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Transcript of the Testimony of Harley Taylor

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STATEMENT UNDER OATH
OF
HARLEY TAYLOR

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 Tuesday, August 24, 2010, beginning at 10:40 a.m.

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One	Subpoena	8*
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* Exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY FERGUSON:

4 My name is Dana Ferguson. Today is
5 August 24th, 2010. I'm an attorney with the Office of
6 the Solicitor, U.S. Department of Labor. With me is
7 Erik Sherer, accident investigator with the Mine
8 Safety and Health Administration, MSHA. Also present
9 are several agency of the United States Department of
10 Labor people. No, not in the background today, and
11 people from the State of West Virginia, if you'll put
12 your appearances on the record at this time.

13 MR. FARLEY:

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

16 MR. KOERBER:

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

20 MS. MONFORTON:

21 Mr. Taylor, I'm Celeste Monforton. I'm
22 with the Governor's independent team.

23 ATTORNEY FERGUSON:

24 And Erik Sherer will be conducting the
25 questioning today. Will you swear the witness,

1 please?

2 -----

3 HARLEY TAYLOR, HAVING FIRST BEEN DULY SWORN, TESTIFIED

4 AS FOLLOWS:

5 -----

6 ATTORNEY FERGUSON:

7 And if you will state your full name,

8 spell your last name and give us your address?

9 A. Harley Allen Taylor, T-A-Y-L-O-R, (b) (7)(C)

10 (b) (7)(C)

11 ATTORNEY FERGUSON:

12 Barry?

13 ATTORNEY KOERBER:

14 Mr. Taylor, would you also give us your

15 telephone number?

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

17 ATTORNEY KOERBER:

18 And are you represented by your own

19 attorney here today?

20 A. No.

21 ATTORNEY KOERBER:

22 I notice that there is an attorney in the

23 room. Would that attorney please state your name and

24 your affiliation and your client for the record?

25 ATTORNEY HARDY:

1 Yes, I am David J. Hardy with Allen
2 Guthrie and Thomas, PLLC. I am here on behalf of
3 Performance Coal.

4 ATTORNEY KOERBER:

5 Mr. Taylor, what is your job title ---
6 what was your job title as of April 5th, 2010?

7 A. Fire boss.

8 ATTORNEY KOERBER:

9 Mr. Taylor, are you appearing here today
10 as the result of receiving a subpoena?

11 A. Yes.

12 ATTORNEY KOERBER:

13 Okay. I'm going to hand you a copy of
14 that subpoena, and you can take a look at it and make
15 sure it is a copy.

16 A. Uh-huh (yes).

17 ATTORNEY KOERBER:

18 And then this is the return receipt card
19 signed by you ---

20 A. Uh-huh (yes).

21 ATTORNEY KOERBER:

22 --- which I'd like this to be Exhibit One
23 and this to be Exhibit Two.

24 (Exhibits H. Taylor One and Two marked
25 for identification.)

1 ATTORNEY KOERBER:

2 I noticed on the subpoena that it compels
3 you to be here on August 23rd at 10:30 a.m., and I
4 note on the calendar that today is August 24th. Is
5 the fact that you're here one day late due to a
6 communication issue that arose and ---?

7 A. Yeah, I'd like to explain it to you.

8 ATTORNEY KOERBER:

9 Okay.

10 A. I got the subpoena --- let's see. I was scheduled
11 to start my vacation on the 14th, on Saturday; okay?
12 On that Friday, the 13th, after --- as I come in the
13 office, the superintendent told me that I'd been
14 called in on the 23rd, which would've been my first
15 day back off vacation, to appear up here, which, you
16 know, I didn't have no problem with it, because I was
17 done back, but he said he'd take care of it. He said
18 not to worry about it. Go ahead and go on my
19 vacation. Enjoy myself. He said he'd get it
20 switched.

21 But no, I definitely wouldn't have just not showed
22 up. I would've definitely been here yesterday, but I
23 was under the impression that it had been taken care
24 of, and then I found out yesterday that it hadn't
25 been. So they switched and sent Bobby Baker in my

1 time slot and me in his today. But that's what
2 happened in that circumstances.

