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STATEMENT UNDER OATH
OF
DARRELL STANLEY

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, Room C-137, Beaver, West Virginia, on Wednesday, August 18, 2010, beginning at 1:05 p.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

8*

Two

Return Receipt Card

8*

Three

Bandytown Fan Map

56*

* Exhibit not attached

P R O C E E D I N G S

ATTORNEY BABINGTON:

My name is Matt Babington. Today is August 18th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. KOERBER:

Barry Koerber, Assistant Attorney General assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. MONFORTON:

And I'm Celeste Monforton with the Governor's independent team.

1 DARRELL STANELY, HAVING FIRST BEEN DULY SWORN,
2 TESTIFIED AS FOLLOWS:

3 -----

4 ATTORNEY KOERBER:

5 Sir, would you please state your full
6 name for the record and spell your last?

7 A. Darrell Keith Stanley, S-T-A-N-L-E-Y.

8 ATTORNEY KOERBER:

9 And would you please state your address
10 and your telephone number?

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

12 (b) (7)(C)

13 ATTORNEY KOERBER:

14 And do you have an attorney with you here
15 today?

16 A. Yes, Mr. Silkwood.

17 ATTORNEY KOERBER:

18 Okay. Eric, would you identify yourself
19 and your firm?

20 ATTORNEY SILKWOOD:

21 Yeah, I'm Eric Silkwood with Allen
22 Guthrie and Thomas, Counsel for Performance and
23 representative of Mr. Stanley here today.

24 ATTORNEY KOERBER:

25 Mr. Stanley, are you here based on the

1 receipt of a subpoena?

2 A. Yes, sir.

3 ATTORNEY KOERBER:

4 Does this look like a copy of that
5 subpoena that you received?

6 A. Yes, sir.

7 ATTORNEY KOERBER:

8 Okay. I'd like that to be Exhibit One.

9 (Exhibit D.K. Stanley One marked for
10 identification.)

11 ATTORNEY KOERBER:

12 And although I know you haven't seen this
13 part, does this look like a copy of the return receipt
14 card that you received?

15 A. Yes, sir.

16 ATTORNEY KOERBER:

17 Okay. I'd like that to be Exhibit Two.

18 (Exhibit D.K. Stanley Two marked for
19 identification.)

20 ATTORNEY KOERBER:

21 Mr. Stanley, pursuant to the statute that
22 authorizes the director to issue subpoenas to
23 witnesses to compel them to come to interviews such as
24 this, there's a requirement that the director offer to
25 you a \$40 per day witness fee, plus if you have driven

1 in your vehicle, mileage to and from here at the rate
2 of 15 cents a mile and reimbursement of any tolls you
3 might've passed coming or going back from this
4 interview. You can accept that money.

5 To do so, I have two forms that you must
6 fill out, one of which requires you to give your
7 Social Security Number, which is an IRS form, which
8 means the \$40 witness fee will be income for which
9 you'll receive a 1099 miscellaneous at some point in
10 time in the future. You can accept that money and you
11 can fill these forms out at the end of the interview,
12 or you can decline, but you must make your decision on
13 the record here now.

14 A. I decline.

15 ATTORNEY KOERBER:

16 Thank you.

17 ATTORNEY BABINGTON:

18 There may also be several members of the
19 investigation team present in the room later in the
20 interview. Erik Sherer will be conducting initial
21 questioning.

22 All members of the Mine Safety and Health
23 Accident Investigation Team and all members of the
24 State of West Virginia Accident Investigation Team
25 participating in the investigation of the Upper Big

1 Branch Mine explosion shall keep confidential all
2 information that is gathered from each witness who
3 provides a statement until the witness statements are
4 officially released. MSHA and the State of West
5 Virginia shall keep this information confidential so
6 that other ongoing enforcement activities are not
7 prejudiced or jeopardized by a premature release of
8 information. This confidentiality requirement shall
9 not preclude investigation team members from sharing
10 information with each other or with other law
11 enforcement officials. Team members' participation in
12 this interview constitutes their agreement to keep
13 this information confidential.

14 Government investigators and specialists

15 have been assigned to investigate the conditions,
16 events and circumstances surrounding the fatalities
17 that occurred at the Upper Big Branch Mine-South on
18 April 5th, 2010. The investigation is being conducted
19 by MSHA under Section 103(a) of the Federal Mine
20 Safety and Health Act and the West Virginia Office of
21 Miners' Health, Safety and Training. We appreciate
22 your assistance in this investigation.

23 A. Thank you.

24 ATTORNEY BABINGTON:

25 You may have your personal attorney

1 present during the taking of this statement or another
2 personal representative if MSHA has permitted it, and
3 you may consult with your attorney or representative
4 at any time. Since this is not an adversarial
5 proceeding, formal Cross Examination will not be
6 permitted; however, your personal legal representative
7 may ask clarifying questions as appropriate.

8 Your identity and the content of this
9 conversation will be made public at the conclusion of
10 the interview process and may be included in the
11 public report of the accident, unless you request that
12 your identity remain confidential or your information
13 would otherwise jeopardize a potential criminal
14 investigation. If you request us to keep your
15 identity confidential, we will do so to the extent
16 permitted by law.

17 That means that if a judge orders us to
18 reveal your name or if another law requires us to
19 reveal your name or if we need to reveal your name for
20 other law enforcement purposes, we may do so. Also,
21 there may be a need to use the information you provide
22 to us or other information we may ask you to provide
23 in the future in other investigations into and
24 hearings about the explosion. Do you understand?

25 A. Yes.

1 ATTORNEY BABINGTON:

2 Do you have any questions?

3 A. No.

4 ATTORNEY BABINGTON:

5 After the investigation is complete, MSHA

6 will issue a public report detailing the nature and

7 causes of the fatalities in the hope that greater

8 awareness about the cause of accidents can reduce

9 their occurrence in the future. Information obtained

10 through witness interviews is frequently included in

11 these reports. Since we will be interviewing other

12 individuals, we request that you not discuss your

13 testimony with any person aside from a personal

14 representative or Counsel.

