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**GOVERNOR'S INDEPENDENT INVESTIGATION PANEL  
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(b)(7)(C) & (b)(7)(D)

**Also Present:**

**Leland Hess**

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1           MR. KOERBER: My name is Barry Koerber.  
2 I'm the assistant attorney general, and I'm  
3 assigned to represent the West Virginia Office of  
4 Miners' Health, Safety and Training.

5           Today is March 1, 2011.

6           Beginning at my left, working on my  
7 left-hand side of the table, I'm going to ask  
8 everybody to identify themselves and who they are  
9 with.

10          MR. TUCKER: Bill Tucker, with the West  
11 Virginia Office of Miners' Health, Safety and  
12 Training.

13          MR. MAGGARD: I'm Jasey Maggard, with  
14 MSHA.

15          MR. CRIPPS: Dean Cripps, with MSHA

16          MS. HAMPTON: Polly Hampton, Solicitor's  
17 Office, Department of Labor.

18          MR. BECK: Jim Beck, with the Governor's  
19 Independent Team.

20          MR. KOERBER: (b)(7)(C) & (b)(7)(D) , for purposes of  
21 the court reporter, I'm going to ask that you try  
22 to say "yes" and "no" and not "uh-huh," "uh-uh."

23                 Please allow the question to be finished  
24 before you begin your answer, and I'm going to ask

1 the interviewers to please allow you to finish your  
2 answer before they begin the question so we don't  
3 have people talking over one another.

4 The court reporter is with Johnny Jackson  
5 & Associates, which is a court reporter firm in  
6 Charleston West Virginia.

7 They're working on a three-day turnaround  
8 as far as taking what's said here today and typing  
9 it onto paper.

10 If you desire to review your transcript  
11 and, with an errata sheet, make any changes or  
12 corrections that you believe were mistakes made  
13 here today, you can do so.

14 Three-day turnaround, being that today is  
15 Tuesday, we're talking through Friday, it would be  
16 Monday morning before you could review your  
17 transcript.

18 If you desire to review your transcript,  
19 you can call Johnny Jackson & Associates court  
20 reporter firm, and I'm going to give you their  
21 business card.

22 THE WITNESS: Okay.

23 MR. KOERBER: And set up a time that is  
24 convenient for all, where you would go to Johnny

1 Jackson's court reporter firm in Charleston, West  
2 Virginia, and go with your attorney or by yourself,  
3 whatever you so choose, and review your  
4 transcript.

5 Now, you will not be allowed to take a  
6 copy of the transcript with you, but you will have  
7 the option to review the transcript, if you so  
8 choose.

9 Now, it will not be available until  
10 Monday, but that does not mean that you have to  
11 call on Monday.

12 If you do choose to review your  
13 transcript, we would ask that within a couple weeks  
14 time after Monday, you would exercise the right to  
15 go review your transcript.

16 I'm going to give you this here card in a  
17 minute.

18 THE WITNESS: Okay.

19 MR. KOERBER: I would also just like to  
20 mention that if, for any reason whatsoever, you  
21 want to take a break, just say you want to take a  
22 break, and we'll take a break.

23 THE WITNESS: Okay.

24 MR. KOERBER: I would ask that you not

1 discuss your interview with people outside of this  
2 interview room, other than your attorney. And the  
3 purpose of that is just to try to protect the  
4 integrity of the investigation.

5 Ms. Hampton may have something that she  
6 would like to add at this moment.

7 MS. HAMPTON. Yes. Before we got started  
8 here today, I handed you a letter on behalf of the  
9 MSHA Accident Investigation Team.

10 Did you get a chance to review that  
11 letter?

12 THE WITNESS: Yes.

13 MS. HAMPTON: Did you have any questions  
14 for me before we got started?

15 THE WITNESS: No.

16 MS. HAMPTON: Okay. Thanks.

17 MR. KOERBER: Would you swear in the  
18 witness, please.

19 (b)(7)(C) & (b)(7)(D) , DEPONENT, SWORN

20 MR. KOERBER: Sir, would you please state  
21 your full name for the record and spell your last.

22 THE WITNESS: (b)(7)(C) & (b)(7)(D) ,

23 (b)(7)(C) & (b)(7)(D)

24 MR. KOERBER: And what is your address and



1 telephone number?

2 THE WITNESS: (b)(7)(C) & (b)(7)(D)

3 (b)(7)(C) & (b)(7)(D)

4 MR. KOERBER: Your telephone?

5 THE WITNESS: (b)(7)(C) & (b)(7)(D)

6 MR. KOERBER: Do you have an attorney with  
7 you here today?

8 THE WITNESS: Yes.

9 MR. KOERBER: I would ask that the  
10 attorney identify himself and his firm for the  
11 record.

12 MR. MARONEY: Thomas P. Maroney. The law  
13 firm is Maroney, Williams, Weaver & Pancake.

14 My address is 608 Virginia Street East,  
15 Charleston, and the phone number is (304) 346-9629.

16 MR. KOERBER: And (b)(7)(C) & (b)(7)(D) is your  
17 client?

18 MR. MARONEY: He is.

19 MR. KOERBER: There is also one additional  
20 person in the room, and I would ask at this point  
21 in time that he identify himself and who he is  
22 with.

23 MR. HESS: Leland Hess, with MSHA.

24 MR. KOERBER: (b)(7)(C) & (b)(7)(D), on April 5th,

1 2010, what was your job title?

2 THE WITNESS: (b)(7)(C) & (b)(7)(D) .

3 MR. KOERBER: (b)(7)(C) & (b)(7)(D)

4 at UBB?

5 THE WITNESS: (b)(7)(C) & (b)(7)(D) at UBB.

6 MR. KOERBER: (b)(7)(C) & (b)(7)(D) , are you appearing

7 here today as a result of a subpoena?

8 THE WITNESS: No.

9 MR. KOERBER: I believe you are.

10 MR. MARONEY: No, it was a telephone

11 call.

12 MR. KOERBER: Well, I sent you the

13 subpoena last week.

14 MR. MARONEY: Actually I didn't even see

15 it.

16 THE WITNESS: I never seen one either.

17 MR. MARONEY: I mean, if it's there, it's

18 there.

19 MR. KOERBER: I have the subpoena for

20 you.

21 THE WITNESS: Okay.

22 MR. KOERBER: I don't see -- I don't think

23 there will be a problem admitting that into the

24 record.

1 MR. MARONEY: None whatsoever.

2 MR. KOERBER: (b)(7)(C) & (b)(7)(D) , would you like to  
3 look at that, if you would? I mean, I'm not trying  
4 to pull anything here.

5 THE WITNESS: Right. I know.

6 MR. KOERBER: But this is your name. I  
7 sent it to your attorney. It's March 1, 9 a.m.,  
8 and that's all there is to it.

9 THE WITNESS: Okay.

10 MR. KOERBER: Okay?

11 THE WITNESS: Yeah.

12 MR. KOERBER: Could we mark at that as  
13 (b)(7)(C) & (b)(7)(D) Exhibit 1.

14 (Exhibit No. 1 marked for  
15 identification.)

16 MR. MARONEY: I was out of town Thursday  
17 and Friday.

18 MR. KOERBER: I understand. It will be in  
19 your mail when you get back.

20 MR. MARONEY: Okay.

21 MR. KOERBER: (b)(7)(C) & (b)(7)(D) , I'm also going to  
22 give you, not only the Johnny Jackson business card  
23 that I spoke about earlier, but I'm going to give  
24 you a memorandum which contains the address for the

1 West Virginia Board of Appeals.

2 The West Virginia Board of Appeals is the  
3 administrative agency that hears the coal miner  
4 discrimination cases.

5 In the event -- West Virginia code  
6 22A-1-22 protects coal miners from being  
7 discriminated against for participating in  
8 interviews such as these.

9 In the event you believe you have been  
10 discriminated against for participating in this  
11 interview today, this is the body where you would  
12 lodge your complaint.

13 The complaint does not have to be anything  
14 elaborate. It can just be a handwritten letter  
15 explaining what happened.

16 I would caution you that, under the code,  
17 you only have 30 days from the day of the  
18 discriminatory action to file your complaint.

