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Transcript of the Testimony of Brian Buzzard

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STATEMENT UNDER OATH
OF
BRIAN BUZZARD

taken pursuant to Notice by Leslie Blake, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Beaver, West Virginia, on Tuesday, May 17, 2011, beginning at 10:10 a.m.

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

NONE OFFERED

P R O C E E D I N G S

ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. Today is May 17, 2011, and we're here today to conduct an interview of Brian Buzzard. With me is Jerry Vance. He's an investigator with Mine Safety and Health Administration. Officials with the State of West Virginia will also be present.

All members of the Mine Safety and Health Administration Accident Investigation Team, all members of the State of West Virginia participating in the investigation of the Upper Big Branch Mine explosion shall keep all information confidential that is gathered from witness interviews who voluntarily provide statements. MSHA and the State of West Virginia shall keep this information confidential so that other ongoing enforcement activities are not prejudiced or jeopardized by a premature release of information. This confidentiality requirement does not preclude Investigation Team members from sharing information with each other. Everyone's participation in this interview constitutes an agreement to keep the information confidential.

1 Mr. Buzzard, government investigators
2 have been assigned to investigate the conditions and
3 the events and circumstances surrounding the
4 fatalities that occurred at the Upper Big Branch Mine
5 South on April 5th, 2010. The investigation is being
6 conducted by MSHA, pursuant to Section 103(a) of the
7 Federal Mine Safety & Health Act and by the West
8 Virginia Office of Miners' Health, Safety and
9 Training. We appreciate your assistance in this
10 investigation.

11 You may have a personal attorney or
12 representative present during the taking of this
13 statement, and you may consult with your attorney or
14 representative at any time. Do you understand that?

15 MR. BUZZARD:

16 Yes.

17 ATTORNEY WILSON:

18 And do you have a representative with
19 you?

20 MR. BUZZARD:

21 No, sir.

22 ATTORNEY WILSON:

23 Your statement is completely voluntary.

24 You may refuse to answer any question. You may
25 terminate the interview at any time. This is not an

1 adversarial proceeding. It's an information-gathering
2 proceeding, so formal Cross Examination type questions
3 will not be asked.

4 Your identity and the content of this
5 interview will be made public at the conclusion of the
6 interview process and may be included in the public
7 report of the accident that MSHA will prepare, unless
8 you specifically request that your identity remain
9 confidential or if the information that you provide
10 would jeopardize other potential investigations. If
11 you request us to keep your identity confidential, we
12 will do so to the extent permitted by law. In other
13 words, if a Judge orders us to reveal your identity,
14 we may have to do that. There may be a need to use
15 the information that you provide to us or other
16 information that we may ask you to provide in the
17 future in other investigations or hearings concerning
18 the explosion. Do you understand that?

19 MR. BUZZARD:

20 Yes.

21 ATTORNEY WILSON:

22 After the investigation is complete, MSHA
23 will issue a public report detailing the nature and
24 the causes of the fatalities in the hope that greater
25 awareness about the causes of accidents can reduce

1 their occurrence in the future. Information obtained
2 from witness interviews is frequently included in
3 these reports. Since we will be interviewing other
4 individuals, we request that you not discuss your
5 testimony with anyone other than persons present
6 during this interview.

7 A court reporter will be recording the
8 interview, so please speak loudly and clearly. If you
9 do not understand a question, please ask that the
10 question be rephrased. We ask that you answer all
11 questions as fully as you can, including any
12 information that you may have learned from someone
13 else. Again, I want to thank you for being here
14 today. We appreciate your time. Your cooperation is
15 critical in making the mines safer.

16 After we have finished asking questions
17 we will give you an opportunity to add anything else
18 that you think may be important to the record, or at
19 that time you may just --- if you have a statement
20 that you want to make, you can do that then.

21 I've provided you with a letter from
22 MSHA, and MSHA's contact information is provided in
23 that letter. So if at any time in the future you
24 think of any additional information or you think of
25 someone else that you think we should interview who

1 may have relevant information, please contact us
2 either at the address provided at the top of the
3 letter or at the phone number that's provided in the
4 letter. Okay?

5 MR. BUZZARD:

6 Yes.

7 ATTORNEY WILSON:

8 Let's go off the record.

9 OFF RECORD DISCUSSION

10 ATTORNEY WILSON:

11 Let's go back on the record. Okay. I'll

12 turn it over to Mr. Bill Tucker from the State, if he
13 has anything he wants to add.

