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Transcript of the Testimony of Timothy George Sigmon

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STATEMENT UNDER OATH
OF
TIMOTHY GEORGE SIGMON

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Thursday, August 19, 2010, beginning at 3:53 p.m.

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2

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

7*

Two

Return Receipt Card

7*

* Exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is August
5 19th, 2010. I'm with the Office of the Solicitor,
6 U.S. Department of Labor. With me is Erik Sherer, an
7 accident investigator with the Mine Safety and Health
8 Administration, MSHA, an agency of the United States
9 Department of Labor. Also present is personnel from
10 the State of West Virginia. I ask that they state
11 their appearance for the record.

12 MR. FARLEY:

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

15 MS. MONFORTON:

16 And I am Celeste Monforton, with the
17 Governor's independent team.

18 ATTORNEY BAXTER:

19 There may also be members of the
20 investigation team present in the room today. Mr.
21 Sherer, Mr. Farley and Ms. Monforton will be
22 conducting the questioning. Would you please swear
23 the witness in?

24 -----
25 TIMOTHY GEORGE SIGMON, HAVING FIRST BEEN DULY SWORN,

1 TESTIFIED AS FOLLOWS:

2 -----

3 ATTORNEY BAXTER:

4 Terry?

5 MR. FARLEY:

6 Mr. Sigmon, if you would be kind enough

7 to just state your full name and spell your last name

8 and give us your address and telephone number, please?

9 A. It's Timothy George Sigmon, S-I-G-M-O-N, P.O. Box

10 (b) (7)(C)

11 MR. FARLEY:

12 Now, Mr. Sigmon, you are here in response

13 to a subpoena; is that correct?

14 A. Yes.

15 MR. FARLEY:

16 Okay. Now, does this look like a copy of

17 the subpoena you received?

18 A. Yes.

19 MR. FARLEY:

20 Does this look like a copy of the return

21 receipt for ---

22 A. Yes.

23 MR. FARLEY:

24 --- the same subpoena? I'd like to enter

25 these documents as Exhibits One and Two, please.

1 (T. Sigmon Exhibits One and Two marked
2 for identification.)

3 MR. FARLEY:

4 Also, Mr. Sigmon, very quickly here, on
5 behalf of my agency, I'd like to inform you that the
6 West Virginia Code, Chapter 22A, Article One, Section
7 22, provides protection against discrimination for
8 coal miners who participate in these type of
9 interviews. I'm giving you a document that has the
10 contact information for the West Virginia Board of
11 Appeals, which hears such complaints for miners. I
12 would caution you, should you have a problem with
13 discrimination, you should file a complaint within 30
14 days.

15 A. Okay.

16 MR. FARLEY:

17 Thank you.

18 A. You're welcome.

19 ATTORNEY BAXTER:

20 I'm going to read you some more of the
21 ground rules to the interview now. All members of the
22 Mine Safety and Health Accident Investigation Team and
23 all members of the State of West Virginia Accident
24 Investigation Team participating in the investigation
25 of the Upper Big Branch Mine explosion shall keep

1 confidential all information that is gathered from
2 each witness who voluntarily provides a statement
3 until the witness statements are officially released.
4 MSHA and the State of West Virginia shall keep this
5 information confidential so that other ongoing
6 enforcement activities are not prejudiced or
7 jeopardized by a premature release of information.
8 This confidentiality requirement shall not preclude
9 investigation team members from sharing information
10 with each other or with other law enforcement
11 officials. Team members' participation in this
12 interview constitutes their agreement to keep this
13 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. You may have
23 your personal attorney present during the taking of
24 this statement or another personal representative, if
25 MSHA has permitted it, and may consult with your

1 attorney or the representative at any time. And for
2 the record, do you have a personal representative here
3 with you today?

4 A. No.

5 ATTORNEY BAXTER:

6 Your statement is completely voluntary.

7 You may refuse to answer any question and you may
8 terminate your interview at any time or request a
9 break at any time. Since this is not an adversarial
10 proceeding, formal Cross Examination will not be
11 permitted. However, your personal legal
12 representative may ask clarifying questions as
13 appropriate.