19 I'm also going to give you Mr. Bill,  
20 Tucker, who is seated to my left, business card.

21 Mr. Bill Tucker is the lead investigator  
22 for the Office of Miners' Health, Safety & Training  
23 UBB Accident Investigation.

24 In the event something -- you think of

1 something after the interview is over that you  
2 think would be beneficial to the accident  
3 investigation team and you would like to contact  
4 somebody, you can contact Mr. Tucker, and this is  
5 his contact information. So I'm going to give you  
6 these three things now.

7 THE WITNESS: Okay.

8 MR. KOERBER: There you go, sir.

9 THE WITNESS: All right.

10 MR. KOERBER: And with that, I would pass  
11 the interview over to Mr. Tucker or Mr. Cripps and  
12 the interview can begin.

13 MR. TUCKER: I'll go ahead and start.  
14 I've got a few questions here to start.

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. To start with, I would like to, again,  
18 thank you for coming in, <sup>(b)(7)(C) & (b)(7)(D)</sup>

19 A. No problem.

20 Q. What was the last shift you worked prior  
21 to April the 5th that you can recall?

22 A. Saturday evening shift.

23 Q. Okay. And on that shift, did you spend  
24 some time there at the tail cutting, mining coal,

1 cutting out the tail area?

2 A. Yeah, I know. I'm thinking. We cut out,  
3 I believe.

4 Q. Was the cutting pretty hard on the tail?

5 A. Yeah. Yeah, there was sandstone.  
6 Sandstone at the top and the bottom, I believe.

7 Q. Do you recall about how long it had been  
8 like that since it had gotten hard?

9 A. I don't remember exactly how long, but I  
10 know it was -- we was cutting it for a while.

11 Q. On that Saturday, can you recall the --  
12 you know, cutting top like that I know creates some  
13 dust.

14 Can you recall how that dust was moving  
15 away from you? Was it lingering? How was it  
16 traveling? Do you have any recollection of that  
17 you can share with us?

18 A. It's hard to remember everything.

19 Q. I'm sure it is.

20 A. I don't recall. I can't remember exactly  
21 how it was flowing at that time.

22 Q. Okay. When you was cutting that top, the  
23 hard top, what did it look like, as far as the bits  
24 hitting the top, what did it look like?

1           A.   As far as the bits hitting the top?

2           Q.   Yeah, when you're cutting that hard top --

3           A.   Yeah.

4           Q.   I mean, is there sparks? How would you  
5 describe it?

6           A.   Well, yeah. I mean, there was a few  
7 sparks, yeah, which, you know, you kind of expect  
8 that cutting solid sandstone, but, yeah, there was  
9 a few sparks here and there.

10          Q.   When they stopped to bit up, did you  
11 usually help to bit up?

12          A.   Yeah, yeah.

13          Q.   Do you remember having any problems  
14 keeping water sprays in? When you would bit up,  
15 would you notice water sprays missing?

16          A.   If they was missing, we would replace  
17 them. But on them drums, where they was new drums,  
18 I don't believe there was any sprays missing while  
19 we changed bits. I mean, they was fairly new  
20 drums.

21          Q.   None that you can --

22          A.   None that I can remember.

23          Q.   Okay. So you don't recall it being a  
24 problem, a normal thing to happen, maybe put a bit,

1 a spray or two in?

2 A. No. Not sprays, no.

3 Q. On that last shift, that Saturday shift,  
4 do you recall any problems at all, any abnormal  
5 problems that came up throughout the shift?

6 A. I'm thinking we was down most of the  
7 shift, but I'm wanting to say it was over belts, I  
8 believe.

9 Q. Okay. Let's talk about Monday a little  
10 bit on April 5th.

11 A. Okay.

12 Q. Did you report to work that day?

13 A. Yes.

14 Q. About what time did you get there?

15 A. 2:30.

16 Q. The best you can remember, can you just  
17 walk us through what you did once you got there on  
18 the shift?

19 A. I got there, we got dressed, and we all  
20 talked and everything for a little bit down in the  
21 -- in the locker room, and we went upstairs like we  
22 normally do, just like any old regular day.

23 And we sat up there in the office until 3  
24 o'clock. As soon as it hit 3 o'clock, we went --



1 took off underground. I mean, it ...

2 Q. So you was underground at the time of the  
3 explosion?

4 A. Yes.

5 Q. Would you mind describing that to us? Was  
6 you there at the man trip?

7 A. Yes, we was sitting in the mantrip. And  
8 we was sitting there, everybody, you know, just  
9 like a regular old day.

10 I remember Dustin was taking his mantrip  
11 off the charge and the power knocked, the lights  
12 went out, and then all of a sudden the air just  
13 stopped moving. It just completely stopped, you  
14 know, we wasn't just a couple hundred feet from the  
15 drift mouth.

16 And everybody was, like, you know, did you  
17 all feel that? Then all of a sudden it just -- it  
18 hit us like a brick wall. I mean, rock, everything  
19 hit us.

20 We all scrambled, trying to get, you know,  
21 trying to get into the breakthrough, through the  
22 side. And four of us got over on the left side,  
23 and four of us got on the right side. And we all  
24 gathered up and we all made it out together and ...

1 Q. Let me back up just a little bit.

2 A. All right.

3 Q. When you were upstairs, you said normally  
4 I guess that was your routine to come and get  
5 dressed?

6 A. Yeah.

7 Q. Then you would all go upstairs?

8 A. Yeah.

9 Q. A certain room up there that you would --  
10 what room did you all meet in upstairs?

11 A. In the longwall office.

12 Q. Okay. While you were there, did you hear  
13 any -- overhear any conversations that may have  
14 been made from the longwall, talking with somebody  
15 outside?

16 A. No. They was -- I heard the 2:30 report,  
17 and I think I might have been outside when the 3  
18 o'clock report was called out, but other than  
19 reports, no.

20 Q. That's what I'm referring to. The 2:30  
21 report you're talking about, is that a report that  
22 Mr. Medley would normally take?

23 A. Him or -- yeah, Kevin would take it most  
24 of the time.

1 Q. Is that the report you're referring to  
2 that you heard?

3 A. Yeah, yeah. I think they had like a --  
4 they wasn't running very good that day. They had a  
5 low report call out, a lot of downtime.

6 Q. So when Mr. Medley takes that call out,  
7 does he normally go over with y'all, since you're  
8 all there, what the conditions were, how the day  
9 shift did?

10 A. Yeah, he tells us, like, what they run so  
11 far. It just gives us an idea, you know, what we  
12 had to go in and try to do a little bit better than  
13 them.

14 Q. Right.

15 A. You know, shift against shift.

16 Q. Give you something to shoot for?

17 A. Yeah.

18 Q. Okay. Did you see Jack Roles on the phone  
19 during that time that you can recall?

20 A. Not that I can recall.

21 Q. So as far as actually overhearing  
22 anything, like, I know sometimes if you're sitting  
23 close to a mine phone you can actually hear what's  
24 coming across even though it's not on the page, did

1 you hear anything?

2 A. No, no.

3 Q. We was talking about the 3 o'clock call  
4 out. You referred to that. Did you actually hear  
5 a 3 o'clock call out, or you just know that they  
6 normally call out at 3:00?

7 A. I'm pretty sure that I heard -- I didn't  
8 hear the conversation, but I heard them hollering  
9 out to the longwall room for the report.

10 Q. Did you happen to look at your watch? Do  
11 you wear a watch?

12 A. Yeah, I wear a watch on my belt, but I  
13 also looked at the clock on the wall, too. And  
14 that's when -- that's the one we watch up in the  
15 office before we go underground. That's the one we  
16 go by, because ours are set a little bit faster,  
17 some slow. But, yeah, it was 3 o'clock on the dot  
18 when we went underground that day.

19 Q. And right before you left to go  
20 underground, you think you heard a call from  
21 underground?

22 A. I think I did. I'm pretty sure Kevin took  
23 the report down. I'm pretty positive. I mean,  
24 might be wrong, but ...

1           Q.    Yeah, and I know you can only speak for  
2 what you can remember and it's been a while, so I  
3 fully understand that.