14 MR. TUCKER:

15 I appreciate you coming in today. I just
16 want to mention that the State of West Virginia also
17 has protection against people participating in
18 interviews, as far as discrimination. I'll give you
19 some contact information. The Board of Appeals in
20 Charleston is the board that hears those type of
21 complaints. If you end up having one, if you feel
22 like you've been discriminated against, you have 30
23 days after the act occurs to file a complaint. It can
24 just be a handwritten letter or anything, but here's
25 the address of people you can contact. I'll give you

1 a business card of mine. If you have anything at any
2 point, any questions of me or anything maybe to add
3 later that maybe you forgot about today, then it will
4 just be some contact information for you. Again,
5 thank you for coming in today.

6 MR. BUZZARD:

7 You're welcome.

8 ATTORNEY WILSON:

9 Okay. At this time I'll ask that the
10 court reporter swear you in.

11 -----
12 BRIAN BUZZARD, HAVING FIRST BEEN DULY SWORN, TESTIFIED
13 AS FOLLOWS:

14 -----
15 ATTORNEY WILSON:

16 All right. I'll turn it over to Jerry to
17 begin the questioning.

18 EXAMINATION

19 BY MR. VANCE:

20 Q. Again, thanks for coming in. I'm going to start
21 with a little bit of background questions to start out
22 with. Could you state your full name and spell it for
23 us, please?

24 A. Brian Steven Buzzard, B-R-I-A-N, S-T-E-V-E-N,
25 B-U-Z-Z-A-R-D.

1 Q. Could you state your home address and telephone
2 number?

3 A. [REDACTED],
4 [REDACTED]

5 Q. Are you appearing here today voluntarily?

6 A. Yes, sir.

7 Q. Has anyone made any promises to you for giving the
8 statements that are offered here, any rewards in
9 exchange for making statements here today?

10 A. No, sir.

11 Q. Has anyone threatened you or warned you to provide
12 any statements?

13 A. No, sir.

14 Q. Has anyone from Massey Energy or Performance Coal
15 or persons representing the companies talked to you
16 concerning the explosion?

17 A. No, sir.

18 Q. Did you receive any directions on how to give your
19 testimony today?

20 A. No, sir.

21 Q. Did any company representative suggest that you
22 contact them after the interview?

23 A. No, sir.

24 Q. Do you have any mining certifications?

25 A. Yes, sir.

1 Q. Could you tell us what they are, please?

2 A. Underground mine foreman, a shot firer, dust
3 sampling. That's it.

4 Q. Is that it?

5 A. Yeah.

6 Q. Okay. Could you give us some background on your
7 mining experience?

8 A. Yes. I started in the mines in 1993 as a battery
9 technician for North American Battery. We serviced
10 scoop batteries, underground, surface, outside. After
11 that, I was hired on with Elk Run Coal Company, I
12 think, in '95. And I worked for Elk Run approximately
13 three or four months. And I transferred from Elk Run
14 to Performance. When we set up the first longwall at
15 Performance, I was involved in helping set it up. And
16 from that point, I worked at Performance Coal for four
17 or five years. And throughout that time I had made my
18 certification, and we then had started up Independence
19 Coal at the Justice Mine longwall. And I was
20 transferred out to section boss. I section bossed for
21 probably close to a year, and then I became the
22 assistant coordinator, longwall coordinator. And I
23 was the coordinator for six months.

24 And at that time, I became the coordinator, and I
25 was the coordinator at the Justice Mine for six or

1 seven years. And after I as the coordinator, I was
2 the mine manager for Justice Mine at Revolution for
3 probably about a year and a half. And we had got into
4 --- we got into a panel that we was in there probably
5 longer --- a year longer than we should have been. It
6 was just bad conditions. And I was asked to transfer
7 back to Performance, and they brought the coordinator
8 from Performance. We kind of switched roles. I went
9 to Performance.

10 And at the time I transferred, Bill Potter was the
11 president. And I went and spoke with Bill personally
12 two days afterwards, and the assistant coordinator
13 that was there was Jack Roles. And I felt that I was
14 kind of stepping in on what he had worked for
15 throughout his career, so I asked to be relocated, put
16 somewhere else. And he asked me if I would be
17 interested in setting up the longwall at Logan's Fork,
18 and I did go to Elk Run and set up the longwall for
19 Logan's Fork. And at that time I was --- I had told
20 Barry Hale, which was the president, or however you
21 want to say, Barry Hale, that once I got the last
22 longwall shield set, that I was quitting, that I had
23 had enough. I was burnt out. And when I set the last
24 longwall shield, I got a ride outside and quit.