14 Your identity and the content of this
15 conversation will be made public at the conclusion of
16 the interview process and may be included in the
17 public report of the accident, unless you request that
18 your identity remain confidential or your information
19 would otherwise jeopardize a potential criminal
20 investigation. If you request us to keep your
21 identity confidential, we will do so to the extent
22 permitted by law. That means that if a judge orders
23 us to reveal your name or if another law requires us
24 to reveal your name or if we need to reveal your name
25 for other law enforcement purposes, we may do so.

1 Also, there may be a need to use the information you
2 provide to us or other information we may ask you to
3 provide in the future in other investigations into and
4 hearings about the explosion. Do you understand?

5 A. Yes.

6 ATTORNEY BAXTER:

7 Do you have any questions?

8 A. No.

9 ATTORNEY BAXTER:

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

20 A court reporter will record your
21 interview. Please speak loudly and clearly. If you
22 do not understand a question asked, please ask us to
23 rephrase it. Please answer each question as fully as
24 you can, including any information you've learned from
25 someone else. I would like to thank you in advance

1 for your appearance here. We appreciate your
2 assistance in this investigation. Your cooperation is
3 critical in making the nation's mines safer. After we
4 have finished asking questions, you'll have an
5 opportunity to make a statement and provide us with
6 any other information that you believe to be
7 important.

8 If at any time after the interview you
9 recall any additional information that you believe
10 might be useful, please contact Norman Page at the
11 telephone number or e-mail address provided to you.
12 Any statements given by miner witnesses to MSHA are
13 considered to be an exercise of statutory rights and
14 protected activity under Section 105(c) of the Mine
15 Act. If you believe any discharge, discrimination or
16 other adverse action is taken against you as a result
17 of your cooperation with this investigation, you're
18 encouraged to immediately contact MSHA and file a
19 complaint under Section 105(c) of the Act.

20 EXAMINATION

21 BY MR. FARLEY:

22 Q. Mr. Sigmon, we appreciate you coming and we do
23 this in the hopes of preventing this disaster from
24 happening again and to hopefully provide some type of
25 answer to the families as to how and why this

1 occurred. How long have you been a coal miner?

2 A. Five months.

3 Q. Five months. When did you start as a coal miner?

4 A. I started February 13th.

5 Q. And was that your first day at UBB?

6 A. That was my first day, yeah.

7 Q. Okay. So apparently you just got your apprentice
8 miner's certification not long before?

9 A. Yeah. I took my underground apprentice class in
10 January.

11 Q. Okay. Are you employed by UBB or a contractor?

12 A. I was employed as a contractor at UBB.

13 Q. What contracting firm was that?

14 A. David Stanley Consultants.

15 Q. Now, prior to this interview today, have you been
16 interviewed by any other individual or organization
17 about the Upper Big Branch mining disaster?

18 A. Lawyers from Massey, but that was it.

19 Q. Do you recall when that interview took place?

20 A. Yeah. It took place last Friday.

21 Q. Last week?

22 A. Yeah, the 13th.

23 Q. Okay. Was that after you received your subpoena?

24 A. Yes.

25 Q. Okay. All right. Do you recall who interviewed

1 you?

2 A. Chris Wenger, W-E-N-G-E-R. And I do not recall
3 the other guy's name.

4 Q. And did they caution you about this interview,
5 tell you how you might want to respond to any
6 questions?

7 A. No. They just gave me a number and said I could
8 have a representative.

9 Q. Okay. If you started on February 13th, what was
10 your first day at work at UBB like?

11 A. It was different. I came from retail and went
12 into the mines, so it was a whole new world going
13 underground.

14 Q. Can you give me some sense of what your first day
15 was like there?

16 A. They were --- you know, we were trying to dig a
17 belt out from under gob. They were --- it was ---.

18 Q. Was there any orientation training of any kind
19 provided for you on your first day at UBB?

20 A. I was shown a map and I was told where I would be
21 working at. I was given a self-rescuer. I was given
22 a tour of the area where I was working.