4                    I was just trying to determine if Kevin  
5 was actually on the phone once or twice.

6           A.    What do you mean, once or twice?

7           Q.    Well, there's a fire boss or a pre-shift  
8 report that's called out --

9           A.    Right.

10          Q.    -- that the foreman usually takes.  And  
11 then when we talk about a 3 o'clock call out, is  
12 that a different kind of call out?

13          A.    Yeah, that might have been a call out that  
14 I for certain heard was the fire boss.

15                   That's a little bit before, you know, the  
16 shift change, but that might be the call out that I  
17 heard, now that you mentioned that.  I forgot about  
18 the fire boss call out, but I don't know.

19          Q.    And the reason I'm just asking these,  
20 we're just trying to determine if there's actually  
21 somebody that talked to the longwall crew real  
22 close to 3 o'clock.

23                   We're sure about the, from other  
24 testimony, as far as the fire boss report being

1 called out and Mr. Medley taking that.

2 A. Yeah.

3 Q. But we was trying to determine if someone  
4 talked to the longwall crew right close to 3  
5 o'clock.

6 A. I'm ...

7 Q. If you can't remember, I mean, you just  
8 can't remember. I understand.

9 A. No.

10 MR. TUCKER: That's all I have for right  
11 now. I'll pass it on to one of these gentlemen.

12 EXAMINATION

13 BY MR. CRIPPS:

14 Q. <sup>(b)(7)(C) & (b)(7)(D)</sup> I read through your first  
15 transcript, so I'm not going to try to ask you the  
16 same questions I did there. There's a little  
17 information that I want to get some more details  
18 on, if you don't mind.

19 A. All right.

20 Q. I want to start with your experience.  
21 When you actually started in the mines, where was  
22 that at and when?

23 A. I started at <sup>(b)(7)(C) & (b)(7)(D)</sup>

24 <sup>(b)(7)(C) & (b)(7)(D)</sup>

1 Q. Okay. What did you do when you worked at

2 (b)(7)(C) & (b)(7)(D)

3 A. (b)(7)(C) & (b)(7)(D)

4 Q. (b)(7)(C) & (b)(7)(D)

5 A. Yes, yes.

6 Q. Okay. And then how long was you there?

7 A. I was there until about -- I'd say about

8 (b)(7)(C) & (b)(7)(D)

9 Q. So that would have been around (b)(7)(C) & (b)(7)(D)

10 (b)(7)(C) & (b)(7)(D)

11 A. Yeah. I was there until we moved the  
12 longwall from Logan's Fork back to Performance.  
13 And then when we started moving it, that's when I  
14 went back to performance.

15 Q. Did you come back to Performance or UBB  
16 prior to the longwall being in operation at UBB?

17 In other words, your first day back at UBB  
18 was the longwall running?

19 A. No, the longwall setup, when we started  
20 setting the longwall up.

21 Q. So your first day back at UBB, you helped  
22 set the longwall up?

23 A. Yeah.

24 Q. (b)(7)(C) & (b)(7)(D) ?

1           **A.**       (b)(7)(C) & (b)(7)(D)

2       (b)(7)(C) & (b)(7)(D)

3           **Q.**     Okay.   So if the longwall at UBB started  
4     up the first of September of '09, how long prior to  
5     that do you think you went back to UBB?

6           **A.**     I think you confused me there.   Could you  
7     repeat it again?   You lost me.

8           **Q.**     About what time or when did you actually  
9     go back to UBB, what month?

10           **I'll try to help you.   The longwall**  
11     **started running around the first of September.**

12           **A.**     Okay.   All right.

13           **Q.**     If you went there and was setting it up --

14           **A.**     Setting it.

15           **Q.**     -- you probably come sometime prior --

16           **A.**     Yeah.

17           **Q.**     -- to September?

18           **A.**     It was probably in, I'd say, March or  
19     **April somewhere.**

20           **Q.**     Okay.   When the longwall started running  
21     **at UBB, what jobs have you performed there?**

22           **A.**       (b)(7)(C) & (b)(7)(D)

23       (b)(7)(C) & (b)(7)(D)

24           **Q.**     Okay.   And your last shift there, you was



1 jack setter?

2 A. Yeah.

3 Q. (b)(7)(C) & (b)(7)(D) was your boss?

4 A. Yes.

5 Q. Have you been on that same crew ever since  
6 you come back to UBB?

7 A. No.

8 Q. What other crew did you work on?

9 A. I worked (b)(7)(C) & (b)(7)(D) .

10 Q. (b)(7)(C) & (b)(7)(D)

11 A. Yeah, it was on his crew.

12 Q. Okay. Are you working anywhere now?

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

14 Q. Okay. Describe to me a normal shift at  
15 UBB, beginning with when you arrive on the section  
16 on the mantrip. Just walk me through what you  
17 normally do.

18 A. On the section?

19 Q. Yes.

20 A. As soon as we get to the section, every  
21 single day, we always, always, done our little  
22 safety meeting, five, ten minutes, you know, just  
23 went over everything. They always send in a paper,  
24 certain things, certain days, different safety

1 stuff. We always done that.

2 Then we'd take off and go by the mule  
3 train and straight to the face. And we stop and  
4 hang our buckets up right there in the -- where we  
5 all ate at. Then we'd go on up to the face and  
6 we'd swap out.

7 You know, they -- sometimes, most of the  
8 time, they'd be walking down through there or we  
9 just go on up there right there and wait on them at  
10 the head and swap out right there and take off.

11 Q. By swapping out, you mean the crew that's  
12 already on the face?

13 A. Yeah, yeah.

14 Q. Okay. When you started on your shift, say  
15 if you'd come in on day shift, was the shear  
16 generally ready to go, ready to run?

17 A. Most of the time, yeah.

18 Q. You didn't have to set bits before you  
19 started running?

20 A. If they was on the head, we wouldn't have  
21 to. But if it was, like, mid face or down at the  
22 tail or something, you know, we might have to set a  
23 bucket or two. But other than that, it was usually  
24 ready to go, ready to run.

1 Q. Okay. What about as far as checking your  
2 water in your water sprays, did you have to check  
3 at the beginning of the shift?

4 A. Personally, me, I didn't.

5 Q. Do you know if anyone did?

6 A. No, not that I can recall, no.

7 Q. Okay. When the shear was cutting from the  
8 headgate towards the tailgate, where would you be  
9 located while the shear was cutting, what would you  
10 be doing?

11 A. Well, honestly, you know, we would -- we'd  
12 run, you know -- when he was going from the head to  
13 the tail, yeah, I'd be behind shear guys, you know,  
14 going to the tail. And then -- I would be behind  
15 them going through the tail.

16 Q. And by "behind them," you mean you would  
17 be towards the headgate?

18 A. Towards the headgate, yes.

19 Q. And that's upwind of them?

20 A. Yes.

21 Q. What about coming from the tail to the  
22 head?

23 A. We would be towards the tail from them.

24 Q. So you would be inby the shear --

1           **A. Yes.**

2           **Q. -- is what I call it, towards the tail?**

3           **A. Yeah.**

4           **Q. And what would you be doing as the shear**  
5 **was cutting?**

6           **A.** (b)(7)(C) & (b)(7)(D)

7           **Q. Describe to me what that entails, setting**  
8 **a jack.** (b)(7)(C) & (b)(7)(D)

9 (b)(7)(C) & (b)(7)(D)

10          **A.** (b)(7)(C) & (b)(7)(D)

12          **Q. Okay. That's the -- did you have a system**  
13 **on the shields where you could push a few buttons**  
14 **and several shields would automatically drop and**  
15 **pull in on their own?**

16          **A. Yeah, but it didn't really work. We never**  
17 **used it.** (b)(7)(C) & (b)(7)(D)

18 (b)(7)(C) & (b)(7)(D)

19 (b)(7)(C) & (b)(7)(D)

20          **Q. Okay. So by "one by one," you meant that**  
21 **you pulled every shield --**

22          **A. Every shield**

23          **Q. -- individually?**

24          **A. Individually. Every shield.**

1 Q. But you did the shields -- actually you  
2 did it electrically?

3 A. Yeah.

4 Q. So if I may, like, if you wanted to pull  
5 Number 150 Shield in, you would stand on Number  
6 149?

7 A. Right.

8 Q. And operate it from 149; is that correct?

9 A. Yes.

10 Q. Okay. How long have <sup>(b)(7)(C) & (b)(7)(D)</sup>

11 <sup>(b)(7)(C) & (b)(7)(D)</sup>

12 A. <sup>(b)(7)(C) & (b)(7)(D)</sup>

13 Q. Okay. Have you <sup>(b)(7)(C) & (b)(7)(D)</sup> the way  
14 you just described the entire time?

15 A. Yes.

16 Q. One at a time, I'm talking about?

17 A. Yes, yes.

18 Q. Okay. And when the shear would be cutting  
19 from the tail towards the head, would the shear run  
20 off and leave you? Did you have a hard time  
21 keeping up?

