 only thing I ever knew. Other than that, I thought
23 the mine was safe.

24 Q. How long --- when was this that you had these
25 ventilation problems? How long ago?

1 A. Well, I guess we always had it, because you know,
2 they had it down. They shut us down after three days
3 in September, October when they was putting the
4 longwall in. They was drilling those holes.

5 Q. Uh-huh (yes).

6 A. They didn't have enough air then and they shut us
7 down for two or three days, trying to get those holes
8 down. And a lot of times one of those few days we
9 would go to work and then they wouldn't let us go
10 inside until, like, 12 o'clock or something, you know,
11 because they'd be working. So actually I thought the
12 mines was safe, myself. But I knew we didn't have
13 enough air a lot of times.

14 Q. Did you ever see your supervisor take air readings
15 on a section after this happened?

16 A. Yes. Yes.

17 Q. What would he normally do? Would he call outside
18 or --- when he had short of air?

19 A. Yes.

20 Q. And what was his ---?

21 A. Yes, he did.

22 Q. What direction would he get from management about
23 it?

24 A. To shut down and try to get more.

25 Q. Did he ever hear them try to tell them to go back

1 to work and that they'd work on the air while you was
2 --- while you're all mining?

3 A. No.

4 Q. Okay. Do you remember what your --- excuse me if
5 I asked you, but your supervisor's name was?

6 A. Yeah, it was Steve Harrah. He went by Head on the
7 --- that was his nickname in the mines.

8 OFF RECORD DISCUSSION

9 BY MR. GODSEY:

10 Q. Continue when you --- just take us when you got on
11 the section. What would you normally do? I mean when
12 you come out and you left the service road up to the
13 section and you got on the section, what would be your
14 normal procedure before you started to run coal?

15 A. I always went to my shuttle car, you know. We had
16 to grease it every day before we'd start on dayshift,
17 you know. So we had to go to do the grease. And the
18 boss and the miner men would be checking the curtains
19 and stuff, because they would ---. When one miner ---
20 we just run one miner at a time. When one miner was
21 running, you know, the other could be greased. So
22 they worked on the ventilation most of the time.

23 Q. Okay. Did they ever check on their dust
24 parameters before they started?

25 A. Yes, yes.

1 Q. And who would do that?

2 A. The boss.

3 Q. And after they got --- what would happen after
4 they --- after they got ready to run coal? What would
5 be the normal procedure then?

6 A. Well, the miner man would check for his gas, you
7 know. And I run the shuttle, middle shuttle car, you
8 know, when we started running. Well, usually it's
9 myself, and it made a difference on which side. They
10 usually just run two shuttle cars, you know.

11 Q. Did you ever notice the methane monitor on the
12 miner when you were running the shuttle car?

13 A. Yes.

14 Q. Okay. What was the methane reading? What's the
15 highest methane reading you saw?

16 A. 0.1.

17 Q. Okay. Was it most of time? What was it reading?

18 A. Most of the time it was zero.

19 Q. Did they maintain the curtain in the face at all
20 times?

21 A. Yes.

22 Q. And what about your shuttle car? Did you ever
23 have any problems with it mechanically?

24 A. No. If you did, they always fixed it on the ---
25 if they didn't get it fixed on the crew, you know,

1 while you was in there ---

2 Q. Uh-huh (yes).

3 A. --- the hoot owl always did something if it was
4 something that could be done later.

5 Q. And say, how many --- what depth cut did you all
6 do on the section?

7 A. I don't know.

8 Q. How deep did you cut the face?

9 A. Oh, 20-foot cuts is all we got.

10 Q. About how long would it take you all to mine 20
11 feet?

12 A. Usually 20 to 30 minutes.

13 Q. Did you all cut much rock?

14 A. Yeah, a lot of times we did.

15 Q. Okay. When you extend, when you mine all the 20
16 minutes, how would you take your gas checks?

17 A. He would check it when he went in and then he
18 would check it maybe 15 minutes after that.

19 Q. What would he check it with?

20 A. His monitor that he carried.

21 Q. Would he get it to the face or where'd he take the
22 gas check?

23 A. He'd put it on the miner, hook it on the miner.

24 Then he'd take the miner to the face.

25 Q. Okay. And then after he pulled out and was going

1 to another place, what happened? How did the drill
2 --- did the drill follow him in?