23 Q. Okay. And what area was that where you were to be
24 working?

25 A. The Glory Hole.

1 Q. Okay. Now, does that mean you were given a tour
2 of just the Glory Hole area or a tour of the mine?

3 A. I was given a tour of the Glory Hole area.

4 Q. Okay. Now, about how much time did the folks at
5 UBB spend explaining the mien map and your self-
6 rescuer that day?

7 A. A half an hour ---

8 Q. Okay.

9 A. --- total.

10 Q. Who did that training for you?

11 A. Everett Hager.

12 Q. So Mr. Hager spent every bit of a half an hour
13 explaining the mine map and your self-contained
14 rescuer; is that right?

15 A. About 20 minutes or so. I mean, it was about 20
16 minutes.

17 Q. Did he ask you to sign a form at the completion of
18 the training?

19 A. I do not recall signing it.

20 Q. All right. So I guess you would have traveled by
21 track-mounted mantrip to the ---

22 A. Yes, sir.

23 Q. --- Glory Hole area?

24 A. Yes, sir.

25 Q. Did you notice a whole lot of doors on the way in?

1 A. There was four doors around 78 Break. They had
2 two sets. And that's all I recall seeing.

3 Q. With you being the new man, did they ask you to
4 get out and open the doors?

5 A. No, not on the first day. But eventually the red
6 hat was ---.

7 Q. The second day?

8 A. Within the first week.

9 Q. So after they showed you how to open the doors one
10 time, then it became your job; is that right?

11 A. Yeah.

12 Q. All right. I understand. Now, what work were you
13 doing in the Glory Hole area?

14 A. We were --- they were grading the bottom to put in
15 a Mother Drive. So my first two weeks I was really
16 just working to dig the belt from the gob. And then
17 also we put in structure, also overcasts and
18 stoppings.

19 Q. Now, when you say dig the belt from the gob, are
20 you talking about shoveling gob out ---

21 A. Yeah.

22 Q. --- from under the belt?

23 A. Yeah, big rocks.

24 Q. All right. Now, are you familiar enough with the
25 mine map to maybe indicate where they were grading the

1 bottom?

2 A. Yeah.

3 Q. Now, this is the Glory Hole area right here.

4 A. We weren't actually in the Glory Hole. We were
5 more in the bend going into the One section.

6 Q. Okay. Would that be called --- did they call it
7 the Mother Drive construction area?

8 A. Yeah. Now, that's after two weeks. That's what
9 crew I moved to was the Mother Drive longwall prep.
10 Where's the track entry?

11 Q. I think it's the middle entry right here. I'm not
12 certain.

13 A. Okay. That's mainly where I was working is in the
14 track entry.

15 Q. Okay.

16 A. And where the track would come up into the bend to
17 go to One section, we were working just to the right
18 of it.

19 Q. Okay.

20 A. And then the belt we were digging was kind of in
21 this area.

22 Q. When you're pointing to this area, you're talking
23 about, for purposes of the court reporter, where the
24 22 Headgate belt dumps onto the Seven North belt?

25 A. Yes.

1 Q. Now, I assume they were grading the bottom with a
2 continuous mining machine?

3 A. Yes.

4 Q. Who was your supervisor?

5 A. Terry Moore.

6 Q. Okay. Now, was he there every day?

7 A. Yes.

8 Q. Who else worked as part of your crew?

9 A. There was Matt, Matt Warden, Cliff Stover, Charlie
10 Athey, Jay --- I'm not sure what Jay's last name
11 was, Morris --- again, I don't remember Morris' last
12 name.

13 Q. Sure. That's okay.

14 A. And that was it.

15 Q. Okay. Now, let me back up a little bit here.

16 A. Okay.

17 Q. February --- you started on February 13 and you
18 were in the Glory Hole area?

19 A. Yes.

20 Q. When did you actually get to the Mother Drive
21 area?

22 A. Well, they --- we --- around, I guess, February
23 28th is when we started putting the Mother Drive in.
24 And they actually were installing the Mother Drive
25 where they graded the bottom. So on the 13th their