22 A. No, <sup>(b)(7)(C) & (b)(7)(D)</sup>

23 <sup>(b)(7)(C) & (b)(7)(D)</sup>

there might have been a time or two  
24 they would pull off. Our guys, they always waited

1 on me. I mean, they -- that was when I first  
2 started. (b)(7)(C) & (b)(7)(D)

3 (b)(7)(C) & (b)(7)(D) I mean ...

4 Q. Okay. Having to pull every shield  
5 individually, it seems to me like you would have to  
6 be --

7 A. Yeah, you'd bumping and hitting your head  
8 and falling and then -- yeah. It was tough at  
9 times in the low spots, but most of the time we  
10 kept decent height so it wasn't that hard really.  
11 I mean, you know, as long as you can just keep  
12 going one at a time ...

13 Q. Okay. At the tailgate, when the shear was  
14 cutting out at the tail, I understand you did what  
15 I've been hearing referred to as the "shuffle"?

16 A. Right, right.

17 Q. Describe that process to me, please.

18 A. The shear would cut out in the tail, I'd  
19 follow up, follow up (b)(7)(C) & (b)(7)(D) And  
20 then at 170 -- let me think -- 164, I believe,  
21 start stepping them off.

22 And then, you know, advance, shove the  
23 line out, then they would back up and cut back into  
24 the sump, and then they would cut out and they'd

1 stop, and (b)(7)(C) & (b)(7)(D)  
2 (b)(7)(C) & (b)(7)(D) pull it back, then start stepping it  
3 off towards where (b)(7)(C) & (b)(7)(D) coming to the tail  
4 from 164 and just, toe to toe, (b)(7)(C) & (b)(7)(D) and  
5 then shove the tailgate back around, then the shear  
6 would cut back out.

7 Q. After the shear cut back out that second  
8 time, did you pull the tailgate shields in, the  
9 last three shields again? Do you recall that?

10 A. Trying to think why we didn't run that  
11 much. Where we -- I can't remember where we left  
12 off that day. If you --

13 Q. I'm just talking about in general, every  
14 pass.

15 A. Oh, yeah, every pass (b)(7)(C) & (b)(7)(D)  
16 in. Just from -- whenever they'd cut out the  
17 second time to take off back towards the head,  
18 every shield would be pulled in the same length,  
19 you know, there wouldn't be no more stepping off.

20 Q. And then (b)(7)(C) & (b)(7)(D) the tail in the  
21 pan?

22 A. Yeah.

23 Q. And push it all the way towards the --

24 A. Towards the face, yes.

1 Q. -- towards the face. And when the shear  
2 went towards the head, you kept pushing the pan?

3 A. Yeah.

4 Q. When <sup>(b)(7)(C) & (b)(7)(D)</sup>

<sup>(b)(7)(C) & (b)(7)(D)</sup> , did you ever make the 30-minute  
6 call outs?

7 A. Oh, yeah. Yeah.

8 Q. So you know what I'm talking about, the  
9 30-minute call out?

10 A. Yeah. Sometimes every 15 minutes, but,  
11 yeah, I know what you're talking about.

12 Q. Tell me who you talked to and what  
13 information you would give in that call out?

14 A. I would just holler out at the dispatch,  
15 holler at dispatch, tell him, you know, what we  
16 had, what passes we had, what downtime we had, and  
17 he'd be, Okay.

18 Q. I'm sorry, was you done?

19 A. I was just going to say 30 minutes later  
20 do it again and -- long day.

21 Q. The information that you called out, how  
22 did you get that information, the downtime, the  
23 number of passes?

24 A. Well, when <sup>(b)(7)(C) & (b)(7)(D)</sup> at the headgate,



1 most of the time I'd get it from the boss, which  
2 was -- at first it was either Timmy or then it was  
3 Kevin.

4 Which Timmy, he was real good about coming  
5 over there, you know, he would call out a lot of  
6 them, or he was teaching me how to do it, how to  
7 keep track of all of it, how to count how many  
8 shields point one passes and everything, and  
9 then -- but most of the time, they would give me  
10 the information, I would call it out, yeah. Most  
11 of the time.

12 Q. Okay. And who did you call that out to?

13 A. Dispatcher.

14 Q. Okay. Did you do it every 30 minutes  
15 right on the -- like at 3 o'clock, 2:30, or would  
16 you do it five minutes before?

17 A. Sometimes I'd do it earlier. Not five  
18 minutes, just a minute or two, I'd make sure I'd be  
19 at the phone or whatever. But most of the time it  
20 was right on, right on the dot, because, I mean, it  
21 was aggravating. It really was.

22 Q. Did you have occasion where you didn't  
23 make the call out right at --

24 A. Right at the time?

1 Q. Yes.

2 A. Maybe, yeah, five minutes after, you know,  
3 there was a couple late ones. Because, I mean,  
4 it's hard to be sitting there right at the phone,  
5 you know, you have got to -- as they are shoving  
6 the head.

7 A lot of times that was a big problem, you  
8 know, when you shove the head, you have got to  
9 maneuver the tailpiece, you know, dump it onto the  
10 belt, and you get -- you lose track of time. But,  
11 yeah, there was a time or two that it was a couple  
12 minutes late. Not real often.

13 Q. Did people call in wanting a call out if  
14 you didn't --

15 A. Oh, yeah. Yeah, hollering, screaming.

16 Q. Are you saying the headgate operator has  
17 more to do than just be the phone operator?

18 A. Yeah. Yeah, definitely.

19 Q. What's some of the other duties <sup>(b)(7)(C) & (b)(7)(D)</sup>

20 ?

21 A. You've got to drop your structure. Oh,  
22 man, you've got -- longwall, the face, you know,  
23 they can't run if it wasn't for the headgate  
24 operator, pretty much. I mean, he starts

1 everything up and gets everything ready to roll for  
2 them.

3 Q. Does the headgate operator control the  
4 water to the shear?

5 A. Yeah, there's leaders to the shear, yes.

6 Q. Okay. Do you know where those leaders are  
7 on this face?

8 A. From the headgate to the shear, yeah.

9 Q. Had you ever operated them?

10 A. Yes. You've got to open them before you  
11 can start your pumps, like the Kumant pumps and  
12 everything, your blow hoses and all that good  
13 stuff.

14 Q. Okay. When and why would you shut those  
15 valves off?

16 A. If the line goes off, you shut the water  
17 off. If the line goes off, shut the water off.  
18 Because then you have got your face crew, they'll  
19 holler, Turn the water off, turn the water off, you  
20 know.

21 Q. And so if the line went off, would you  
22 just automatically shut the water off?

23 A. Automatically, if the line went off or if  
24 the belt went off. Because if the belt goes off,



1 shear cut out without water. Never. I mean, that  
2 just -- that wouldn't be smart, I guess.

3 Q. Do you know where the disconnect for the  
4 shear cable is at the headgate?

5 A. Yes.

6 Q. Okay. Have you ever operated it?

7 A. Yes.

8 Q. Okay. On what occasions did you operate  
9 it?

10 A. Like when they -- they would have to do  
11 splices in the shear cable in the Bretby. At one  
12 time we had a lot of trouble out of the Bretby, so,  
13 you know, anytime they'd go to do anything on the  
14 shear, they'd have to disengage it. Splices  
15 mainly, if they'd go do splices, they'd have to  
16 pull the blades.

17 Q. Would you actually pull the blades  
18 yourself?

19 A. Well, most of the time either Tommy or  
20 Dustin, our electricians, they'd come out, pull the  
21 blades and lock it out. And then -- but I have  
22 done it once or twice myself, yes, pulled it and  
23 tagged it and locked it out, just because, you  
24 know ...