15 A court reporter will record your

16 interview. Please speak loudly and clearly. If you

17 do not understand a question asked, please ask the

18 interviewer to rephrase it. Please answer each

19 question as fully as you can, including any

20 information you have learned from someone else.

21 I'd like to thank you in advance for your

22 appearance here. We appreciate your assistance in

23 this investigation. Your cooperation is critical in

24 making the nation's mines safer.

25 After we've finished asking questions,

1 you'll have an opportunity to make a statement and
2 provide us with any other information you believe to
3 be important. If any time after the interview you
4 recall any additional information that you believe
5 might be useful, please contact any of us at the
6 contact information provided.

7 Finally, any statements given by miner

8 witnesses to MSHA are considered to be an exercise of
9 statutory rights and protected activity under Section
10 105(c) of the Mine Act. If you believe any discharge,
11 discrimination or other adverse action is taken
12 against you as a result of your cooperation with this
13 investigation, you're encouraged to immediately
14 contact MSHA and file a complaint under Section 105(c)
15 of the Act. Terry?

16 MR. FARLEY:

17 Mr. Stanley, on behalf of the Office of

18 Miners' Health, Safety and Training, I want to inform
19 you that the West Virginia Coal Mine Safety
20 Regulations also provide protection against potential
21 discrimination that might result from participating in
22 these type interviews. I'd like to pass along some
23 contact information for the West Virginia Board of
24 Appeals. The Board of Appeals hears complaints from
25 coal miners regarding potential discrimination. And

1 you may contact MSHA if you have any problem at the
2 address mentioned. Also included is my business card,
3 a phone number for Bill Tucker, our lead investigator
4 underground. Should you have any problems, you can
5 contact the people on the information, and we'd advise
6 you that if you to have a problem, you need to file a
7 claim within 30 days of the time it occurs.

8 EXAMINATION

9 BY MR. SHERER:

10 Q. Okay. First of all, I want to thank you for
11 coming down this afternoon, Mr. Stanley. We're
12 investigating the accident. We're investigating the
13 conditions and practices prior to the accident. We're
14 trying to determine what happened, why it happened,
15 and there's two reasons for that.

16 The first is the families and the friends and the
17 coworkers of the 29 miners, they deserve to know what
18 happened. And the second reason is we want to prevent
19 this type of accident in the future. We've
20 investigated a lot of accidents, and the more we know
21 about it, the better we can prevent that type of
22 accident in the future. So anything you can do to
23 help us out, any information, we'd certainly
24 appreciate it. Roughly how many years of mining
25 experience do you have?

1 A. Six and a half.

2 Q. Six and a half. Did you start with the Massey
3 Organization?

4 A. Yes.

5 Q. When did you first work up at Upper Big Branch?

6 A. March 10th, 2004.

7 Q. 2004. Did you leave Upper Big Branch at any point
8 in time?

9 A. Yes.

10 Q. When did you come back to Upper Big Branch?

11 A. Approximately one and a half years ago.

12 Q. Okay. Now, you've been there up until the time of
13 the accident?

14 A. Yes.

15 Q. Okay. What was your job title prior to the
16 accident?

17 A. Longwall foreman.

18 Q. Longwall foreman. Were you a production foreman?

19 A. No.

20 Q. What sort of foreman were you?

21 A. I work as a third shift foreman.

22 Q. Okay.

23 A. Maintenance.

24 Q. Maintenance foreman; okay. How many people worked
25 for you?

1 A. Approximately six.

2 Q. Okay. Who were those individuals, please?

3 A. Shannon Dickens, Kelton Cozart, Greg Meadows, Ray
4 Ara, Tommy Davis and Terry Dillon. He's retired.

5 Q. Okay. I assume you were salary?

6 A. Yes.

7 Q. Okay. Did you get paid overtime?

8 A. No.

9 Q. Okay. What sort of authority did you have? Could
10 you fire somebody?

11 A. No.

12 Q. Could you discipline somebody?

13 A. No.

14 Q. Okay. Could you purchase materials or supplies?

15 A. No.

16 Q. Could you requisition materials or ---

17 A. No.

18 Q. --- supplies? Could you contract for any
19 services?

20 A. No.

21 Q. Did you participate in any planning?

22 A. No.

23 Q. Okay. Thank you. When was the last shift you
24 worked prior to the explosion?

25 A. The Friday before.

1 Q. Okay. Were you scheduled to work Monday night?

2 A. Yes, sir.

3 Q. Okay. Let's talk about that Friday. Does
4 anything stand out as unusual?

5 A. Not at all.

6 Q. Okay. Do you recall what you guys did that Friday
7 night?

8 A. No.

9 Q. Okay. When was the last time you were on the
10 tailgate of the wall?

11 A. That night.

12 Q. That night; okay. What did you go out there for?

13 A. To take an air reading.

14 Q. Okay. When you went out there to take that air
15 --- did you take one air reading or several air
16 readings?

17 A. Took two that shift.

18 Q. Okay. When you went out there to take those air
19 readings, did you notice anything unusual?

20 A. No.

21 Q. Had you gone out on the tailgate further than just
22 to take the air reading at any point in time?

23 A. No.

24 Q. Okay. You never traveled back the tailgate side
25 of the wall?

1 A. On setup I have.

2 Q. Okay. But not recently?

3 A. No.

4 Q. Okay. When you took those air readings, what sort
5 of numbers were you getting?

6 A. I'm wanting to say around 12,000 but I'm not sure.

7 Q. Okay. Which direction was the air going that
8 night?

9 A. Coming off the face outby to the last open break,
10 and then across from, I want to say --- I can't
11 remember how many entries that we had there, but it
12 would go over one or two entries and then it would go
13 back inby.

14 Q. Okay. We actually have a map of that area that we
15 think is accurate. Could I ask you to take one of
16 these markers and mark the direction of the air that
17 you just described?

18 A. This is your last open break outby the face.
19 There off the face we'd come to this break and this
20 way. The break --- or the air outby the tail entry
21 --- or, well, the last open break on your tail side
22 would come this way.

23 MR. FARLEY:

24 Okay. The witness has marked two pink
25 arrows.

1 BY MR. FARLEY:

2 Q. Now, when you said it'd go through this last open,
3 I assume that there was a regulator or somebody
4 knocked a hole in that stopping?