1 Mother Drive wasn't set up yet.

2 Q. Okay. Now, from the end of February there through
3 March the 5th, did you continue to work in that area?

4 A. Yes.

5 Q. The entire four or five weeks?

6 A. Yes, sir. I was under a different supervisor,
7 Mike Kiblinger.

8 Q. Mike Kiblinger?

9 A. Yeah. For two weeks Mike Kiblinger would be my
10 boss.

11 Q. Okay. Now, what shift were you working?

12 A. Dayshift.

13 Q. Okay. Where did you portal?

14 A. Ellis.

15 Q. Ellis?

16 A. Yes.

17 Q. Okay. Now, you know, given your minimal
18 experience, we wouldn't expect you to be a ventilation
19 expert, okay, ---

20 A. Okay.

21 Q. --- at this point, but I'm sure you were around
22 long enough to understand that there were
23 stoppings, ---

24 A. Yes.

25 Q. --- what we call stoppings in place to direct

1 airflow and that you --- and you encountered doors.
2 Now, in the area of this Mother Drive construction
3 site, did you notice stoppings that had been removed
4 or were either partially or completely or doors that
5 had been removed or opened ---

6 A. Yes.

7 Q. --- during that process?

8 A. Yes.

9 Q. Okay. Do you think you might have the ability to
10 indicate where they were located on the map?

11 A. Is this the belt?

12 Q. Yes, sir.

13 A. Okay.

14 Q. Now, the belt runs all the way to this dumping
15 point right here on the Seven North. This is the 22
16 Headgate belt that comes down to --- now, the Mother
17 Drive construction area, as I understand it, is in
18 that general area.

19 A. Yes, sir. It would have been at the 22 Gate belt
20 in between your One and Two entries.

21 Q. Okay. Now, would it have been down here at the
22 dumping point or up here closer to the section?

23 A. Up here closer to the section.

24 Q. Okay. Do you know --- did anyone tell you why you
25 were removing stoppings?

1 A. No. No.

2 Q. Okay. Who would have directed you to remove
3 stoppings?

4 A. Well, we really didn't remove stoppings. I could
5 just tell a stopping had been there.

6 Q. It wasn't there anymore?

7 A. We were rebuilding stoppings.

8 Q. Okay. All right. But during the course of the
9 construction work at the Mother Drive, did you remove
10 any stoppings, knock them down or knock blocks out?

11 A. No.

12 Q. And did you open and close doors for extended
13 periods of time?

14 A. No.

15 Q. Okay.

16 A. Now, they were also putting a set of doors ---
17 once you went towards the One section, probably in
18 this area, which would be what, three breaks up from
19 the mouth of One.

20 Q. Okay.

21 A. But my main work was down here around 130.

22 Q. Okay. Now, did anybody among the people you
23 worked with during this four or five-week period at
24 the Mother Drive site carry a methane detector?

25 A. Yes.

1 Q. Who did?

2 A. Mark. I'm not sure of Mark's last name. Mike
3 Kiblinger would carry one as well. I believe John
4 also had one. See, after two weeks I went to a new
5 crew, so there was also Jerry Weeks, Mark, John. They
6 came from UBB side, and also me and Matt Ward and Mike
7 Kiblinger. But at least those three I would see with
8 methane detectors.

9 Q. Same location, ---

10 A. Yes, sir.

11 Q. --- just different faces?

12 A. Yes, sir.

13 Q. Now, do you recall if either of the two people who
14 carried methane detectors at that site ever detected
15 any methane?

16 A. I do not recall any methane detected.

17 Q. Did you ever actually --- did you ever see or hear
18 the alarm --- any alarm go off with the detectors they
19 were ---

20 A. No.

21 Q. --- carrying?

22 A. It would make a --- we used torches when we were
23 putting the drive, and they would, you know, use your
24 methane detector, and I heard it beep once or twice.

25 But I ---

1 Q. Okay.

2 A. --- didn't know anything about methane detectors
3 at that time, so --- I didn't carry one myself.

4 Q. When was the last shift you worked in that area?

5 A. April 5th.

6 Q. April 5th?

7 A. Yes, sir.

8 Q. What time did you arrive in that area?

9 A. Well, we were ahead of schedule of driving the
10 Mother Drive, so we arrived in that area around 6:30
11 a.m., and we were getting our tools to put in another
12 Mother Drive at LBB.