1 Q. That's another situation we found up on  
2 the face, that that disconnect or something --

3 A. I heard about that, too.

4 Q. Okay.

5 A. Yeah. I've heard a lot of stuff that just  
6 really ain't, you know. But there's going to be a  
7 lot of talk, I reckon.

8 Q. Do you know Chris Bell?

9 A. Yes.

10 Q. You do know Chris?

11 A. Yeah.

12 Q. As I understand, Chris was the utilityman  
13 on B Crew?

14 A. Yes.

15 Q. Chris was down on the face with the shear  
16 operators and the jack setter after the explosion?

17 A. Okay.

18 Q. Since <sup>(b)(7)(C) & (b)(7)(D)</sup>

19 do you have any thoughts why Chris would  
20 have been on the face?

21 A. Well, it depends on where he was at,  
22 really, because utility, you know. If the  
23 utilityman has got time, he'll help the headgate  
24 man down, go up there and carry the bits from the

1 head to -- down to the 19, 20 Shield, set the  
2 bits. But other than that, no.

3 Q. Chris was down around 105 Shield where the  
4 shear operators and the jack setters also were.

5 A. Now I'm not for sure, but they was trying  
6 to train somebody, a couple of boys, but I don't  
7 know -- I don't know if Chris was one of them or  
8 not.

9 Q. When did you receive your training to be a

10 (b)(7)(C) & (b)(7)(D)

11 A. I don't recall when.

12 Q. Let me ask it a different way. When you  
13 was working (b)(7)(C) & (b)(7)(D), did you ever  
14 go up on the face and (b)(7)(C) & (b)(7)(D) ?

15 A. Yes. I believe, yes.

16 MR. CRIPPS: Okay. I think I'm going to  
17 take a break and let somebody else ask you some  
18 questions.

19 EXAMINATION

20 BY MR. BECK:

21 Q. (b)(7)(C) & (b)(7)(D)

22 (b)(7)(C) & (b)(7)(D)

23 A. On our crew, yes.

24 Q. So you had to take care of all the

1 (b)(7)(C) & (b)(7)(D)

2 A. I had help. But, yeah, I mean, I was --  
3 the mainly (b)(7)(C) & (b)(7)(D)

4 Q. And do you recall if there were water  
5 sprays on any of the shields?

6 A. Yeah, yes.

7 Q. Did they work? Were they used?

8 A. Yes, we used them.

9 Q. Was it -- like, were they constantly on  
10 while the shear was running or just when the  
11 shields were moving?

12 A. I think every -- we had sprays on -- every  
13 so many shields we had a spray that constantly  
14 run. But, you know, as I would drop shield and  
15 pull them in, the pressure, then the sprays would  
16 kick on. Then I'd set it and they'd go back off.

17 Q. You said that your last shift that you  
18 worked, the wall was down most of the shift and you  
19 thought it was something to do with belts maybe?

20 A. Yes.

21 Q. Do you recall what you did during that  
22 downtime?

23 A. Yeah, I believe we pulled structure, help  
24 our headgate man pull structure. I think that's



1 all that I can recall right there on that.

2 Q. You also said that you would help to set  
3 bits when it was needed?

4 A. Uh-huh.

5 Q. If you were to change out a complete drum,  
6 all the bits on a drum, how long would that take,  
7 just ballpark?

8 A. We could do it in ten minutes. We'd get a  
9 whole drum set in about ten minutes.

10 Q. Is that one person or two people or three?

11 A. Two.

12 Q. Two?

13 A. Two, yeah. One person -- I've actually  
14 never done it by myself. I always helped the shear  
15 operators.

16 Q. Okay. And do you recall if on your shift,  
17 the guys -- you worked with the same guys --

18 A. Yeah.

19 Q. -- rotated?

20 A. Yeah.

21 Q. Do you know if there was a rock dust crew  
22 on that shift, people assigned to do specifically  
23 rock dusting anywhere in the mine?

24 A. I don't know. Not that I recall. I

1 don't -- I don't remember.

2 Q. Do you know what methods were used to rock  
3 dust the mine?

4 A. Yeah, they had a track duster, you know,  
5 you pull behind the motor.

6 Q. Okay. And during your time on the  
7 longwall, whether it was a <sup>(b)(7)(C) & (b)(7)(D)</sup>

8 did the crew ever have to  
9 leave the face because of the rock dust coming onto  
10 the face, that was being applied somewhere out  
11 there?

12 A. Not while I was on the face. Not that  
13 I ...

14 Q. When you traveled into the section, did  
15 you travel on a mantrip?

16 A. Yes.

17 Q. Do you ever recall coming upon doors that  
18 were left open?

19 A. We come up on a door every now and then,  
20 not real often, but we would come up on one door,  
21 like, on a set, one would be laying open, yeah.

22 Q. Did you ever see any doors that were  
23 damaged, that wouldn't close completely?

24 A. Yes, there was one set right past 78 that

1 had a set of doors, set of doors, and then a break  
2 or two, then another set, then another set.

3 And then farthest set away from 78 was  
4 beat up and bent real bad. They was on a hill, so  
5 they was -- yeah, they was kind of dented pretty  
6 good.

7 Q. I guess the dents would occur from either  
8 mantrips or motors?

9 A. Motors mainly, yeah.

10 Q. Hitting --

11 A. Motors, yeah.

12 MR. BECK: That's all.

13 EXAMINATION

14 BY MR. MAGGARD:

15 Q. Let's go back to when you arrived on April  
16 5th.

17 A. Okay.

18 Q. You said you got there about 2:30?

19 A. Right.

20 Q. When you all got underground and got on  
21 the mantrip, was everybody on the mantrip? You  
22 said somebody was --

23 A. Yeah, I think I believe Dustin was the one  
24 taking it off charge, and he done laid the plug in

1 down and he done got it locked in and tightened up,  
2 and I believe he was crawling into the mantrip as  
3 the wind hit us.

4 Q. Okay.

5 A. Because I remember, I think he fell. I  
6 believe it blew him down on the -- our side of the  
7 mantrip, pretty sure.

8 Q. Okay. Do you recall who was driving the  
9 mantrip?

10 A. Yeah, Kevin was driving it.

11 Q. Okay. Had he made a call for the track?

12 A. I think Kevin called for the road. I  
13 think he -- I believe he called for the road.

14 Q. How did he -- I'm sorry. Go ahead.

15 A. I'm trying to think. He was sitting in  
16 the mantrip and in the driver's seat. He usually  
17 drove. It was either him or Dustin that called for  
18 the road, but I believe it was Kevin called for the  
19 road before he got into the seat.

20 Q. How would he normally call for the track?

21 A. Just holler at dispatch on the phone there  
22 and ...

23 Q. Did he use a page phone or radio?

24 A. Usually when we called for road, we'd do

1 it from the phone, from the mine phone.

2 Q. Do you recall when you all were going in,  
3 was there anyone out near the portals, standing out  
4 close to the portals?

5 A. No, we was passing people coming out as we  
6 was going in. I don't remember nobody standing  
7 around.

8 Q. You don't remember seeing Jack Roles?

9 A. I don't know where he was at that day.  
10 Usually when we're up in the office, he's back  
11 there in his, but I don't remember seeing Jack that  
12 day.

13 Q. What about Everett Hager?

14 A. I'm thinking that he was in his office, I  
15 believe. Not sure, but I think that he was in his  
16 office.

17 Q. You said you sometimes have to help  
18 setting bits. Who normally set bits on the shear?

19 A. The shear operator.

20 Q. How often would you have to help them?

21 A. Usually just on my own, you know, we all  
22 help each other out. Every time I set bits, I'd  
23 always help one end or the other.

24 Q. After you got through setting bits, what

1 would you do?

2 A. Everybody would get back, back onto the  
3 line. (b)(7)(C) & (b)(7)(D) back and set them back,  
4 and we'd all get our stuff on there to go back,  
5 back to the tail.

6 Q. After (b)(7)(C) & (b)(7)(D) would  
7 you turn the water on then, or when would you have  
8 to turn the water back on?

9 A. The waters for the shields run off the  
10 Kumant pumps. So you can run the shields without  
11 the pressure being on the shear or -- yeah.