3 ATTORNEY KOERBER:

4 Okay. Sir, the statute that gives the
5 director the authority to subpoena individuals to
6 interviews such as this also requires the director to
7 offer to each witness subpoenaed a \$40 witness fee
8 plus, if you have driven in your own personal vehicle
9 to here and back, you get mileage for the roundtrip at
10 15 cents a mile plus reimbursement for any toll that
11 you might've paid on your way here or on your way
12 back. In order to get that money, I have two forms
13 that you must filled out, one of which is the IRS form
14 W-9, which is a request for your Social Security
15 number.

16 It is my understanding that the \$40
17 witness fee is income that will be reported to the
18 IRS. And at later time during the year, you'll get a
19 1099 miscellaneous. Would you like to fill out those
20 forms at the end of the --- at the end of the
21 interview and receive that money, or do you prefer not
22 to fill out that form and decline the money?

23 A. I decline to fill out the forms and collect the
24 money.

25 ATTORNEY KOERBER:

1 Okay. Thank you, sir.

2 ATTORNEY FERGUSON:

3 All members of the Mine Safety and Health

4 Accident Investigation Team and all members of the

5 State of West Virginia Accident Investigation Team

6 participating in the investigation of the Upper Big

7 Branch Mine explosion shall keep confidential all

8 information that is gathered from each witness who

9 provides a statement until the witness statements are

10 officially released.

11 MSHA and the State of West Virginia shall

12 keep this information confidential so that other

13 ongoing enforcement activities are not prejudiced or

14 jeopardized by a premature release of information.

15 This confidentiality requirement shall not preclude

16 investigation team members from sharing information

17 with each other or with other law enforcement

18 officials.

19 Government investigators and specialists

20 have been assigned to investigate the conditions,

21 events and circumstances surrounding the fatalities

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

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

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

25 Safety and Health Act and the West Virginia Office of

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.
3 Since this is not an adversarial
4 proceeding, formal Cross Examination will not be
5 permitted. However, you may ask clarifying questions
6 as appropriate.

7 A. Okay, I understand.

8 ATTORNEY FERGUSON:

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

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

1 ATTORNEY FERGUSON:

2 Do you understand that?

3 A. Yes, I do.

4 ATTORNEY FERGUSON:

5 Do you have any questions?

6 A. No.

7 ATTORNEY FERGUSON:

8 After the investigation is complete, MSHA

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

18 A court reporter will record your
19 interview. Please speak loudly and clearly. If you
20 do not understand a question asked, please ask that it
21 be rephrased. Please answer each question as fully as
22 you can, including any information you have learned
23 from someone else.

24 We'd like to thank you in advance for
25 your appearance here. We appreciate your assistance

1 in this investigation. Your cooperation is critical
2 in making the nation's mines safer. Terry?

3 MR. FARLEY:

4 Mr. Taylor, on behalf of the Office of
5 Miners' Health, Safety and Training, I'd like to
6 inform you that the West Virginia Code, Chapter 22A,
7 Article 1, Section 22 also provides protection against
8 potential discrimination which might result from
9 participation in these type interviews. I'd like to
10 pass along a memo to you which includes the mailing
11 address for the West Virginia Board of Appeals. The
12 board is responsible for hearing complaints from coal
13 miners regarding discrimination.

14 Should you experience any problems, you
15 should contact the Board immediately. Now, I would
16 caution you that should you have a problem with
17 discrimination, you need to file a complaint within 30
18 days of when it occurs; all right?

19 A. Okay.

20 MR. FARLEY:

21 Thank you. Are we ready?

22 ATTORNEY FERGUSON:

23 Yes.

24 EXAMINATION

25 BY MR. FARLEY:

1 Q. Okay. Mr. Taylor, how long have you been a coal
2 miner?

3 A. Thirty-three (33) and a half years.

4 Q. Okay. How long have you been with Massey?

5 A. Been with Massey actually since November of '94,
6 with the company.

7 Q. Okay. When did you start at the UBB Mine?

8 A. January of '96.

9 Q. January of '96.

10 A. Uh-huh (yes).

11 Q. Have you been employed continuously at UBB since
12 then?

13 A. I should say 1996, I'm sorry. I should just stick
14 --- okay. Yes, I have. Uh-huh (yes).

15 Q. Okay. Now, what was your job as of April 5th of
16 this year?

17 A. Fire boss.

18 Q. Okay. Now, were you an hourly employee or a
19 salaried employee?

20 A. An hourly.

21 Q. Okay. Who was your immediate supervisor?

22 A. Gary May.

23 Q. Okay. Which side of the mine did you portal on?

24 A. The south side.

25 Q. Okay. What area of the mine were you assigned to

1 examine?