13 Q. Okay.

14 A. We put in another drive at LBB.

15 Q. What time did you leave the area that day?

16 A. Around nine o'clock.

17 Q. 9:00 a.m.?

18 A. Yes, sir.

19 Q. Where did you go from there?

20 A. We went back towards the portal, to LBB, which I
21 believe is around 22 Break.

22 Q. Okay. All right. Now, were you just there that
23 morning to get your tools?

24 A. Yes, sir.

25 Q. Who was with you that morning?

1 A. Mike Kiblinger and Matt Warden.

2 Q. Okay. Anything different that morning?

3 A. No.

4 Q. First, let me ask you this question. Prior to
5 April 5th, what was your last shift worked at the
6 Mother Drive construction site?

7 A. April 1st. It would have been Thursday.

8 Q. Okay. Holiday weekend; wasn't it?

9 A. Yeah. I did work Good Friday, but I worked at One
10 section on Good Friday.

11 Q. Okay. Now, when you say One section, do you
12 mean ---?

13 A. I was in the face of One.

14 Q. Okay. We'll come back to that.

15 A. Okay.

16 Q. Now, on Monday morning, April 5th, when you were
17 at the Mother Drive construction site area, as
18 compared to the previous shift, which was --- you had
19 worked in that area, which was about April 1st, a week
20 before, any change in airflow, temperature, anything
21 that you noticed that was different?

22 A. No.

23 Q. Smell anything, any kerosene-type odor?

24 A. No.

25 Q. Everything seemed ---

1 A. Seemed like another day.

2 Q. --- like it was before?

3 A. Yes, sir.

4 Q. Ever experience any burning sensation in your eyes
5 in that area?

6 A. No.

7 Q. Okay. Now, when you left there on the morning of
8 April 5th, did the stoppings in the area all appear to
9 be intact?

10 A. Yes, sir.

11 Q. Doors closed?

12 A. Yes, sir. I didn't get up to these One section
13 doors, so I can't say for there, but the doors around
14 78 were closed.

15 Q. Okay. All right. Now, you indicated you worked
16 on what you're calling One section, ---

17 A. Yes, sir.

18 Q. --- which --- for our purposes we've been calling
19 it 22 Headgate most of the time, but you can call it
20 whatever you like. You indicated you worked there on
21 Good Friday?

22 A. Yes, sir.

23 Q. Which is April 2nd.

24 A. Yes.

25 Q. What did you up there that day?

1 A. I went with a scoop man. He went to get supplies
2 for the bolter. They gave us a three-day weekend.
3 Being a contractor, I needed some shifts, so I
4 volunteered to come in. So I worked with the scoop
5 man and we went and got supplies for the bolter, and
6 we came back and we supplied the bolter and then also
7 built a stopping.

8 Q. Did you work a full shift then?

9 A. Yes, sir, which would have been 6:00 a.m. to 3:00
10 p.m.

11 A. Now, was that on dayshift?

12 A. Yes.

13 Q. Okay. Who was the section boss that day?

14 A. Dino ---.

15 Q. Mr. Jones?

16 A. Yes.

17 Q. Did you have any conversations with Mr. Jones that
18 day"?

19 A. Yes.

20 Q. What about?

21 A. Nothing in particular, just short talk. I mean,
22 just asked me how I was doing. Just told me to go
23 with Ronald Maynor, who was the scoop guy. Told me
24 what I'd be doing for the day.