5 A. Yes.

6 Q. Do you recall roughly how big that hole was?

7 A. Approximately half of it.

8 Q. Okay. Did you ever knock those holes in the
9 stopping?

10 A. No, I did not. I never had to.

11 Q. Okay. Who did that? Do you know?

12 A. As far as I know, it would've been the production
13 foreman.

14 Q. Okay. And where did you take your air measurement
15 at?

16 A. Just outby the --- just outby the tail drive ---

17 Q. Okay.

18 A. --- in between the last open and the tail drive.

19 Q. Do you recall roughly how far that was?

20 A. No, I do not.

21 Q. Okay. So there was enough distance you could get
22 a good air reading?

23 A. Yeah.

24 Q. Okay. And you say you think it was about 12,000?

25 A. Yes, I would say about ---

1 Q. Okay.

2 A. --- approximately.

3 Q. Now, do you recall if that reading was about what
4 you normally got?

5 A. Yes, it was.

6 Q. Okay. Had you noticed any shifts in that over the
7 three or four weeks prior to the explosion?

8 A. No.

9 Q. It was all about the same?

10 A. Yes.

11 Q. Okay. Do you carry a methane detector with you?

12 A. Yes.

13 Q. What type of methane detector?

14 A. A Solaris.

15 Q. Okay. Do you wear it up on your shoulder?

16 A. I wear it right under my chin.

17 Q. Okay. Had that detector ever gone into alarm on
18 you?

19 A. No.

20 Q. Okay. Do you know what it is set to alarm at for
21 methane?

22 A. One percent.

23 Q. Okay. So and you never, never encountered any
24 methane in excess of one percent?

25 A. No.

1 Q. Have you ever gotten an alarm from, like, oxygen
2 or carbon --- or carbon monoxide?

3 A. No.

4 Q. What's the highest concentration of methane that
5 you recall encountering on the longwall?

6 A. 0.05.

7 Q. Okay. Where was that at?

8 A. It was outby the tail entry.

9 Q. Okay. In the tailgate?

10 A. Yeah, in the tailgate.

11 Q. Okay. When you got off the mantrip and that,
12 roughly where was that at?

13 A. Approximately --- depending on how far the mule
14 train was from the face, anywhere from 400 to 700
15 feet.

16 Q. Okay. So you walked up several breaks. Did you
17 walk up the track entry?

18 A. The majority of the time.

19 Q. Okay. Do you recall what the ventilation was like
20 through there?

21 A. It was like normal ---.

22 Q. Plenty of air coming through there?

23 A. Yeah.

24 Q. Do you normally wear a jacket on the wall?

25 A. Yes, most of the time.

1 Q. Okay. Did you have a jacket that Friday night, do
2 you recall?

3 A. Yes, I did.

4 Q. Okay. When you got up, turned down the crosscut
5 to go to the face, do you recall the curtains across
6 the headgate entries?

7 A. Yes.

8 Q. Were any of those loose?

9 A. No.

10 Q. Okay.

11 A. First thing I checked.

12 Q. Okay. Have you ever come up and noticed them
13 loose?

14 A. Not very often.

15 Q. Not very often. When was the last time, just
16 roughly?

17 A. Six months ago. Well ---

18 Q. Six ---.

19 A. --- six months before this, prior to this.

20 Q. Okay. So we'd be talking right after the wall
21 started up?

22 A. Yes.

23 Q. Okay. Do you recall what you did when you found
24 those curtains loose?

25 A. Yeah.

1 Q. What'd you do?

2 A. I tightened them.

3 Q. Okay. Have you ever seen those curtains bowed out
4 from the gob back toward the face?

5 A. No.

6 Q. Okay. Did you guys do any welding that Friday
7 night, or cutting?

8 A. Not that I'm aware of.

9 Q. Okay. Do you recall the condition of the face
10 that Friday night? Were there any areas there were
11 giving you problems?

12 A. Not that I recall.

13 Q. Okay. Do you recall if there was any unusual
14 breakdowns that occurred on Friday?

15 A. No.

16 Q. Okay. When you left on Saturday morning, do you
17 recall where the shearer was setting?

18 A. No, I do not.

19 Q. Okay. What do you guys normally do on that
20 maintenance shift?

21 A. Let's see. Shannon Dickens is actually over the
22 maintenance part of it, but I'm pretty much his boss.
23 My guys --- we split up in pretty much two groups. My
24 guys will do the outby work like recovering belt
25 structure, hanging monorail and things of that nature.

1 Shannon, he pretty much takes care of the shearer and
2 all the electrical, all the electrical equipment and
3 maintenance on scoops and things of that nature.

4 Q. Okay. So you primarily work with outby; right?

5 A. Pretty much, yeah.

6 Q. Let me ask you a question. We know that there was
7 two doors put up approximately three, maybe four weeks
8 prior to the explosion. Did you or your people put
9 those doors up?

10 A. No, sir.

11 Q. Okay. Do you recall those doors?

12 A. Yes, sir.

13 Q. Do you recall when they were ---? When did you
14 first notice them?

15 A. Probably a month prior to the explosion.

16 Q. Okay. Was there anything unusual about those two
17 doors?

18 A. No.

19 Q. Okay. Did you notice an opening in the side wall
20 of those doors?

21 A. Yes, they were. Yes.

22 Q. Do you know what that was for?

23 A. I have no idea.

24 Q. Okay. Did you or your people ever participate in
25 any ventilation changes, building stoppings, knocking

1 out stoppings?

2 A. No.

3 Q. Okay. When is the last time you noticed these
4 doors going up to the cutover or crossover up to the
5 22 Headgate?

6 A. When they were in the last open break.

7 Q. Okay. Do you know if anybody took those doors out
8 and replaced them with a stopping?

9 A. Not sure.

10 Q. Okay.

11 A. No, correction. Yes, they did.

12 Q. Okay.

13 A. Yes, they did.

14 Q. Do you know about when that was done?

15 A. No, I do not.

16 Q. Okay. So when that was the last open break, that
17 would've been about two weeks prior to the explosion,
18 just judging by the average of the longwall?