3 A. Yes.

4 Q. Now, how did the --- what was their normal ---?
5 Did you ever watch them any?

6 A. Yes.

7 Q. What was their normal ---?

8 A. They'd check for gas, too.

9 Q. Okay. Describe their bolting pattern. How'd they
10 put the bolts up? I mean, what pattern did they do?

11 A. Five foot in the face, four foot between.

12 Q. And did they have to ---?

13 A. I mean, five from ribs, what I mean, not the face.

14 Q. What was the space in between the bolts?

15 A. Between the bolts?

16 Q. Yeah, between the bolt spacing.

17 A. Oh, TRS usually.

18 Q. Well, let me rephrase that. What was the pattern,
19 bolt pattern on the section? How were the bolts
20 installed?

21 A. Oh, it had different --- it depended on the top, I
22 guess. They had different patterns at different
23 times, you know.

24 Q. Uh-huh (yes). What was the kind of top that you
25 all had? Just sandstone or what type?

1 A. Different. Every turn different.

2 Q. Okay. Did you all ever encounter any faults in
3 that area?

4 A. Yes.

5 Q. Describe what they looked like.

6 A. Well, when you'd have a fault, it would fall a
7 lot, you know. And they'd use different bolts when
8 you cut the head or something like that.

9 Q. Could you explain how --- did the faults, did they
10 run on a certain line or a pattern in there across the
11 section?

12 A. Yeah, they run on a pattern. They run across not
13 straight up, you know? It'd be across.

14 Q. What kind of extra support do they put in there?

15 A. Well, they used --- it was wire-type bolts a lot
16 when you did something like that.

17 Q. Are you talking about cable bolts?

18 A. Yeah, cable bolts.

19 Q. Did you all ever have any falls up there on the
20 section, any roof fall?

21 A. No. Well, the ribs would roll out at times, you
22 know. And when it did, one of us would check the ribs
23 before we ever started mining, you know, mornings. He
24 assigned different ones to check, you know. Most of
25 the time it was a week at a time if --- you know.

1 He'd sign somebody to check the ribs before we ever
2 started.

3 Q. Well, what was the mining height on the section,
4 your last section?

5 A. It was five foot to seven, maybe.

6 Q. What kind of rib support --- did you all use rib
7 support?

8 A. No. No, never did.

9 Q. Did you ever have anybody hurt up there?

10 A. No.

11 Q. On the ribs or anything?

12 A. No.

13 Q. And how many miners did you say --- I think you
14 told me. How many miners were on the section?

15 A. Two.

16 Q. Huh?

17 A. Two.

18 Q. Just two? Workers.

19 A. Oh, workers?

20 Q. Uh-huh (yes).

21 A. There was about 11 or 12 of us, I guess,
22 altogether.

23 Q. Does that include the boss?

24 A. Yes.

25 Q. Okay. After they bolted the place, I guess, what

1 followed the bolter?

2 A. The scoop would go in and clean.

3 Q. Uh-huh (yes). And how would he handle the
4 curtain?

5 A. The scoop?

6 Q. Uh-huh (yes). What would he do with the curtain
7 when you ---?

8 A. If they had curtain hangers, he would try to hang
9 it up. If there wasn't no curtain hangers up, a lot
10 of time he would take it down, scoop one side and take
11 the curtain down, you know, and clean it and then hang
12 it back.

13 Q. Well, how would he take care of --- check his
14 methane when he was doing all that?

15 A. I don't know.

16 Q. Do you know if they were permitted in the
17 ventilation plan to do that, to remove the curtain?

18 A. No, I don't.

19 Q. And did you always --- how many times --- or if
20 you ever found any methane that would build up in a
21 place before?

22 A. I never knew of us ever finding any.

23 Q. Okay. What about floor heave? Did you have any
24 problem with the floor?

25 A. No, I don't think it ever --- now, we did at White

1 Queen, but not at Performance. I never did, no.

2 Q. Well, did anybody ever mention to you anywhere
3 else in the mines that they have been having a problem
4 with the floor heaving?