2 A. I examined the seals. We have 64 seals in the
3 mines and I took care of the seals on the weekly, also
4 the daily checks and done the airway around them, and
5 from time to time I'd help fire boss the main line,
6 power boxes and pumps.

7 Q. Okay. Now, was that primarily from where the
8 seals were encountered, south of there?

9 A. From 75 Break, North Mains, and from there out.
10 That 75 Break, North Mains is Seal Number 64. And it
11 goes from there outby clear back to the south side ---

12 Q. Okay.

13 A. --- to Number One, which is over on what they call
14 the East Mains.

15 Q. Okay. So you had quite a number of seals to
16 examine; ---

17 A. Yes.

18 Q. --- correct? Now, did you ever examine anything
19 inby 75?

20 A. In 2009 I was passed 75 Break twice. That was on
21 long weekends Holiday weekends, where they let
22 everybody off, basically. And I had to work
23 President's Day weekend, February of 2009, and I was
24 up in that area. And I had to work Labor Day weekend
25 of 2009, and I was past 75, up in that area.

1 Q. Okay. But not since?

2 A. No.

3 Q. Okay. Now, As of April 5th --- well, what was the
4 last shift you worked at UBB prior to the explosion?

5 A. April the 3rd.

6 Q. Okay. Now, which was your shift, day or evening?

7 A. Day.

8 Q. Was that consistent?

9 A. Yes, uh-huh (yes).

10 Q. Okay. What time did your shift start?

11 A. 6:00.

12 Q. 6:00 a.m.?

13 A. 6:00 a.m. to 4:00 p.m.

14 Q. Okay. And April 3rd was your last shift work?

15 A. Yes. Yeah, I was on a schedule from Tuesday
16 through Saturday. My regular scheduled days off was
17 Sunday through Monday.

18 Q. Okay. Now, during the last week there or two, I
19 suppose you would've made it around to all of the
20 seals ---

21 A. Yes.

22 Q. --- that you were assigned to examine?

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

24 Q. What was the condition of those seals?

25 A. They was okay. I didn't get no --- nothing out of

1 the ordinary during that time period.

2 Q. Did you detect any leakage or any breathing of the
3 seals anywhere?

4 A. No.

5 Q. Any methane in the area of the seal?

6 A. Well, when I open up the gas valve, yes.

7 Q. Okay, okay.

8 A. Yes. Matter of fact, Seal Number 33 on a regular
9 basis, every day you'd get anywhere from six to nine
10 percent ---

11 Q. Okay.

12 A. --- behind the seal.

13 Q. Okay.

14 A. But then some of the other ones, from time to time
15 you'll get some small readings, but on that particular
16 time, you know, that same day I still got that reading
17 probably --- I can't remember exactly, you know. I
18 took them every day. I know y'all have the books here
19 somewhere. But I can't remember exact what the
20 reading was at that 33 Seal on April the 3rd, but ---
21 because like I said, I do it every day, go to the gas
22 valves and so many readings, but I couldn't give you
23 exact amount what it was on that day.

24 Q. Okay. Now, the last time that you examined each
25 of the seals, were all of them intact? Was there any

1 damaged to any of them?

2 A. No, there wasn't no damage the last time it was
3 checked.

4 Q. Okay. Do you recall last time it was necessary
5 for any repairs to be made or any time you encountered
6 any damage to any of the seals?

7 A. Yeah, they had just finished on the south side.
8 Matter of fact, one of them hadn't been abated, I
9 don't think, because I think, if I ain't mistaken, the
10 crew --- they called a crew in there to do, redo the
11 seals. They had to build three at that time or four,
12 maybe. And if I ain't mistaken, it was the Thursday,
13 which would've been April the 1st. I think, they
14 finished that last seal and MSHA hadn't got back to
15 even okay'ed it at that time, but when they finished
16 the last one, they was crushing out and leak had to be
17 replaced.