12 Q. Okay. How about the water for the shear?  
13 Would they turn that on after the --

14 A. Yeah -- no. They would turn it on -- I'm  
15 sorry, go ahead.

16 Q. You're good.

17 A. We would turn the water on, and, you know,  
18 the water would be spraying before the line or  
19 anything even started up, so ...

20 Q. Okay. I don't know if we asked you.  
21 What's the most number of sprays you ever recall  
22 anyone saying was out or you ever seen out on the  
23 shear at one time?

24 A. I don't know nothing really. Like I said,

1 mainly the time that I was on the face, we had the  
2 new drums. So the old ones, I don't know  
3 anything. I was up there for about the last three  
4 months. I know when I was up there, they was  
5 good. We hardly ever changed them.

6 Q. Okay. Do you recall what shift installed  
7 the new drums? Was it your crew?

8 A. That's what I'm thinking. I'm wanting to  
9 say we -- we might have finished it up, or we might  
10 have started it. I can't remember. I know there  
11 was a couple shifts. I don't believe hoot owl got  
12 it done in one shift.

13 Q. Do you recall how long ago prior to the  
14 April 5th that the drums were changed?

15 A. No, I don't recall that. No, I don't  
16 recall.

17 Q. Do you recall any troubles with the drums  
18 when you first installed them, anything that you  
19 all had to do?

20 A. I think they had trouble out of a ranging  
21 arm pin. Yeah, the pin in the ranging arm, I  
22 believe they had some trouble out of it

23 Q. Do you recall which pin that was?

24 A. Tail, tail end, maybe.

1           Q.    Okay.  Was it the face side or the gob  
2 side pin?

3           A.    Face side, I believe.  I believe it was  
4 the face side.

5           Q.    Okay.  Did the face side pin go out toward  
6 the face or which part of the -- which way did it  
7 try to come out, gob side or face side?

8           A.    Honestly, I'm not sure.  I mean, I just  
9 remember hearing them say they're having trouble  
10 out of the ranging arm pin.  I mean, I don't  
11 remember.  I never worked on it, you know.  It was  
12 always the electrician and stuff done all of that.

13          Q.    When you all set bits, what would you have  
14 to do to get started to set bits?  What would  
15 you -- how would you de-energize the face and how  
16 did that work?  What did you have to do to it?

17          A.    Let me think.  They would take the shear,  
18 clean out spots, you know, on the tail end they  
19 would back the shear, you know, back and forth,  
20 clean up each sides of the drum, you know, spin  
21 freely.

22                   They shut the face off, shut the shear  
23 off, the water, shut everything off by, I mean --  
24 trying to think how they de-energize everything.



1 Q. Did they turn it off with -- you'll have  
2 to help me out here. Did they turn it off with the  
3 packman?

4 A. Yeah, they would kill it, but then, you  
5 know, they would holler at the headgate to let him  
6 know, you know, that it wasn't going to be -- they  
7 wasn't going to be starting back up.

8 Q. Okay. What about the pan line, how did  
9 the headgate operator turn it off, or did you guys  
10 turn it off on the face?

11 A. Flip it off by the control, lock it out.

12 Q. What about <sup>(b)(7)(C) & (b)(7)(D)</sup> did you turn  
13 those off, or did you just leave those on?

14 A. Left them on, yeah.

15 Q. After <sup>(b)(7)(C) & (b)(7)(D)</sup> over at the  
16 shear?

17 A. Yeah, right.

18 Q. Do you know if the E-stop on the shear was  
19 working on your shift, or had you tried it? Had  
20 you seen anybody test it in a while?

21 A. I don't know if they did or not. I don't  
22 know.

23 Q. Had you ever seen that E-stop get damaged  
24 on this panel?

1           A.   Not that I recall. I don't remember it  
2 getting damaged, I don't believe.

3           Q.   How often would you have to -- how would  
4 you all check pressure on the water system for the  
5 shear?

6           A.   Check pressure on the water system for the  
7 shear?

8           Q.   Yeah.

9           A.   Well, I mean, at the headgate it shows you  
10 what pressure is going where, whether it's high or  
11 low pressure. That's mainly how I knew to check  
12 the pressure was by the pumps, you know, the screen  
13 out by the headgate.

14          Q.   Was there anything on the shear itself  
15 that you could check, or how was that done?

16          A.   I don't know. I don't know about the  
17 shear. I mean, I don't know.

18          Q.   Had you ever seen anybody check the  
19 pressure by any other means on the shear?

20          A.   I don't think so.

21          Q.   Never seen anybody hook up a pressure  
22 gauge or anything?

23          A.   I, personally, I don't think I've never  
24 seen them do it, I don't believe.

1 Q. Okay. Had you ever seen the fire  
2 suppression system on the shear checked?

3 A. The fire suppression?

4 Q. Yeah.

5 A. I'm trying to think if I ever seen them do  
6 it. I don't recall. Like I say, one of the  
7 electricians would go do that. We didn't really  
8 pay much attention to anything.

9 Q. Okay. Those sprays that you had seen that  
10 were -- I guess, do you guys call them tip sprays  
11 on the shields?

12 A. On the shields, yeah.

13 Q. Were they bad to plug up, clog up?

14 A. Yeah, some. But like I said, it depends.  
15 I mean, if it was low, yeah, they would be. As  
16 long as they stayed in good height, most of them  
17 stayed pretty well, you know, cleaned out.

18 Q. I think -- well, I know you're following  
19 that shear, you know, from head to tail and from  
20 tail to head. How far behind would you get  
21 sometimes? How hard was it for you to keep up?

22 A. Not real hard. The farthest <sup>(b)(7)(C) & (b)(7)(D)</sup>

23

24

(b)(7)(C) & (b)(7)(D)

1  
2  
3  
4 Q. Did you have a Solaris detector? Did they  
5 furnish you one on the face?

6 A. No.

7 Q. Had you ever asked for one and never got  
8 it?

9 A. No. I mean, we've all mentioned, you  
10 know, we thought we was supposed to have one up  
11 there with us, and, I mean, but the bosses, they  
12 could hardly get them. They -- I mean, people  
13 would take them from outside, and they was just  
14 about like the mine lights. You shut them down and  
15 charge them, somebody come by and just grab them.

16 Q. How many detectors could your crew  
17 normally have on a shift?

18 A. Well, Kevin had his. Tommy would have  
19 one. Dustin, I think Dustin would. Two or three.  
20 I mean, there was a couple floating around.

21 Q. Okay. Kevin Medley, I guess, that's your  
22 boss?

23 A. Right, right.

24 Q. How often was he on the face? Was he up

1 there quite often?

2 A. Yeah. Yeah, he came across there quite a  
3 bit. I mean, he'd go from -- he always made a trip  
4 through there several times a shift.

5 Q. Would he normally see every pass that's  
6 made on the face?

7 A. Yeah.

8 Q. He'd try to see some portion of a pass?

9 A. Yeah, yeah.

10 Q. What about the electricians? What did  
11 they normally do during a shift while you're  
12 running?

13 A. While we was running, they was on the face  
14 most of the time. They'd stay up there. And like  
15 I said, <sup>(b)(7)(C) & (b)(7)(D)</sup> on the  
16 control and, you know, tell them where it was at,  
17 and they'd be right there on it, fixing it. They  
18 was pretty well close by most of the time.

19 Q. So I guess it would probably be safe to  
20 say that they worked on shields a lot during the  
21 day?

22 A. Yeah, yeah.

23 MR. MAGGARD: Thank you.

24 MR. KOERBER: Do you want to take a short

1 break so we can collect our thoughts?

2 THE WITNESS: I'm good.

3 EXAMINATION

4 BY MR. TUCKER:

5 Q. I've got a couple of questions just to  
6 clear up a few things in my mind there.

7 A. All right.

8 Q. Jasey was asking you about the detectors  
9 on the guys that had them on a section. Do you  
10 recall if the shear operator had a gas detector?

11 A. Sometimes Chad would have his, Chad would  
12 have one, he was the tail end shear operator, but  
13 not all the time. No, not all the time he wouldn't  
14 have it.

15 Q. Okay. When they were cutting from the  
16 tail to the head, you mentioned you would be behind  
17 them and you stayed up pretty good?