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

6 Q. Okay. Have you ever been inby Ellis Switch?
7 That's over on the Ellis Portal side.

8 A. No, never have.

9 Q. Okay. All of your mining has been ---

10 A. Yes.

11 Q. --- on the south of that?

12 A. Yes.

13 Q. And do you know of any people, anybody that has
14 been hurt during your time there?

15 A. No.

16 Q. Injured?

17 A. No.

18 Q. And what about the ventilation? What was the
19 adequacy of your ventilation on the section? You told
20 me earlier you had a lot of problems with it. Later
21 did it get worse or did it get better or towards your
22 retirement was it --- did you have any ---? How was
23 it then?

24 A. I thought it was about the same, but I don't know.
25 You know, they worked on it and they had to shut down.

1 I know I've missed four days one week in September,
2 October, and that's what it was, working on the
3 ventilation and changing it. But still when you get
4 in there and get to mining and you'd be short of air,
5 you know. And then we'd just quit and ---

6 Q. Okay.

7 A. --- try to find more. You know, tighten all the
8 curtains up and everything.

9 Q. Did you talk to anybody on other sections about
10 their having ventilation problems?

11 A. Oh, we all knew it, yeah. Yeah.

12 Q. What all did they say about?

13 A. Well, we just tried to keep enough air there.
14 Even when the inspectors come in, you know, they would
15 --- they always checked the air on our section real,
16 real close. And two or three times when they come in,
17 they would shut us down.

18 Q. While you're talking about inspectors, did you
19 ever know they were coming on the section before they
20 got there? Do they have kind of notice that they were
21 on the property, the section?

22 A. Yeah, most of the time.

23 Q. How would they do that? What was their
24 procedures? What was the procedure that they had?

25 A. They would call. They would call a lot of times,

1 you know.

2 Q. Okay. So what did you all do then when they
3 called?

4 A. We tried to have everything right, you know.

5 Q. Would you have to shut down?

6 A. No, hardly ever. No.

7 Q. How long did it usually take you to get ready, I
8 mean get it right?

9 A. We tried to keep it right.

10 Q. Okay.

11 ATTORNEY WILSON:

12 When you say they would call to let you
13 know an inspector ---?

14 A. From outside?

15 ATTORNEY WILSON:

16 Yeah. Do you know anyone specific who
17 would call the section?

18 A. Yeah, it was the dispatcher who would call, you
19 know, and maybe say there are three inspectors on the
20 property.

21 ATTORNEY WILSON:

22 And who ---?

23 A. They just let you know that they was --- they
24 never did tell you that they was coming to you or
25 nothing.

1 ATTORNEY WILSON:

2 So who would they speak to on your
3 section usually?

4 A. Whoever answered the phone.

5 ATTORNEY WILSON:

6 And did you ever personally answer the
7 phone?

8 A. Yes.

9 ATTORNEY WILSON:

10 All right. Sorry.

11 BY MR. GODSEY:

12 Q. Okay. Back to notification. How would the
13 dispatcher --- would the guy just drive up? Would
14 somebody see him on the property and tell the
15 dispatcher or how would they know? How would
16 dispatcher get notified that they were ---?

17 A. I don't know. I don't know that.

18 Q. Have you ever heard or experienced any floor gas?
19 I may have asked you that. Or heard of it or
20 experienced it or heard about having floor gas in the
21 UBB?

22 A. No, no.

23 Q. How many times, or would they, you think that, or
24 did they make any ventilation changes with people
25 underground, work on ventilation while people were

1 working or moving stoppings or something?

2 A. They brought us out a couple times while I was
3 there. You know, they'd send us outside. Said they
4 was just changing air, working on air.

5 Q. Did they ever --- do you know of a time they ever
6 --- when they did it while you all were underground,
7 that the company made ventilation changes when you all
8 were underground?

9 A. No.

10 Q. Do you know of anybody or have you ever called the
11 Massey 800 number?

12 A. No.

13 Q. What about the MSHA hotline?

14 A. No.

15 Q. So you worked on the section for a long time, and
16 you know, they run respirable dust on designated
17 occupations and all that? Is there a time that
18 you ---?