18 Q. Okay. All right. Now, what airways were you
19 assigned to examine?

20 A. Okay. Seventy-five (75) Break North Mains. Every
21 Thursday I would ride in and get out at 75 Break
22 on ---.

23 Q. If we would provide a map, would you be --- would
24 you mind marking the map, marking the airways ---

25 A. No, I can do that.

1 Q. --- that you were ---

2 MS. MONFORTON:

3 Do you want to use a different map?

4 ATTORNEY FERGUSON:

5 Yeah, we can use a different map.

6 BY MR. FARLEY:

7 Q. --- assigned to ---

8 A. Yeah, I can do that.

9 Q. --- examine, please?

10 MR. SHERER:

11 Going all the way in from the Ellis

12 Portal?

13 A. I didn't come from Ellis Portal. I come from

14 South Portal.

15 MR. SHERER:

16 Okay.

17 MR. FARLEY:

18 Let's go off record.

19 OFF RECORD DISCUSSION

20 BY MR. FARLEY:

21 Q. Mr. Taylor, just please mark the airways that you
22 were assigned to examine and feel free to mark them in
23 their entirety, please, if you can. And we've got
24 plenty of maps, so don't worry about smudging the map.

25 WITNESS COMPLIES

1 OFF RECORD DISCUSSION

2 MR. SHERER:

3 I'll have to get you another map and
4 we'll ---.

5 BY MR. FARLEY:

6 Q. Well, while we're looking for another map ---

7 A. Uh-huh (yes).

8 Q. --- how long had you been working as a fire boss
9 prior to April 5th?

10 A. I started actually fire bossing in the spring of
11 1999.

12 Q. Okay. Several years, obviously?

13 A. Uh-huh (yes).

14 Q. Okay. Now, how long had you had this area of
15 responsibility and keeping all the seals and the air
16 courses you marked?

17 A. Okay. From what I just now marked, starting at 75
18 Break, I've had that assigned to me since it was
19 completed in April of 2007. And once I marked the
20 other map, starting with Set Number Five, I've had
21 those sets since 2003.

22 Q. Okay. Tear this map in half. It's a little hard
23 to keep up with. There you go, sir.

24 OFF RECORD DISCUSSION

25 BY MR. FARLEY:

1 Q. Please continue, if you would.

2 WITNESS COMPLIES

3 ATTORNEY FERGUSON:

4 Okay. It's right here.

5 MR. FARLEY:

6 Okay. Thanks, Dana.

7 BY MR. FARLEY:

8 Q. It appears you had a fairly considerable area to
9 cover.

10 A. Yeah, quite a bit. And when you get down to Pit
11 Number 3, you start crawling through those. I don't
12 go right here. I made a ---. On this here I just go
13 straight by it, see? Disregard that. I made a
14 mistake there.

15 Q. You want to hash through it or something?

16 A. Okay. Yeah.

17 Q. And that's at the mouth of the Old Four section?

18 A. Yeah, yeah. I don't do that part. In fact I just
19 done these yesterday with the inspectors.

20 Q. So I take it you're still at the UBB Mine?

21 A. I just went back underground yesterday, matter of
22 fact. I'd been up on top of the mountain all this
23 time, checking the drill site, the air coming out of
24 there. That's my job.

25 Q. Okay.

1 A. That should do it, I think.

2 Q. Okay. As I said earlier, this appears to be
3 fairly considerable area to examine. Did you have ---
4 do you feel you had sufficient time to cover that area
5 within the time required?

6 A. Yes, I did. I rode in with the crew on Thursdays
7 and I'd done from 75 Break down, including Set 6 on
8 Thursdays. On Tuesdays I would go out with the punch-
9 out and walk set one through five on Tuesdays. So
10 yeah, I had plenty of time to do my investigation.

11 Q. Okay. Now, did you ordinarily call you report out
12 or carry it out?

13 A. Carry it out, because I'd always end up back
14 outside whichever way I started.

15 Q. Okay. Did anyone ever attempt to influence you in
16 any way with regard to what you would enter into the
17 examination book?