19 A. Yes, probably.

20 Q. Okay. Did you ever have any problems with the
21 water on that longwall?

22 A. Yes.

23 Q. When was the last time you had a problem with
24 water?

25 A. You mean water on the face or ---?

1 Q. Yeah.

2 A. Water on the face ---

3 Q. Yes, not the spray ---.

4 A. --- as far as buildup?

5 Q. Yeah. Okay.

6 A. January probably.

7 Q. Okay.

8 A. January, February.

9 Q. You guys or any of your people have to set any
10 pumps?

11 A. Yes.

12 Q. Okay. Where were you pumping to? Where was the
13 discharge line going?

14 A. The headgate entries.

15 Q. Toward the startup of the wall or back toward the
16 takeout?

17 A. Toward the startup.

18 Q. Okay. Do you recall how far the piping went?

19 A. As far as I know, to the turbine.

20 Q. Okay.

21 A. Back by the fan.

22 Q. That's a long way. Have you been back down that
23 entry toward the fan any time since the wall started?

24 A. Yes.

25 Q. When was the last time you were down there?

1 A. I think I went to 74 Break, took a pump back there
2 January, possibly.

3 Q. Okay. Was that associated with that same water
4 event?

5 A. I believe so.

6 Q. Okay. What was the conditions like down there
7 around 74 Break?

8 A. A lot of water, ribs rolling, a few stoppings
9 busting out ---

10 Q. Okay.

11 A. --- from the bottom.

12 Q. Now, when you say a lot of water, was it over knee
13 high any place?

14 A. At 74 Break.

15 Q. Okay. How high was the water?

16 A. I'm not sure. I didn't go all the way out in it.

17 Q. Okay. How deep did you get?

18 A. Eyes.

19 Q. Eyes; okay. That last Friday that you worked, did
20 you smell anything different along the wall? Did you
21 smell anything that smelled like kerosene?

22 A. No.

23 Q. Okay. Was there any new equipment on the mule
24 train or the wall itself that you can recall that had
25 been up there for less than a week or two prior to the

1 explosion?

2 A. No.

3 Q. Okay. Do you recall the last time the mule train
4 was moved up?

5 A. No, I do not.

6 Q. Okay. About how often would you have to move that
7 thing?

8 A. Depends on how much coal they ran.

9 Q. Okay. Just on average.

10 A. Every other week.

11 Q. Okay. Did you people do that?

12 A. Yes.

13 Q. How long would it take you to move that thing up?
14 Would you have to work on it more than one shift?

15 A. No.

16 Q. Okay. How'd you move it up?

17 A. You would have an electrician go knock the power
18 to everything, unplug all the cat heads, pull the mule
19 train down --- or all the water lines, too, hook
20 motors to it, pull it down 400 feet.

21 Q. Okay. So you moved it at 400-foot increments?

22 A. Yes.

23 Q. Okay. Would you have to knock holes in stoppings
24 to move it up?

25 A. Yes.

1 Q. What would you do once you got it moved up? How
2 would you plug those holes back up?

3 A. Put block back in the holes, plaster or foam.

4 Q. Okay. I asked you before if, whether your people
5 ever worked on ventilation changes and you indicated
6 that you didn't. Was there anybody else on that third
7 shift that worked on ventilation changes?

8 A. Not that I'm aware of.

9 Q. You never saw anybody in the mine taking air
10 readings or anything like that?

11 A. Just the section bosses doing their normal fire
12 bossing and things of that nature.

13 Q. Okay. Do you know who made the ventilation
14 changes at this mine?

15 A. Not exactly. Most of the guys on dayshift would
16 do it. The dayshift guys would come out on a
17 non-production shift to do it.

18 Q. Do you recall when the last time that you know of
19 that somebody did that?

20 A. Probably a month prior.

21 Q. A month prior, about the first of March or so?

22 A. I believe. That's when we were having the
23 citations written for the air.

24 Q. Okay. And you say they'd come out on a non-
25 production shift. Was that often the third shift?

1 A. Yes.

2 Q. Would they pull you guys off the face to do that?

3 A. Yes.

4 Q. How would they do that? Would they keep you
5 outside or ---?

6 A. Yeah, they would keep everybody outside except the
7 people that were participating in the air move ---

8 Q. Okay.

9 A. --- or the air change.

10 Q. Okay. The last time you recall an air change like
11 that, who was directing it?

12 A. Wayne Persinger.

13 Q. Okay. Are you familiar with the Route 3
14 engineers?

15 A. No.

16 Q. Do you know where they were located at?

17 A. There's engineers behind the Performance Coal
18 office. I don't know if that's just Performance
19 Coal's engineers or if it's just --- I'm not sure.

20 Q. Okay. I figured they had to be somewhere around
21 there since they were Route 3.

22 A. Yes.

23 Q. Yeah. Ever notice any floor heave anywhere along
24 either the headgate or tailgate of that wall?

25 A. No. Just behind --- actually there was behind the

1 --- on the head side back where they were running
2 pumps and stuff to.

3 Q. Okay. So when you went back there, did you notice
4 it --- was it up close to the wall or was it further
5 back in the headgate?