18 A. Uh-huh.

19 Q. Would you have any trouble seeing, as far  
20 as the dust?

21 A. No, not really. I mean, you know,  
22 whenever <sup>(b)(7)(C) & (b)(7)(D)</sup> it would fall in  
23 between the cracks of the shields right there on  
24 you, but other than that, no, not really, not

1 behind them.

2 Q. Was it very dusty, as far as dust coming  
3 from the shear, when you was going from the tail to  
4 the head?

5 A. Not real bad. Like I said, if you can  
6 (b)(7)(C) & (b)(7)(D) you know, the dust, it pretty much  
7 would go around you. I mean, you wasn't in it the  
8 whole time.

9 Q. When (b)(7)(C) & (b)(7)(D), what  
10 role did you play as far as when they were going to  
11 set bits? How would you know they were going to  
12 set bits and what would you do?

13 A. Well, they, like if the line goes off, the  
14 headgate automatically hollers up there, What's  
15 wrong, you know, What's going on, but they'd holler  
16 out, Setting bits, setting bits.

17 And if (b)(7)(C) & (b)(7)(D)  
18 (b)(7)(C) & (b)(7)(D) That's about it.

19 Q. Would there be anything you would do that  
20 would be relevant to them setting bits as far as, I  
21 mean, turn the water off, or what would you do?

22 A. Well, I mean, you'd shut all the water off  
23 and shut mainly just the water. The line would  
24 already be, you know, it stayed locked out.

1 Q. So you wouldn't have to do anything as far  
2 as the power?

3 A. Not power wise. Not unless they wanted to  
4 come out there and, you know, said they was going  
5 to do something like that, but other than just  
6 setting bits, no, no power -- no power wise.

7 Q. Okay. The doors you was talking about  
8 there inby 78, the farthest inby door, you had  
9 mentioned stayed banged up pretty good.

10 Do you recall on Saturday, on your last  
11 shift, what condition that door was in?

12 A. No, because we was dead set on setting on  
13 getting outside. I never paid no attention. I  
14 don't recall the doors anyway.

15 Q. Okay. You mentioned that on a couple  
16 occasions you would go in, there would be one door  
17 open?

18 A. Yeah.

19 Q. Did you ever see, you know, where the  
20 doors are erected in sets?

21 A. Right.

22 Q. Have you ever seen two doors open at one  
23 time, a set of doors?

24 A. One maybe fully and the other one half.



1 But other than, both of them standing wide open --  
2 I think there was a time or two we came up on the  
3 doors. I remember we just pulled up through them,  
4 then we'd get out and shut them, then open the next  
5 set.

6 Yes, I do think I remember a couple doors  
7 being wide open. Both of them, I believe.

8 Q. When you'd travel in from the Ellis  
9 portal, where was the first doors that you would  
10 see?

11 A. They wasn't far from where the mantrips  
12 was. They was probably -- I don't know -- five to  
13 ten breaks away from where the mantrip is at, where  
14 the first set of doors was.

15 Q. That would be between the Ellis portal and  
16 the Ellis switch?

17 A. Right. Yeah, they would have been.

18 Q. Now, those doors, how would you usually  
19 find those? Would those be open or shut?

20 A. Those was usually shut. They wasn't there  
21 that long prior to the explosion. They wasn't  
22 there, not a whole lot, not a whole lot of times  
23 there. So they was in good shape and closed all  
24 the time, yeah.

1 Q. Did you ever come out or go in and those  
2 doors already be open?

3 A. Not I can remember at the time. I don't  
4 recall it. I mean, you know, they might have been  
5 a time or two, but I don't recall.

6 Q. Okay. There at that construction site,  
7 where they was setting up, cutting those belt  
8 channels and overcast, you know where I'm talking  
9 about?

10 A. Yeah. On the longwall itself?

11 Q. For the new set up, just inby, between the  
12 Ellis portal and Ellis switch, they had some  
13 construction going on where that new panel was  
14 going to be set up that you all were going to be  
15 moving to?

16 A. I can't picture where it was at. Our next  
17 panel was -- the one right over from us? Is that  
18 the one you're talking about, like the one that was  
19 over here?

20 Q. No. They were setting up or going to set  
21 up a short panel because that one wasn't going to  
22 be ready.

23 A. Yeah, I know. I remember where you're  
24 talking about.

1 Q. When you were going by there, did you ever  
2 notice any dust coming from that area onto the  
3 track?

4 A. No, I don't believe.

5 Q. After your -- just one last question  
6 there. After your last interview that you had with  
7 us, did anybody other than your attorney, say  
8 anybody with the company or Massey attorneys, try  
9 to contact you and question you about the interview  
10 you had with us?

11 A. No.

12 MR. TUCKER: Okay. That's all I have for  
13 now. I appreciate you.

14 THE WITNESS: Okay.

15 EXAMINATION

16 BY MR. CRIPPS:

17 Q. Doing okay?

18 A. Oh, yeah. Yeah. Trying anyway.

19 Q. All right. We'll plod on here, then.

20 Your time when you was working as the  
21 headgate operator -- let me back up.

22 As the headgate operator, do you know  
23 where the methane readout is there at the  
24 headgate?



1 times, the fire boss report times.

2 Q. Okay. Do you know who the boss normally  
3 talked to when he called it out?

4 A. He'd holler at either the next oncoming  
5 shift boss or he'd holler to -- mostly it was the  
6 next oncoming shift boss, yeah. Rick and -- or  
7 whoever it was, yeah.

8 Q. The shear right now, at the time of the  
9 explosion at UBB, was sitting on the tailgate and  
10 the tailgate drum is just punched out into the  
11 tailgate entry?

12 A. Uh-huh.

13 Q. Have you ever helped or have you ever seen  
14 anybody actually set bits with the drum extended  
15 out into the tailgate entry?

16 A. No, never.

17 Q. Do you think that they would be setting  
18 bits out there?

19 A. I don't think they would be.

20 Q. Okay.

21 A. I don't believe that they would be.

22 Q. Do you have a reason for that opinion?

23 A. The tail is it's always the top -- the top  
24 condition on the tail is always just usually bad.

1 I mean -- and I, personally, I don't believe that  
2 they would set bits on the tail.

3 If they did, they would back it up, you  
4 know, right here in this area somewhere and clean  
5 it out, 164 Shield somewhere, but not extend out  
6 past the head or the tail.

7 Q. Have you seen bits set on the end of the  
8 tailgate end of the face?

9 A. Yes.

10 Q. Okay. And where would they normally do  
11 that?

12 A. Back here around where we set the shuffle  
13 up. Where the line would do the bow, that would be  
14 where the most room was at, so they'd clean out an  
15 area right there.

16 Q. So the tailgate drum of the shear would be  
17 around 164, 163 Shield?

18 A. Yeah, somewhere in that area.

19 Q. Okay.

20 A. In that area.

21 Q. Did you and your buds ever talk about if  
22 you ever had an emergency on the face how you would  
23 escape off the face?

24 A. Yeah.

1           Q.    Tell me what you guys' thoughts on that  
2 about escaping an emergency off the face?

3           A.    Well, we always just -- really depend on  
4 where -- what was going on, you know.  If the smoke  
5 was coming down the face, if we was anywhere from  
6 mid face to the tail, that was always our last  
7 option to get off the -- go out the tail.

8                    But we knew if we would get off the tail,  
9 we could get in fresh air not far from there.  But  
10 if we was closer to the head, we knew that if we  
11 could make it to the intake, you know, as long as  
12 the smoke wasn't coming up the intake, then we  
13 would have been fine getting to the intake over  
14 there.

15           Q.    So if the smoke was outby you and coming  
16 down the face, would be a reason you would go out  
17 the tail?

18           A.    Yeah, yeah.

19           Q.    What if there was an event, something  
20 happened out in the tailgate entry?

21           A.    Then we would have to make our way off the  
22 head.  I mean, if there wasn't no option.

23           Q.    Okay.  One more question here.  I want you  
24 to try to remember back to the last shift you

1 worked on Saturday.

2 A. Okay.

3 Q. At the end of the shift, we're pretty sure  
4 that the shear was left up near the headgate. Do  
5 you recall that?