18 A. No.

19 Q. Were you ever questioned about anything that you
20 entered in the examination book?

21 A. Well, they might ask me, you know, about what I
22 found, but they never did dry to persuade me to change
23 anything or nothing like that, no.

24 Q. Okay. All right. What was the overall quality of
25 the rock dust content in the areas that you examined?

1 A. From time to time, you know, it would get sort of
2 dark. Then a mine inspector would come along and make
3 them dust.

4 Q. All right. What kind of detector did you carry?

5 A. A Solaris and also iBrid.

6 Q. Okay. Did you take the detectors home with you or
7 leave them at the mine?

8 A. I'd take the Solaris home and I got my own charger
9 at home. Charge it there and the iBrid stayed at the
10 mine.

11 Q. Okay. All right. Do you know who calibrated the
12 instruments for you?

13 A. I'd calibrate the Solaris myself.

14 Q. Okay.

15 A. The iBrid, we would send it to Marsh Fork, because
16 a guy named Jonah Bowles, Jonah Bowles, he would
17 calibrate them and send them back.

18 Q. Okay. Now, what was the last shift you actually
19 worked --- oh, excuse me. Did you say --- you said
20 Friday, April 3rd was your last shift working?

21 A. Saturday, the 3rd.

22 Q. Saturday, the 3rd?

23 A. Yes.

24 Q. Okay. Now, when you were in the mine that day
25 where did you go that day?

1 A. We went and got all the seals. I had a guy we.
2 There was two of us. We went and got all the seals,
3 you know, from 75 over to the --- clear over to Set
4 One, the daily. We was on the daily on those.
5 And we went to barrier section and we went to LBB
6 and we done all the power box and pumps on the main
7 line from Ellis out to the South Portal. The only
8 thing we went up past Ellis to do was to get those two
9 seals at 42 Break, which is Seal Number 62, and up to
10 75 Break to get that Seal 60 --- that had the gas
11 valve in it, 63.

12 Q. Okay. Now, during that shift did you notice
13 anything --- and this is a very broad question.

14 A. Uh-huh(yes).

15 Q. Did you notice anything unusual?

16 A. No. No, I didn't.

17 Q. Any unusual smells?

18 A. No.

19 Q. Any burning sensation in your eyes or
20 anything ---

21 A. No.

22 Q. --- of that nature? Anything out of the ordinary?

23 A. No.

24 Q. Okay. Let's narrow this down. Let's say 2010.

25 Your area of responsibility, other than removing the

1 caps off the pipes on the seal ---

2 A. Uh-huh (yes).

3 Q. --- did you ever detect any methane anywhere?

4 A. From time to time. I can't really say that it was
5 in 2010, but every once in a while if your barometric
6 pressure was so strong behind the seal, the force was
7 so strong it would sometimes find a little leakage,
8 maybe around the top or around the rib and we'd have
9 to try to locate it and close it and cover it up. I
10 have got one percent methane, but it happened so
11 seldom that I couldn't actually say in that time
12 frame, if it happened between ---. I'd have to look
13 at my books if it happened between January and April.
14 It was 2010.

15 But you know, I know it happened in the fall. I
16 do know that I found some when it was outgassing real
17 strong last fall, 2009. The seals it would've
18 involved that time would've been on the gas valve area
19 on Set Number 12 and 11 the same day, you know. But
20 like I said, since I've been doing those seals since
21 2007, it's been single digits that I've found that.

22 Q. Yeah. All right. Since you've been at UBB, have
23 you ever worked on any of the producing sections?

24 A. Yes, yeah. It's been a while.

25 Q. When was the last time you worked on a producing

1 section?

2 A. 1998.

3 Q. Okay.

4 A. Long time.

5 Q. All right. Where were you on April 5th at the
6 time of the explosion?

7 A. I was at home.

8 Q. Okay. All day?

9 A. Yeah.

10 Q. Okay. Did it surprise you ---

11 A. Uh-huh (yes).

12 Q. --- when you heard of the explosion?

13 A. Yes, very much so. I mean back before --- in
14 2008, up 'til then I had them --- I had all the
15 airways up in the North Mains. I walked up to 167
16 Break then, and at the time I was doing ---. The
17 miner crew was driving the panel to the longwall
18 that's pulling out now, but the mines got so big they
19 had to give me some help, so they give you --- which I
20 know you all done talked to him, Charles Semenske.