6 A. Further back.

7 Q. How bad did that floor heave? Did you have
8 trouble stepping up around or on the different blocks?

9 A. No.

10 Q. Okay. Was it half foot, a foot.

11 A. I would say not even half foot.

12 Q. Okay. Just little pieces had broken up?

13 A. Yeah.

14 Q. Okay. There wasn't any place where it was getting
15 close to roofing out, was it?

16 A. Not that I'm aware of.

17 Q. Okay. Was it floor hoove that was busting up the
18 stoppings that you mentioned?

19 A. Yes.

20 Q. Did you guys set jacks or props or cribs anywhere
21 in the headgate?

22 A. Yes, in the Number Three entry.

23 Q. Did you set those just as a normal practice or did
24 you set them for specific bad top?

25 A. Normal practice. It's in the roof control plan.

1 Q. Okay. What did you put over there?

2 A. Ten-inch props and cribs.

3 Q. Okay. Did you ever notice those taking weight?

4 A. No.

5 Q. Okay. Just a preventative ---?

6 A. Yeah, yes.

7 Q. Okay. How far outby the face would you build
8 those?

9 A. Fifty (50) feet.

10 Q. Okay. It was pretty close to the face?

11 A. Uh-huh (yes).

12 Q. Did you ever have any instance where you had to
13 come over to these returns going up the headgate?

14 A. No.

15 Q. Okay. When's the last time you walked that belt
16 line coming off the wall?

17 A. I'm not sure.

18 Q. Okay. Did you ever do that?

19 A. Yes.

20 Q. What sort of condition was it in the last time you
21 walked it?

22 A. Kind of wet.

23 Q. What about the belt and the structure? Was that
24 in good shape?

25 A. Yes.

1 Q. What was the rock dust like?

2 A. It was white.

3 Q. Did you ever notice any float dust anywhere around
4 that wall?

5 A. No.

6 Q. Do you guys normally wash shields on that third
7 shift?

8 A. Some. Not very often.

9 Q. Okay. What about when you first came on the wall
10 that Friday night? What condition were the shields
11 in? Were they dusty or were they ---?

12 A. I don't recall.

13 Q. You don't recall. Was there certain shields that
14 you washed down or just as need be?

15 A. Just as need be.

16 Q. Okay. Did you ever come on the face and have to
17 wash a lot of them down?

18 A. No.

19 Q. What's the maximum number you would wash down?

20 A. I'm not sure.

21 Q. Not sure. Would you wash half a face?

22 A. Probably not.

23 Q. Would you wash a quarter of the face?

24 A. At most.

25 Q. Okay.

1 A. The majority of the shield washing was done on ---
2 from my experience, was done on the production shifts.

3 Q. Okay. Have you worked on production shifts?

4 A. Yes.

5 Q. When did you do that?

6 A. I first started approximately eight months after I
7 started underground, and then up until two years ago.

8 Q. Okay. So about two years ago did you go on the
9 third shift?

10 A. Yes.

11 Q. Okay. What'd you do on the production shift?

12 A. I ran the shearer.

13 Q. Ran the shearer. So that's a real art.

14 A. I liked it.

15 Q. Did you run the head drive or tail drive?

16 A. Both. I have ran both.

17 Q. Okay. What were the conditions like on this wall
18 the last time you were on it? Did it look like easy
19 cutting or look like it would be hard?

20 A. On this panel?

21 Q. Yeah, uh-huh (yes).

22 A. Fairly easy.

23 Q. Okay. Were they taking rock anywhere?

24 A. Yes.

25 Q. Where was that at?

1 A. The whole face.

2 Q. The whole face. About how much rock?

3 A. Six to 15 inches, approximately.

4 Q. Okay. Was it slate or sandstone?

5 A. Most of it was slate middle band, and it was
6 sandstone on the tail.

7 Q. Okay. Were they taking that sandstone on the top
8 on the tail or the bottom?

9 A. The top was, and I couldn't see the bottom.

10 Q. Oh, okay. You say that Shannon Dickens normally
11 kept up with the maintenance type things on the wall
12 itself. When is the last time you or your people had
13 to work with him doing maintenance on the wall? Did
14 you ever have to do that?

15 A. Not very often. Very rarely.

16 Q. Okay. He must've had some --- a good crew.

17 A. He does have a good crew. The only time that we
18 would have to help would be changing the ranging arm
19 or ranging arm jack or something of that sort,
20 something big and heavy and mechanical. To get it
21 there and get the old one off was mainly the only
22 thing we really had to help him with.

23 Q. Sure. That's a big job. What do you know about
24 the day of the explosion?

25 A. Not much. I just received all kinds of phone

1 calls from family and friends.

2 Q. Sure. Well, I mean let me tell you what we know
3 or what we think we know. Let me qualify that. We
4 know that the wall was down most of the day.

5 Supposedly there was problems with a hinge pin on one
6 of the ranging arms. They called out at 2:42 that the
7 wall was starting back up, and it looks like the wall
8 probably made one, maybe a little more than one pass
9 that day. The shearer was either cut out or it was
10 very close to being cut out on the tail. It looked
11 like the drums were both extended. The pan was empty
12 of coal near the head and near the tail, but between
13 roughly Shield 40 and maybe shield 110 there was a
14 little bit of coal and some rock, some big chunks of
15 rock.

16 We know that the water had been cut off on the
17 head. We know that the high voltage and visual
18 disconnects had been pulled on the head side. We know
19 that three of the victims were pretty close to the
20 middle of the face. The other victims were up near
21 the headgate. And then, of course, there was a couple
22 people outby the headgate. What do you think was
23 going on on the wall at the time of the explosion?
24 And it was about 30 minutes prior to the normal shift
25 change.

1 A. Thirty (30) minutes prior to shift change?

2 Q. Uh-huh (yes).

3 A. The water was turned off ---

4 Q. Yeah.

5 A. --- at the headgate?

6 Q. Yeah. Supposedly there's two levers that had to
7 be pulled down to do that.

8 A. Yes. The disconnects were pulled on the shearer?

9 Q. Yeah, uh-huh (yes). No, they were pulled on the
10 headgate.

11 A. Well, that's what I mean. The disconnect box, the
12 blade ---

13 Q. Yes.

14 A. --- had been pulled?

15 Q. Yeah. Yeah, supposedly they had to push a button
16 in and pull it.

17 A. And pull the lever.

18 Q. And both --- all those levers were covered with
19 dust and soot, so we're pretty sure that was done
20 prior to the explosion.

21 A. When I was on the face at the end there, at the
22 end of your shift, shift change, you wouldn't knock
23 the power on the shearer. You wouldn't disconnect the
24 power for the next shift to come in and put the power
25 right back in. At most you'd push the E-stop on the

1 shearer. And it don't have anything to do with the
2 disconnects.

3 Q. Sure, uh-huh (yes).

4 A. I would say they knew something was going on just
5 for the sheer fact that the disconnects were pulled on
6 the shearer.