25 And then I went to work for one of my friends on

1 coal trucks. I did that for a year, supervising for
2 him. And it just wasn't in my heart to stay in that
3 business, so I wanted to try the contracting in
4 December of '07 or '08. I'm not really sure. I
5 started a contracting business.

6 Q. When you say Performance, was that at Justice Mine
7 that you was working at --- I mean, UBB?

8 A. Yes.

9 Q. It was at UBB? What years was that?

10 A. I'm going to say '95 to '99, '98. I think I was
11 there for about maybe three or four years total. I'm
12 not really a hundred percent sure about that.

13 Q. Did you go back to UBB after that?

14 A. I did, but it was --- like I said, I was there
15 maybe two days. And I just felt like that I was not
16 --- it wasn't my place to supervise the guys that Jack
17 Roles assistantly supervised for ten years or more,
18 and I asked to be transferred to another location to
19 help set up another longwall.

20 Q. Approximately when was it you went to Logan's Fork
21 to set that longwall up?

22 A. I'm going to think --- if I'm thinking right, in
23 '06 sometime. Maybe the summer of '06.

24 Q. Did you hear of any outbursts that happened at UBB
25 in '97 or 2004?

1 A. 2003 and '04? If I'm remembering right, I worked
2 --- I was there and I worked on the evening shift.
3 And we ran coal on evening shift, and I ran into a
4 fellow I think --- I don't know who it was, that ---
5 over at the convenience store or somewhere, and he
6 told me that they had an ignition or a pop-off on the
7 tail side of the longwall. And that's really all I
8 know.

9 Q. When was that?

10 A. Gosh, that was probably '03, '02. Yeah, that
11 was ---.

12 Q. '02, '03, '04. Did you ever hear of or know of
13 any gas inundations other than on the longwall?

14 A. No, sir.

15 Q. How about did you ever find any methane on the
16 sections that you worked at when you was a section
17 foreman at UBB?

18 A. I never was a section foreman at UBB.

19 Q. You were at Revolution.

20 A. Yes, Revolution.

21 Q. Okay. So you never was an examiner ---

22 A. No.

23 Q. --- at UBB?

24 A. No.

25 Q. Okay. Where do you currently work?

1 A. I'm self-employed.

2 Q. Self-employed. What is your position?

3 A. The owner of Mountaineer Labor Solutions.

4 Q. Okay. How long has your company been in business?

5 A. December of '07.

6 Q. And what is the nature of your business?

7 A. Contract labor.

8 Q. How is it organized? Is it a company or is it a
9 limited liability company or ---?

10 A. LLC.

11 Q. It's an LLC?

12 A. Yes.

13 Q. Who are the officers?

14 A. Myself and my wife, Kim Buzzard.

15 Q. Okay. Where's your business located?

16 A. Seth, West Virginia.

17 Q. Is it still in the building All About Kids?

18 A. No, sir.

19 Q. When did you move from there?

20 A. Last summer.

21 Q. Last summer?

22 A. Yes.

23 Q. Okay. Do you employ laborers for Massey Energy?

24 A. Yes, sir.

25 Q. Did you provide employees at UBB on April 5th and

1 --- or to April 5th?

2 A. Yes.

3 Q. Do you know who they were and what positions they
4 held?

5 A. No. I mean, I could --- I know at the time of the
6 explosion, I think I had five men employed at the
7 time. Prior to that I had probably 15 people there.
8 The week before the explosion, they had a layoff, and
9 most of my guys was laid off.

10 Q. Do you know why they got laid off?

11 A. No, sir, I don't.

12 Q. Do you have a contract with Massey Energy to
13 supply labor to their mines?

14 A. Yes.

15 Q. Can you explain how that contract works?

16 A. Well, I mean, it will --- it just pretty much ---
17 they'll call and tell me they need two or three
18 people, and you know, I'll go through the applications
19 and try to see what they may be asking for to the best
20 of my ability.

21 Q. Do you have a contract with Performance Coal
22 yourself?

23 A. Yes.

24 Q. And at which seam?

25 A. Same ---.

1 Q. Same ---?

2 A. Yes.

3 Q. What's the process between --- at UBB or Massey
4 between when they hire new employees as members?

5 A. As they hire them on?

6 Q. Uh-huh (yes).

7 A. What they usually do is they --- they'll usually
8 work them for several months, sometimes up to six
9 months. And if they prove to be workers and on time
10 and work every day and no drug problems, they'll hire
11 them on.