21 Okay. So I had never found nothing, no explosive
22 range, you know, or nothing. The most I'd ever ---
23 walking those returns up in there when I was up in
24 there in previous years was .8, 8/10, the most methane
25 I'd ever found out in the open, just walking the

1 airways.

2 Q. Okay.

3 A. And I never did hear of anybody finding no
4 significant amount anywhere else, you know, other than
5 behind the shields. And yeah, it was a big shock that
6 something ---.

7 Q. Okay. Were you ever in the area inby the longwall
8 before the longwall started up last year, toward the
9 Bandytown fan?

10 A. No, I haven't been up --- since that Bandytown fan
11 went in, I've never been up through there. Matter of
12 fact, the last time I done airways up in there, it
13 was, like, in 2008. And the crew, the miner crew, I
14 think --- if I'm correct on this, I think it was about
15 19 Break, driving it up when I gave it over to
16 Semenske. He started doing the airways there.

17 Q. Okay. All right. Is there anything of importance
18 here that you think we should know that I haven't
19 asked about concerning what might've caused this
20 explosion on April 5th?

21 A. No, I really don't have an idea what it would've
22 been. I mean ---.

23 MR. FARLEY:

24 Okay. Erik?

25 EXAMINATION

1 BY MR. SHERER:

2 Q. Okay. I got several follow-up questions and some
3 additional questions, Mr. Taylor.

4 A. Okay.

5 Q. Now, you were talking about the 33 Seal you got
6 some methane on occasion. Do you remember what the
7 strength of that seal was? Was it an old seal?

8 A. No, it was built in ---. They just got them in
9 before the new law took effect, actually. I think the
10 new law took effect May of 2007; is that correct? On
11 the seal strength?

12 Q. Yeah. Actually I think it took effect around ---
13 that was the ETS, the emergency ---

14 MS. MONFORTON:

15 Emergency law.

16 BY MR. SHERER:

17 Q. --- temporary standard that occurred then. Was it
18 50 psi sealed? Do you know?

19 A. I don't know that ---. I never heard talk about
20 how strength it us, but they used the big,
21 interlocking blocks. Big wides and they interlock,
22 like, and then they make a big complete seal, like,
23 when it's built. And what they done, they jack
24 hammered the bottom out and what they measured before
25 they started and what they tried to work out, once

1 they poured their footer, that when they'd get up
2 here, a block would fit perfect.

3 Q. Oh, okay.

4 A. That's the type it was. They was built good, but
5 you know, the ribs up in that way not the best in the
6 world.

7 Q. Okay.

8 A. So we have had some problems and we have to try to
9 spray foam and stuff ---

10 Q. Sure.

11 A. --- from time to time.

12 Q. Okay. Now, the Number 15 Seal, which I understand
13 is right off the 78 Break in the north, when was the
14 last time you examined that prior to the explosion?

15 A. That would've been April the 3rd.

16 Q. April the 3rd.

17 A. Yeah, it's 15 Set, but Seal 63 and 64. Yeah.

18 Q. Okay, okay. Do you ever recall any fog or
19 anything like that up around that seal?

20 A. Fog?

21 Q. Yeah.

22 A. Unless it --- sometimes it might be, like, I
23 always thought, like, humidity.

24 Q. Okay.

25 A. You know, something like that, yeah.

1 Q. Okay.

2 A. Not real thick or nothing.

3 Q. Okay. But you have seen some kind of foggy air?

4 A. Hazy-like.

5 Q. Yeah.

6 A. Yeah. Yeah, I have. Yeah.

7 Q. When you saw that, did you notice anything
8 happening with your gas detector? Was there any
9 methane or any carbon monoxide or anything like that?