7 Q. Okay.

8 A. Unless they'd have problems with the shearer
9 cable.

10 Q. We've heard that. Several of the electricians
11 said, well, sometimes you get rocks in the cable tray
12 and you have to clean them out.

13 A. That's true, too.

14 Q. Particularly when you get down close to the tail,
15 because it tightens the cable up.

16 A. That's true.

17 Q. Let me ask your personal opinion. If you were
18 operating that shearer down there at the tail and
19 something happened, would you be likely to cross back
20 up across the face to try to get away from something,
21 or would you try to get out at the tailgate?

22 A. Depending on the circumstances.

23 Q. When would you try to go back across the face?

24 A. Any time with no smoke or no inhalation hazards,
25 you'd say.

1 Q. Okay. When would you go out the tailgate?

2 A. If I encountered smoke.

3 Q. Okay. Have you ever seen any ignition on this
4 panel?

5 A. No.

6 Q. Have you ever seen an ignition ---

7 A. No.

8 Q. --- on the longwall?

9 A. No.

10 Q. Okay. You ever see anybody working on the methane
11 monitors?

12 A. Yes.

13 Q. What were they doing?

14 A. At times they had to change sniffers out.

15 Sometimes they had to change the readouts out.

16 Sometimes they would be replacing the cable.

17 Q. Okay. Do you know if there had been any problems
18 with the methane monitoring system within a month or
19 so prior to the explosion?

20 A. No. I had Mr. Hendrick with me and he had a buddy
21 with him. They come up and they had checked all that.
22 They had checked all the sniffers, the one on the
23 tail, the one on the shearer, checked the readouts at
24 the headgate, checked all of it.

25 Q. Now, when did they do that?

1 A. I want to say approximately a month before the
2 explosion.

3 Q. Okay. Now, Mr. Hendricks, who's that?

4 A. Larry Hedrick, Larry --- he's a ---

5 Q. MSHA guy?

6 A. --- MSHA guy.

7 Q. Okay. Lot of Hedricks and Hendricks out there. I
8 can't keep them all straight. Did the folks on the
9 third shift normally calibrate the methane monitoring
10 system?

11 A. Yes.

12 Q. Do you recall about the last time you saw anybody
13 do that?

14 A. The last time I saw anybody do it or that I know
15 of anybody doing it was when Mr. Hedrick was there.

16 Q. Okay. About a month prior to the explosion?

17 A. Yeah.

18 Q. Okay. If inspectors came on the property, was it
19 normal for somebody to call in and tell folks
20 underground that inspectors were on the property?

21 A. Yeah.

22 Q. Okay. What did you think about the --- did you
23 think that the ventilation in this mine was adequate?

24 A. Yes.

25 Q. Do you know of any place that was giving anybody

1 any problems with ventilation prior to the explosion?

2 A. No.

3 Q. Okay. What do you think caused this explosion?

4 A. I would have to say there was a bleeder or
5 something like ---.

6 Q. Methane bleeder?

7 A. Yes.

8 Q. Have you ever encountered anything like that ---

9 A. No.

10 Q. --- in this mine?

11 A. No.

12 MR. SHERER:

13 Okay. Okay. That's all the questions

14 I've got.

15 A. Okay. Thank you.

16 EXAMINATION

17 BY MR. FARLEY:

18 Q. Okay. Mr. Stanley, I'm probably going to clarify
19 some things, so I may be working backwards. You just
20 said you think there might be a bleeder, a methane
21 bleeder someplace. Do you mean coming from the floor
22 or some --- do you mean some type of floor inundation?

23 A. Either face or floor.

24 Q. Okay. Now, you indicated that on your last shift,
25 April 2nd, that you measured about 12,000 cubic feet

1 per minute on the longwall tailgate side in the last
2 open break?

3 A. As far as I can remember, that's what it was.

4 Q. About that? Okay. Now, was this air measurement
5 you took part of a pre-shift or on-shift examination?

6 A. Pre-shift, should be.

7 Q. Well, did you do, like, a pre-shift exam for the
8 oncoming ---

9 A. Yes.

10 Q. --- dayshift?

11 A. (Indicates yes.)

12 Q. Where else along the longwall face did you take an
13 air reading during your pre-shift examinations?

14 A. You take an MPA reading inby the curtain on your
15 head side. You take an air reading in your last open
16 break, take an air reading in Number Nine Shield, an
17 air reading at Number 160 Shield, an MPB reading outby
18 the tail drive.

19 Q. Okay. Now, the headgate reading, is that the
20 number you ordinarily entered in the pre-shift book?

21 A. It was approximately a couple thousand more on the
22 tail, but are you referring to the MPA or the last ---
23 your last open break?

24 Q. MPA.

25 A. MPA, yeah. It was usually a couple thousand more

1 than what was on the tail.

2 Q. Okay. But over on the intake side did you
3 normally take a reading in there?

4 A. On the intake side, yes.

5 Q. Okay. Well, what was it around April 2nd?

6 A. I'm kind of getting lost here. On the intake
7 side, are you referring to behind the curtain as your
8 MPA or what you actually had in your intake or your
9 last open?

10 Q. Through your intake.

11 A. I'm wanting to say around 50,000.

12 Q. Okay. Sounds about right. Just in looking at the
13 longwall pre-shift/on-shift report book for the month
14 of March, early in the month of March we've got a
15 number about as high as about 150,000 cubic feet
16 entered in the book, and then toward the end of the
17 month it goes down to where it averages 55,000 to
18 60,000, which is a pretty significant difference.

19 A. Yes.

20 Q. Now, I mean you're still legal, but it's a pretty
21 significant difference. Did you happen to notice this
22 change throughout the month?

23 A. Yes, you could definitely feel the change.

24 Q. Okay. All right. But you did notice the change
25 from early in the month toward the end of the month?

1 A. Oh, yes.

2 Q. Okay. Last shift you worked, what direction was
3 the air moving on the longwall belt?

4 A. On the longwall belt, outby.

5 Q. Okay.

6 A. I'm not a hundred percent sure on that, but it
7 seems like the --- I hadn't walked the belt in awhile,
8 but it seemed like the last time I walked it, it was
9 outby.