25 Q. Now, did Mr. Jones say anything about the

1 condition of his section, the condition of section
2 ventilation, ---

3 A. No, sir.

4 Q. --- past or present?

5 A. No, sir.

6 Q. Now, did they produce coal that day?

7 A. Yes, I believe they did.

8 ATTORNEY BAXTER:

9 I'm sorry. Was that Good Friday or is
10 that the Thursday?

11 A. That was Good Friday.

12 ATTORNEY BAXTER:

13 Good Friday?

14 A. Yes.

15 BY MR. FARLEY:

16 Q. They did produce coal that Good Friday?

17 A. I believe they did. I wasn't up around the
18 tailpiece or the buggy or the miner.

19 Q. Sure. Do you know about where you built the
20 stopping?

21 A. No.

22 Q. Okay. Was it --- how far outby the face was it?
23 How far from the face were you?

24 A. Three, maybe four breaks.

25 Q. I assume you could hear the equipment running?

1 A. Yes, sir.

2 Q. Okay. Did you ever go to the face that day?

3 A. One time, when we went up to supply the bolter.

4 Q. Okay. Any conversations with the roof bolter
5 operators that day?

6 A. No.

7 Q. Or anybody at all express any kind of concerns
8 about ventilation?

9 A. No.

10 Q. About methane?

11 A. No.

12 Q. Okay. Now, was that the only time you ever
13 visited that section?

14 A. Yes, sir.

15 Q. Did you ever work on any of the other
16 coal-producing sections?

17 A. No. I was mainly at 130 Break.

18 Q. Okay. Did you ever walk over toward the longwall
19 from the Mother Drive construction site? The longwall
20 is in this direction south?

21 A. We would get supplies occasionally. Supply was
22 down near the track of the longwall section. We would
23 go down there to get panels for overcasts and beams.

24 Q. As a trainee, did they always have someone
25 accompany you?

1 A. Yes.

2 MR. FARLEY:

3 I don't think I have anything else.

4 EXAMINATION

5 BY MR. SHERER:

6 Q. You say you started on February 13th?

7 A. Yes.

8 Q. That wasn't a Friday, was it?

9 A. Yes.

10 Q. Oh, geez.

11 A. Oh, no, I'm sorry. It was a Saturday.

12 Q. Okay. You say you did some SCSR training. Did
13 anybody ask you if you wanted a copy of your 523 Form?

14 A. I'm not familiar with 523.

15 Q. So nobody asked you if you wanted a form?

16 A. Not to my knowledge.

17 Q. Okay. Thank you. You were talking to Terry about
18 some doors that were three breaks inby the mouth of
19 the 22 Headgate.