10 A. No, I know there wasn't no carbon monoxide.

11 Q. Any low oxygen?

12 A. You mean in front of the seal?

13 Q. Yeah.

14 A. Oh, no.

15 Q. Okay. Just wondering.

16 A. Okay.

17 Q. Appreciate it. And you say you just went back in
18 the mine last week?

19 A. No, yesterday, actually.

20 Q. Oh, yesterday; okay.

21 A. Yeah, I've not since then. Yeah.

22 Q. Okay. And I understand you've been at this mine
23 since '96, I think you said?

24 A. That is correct, yes.

25 Q. Where you there when they mined this area called

1 LBB?

2 A. Yes.

3 Q. Do you recall if there was any gas wells that were
4 cut through when you went through there?

5 A. Not to my knowledge?

6 Q. Okay. Now, Terry was talking about when you made
7 your examination, whether you thought you had enough
8 time.

9 A. Uh-huh (yes).

10 Q. And you indicated that you thought out did. If
11 you found a hazard along your examination route, what
12 would you do?

13 A. I would get to a phone and tell them what I needed
14 ---

15 Q. Okay.

16 A. --- unless it was something simple that I could
17 correct myself.

18 Q. Okay.

19 A. I'd have to leave out and go to the track and find
20 a phone.

21 Q. Okay. How often would you have to do something
22 like that?

23 A. Not too often. The most things I'd find would be
24 where they need to pull some loose top or a rib, refit
25 a timber or a jack. But when I'd find leakage, I'd

1 have to get --- go out and get foam and bring back or
2 something like that, and then water traps from time to
3 time. And I always tried to keep water or something.
4 Or if I didn't have antifreeze handy, I'd keep water
5 where I could put in a water trap to do me if I'd find
6 one of them that needed it.

7 Q. Uh-huh (yes).

8 A. Which you know, I'd usually find ---. I think it
9 was 61 Seal that's got the water trap. It wants to
10 suck out from time to time. I have to keep up with
11 it.

12 Q. Okay. So if you found anything, you'd normally
13 try to fix it yourself, and if you couldn't, you'd
14 call out?

15 A. Yes.

16 Q. Was there any pressure on you to try to fix things
17 yourself?

18 A. They liked you to, yes.

19 Q. Let's talk about just the mine in general. And I
20 understand that you mainly covered the south end, but
21 you also covered some of the seal sets on the North
22 Mains.

23 A. Yes.

24 Q. Do you think the ventilation in this mine was
25 adequate?

1 A. Well, I didn't have a whole lot going by my seals,
2 but none of my inspectors would ever say ---. You
3 know, they'd say it was more or less a longigated
4 movement, so I don't know. I don't know what the plan
5 is on that. I wasn't up to the section to know, you
6 know, how much air they had up there.

7 Q. Okay. Did you ever hear anybody complaining about
8 a lack of air?

9 A. Yes.

10 Q. What part of the mine was that in?

11 A. Well, I've heard them complain in the area where
12 the explosion was from time to time. I've heard
13 people, just hearsay, you know.

14 Q. Do you recall anybody in particular that
15 complained about air up there?

16 A. Yeah, I mean, some of the ---. Yeah, some guys I
17 know the names, yeah, that had said. Yeah. Some of
18 them that was in the explosion.

19 Q. Okay.

20 A. I don't remember the dates when they was talking
21 about it or nothing.

22 Q. Okay. Who would that have been?

23 A. Howard Boone Payne was one.

24 Q. And he worked on what, the 22 Headgate?

25 A. Yeah.

1 Q. Okay. Did you get a lot of comments that the air
2 was bad or just something in passing every now and
3 then?

4 A. Well, actually, in January they all moved to the
5 other portal, so I didn't really have no contact with
6 them anymore.

7 Q. Okay, okay.

8 A. I think that's when they left, January.

9 Q. Okay. Now, we know there were a lot of doors in
10 this mine. In fact, an unusual number of doors
11 compared to many other mines. What do you think about
12 that?

13 A. I don't like them.

14 Q. Don't like them. Why don't you like them?

15 A. Well, because they get run into, get beat up.
16 They leak. The sides, they'll work their way out, the
17 blocking around the sides. And I mean that's your
18 main intake going, you know.

19 Q. Sure.

20 A. Now, I told everybody when I don't care who knows.
21 I think there needed to be a law passed that you got
22 to have overcasts, that that needs to be changed. You
23 don't need doors letting your main intake go to your
24 section. You got all these sections up here and all
25 your main air going through these doors.