10 Q Okay. Are you aware of an air change made in the
11 northern part of the mine around February 10th? Now,
12 February 10th would've been a Super Bowl Sunday, if
13 that helps you zero in.

14 A. I'm not real sure about the date. They had moved
15 air a couple times and around the same time limit.

16 Q. Okay. We understand that on February 10th that
17 the return air course for 22 Headgate section was
18 rerouted from where it originally had gone outby in
19 the --- down Seven North and around the --- outby in
20 the longwall to where it was rerouted down through the
21 crossover and out entries Four and Five on the
22 headgate side of the longwall panel and down and
23 around. Do you recall that air change being made?

24 A. Yes.

25 Q. Now, do you recall what impact that air change had

1 on the longwall ventilation, if any?

2 A. No, I do not.

3 Q. Okay. Do you know why they made that air change?

4 A. No, not 100 percent. No, I do not know exactly
5 why they made it.

6 Q. You say not 100 percent. Do you have some idea
7 why they would have made it?

8 A. Yeah. I don't think they were getting adequate
9 ventilation to one of the sections, one of the miner
10 sections.

11 Q. Okay. Would that have been 22 Headgate section?

12 A. Yes.

13 Q. Okay. All right. Now, if I recall correctly, you
14 indicated that you saw --- you were familiar with the
15 doors in the longwall headgate entries where a portion
16 of the side panel had been knocked out?

17 A. Yes.

18 Q. And now, if I got you correctly, you first noticed
19 those about a month prior to April 5th?

20 A. Approximately. Could've been earlier.

21 Q. Okay. Did the installation of those doors have
22 any impact on the longwall ventilation that you can
23 recall?

24 A. Not that I recall.

25 Q. Okay. We understand that around March 9th of this

1 year that there was an MSHA closure order issued
2 because of some problems in the longwall tailgate
3 entries. Are you familiar with that?

4 A. No.

5 Q. Okay. Do you recall if the longwall was down for
6 a couple, three days around that time?

7 A. No, I do not.

8 Q. Okay. All right. Now, let me ask you this. This
9 map of the longwall face and the headgate entries, the
10 crossover from the longwall headgate entries toward 22
11 Headgate, now, does it appear accurate based on what
12 you recall from your last shift in terms of the
13 ventilation?

14 A. Yes.

15 Q. Okay. Now, if you'll notice what appears to be a
16 set of doors here in a crosscut between the Number
17 Three and Number Four entries about even with the
18 longwall face that seem to separate the longwall
19 intake from the return coming off the miner sections.
20 Do you recall seeing those doors on your last shift?

21 A. If that were the doors where there was a track
22 spur in there, those doors were taking out and a
23 stopping was built ---

24 Q. Okay.

25 A. --- in there.

1 Q. All right.

2 A. I'm not sure if it was this set of doors or this
3 set of doors, but I don't remember ---

4 Q. Okay.

5 A. --- another set, you know, because I didn't ---.
6 There was no --- there was no doors there.

7 Q. Okay. All right.

8 ATTORNEY BABINGTON:

9 Do you mind circling with this orange
10 highlighter the doors that y'all have been referring
11 to?

12 MS. MONFORTON:

13 It's a green highlighter.

14 ATTORNEY BABINGTON:

15 It's a green highlighter. What'd I say?

16 MS. MONFORTON:

17 Orange.

18 A. Circling --- what'd you say?

19 ATTORNEY BABINGTON:

20 Green highlighter to circle the doors
21 that Mr. Farley was asking you questions about.

22 A. Okay.

23 BY MR. FARLEY:

24 Q. Now, from the looks of this ventilation up here,
25 if somebody left the doors open ---

1 MS. MONFORTON:

2 Right there's the orange.

3 BY MR. FARLEY:

4 Q. --- that might have a negative impact on your
5 longwall ventilation, wouldn't it?

6 A. Yes, it would.

7 Q. Okay.

8 A. Yes, it would.

9 Q. Do you recall finding those doors open?

10 A. No.

11 Q. Okay. The mantrip that you guys rode in on every
12 night, did you charge it while you were in the mine on
13 the section?

14 A. No.

15 Q. Okay. Was there any kind of a --- where were your
16 charging stations over here in the headgate, if any?

17 A. Let's see. I'm not sure what break the power ---
18 or the mule train was at. There was a forklift
19 charger in between the track entry and Number Three,
20 and then there was a scoop charger and a hauler
21 charger, also.

22 Q. Okay. How were those charger stations ventilated?
23 Were they ventilated through the return in any manner?

24 A. No.

25 Q. Do you know? Okay.

1 A. They had fire suppressions hung over. That's the
2 only thing.

3 MR. FARLEY:

4 All right.

5 EXAMINATION

6 BY MS. MONFORTON:

7 Q. Mr. Stanley, I just have a couple of clarifying
8 questions. How long have you had your fire foreman's
9 papers?

10 A. Not exactly sure.

11 Q. Okay.

12 A. I don't remember. Does it tell you on the card?
13 If it tells you on the card, I have it.

14 Q. Okay. The last year and a half or so that you've
15 been at UBB, have you hallways been a third shift ---

16 A. No.

17 Q. --- longwall foreman?

18 A. No.

19 Q. Okay. How long have you been longwall foreman at
20 UBB?

21 A. A year at most.

22 Q. A year; okay.

23 A. Probably a year.

24 Q. And who was your supervisor?

25 A. Jack Roles.

1 Q. Jack Roles. If the mine received citations from
2 either the State or Federal MSHA that related to the
3 longwall, what was the procedure for letting you know
4 as the longwall foreman about those violations? Did
5 you know about them?

6 A. Not very often. Well, they would be hung or
7 posted on the wall for people to look at at the mine.
8 A thing --- if there was a violation that I had to
9 fix, he would let --- tell me that, you know, I needed
10 to fix it. And this is what I need to do. This is
11 what was wrote up and so forth.

12 Q. Would it be fair to say that there may have been
13 violations that were received at the mine related to
14 the longwall that you, even as the longwall foreman,
15 may not have known about?