19 ATTORNEY WILSON:

20 Yeah. Just for the record, you indicated
21 that you were aware of that; is that correct? You
22 shook your head yes? Were you aware of them running
23 respirable dust on sections?

24 A. What do you mean by that?

25 ATTORNEY MCATEER:

1 You're taking those dust samples.

2 BY MR. GODSEY

3 Q. Dust pump, you know, you put on, put on, like, a
4 miner man and they run them before shift?

5 A. Oh, yeah, yeah.

6 Q. Did you ever see anyone take, take one of those
7 dust pumps and place it in the intake?

8 A. No, never have.

9 Q. Did you ever hear of anybody doing that?

10 A. No, I haven't.

11 Q. Were you --- have any problems if someone had a
12 safety concern for bringing it towards, brining it
13 forward to management? What would be their reaction
14 if you or one of your friends had a safety concern and
15 you went to upper management with it? What would be
16 the outcome?

17 A. I don't know. I have no idea.

18 Q. Do you know anybody that ever did, made a
19 complaint like that?

20 A. No.

21 Q. Okay. Let's go back to the miner. We was talking
22 about that continuous miner a while ago. Have you all
23 ever had --- when did you have problems with the
24 methane monitor on the miner? Did you ever have
25 problem with it?

1 A. Yeah, yeah. They usually change the sniffer or
2 something like that, you know.

3 Q. Did they ever fix it where they could continue
4 mining until later on when they could fix it?

5 A. No.

6 Q. Is there anything else that maybe I've not asked
7 you that you would like to tell us that would help us
8 in the investigation?

9 A. No, I don't know of anything.

10 Q. Did the explosion surprise you?

11 A. Yes, it did. Yes.

12 Q. Why is that?

13 A. I didn't think anything like that had ever
14 happened to the mines itself. When I heard it, I
15 called --- I turned on the TV. My sister told me and
16 asked me if that was the mines I worked at. I turned
17 the TV on and saw it and I called one of my buddies
18 that I worked with, and they said --- his daughter
19 answered the phone and she said, there's been a
20 terrible accident there.

21 And I said, yeah, I know. And they said they
22 can't find Daddy. And at 1:00, a little after 1:00
23 that morning, I was still watching TV. She called me
24 back and said they'd found him, but he didn't make it.

25 EXAMINATION

1 BY ATTORNEY WILSON:

2 Q. Let me just --- I guess we should clarify for the
3 record. Did you ever work up on the longwall section
4 or 22 Headgate ---

5 A. No.

6 Q. --- developing section or ---

7 A. No.

8 Q. --- any of those areas?

9 A. I was never up that way.

10 Q. You were never up there at all?

11 A. No.

12 Q. Okay.

13 EXAMINATION

14 BY MR. O'BRIEN:

15 Q. Good day, Mr. Sweeney. Appreciate your help.
16 Line curtain on the section, how did you all hang
17 that? Did you tack it to roof bolts? You have pogo
18 sticks, put up posts or how did you hang the curtain?

19 A. We hung it on the roof bolts and we had pogo
20 sticks, you know, we used at times.

21 Q. How close would you keep --- when the miner was
22 mining, how close would the curtain be to the face?

23 A. They kept it, like, ten foot to the face.

24 Q. As a shuttle car operator, did you have to run
25 through check curtains and fly pads?

1 A. Yes, fly pads. We used fly pads a lot.

2 Q. How did they attach those to pins or have fly
3 boards or ---?

4 A. They took fly boards, nailed them up.

5 Q. Do you know of any --- do you know of or have
6 heard of any methane problems in any other parts of
7 the mine?

8 A. No.

9 Q. Okay. On your section, do you know which way your
10 belt air was blowing? Was it going inby or outby, air
11 on the belt? Or do you remember?

12 A. It come up Six entry, I think, and ---.

13 Q. Towards the feeder or tailpiece or going out
14 towards the outside?

15 A. Yeah.

16 Q. Towards outside?

17 A. Yes.

18 Q. Okay. In your opinion, how was the rock dusting
19 overall on the section or on the belt?

20 A. How was the rock dust?

21 Q. Yeah.

22 A. The hoot owl rock dusts every night. And then at
23 times, not every day, but once in a while, you know,
24 maybe once or twice a week, each section that run coal
25 they would rock dust maybe half the section and leave,

1 leave the scoop. Like on the dayshift, he'd dust half
2 the section and leave the scoop setting with the
3 duster on it and dust in it. And when they got there,
4 they was supposed to dust the other half. That was
5 when we was getting ready to leave.