6 And if I can refresh your memory, the  
7 following midnight shift that come in, they changed  
8 the headgate cowl on the shear up at the headgate.  
9 So do you recall parking the shear up near the  
10 headgate?

11 A. Yes, I think I do now. I do remember the  
12 cowl was -- we was having a lot of trouble out of  
13 the cowl. So, yeah, I think I do remember parking  
14 the -- it was up towards the head somewhere in that  
15 area, I do believe.

16 Q. Okay. Do you recall when you parked the  
17 shear, did you just leave the faces normal, or did  
18 you possibly pull shields in over the shear?

19 A. I don't know. I don't believe we pulled  
20 shields in over the shear, I don't believe. If  
21 they had cut out, you know, did half of the  
22 shuffle, we probably would. But if they was right  
23 there in the sump, then we wouldn't pull them in.

24 Q. Okay. The longwall was going to be idle



1 the following three shifts due to it being Easter  
2 Sunday?

3 A. Yeah.

4 Q. If you knew that the wall was going to be  
5 idle for three shifts, is it something you had done  
6 before, pull the shields over the shear?

7 A. Yeah, yeah. We might have pulled them in,  
8 I just -- I can't remember, you know, exactly what  
9 we done on that last shift. I really don't.

10 Q. Is there a reason why you would pull the  
11 shields in over the shear?

12 A. To keep the top -- yeah, to keep the top  
13 from big sliding rock and everything falling, if we  
14 was going to be idle.

15 But if we knew, you know, next shift, hoot  
16 owl was there, then I don't think we pulled them  
17 in. I don't -- just to keep the rock from falling  
18 on the shear.

19 MR. CRIPPS: That's all I've got.

20 EXAMINATION

21 BY MR. BECK:

22 Q. I just got two.

23 A. All right.

24 Q. Of your last shift worked, you said you

1 spent some time down at the tail cutting rock, and  
2 I think you cut out at least once?

3 A. Uh-huh.

4 Q. Do you recall anything unusual, anything  
5 different, any kind of smell, any excessive bottom  
6 hooving, anything like that?

7 A. No.

8 Q. And during your time at Upper Big Branch,  
9 did you ever express any concern about the  
10 ventilation system or hear anybody express any  
11 concerns about the ventilation system for the mine?

12 A. I guess, kind of expressed it really. It  
13 was -- our crew was on the face the day that, you  
14 know, we was up there running. And the dust just  
15 quit flowing, and we shut down automatically.

16 As soon as we shut down, hollered at --  
17 got Kevin up there. He hollered outside and they  
18 said, well, try to run until we get there, and we  
19 didn't. We never started up again.

20 We sat there and waited on them, Jack and  
21 the inspectors to get there, and Everett, and I  
22 think Jamie was with them.

23 But, yeah, it was -- the dust just quit  
24 flowing so we just shut down.

1 Q. Somebody told Kevin to go ahead and run  
2 until --

3 A. Yeah, somebody outside told him just go  
4 ahead and run until we get there.

5 Q. Do you know who that was?

6 A. No, I really don't know who it was. But  
7 all I know is that we -- we pretty much said no.  
8 We just sat there and waited on them to get there.

9 Q. Was there any times that there was  
10 concerns about the ventilation?

11 A. I know there was times, there was times  
12 before we had so much air, you know. Then the next  
13 day or two, the air was gone. But that was during  
14 the time of the -- when we shut down on the face  
15 because of that.

16 Q. Do you know who was responsible for the  
17 ventilation at Upper Big Branch?

18 A. No, I don't think.

19 MR. BECK: That's all.

20 EXAMINATION

21 BY MR. MAGGARD:

22 Q. How many times did that happen to you that  
23 the dust would quit flowing?

24 A. Just that one time.

1 Q. Just that one?

2 A. Yeah, just that one time.

3 Q. Did they have to do anything over at the  
4 tail entry?

5 A. Yeah.

6 Q. Who went over there?

7 A. They sent our crew over there to start on  
8 it, and then there was all kinds of people showed  
9 up over there.

10 Q. But after that, it never happened again?

11 A. I don't believe. I don't believe it did.

12 Q. Tell me who all would run the shear from  
13 time to time on your all's crew?

14 A. You had regular shear operators, it was  
15 Cody and Chad, and then the electricians, they'd  
16 float them out for lunch, that was Dustin and  
17 Tommy.

18 Q. Would anybody else periodically try to run  
19 it?

20 A. No.

21 Q. Okay. Dustin and Tommy?

22 A. Uh-huh.

23 Q. Is that right?

24 A. Yeah, that was there.

1 Q. What time did you had all have lunch?  
2 What time would they run it?

3 A. Day shift, I think we would eat around,  
4 like, 11:00 or 12:00, and then evening shift, I  
5 believe it was around 10:00 or 11:00 that night.

6 EXAMINATION

7 BY MR. TUCKER:

8 Q. The dust you're talking about where it  
9 kind of stood still and you all shut down.

10 A. Right.

11 Q. Do you recall the time period when that  
12 may have happened?

13 A. No. It was during that big -- when they  
14 made us do that big ventilation deal on the tail.

15 Q. Okay.

16 A. That's pretty much what I think.

17 Q. Probably around 1st of March?

18 A. Yeah, it was in March sometime.

19 MR. TUCKER: All right. That's all I  
20 have.

21 EXAMINATION

22 BY MS. HAMPTON:

23 Q. Do you remember who would have been on the  
24 crew with you at that point?



1 face? Was you close to the tail at that time?

2 A. I know we was right around mid face, right  
3 around mid face.

4 Q. Could you tell anything about air behind  
5 the shields, how it was moving?

6 A. No.

7 Q. Let's say you were cutting toward the tail  
8 and you were getting close to the tail. Did you  
9 ever -- tell me any times you ever seen dust coming  
10 from the shields, from behind the shields, or have  
11 you ever seen that before?

12 A. Just when we had -- just when the top  
13 would fall. But other than that, no.

14 Q. And dust down at the tail, would it  
15 normally go over the shear or how would it -- could  
16 you tell how it was going or could you see when  
17 they were cutting out?

18 A. When they'd cut out, yeah. It would just  
19 go over the shield or over the shear, and wasn't  
20 supposed to go no farther than one break outby, and  
21 then you cut across and go toward the gob.

22 Q. Would most of it go right or left or would  
23 it split, or had you seen that change? Tell me  
24 what you normally see?

1           A. Normally just seen it just go straight off  
2 the tail and go straight to the gob. I mean, it  
3 was most of the time. Just that one little  
4 incident we had, it was floating all the way down  
5 -- all the way down through there.

6           Q. So when you say "all the way down through  
7 there," you're talking outby?

8           A. Outby, yeah.

9           Q. Toward the tail?

10          A. Farther than what it's supposed to go.

11          Q. Who would normally keep up with the --  
12 there was brattice down at -- one break outby  
13 normally that they'd have to knock out?

14          A. The regulator, yeah.

15          Q. Who would take care of that?

16          A. Kevin would.

17          Q. Was there ever a time it may have not got  
18 done and it caused a problem?

19          A. No. I remember Timmy, he was always good  
20 about making sure it would go down to the tail and  
21 everything. And it always stayed right that I  
22 could think of. For the regulators and all that  
23 stuff, yeah, it was always good.

24           MR. KOERBER: Anything else?





1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court  
3 Reporter within and for the State aforesaid, duly  
4 commissioned and do hereby certify that the  
5 interview of <sup>(b)(7)(C) & (b)(7)(D)</sup> was duly taken by me  
6 and before me at the time and place specified in  
7 the caption hereof.

8 I do further certify that said proceedings  
9 were correctly taken by me in stenotype notes, that  
10 the same were accurately transcribed out in full  
11 and true record of the testimony given by said  
12 witness.

13 I further certify that I am neither attorney  
14 or counsel for, nor related to or employed by, any  
15 of the parties to the action in which these  
16 proceedings were had, and further I am not a  
17 relative or employee of any attorney or counsel  
18 employed by the parties hereto or financially  
19 interested in the action.

20 My commission expires the 6th day of March  
21 2019.

21 Given under my hand and seal this 3rd day of  
22 March 2011.

23 -----  
24 Jenny Taylor  
Notary Public