16 A. Yes, it's possible.

17 Q. Okay. Did you feel like you had a good sense of
18 what the State and Federal MSHA were finding when they
19 were doing inspections which related to the area where
20 you were supervising ---

21 A. Yes.

22 Q. --- miners? Okay. So you knew --- if there was a
23 problem there that the inspectors had found, you felt
24 like you knew about them?

25 A. Yeah.

1 Q. Okay. Are you currently working for Massey?

2 A. Yes.

3 Q. And at another mine?

4 A. No.

5 Q. No.

6 A. At the same mine.

7 Q. At the same mine, at UBB. Okay. Thank you.

8 MS. MONFORTON:

9 That's all.

10 RE-EXAMINATION

11 BY MR. SHERER:

12 Q. I have a few follow-ups. First of all, what are
13 you doing up at UBB now?

14 A. Well, I hurt (b)(7)(C) about three weeks ago and
15 I've been at the Bandytown fan, monitoring the air for
16 the past two. Prior to that I was outside working,
17 just doing things around the yard, fixing violations,
18 and then the week prior to I hurt (b)(7)(C) , we started
19 going back underground on the evening shift,
20 correcting hazards and things of that nature,
21 violations from the portal to the Ellis switch.

22 Q. I want to thank you for doing that. That's vital
23 to help our people that are underground. You
24 mentioned methane bleeders. Are you aware of the
25 history of prior methane outbursts on this longwall?

1 A. No.

2 Q. Okay. Now, you say you reported to Jack Roles.

3 Would you normally see him at the start of the shift
4 or end of the shift?

5 A. At the end of my shift.

6 Q. Okay. So you'd be coming out when the dayshift
7 was starting?

8 A. Yes.

9 Q. Have you talked to Mr. Roles since the explosion?

10 A. Several times.

11 Q. Has he expressed any theories about what happened
12 as far as the explosion?

13 A. No.

14 Q. Okay. When was the last time you saw him
15 underground?

16 A. I don't recall.

17 Q. Okay. Would he ever come on the third shift?

18 A. The last time I seen him on the third shift we
19 were changing the sprocket or --- yeah, the sprocket
20 on the stage loader, what actually dumps the coal onto
21 the belt.

22 Q. Sure.

23 A. We were changing that. I don't know when that was
24 when we changed it, but that's the last time I'd seen
25 him on third shift.

1 MR. FARLEY:

2 Okay. Thank you. That's all the
3 questions I've got.

4 RE-EXAMINATION

5 BY MR. FARLEY:

6 Q. Okay. On the tailgate side of the longwall when
7 you made your exams, where did you date up over there?
8 Was there a date board over there?

9 A. Not that I recall, no.

10 Q. Where'd you ordinarily date up?

11 A. On the props.

12 Q. Okay. Now, did you ever go out into the tailgate
13 entries when you were doing your exam?

14 A. I never wandered out that way. Just being out
15 here was far enough. I didn't want to go on out. I
16 didn't like to spend a whole lot of time out there.

17 Q. Okay. I understand. How bad did you hurt (b) (7)
(C)

18 (b) (7)(C)

19 A. Not very bad. (b) (7)(C)

20 (b) (7)(C)

21 (b) (7)(C)

22 (b) (7)(C)

23 Q. Surgery a possibly at some point in time?

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

25 MR. FARLEY:

1 Best of luck.

2 ATTORNEY BABINGTON:

3 Anything else, Celeste?

4 MS. MONFORTON:

5 Uh-uh (no).

6 RE-EXAMINATION

7 BY MR. SHERER:

8 Q. I've got one final question, Mr. Stanley. You
9 mentioned you didn't like to go out on the tailgate.
10 Why?

11 A. Because inby the tail shields, that's your gob
12 line.

13 Q. Uh-huh (yes).

14 A. It follows you as you go, and I just didn't like
15 the looks of it of the thought of being out there, you
16 know.

17 Q. Kind of scary out there.

18 A. Yeah, it's kind of eerie.

19 MR. FARLEY:

20 That's sensible.

21 A. Thank you.

22 MS. MONFORTON:

23 Sensible.

24 A. Not nothing --- they didn't feel unsafe. It was
25 just the whole thought of, you know, you're looking at

1 a big pile of rock right there and you're standing
2 here and ---.

3 BY MR. FARLEY:

4 Q. Okay. I understand.

5 ATTORNEY BABINGTON:

6 Anything else?

7 MR. FARLEY:

8 I don't think so.

9 ATTORNEY BABINGTON:

10 All right. Well, there are two documents
11 from the beginning, a copy of the subpoena. That'll
12 be marked D.K. Stanley One. A copy of the return ---.

13 MR. FARLEY:

14 Are you any relation to Jeffrey Stanley?

15 A. Yes.

16 MR. FARLEY:

17 Okay.

18 A. Brother.

19 MR. FARLEY:

20 Okay. We saw you coming down the hall.
21 We thought maybe you'd changed shirts or something.

22 ATTORNEY BABINGTON:

23 Thanks for getting that on the record,
24 Terry. So D.K., D.K. Stanley One, a copy of the
25 subpoena; D.K. Stanley Two, copy of the return receipt

1 for the subpoena; D.K. Stanley Three, this fan, this
2 map that we've marked up, which is one of the
3 Bandytown fan maps.

4 (Exhibit D.K. Stanley Three marked for
5 identification.)

6 ATTORNEY BABINGTON:

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

12 We request that you not discuss your
13 testimony with any person aside from a personal
14 representative or Counsel. After questioning other
15 witnesses, we may call you if we have any follow-up
16 questions. If at any time you have additional
17 information regarding the accident that you'd like to
18 provide to us, please provide that to us --- please
19 contact us at the contact information previously
20 provided. If you wish, you may now go back over any
21 answer you've given during this interview. You may
22 also make any statement that you'd like to make at
23 this time.

24 A. I don't have anything else.

25 ATTORNEY BABINGTON:

1 Okay. Well, thank you, and again I want
2 to thank you for your cooperation in this matter.

3 A. Thank you.

4 ATTORNEY BABINGTON:

5 Off the record.

6 * * * * *

7 STATEMENT UNDER OATH CONCLUDED AT 2:05 P.M.

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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