6 Q. When the bolter would go into a place and bolt the
7 place and come out, would he rock dust on the way out
8 or did they strictly rock dust by the scoop, using the
9 scoop?

10 A. Strictly the scoop.

11 Q. Okay. Who was the mine foreman for that site?

12 A. Everett Hager.

13 Q. Everett? Did he ever come on section?

14 A. Yes.

15 Q. When he was on a section, what was his reaction?

16 Did he ever talk to the folks or ---

17 A. Yeah.

18 Q. --- ever make any comments about how the section
19 looked or ---?

20 A. Oh, yeah.

21 Q. Favorable or ---?

22 A. Uh-huh (yes).

23 Q. Okay. Did you ever hear your foreman complain to
24 the crew, you, the crew, about the ventilation? Did
25 the foreman have any problems with ventilation, say

1 anything to you guys about the ventilation?

2 A. Oh, yeah. If they left a curtain down or
3 something, he'd always get on it, yeah.

4 Q. Okay. Now, did he ever say anything to you guys
5 about not having enough air on the section?

6 A. Yes.

7 Q. Do you know if he ever talked to any ---

8 A. He would shut the section ---.

9 Q. --- upper management?

10 A. He would shut down and make us work to find it,
11 you know.

12 Q. Do you know if he ever notified anybody outside
13 about that problem, about the ventilation problems?

14 A. Well, if he was down any amount of time, he would.

15 Q. Just one more out of plain curiosity. And you may
16 have mentioned this. How long did you work a shift?

17 Well, what was your shift times?

18 A. We went in at 6:30 and came out 3:30.

19 Q. 6:30 to 3:30.

20 MR. O'BRIEN:

21 Okay. Thank you.

22 ATTORNEY WILSON:

23 Davitt?

24 EXAMINATION

25 BY ATTORNEY DAVITT:

1 Q. Mr. Sweeney, you said that you had to go find air
2 frequently. How frequently was that?

3 A. Sir, I didn't hear you.

4 Q. I'm sorry. You said that with regard to
5 ventilation problems, that from time to time you had
6 to go find air, and how frequently was that, daily?

7 A. No, not daily. Maybe twice a week.

8 Q. Okay. What was the name of the individual that
9 you called the family that the fellow passed away?

10 A. Oh, that's (b) (7)(C) family that I
11 called.

12 Q. What section did he work on?

13 A. He worked on Four section. I don't know where
14 they was working the time of the explosion. They was
15 up the headgate, I think, I believe.

16 Q. Had you worked with (b) (7)(C) before?

17 A. Oh, yeah. Worked with him for about eight years.

18 Q. At this mine?

19 A. No. We all worked at White Queen Mines at
20 Marfork ---

21 Q. Oh, right.

22 A. --- and then went there. All of us went there,
23 like, in February or March.

24 Q. Okay. And had you ever seen Chris Blanchard there
25 at your section?

1 A. Chris Blanchard?

2 Q. Uh-huh (yes).

3 A. Yes, sir.

4 Q. Did he ever give you conversation? Did you have a
5 conversation with him or talked --- talks to you, to
6 the crew?

7 A. Yes.

8 Q. What was that about?

9 A. Well, it depended on what he was there for, I
10 guess, you know. I don't know. I seen him more at
11 White Queen than I did at UBB. He wasn't there that
12 much at there.

13 Q. Okay.

14 A. The vice-president was more there, Chris --- I
15 don't know. I guess he had other mines or something.
16 He was there two or three times while I worked there.

17 Q. Who was the vice-president?

18 A. That's Ferguson.

19 Q. Jamie?

20 A. No, it wasn't Kenny.

21 Q. Jamie?

22 A. Jamie Ferguson.

23 Q. Yeah.

24 A. Yes, sir.

25 Q. And what conversations did you have or did he talk

1 about there?