1 Q. And when those doors were opened, what would
2 happen to your main air?

3 A. It'd all go ---. You'd lose it ---

4 Q. Sure.

5 A. --- if they're both open the same time.

6 Q. Sure. Did you ever come up on those doors and
7 find any that were both open the same time?

8 A. No, because like I said, I don't go up that way
9 where they was at. I mean, I been up that way, but
10 not recently. But you know, I never did go up on and
11 find both of them open, no.

12 Q. Okay. Now, we know that there was a methane
13 outburst. We think there was in 2004 and one in 2003.
14 Do you recall those events?

15 A. Yeah.

16 Q. Were you involved in them in any way?

17 A. No.

18 Q. Okay. What's your personal opinion on what
19 happened with this explosion?

20 A. Well, my personal opinion is I think something
21 happened so quick hat nobody had time to do anything.

22 I think it just happened just like that (indicates
23 sound), because I believe we had a buildup.

24 Continuing we'd have found it. I know the fire bosses
25 up in that area. Scott Halstead, he's one of the ---

1 he's a top-notch fire boss. He does the longwall
2 belts and ---. But in my opinion, something just
3 happened just so quick, nobody had time to react.

4 Q. Okay. Now, did somebody fill in for you on your
5 days off?

6 A. Yes.

7 Q. Who was that?

8 A. George Curry.

9 Q. Okay. And you mentioned you traveled with
10 somebody ---

11 A. Now, like weekends ---

12 Q. --- the 3rd?

13 A. --- Lacey Stewart.

14 MR. SHERER:

15 Okay. No more questions.

16 EXAMINATION

17 BY MS. MONFORTON:

18 Q. I just have one question. Your last annual
19 refresher training, ---

20 A. Uh-huh (yes).

21 Q. --- were you in a refresher training with Boone?

22 A. Yes, I was. Yeah, I was his ---. Matter of fact,
23 because I worked my side the mines when my side went,
24 so when their side went I went with that whole bunch,
25 the longwall and all of them. Yes, I did.

1 Q. Do you recall a comment that Mr. Payne made during
2 the annual refresher training about not having enough
3 air on the section?

4 A. Well, to best of my knowledge, I wasn't in the
5 class he was.

6 Q. Okay.

7 A. See, they separated.

8 Q. Okay.

9 A. I'm pretty sure I wasn't in his class, but I don't
10 remember if I was.

11 MS. MONFORTON:

12 Okay. Thank you.

13 A. Okay.

14 ATTORNEY FERGUSON:

15 Terry?

16 MR. FARLEY:

17 No.

18 ATTORNEY FERGUSON:

19 Erik?

20 MR. SHERER:

21 No.

22 ATTORNEY FERGUSON:

23 On behalf of MSHA and the Office of
24 Miners' Health, Safety and Training we want to thank
25 you for appearing and answering questions today. Your

1 cooperation is very important to the investigation as
2 we work to determine the cause of this accident. We
3 request that you not discuss your testimony with any
4 person aside from your personal representative or
5 attorney. After questioning other witnesses, we may
6 call you if we have any follow-up questions.

7 If at any time you have any additional
8 information regarding the accident you would like to
9 provide to us, please contact us at the information
10 that was provided to you earlier this morning. If you
11 wish, you may now go back over any answer you've given
12 during this interview. You may also make any
13 statement that you would like to make at this time.

14 A. No, I think I've covered everything.

15 ATTORNEY FERGUSON:

16 Thank you very much.

17 A. You're welcome.

18 MR. SHERER:

19 Thanks for coming in, Mr. Taylor.

20 A. You're welcome. No problem.

21 ATTORNEY FERGUSON:

22 Let the record reflect we have ---

23 MR. SHERER:

24 Enjoyed talking to you.

25 ATTORNEY FERGUSON:

1 --- Exhibits One and Two, Three ---

2 A. Yeah, enjoyed talking to you all.

3 ATTORNEY FERGUSON:

4 --- and Four.

5 (Exhibits H. Taylor Three and Four marked
6 for identification.)

7 * * * * *

8 STATEMENT UNDER OATH CONCLUDED AT 11:20 P.M.

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1 STATE OF WEST VIRGINIA)

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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