20 A. Yes.

21 Q. Did anybody mention why they were constructing
22 those doors?

23 A. No.

24 Q. Where do you work now?

25 A. I work for Mammoth.

1 Q. Are you still with David Stanley or ---?

2 A. No, Massey.

3 Q. Okay. Good. Congratulations.

4 A. Thank you.

5 Q. You were working up around where they were
6 building this new Mother Drive?

7 A. Yes.

8 Q. Did you ever hear anybody calling in, say
9 something like there's inspectors coming up there?

10 A. No.

11 Q. Okay. Did you ever hear of that anyplace else in
12 the mine?

13 A. No.

14 Q. Anybody ever tell you that?

15 A. Inspectors were coming?

16 Q. Uh-huh (yes).

17 A. Yes.

18 Q. Where was that at?

19 A. That would have been in this area.

20 Q. And you pointed to the Mother Drive construction
21 area near the ---

22 A. Yes.

23 Q. --- mouth of 22 Headgate? Who told you that?

24 A. The mine supervisor, Mike Kiblinger.

25 Q. Thank you.

1 A. You're welcome.

2 Q. Did you ever notice any place in the mine, any
3 change in the ventilation while you were there?

4 A. No.

5 Q. You didn't notice it getting hotter one day or
6 maybe colder the next?

7 A. No. Where I worked at was pretty hot.

8 Q. Oh, okay. Consistently hot?

9 A. Yes.

10 Q. Okay. That last day on the 5th where were you at
11 when the explosion occurred?

12 A. Facing Ellis Portal --- you have the three
13 portals. I would have been to the right of the right
14 portal ---

15 Q. Okay.

16 A. --- that goes outside.

17 Q. Who else was out there with you?

18 A. Everett Hager, Matt Warden and I think Mike
19 Kiblinger was with us as well.

20 Q. What did Mr. Hager say as soon as the dust started
21 coming out of the portal?

22 A. Nothing.

23 Q. Didn't say anything. What did he do?

24 A. We just, you know --- he didn't say anything. He
25 just kind of walked to the mine office.

1 Q. Oh, okay.

2 A. He was real quiet.

3 Q. Did you see him go back into those portals?

4 A. No.

5 Q. Okay. So you were getting set up to put in
6 another Mother Drive out near the Ellis Portal?

7 A. We were going to put in a drive.

8 Q. Okay.

9 A. Yeah, they were driving another section.

10 Q. Okay.

11 A. Or a belt head.

12 Q. And you said you came back up to the mouth of the
13 22 section to get some tools that morning?

14 A. Yes.

15 Q. Where did you go from there?

16 A. We went to 22 Break, which they refer to as LBB.

17 Q. Okay.

18 A. We went back towards the portal.

19 Q. What did you do that day --- the rest of that day
20 when you were down there?

21 A. We went to Break 22 and we looked at the area in
22 which they were driving. And they weren't ready for
23 us to set up yet. They didn't have monkey faces in
24 place. So at that point, roughly 10:00 a.m., we went
25 outside to put the drive and everything in the area so

1 when we came in the next day it would be easy to
2 transport with a motor. While we were outside, at
3 12:00 noon, the loader broke down, so they had to get
4 a hose from I believe Marfork or another surrounding
5 mine. So we went back into the LBB area and we
6 unloaded our tools and just chitchatted with the guys
7 that were in the area. And around noon --- or that
8 was at noon. Around 1:00 p.m. we went back outside,
9 and the loader was ready. And from that point I was
10 outside the rest of the day.

11 Q. Now, when you were chitchatting with the guys in
12 there, did anybody mention anything that seemed the
13 least bit unusual?

14 A. No.

15 Q. Did you ever hear anything on the mine phone or
16 anything that seemed the least bit unusual?

17 A. No.

18 Q. You were working around that belt on the 22
19 headgate --- or 22 --- mouth of the 22 Headgate
20 section. What was the rock dusting like that day?

21 A. We hand dusted every day, so we kept that area
22 fairly dusty.

23 Q. Okay.

24 A. And there was occasions, and I don't recall how
25 often, that they would dust the belts and it would

1 float down that area.

2 Q. After the explosion, how long did you stick
3 around?

4 A. Until 10:30 p.m.

5 Q. What did you do?

6 A. Well, first I just sensed something wasn't right,
7 so I went in and we had lost power. I took a shower
8 and cleaned up. And then a buddy of mine, Tommy
9 Davis, had three family members, so basically just
10 talked to him and just tried to keep him calm.

11 Q. Did you see anybody go back in the Ellis Portal?

12 A. Just when the mine rescue teams showed up and went
13 in.

14 Q. Did you see anybody like Chris Blanchard or Jason
15 Whitehead go underground?

16 A. No.

17 Q. Okay.

18 MR. SHERER:

19 That's all the questions I have.

20 EXAMINATION

21 BY MS. MONFORTON:

22 Q. I just have one question. Where did you do your
23 80-hour training before you started?

24 A. Tinchter Safety, and that's in Chelyan, West
25 Virginia.

1 Q. And can you spell that?

2 A. T-I-N-C-H-E-R.

3 Q. Tincher. And you did that in January?

4 A. Yes.

5 Q. Thank you.

6 A. You're welcome.

7 RE-EXAMINATION

8 BY MR. FARLEY:

9 Q. You indicated you stayed at the mine until 10:30
10 p.m. on April the 5th. Did you stay at the Ellis
11 Portal?

12 A. Yes, sir.

13 Q. Okay. Thank you.

14 ATTORNEY BAXTER:

15 On behalf of MSHA and the Office of
16 Miners' Health, Safety and Training, I want to thank
17 you for appearing and answering questions today. Your
18 cooperation is very important to the investigation as
19 we work to determine the cause of the accident. We
20 request that you not discuss your testimony with any
21 person aside from your personal representative. After
22 questioning other witnesses, we may call you if we
23 have any follow-up questions. If at any time you have
24 additional information regarding the accident that you
25 would like to provide to us, please contact us at the

1 contact information that was previously provided to
2 you. If you wish, you may now go back over any answer
3 you've given during this interview. You may also make
4 any statement you'd like to make at this time.

5 A. Okay.

6 ATTORNEY BAXTER:

7 Again, I want to thank you for your
8 cooperation.

9 A. You're welcome. Thank you.

10 * * * * *

11 STATEMENT UNDER OATH CONCLUDED AT 4:27 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

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Alison Salyards

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