2 A. Who? Jamie?

3 Q. Uh-huh (yes).

4 A. Jamie, he came in the first day we went there. We
5 walked in and Jamie shows up and he was there with us
6 about all shift. Jamie was there a lot when we first
7 went there, you know. I don't know. He just talked
8 about different things, you know.

9 Q. Uh-huh (yes).

10 A. He stayed right with us when we first went to UBB.
11 I guess for the last --- for the first month he was
12 with us just about every day, maybe. You know, he
13 wouldn't stay unless sometimes he'd just be there,
14 like, an hour or so. But that first day, he was there
15 all the time.

16 ATTORNEY MCATEER:

17 Okay. That's all the questions I have
18 right now. Thank you.

19 A. Okay.

20 ATTORNEY WILSON:

21 Why don't we take a short break?

22 A. Okay.

23 ATTORNEY WILSON:

24 And then we'll go back on and finish up.

25 SHORT BREAK TAKEN

1 ATTORNEY WILSON:

2 All right. We'll go back on the record.

3 RE-EXAMINATION

4 BY MR. GODSEY:

5 Q. Mr. Sweeney, I just got a couple, three more
6 questions to ask you. When you were mining with the
7 continuous miner, did you all use a scrubber? Did you
8 all use a scrubber all the time?

9 A. Yes, we did.

10 Q. All the time?

11 A. No, not all the time.

12 Q. When did you not use it?

13 A. I'm not sure. I'm not sure. There was times that
14 they didn't. I don't know.

15 Q. Okay. Have you ever been concerned for your
16 safety while working at UBB?

17 A. No.

18 Q. Has anyone ever discussed with you that they had
19 concerns about their safety there?

20 A. No.

21 Q. Okay. Have you ever become aware of or talk about
22 hazards in the mine and the site foreman told you that
23 they found some hazards or something on the section,
24 and then you came --- they came back to work and
25 hadn't corrected them or still --- the conditions

1 still existed?

2 A. No, never had.

3 ATTORNEY WILSON:

4 Okay. Anything? Any follow-up?

5 MR. O'BRIEN:

6 No.

7 ATTORNEY WILSON:

8 All right. Then Mr. Sweeney, I think

9 we're finished. On behalf of MSHA and the Office of
10 Miners' Health, Safety and Training, again I want to
11 thank you for appearing and answering questions today.
12 Your cooperation is very important to the
13 investigation as we work to determine the cause of the
14 accident. We request that you not discuss your
15 testimony with anyone, because we will be interviewing
16 additional witnesses.

17 After questioning other witnesses, we may
18 call you if we have any follow-up questions. And
19 again, if at any time you think of any additional
20 information that you would like to provide to us,
21 please contact Norman Page at the contact information
22 that was provided to you. Now, I understand that you
23 are now retired.

24 A. Uh-huh (yes), yes.

25 ATTORNEY WILSON:

1 However, I --- you know, sometimes people
2 decide they want to go back to work, and I just want
3 you to understand that as a miner, you have certain
4 rights under the Federal Mine Safety and Health Act.
5 Specifically, any statements given by miner witnesses
6 to MSHA are considered to be an exercise of statutory
7 rights and protected activity under Section 105(c) of
8 the Mine Act. If you believe that any discharge,
9 discrimination or any other type of adverse action is
10 taken against you as a result of your cooperation with
11 this investigation, you should immediately contact
12 MSHA and file a complaint under Section 105(c) of the
13 Act.

14 Remedies under the Mine Act would include
15 back wages or immediate reinstatement to your most
16 recent position pending a complete investigation of
17 your complaint. And in order to file such a
18 complaint, you would contact the MSHA District 4
19 office in Mount Hope, and the contact information for
20 the Mount Hope MSHA office is also provided in the
21 letter that we've given you today.

22 Again, I want to thank you for your
23 appearance here today. Before we go off the record I
24 just want to give you one last opportunity. If
25 there's anything else that you would like to add to

1 the record, you may do so at this time.

2 A. No.

3 ATTORNEY BAXTER:

4 Okay, then. Again, I want to thank you

5 for your cooperation, and we'll go off the record.

6 * * * * *

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CERTIFICATE

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



Alison Salyards