12 Q. Was the employees hired at UBB experienced or
13 inexperienced miners?

14 A. I had some --- both. I had some red hats and
15 black hats.

16 Q. Did you do the hiring of the employees for your
17 company?

18 A. For my company, yes.

19 Q. How did you determine if they were experienced or
20 inexperienced miners?

21 A. Well, the --- you know, the experienced side of it
22 is, you know --- I consider a black hat as an
23 experienced miner. An apprentice miner is a red hat.
24 So I mean, as far as qualifications, it's --- you
25 know, that goes into more detail with their

1 applications. If they say they're a roof bolter
2 operator, you know, ---.

3 Q. Do you check their backgrounds?

4 A. Yeah, I do. I do call and --- you know, some
5 apprentice people, I mean, if they're straight out of
6 high school or stuff, they don't have much of a
7 background. So yes, I do do references on most all my
8 guys.

9 Q. Do you know what training your experienced miners
10 had before you hired them?

11 A. The experienced miner has to have an updated
12 annual retraining. And the apprentice miner has to
13 have a 5023 with less than a year anniversary date as
14 far as getting their mining card.

15 Q. Do they have some kind of miner certificates that
16 they show you?

17 A. Yes, sir.

18 Q. Okay. What type of SCSRs did you provide for your
19 employees?

20 A. The SR-100s.

21 Q. SR-100, okay. Who's responsible for the 90-day
22 inspection of the SR-100s that you provide?

23 A. Well, I'll rephrase. The ones that goes to
24 Massey, most all of my guys, I don't have rescuers. I
25 mean, these guys are issued rescuers at the coal

1 mines. So I assume that they're responsible for their
2 90-day.

3 Q. You do provide SCSR Certs of miners that goes to
4 other mines?

5 A. Some. Some.

6 Q. Some.

7 A. I only had 20 in the beginning, and most of those
8 are now outdated on the floor of my office.

9 Q. Who was responsible for the 90-day inspections of
10 them?

11 A. Of Performance's guys?

12 Q. The ones that you gave to your employees?

13 A. Well, I assume --- I mean, I think we talked about
14 this before, that, you know, I was.

15 Q. Did you have any device to test them by the
16 manufacturer's recommendations?

17 A. Yes.

18 Q. You have ---?

19 A. Yeah, the shaker ---.

20 Q. The shaker ---. Okay. Did you maintain a record
21 of the testing of them, of the SCSRs?

22 A. No.

23 Q. Did you put in the data system about the SCSRs on
24 the 90-day test or anything like that?

25 A. I'm not sure what you're asking.

1 Q. The operator is required to store that
2 information, data, keep track of the SCSRs.

3 A. The mine operator?

4 Q. Yeah. Yeah. I was wondering if you kept track of
5 data on yours?

6 A. I mean, I occasionally --- I mean, I'm there at
7 the mines a lot, and I've been there throughout, and
8 they've actually shook mine. You know, whenever they
9 do their guys, they always just do the whole ---
10 anybody there.

11 Q. Did they keep a record of the other guys' SCSRs?

12 A. Yes. Yes.

13 Q. What was the average length of employment for
14 Mountaineer Labor Solutions for you?

15 A. Two months.

16 Q. Two months. Pretty fast turnover then. Did you
17 conduct or provide the training for your employees
18 before they begin working at ---?

19 A. To the experienced miner, yes.

20 Q. Experienced miner, okay. What did the training
21 consist of?

22 A. What's in my comprehensive plan.

23 Q. That's a State plan?

24 A. Well, I may be confused here. I've got a copy of
25 the confidential safety plan, and it's required on

1 what has to be. And then I sat through the --- I've
2 read the book. And usually I go right out of the law
3 book. But now I have a trainer who works in my
4 office, so I'm not --- at the time I'm sure everything
5 was being done right, but now I have a trainer who
6 works at the office.

7 Q. April 5th and prior to, you did the training?

8 A. Yes.

9 Q. Did you have an approved training plan?

10 A. Yes.

11 Q. Did you go by the approved training plan?

12 A. Yes.

13 Q. What materials did you use?

14 A. I have SCSRs. I have hands-on --- my office --- I
15 mean, you just have to see what's in my office. It's
16 just all --- I have videos.

17 Q. I'm talking prior to April 5th. Prior to your
18 move to where you're at.

19 A. I have SCSRs and spotters.

20 Q. Okay.

21 A. Prior to then.

22 Q. You had that prior to April 5th?

23 A. Yes.

24 Q. SCSRs and spotters?

25 A. Yes.

1 Q. Any other training materials you used?

2 A. The ones that you actually --- the training units.

3 Q. The gas ---?

4 A. Yeah, the blue thing.

5 Q. Did you have any ventilation plans, roof control
6 plans, ---

7 A. No, sir.

8 Q. --- or any other plans to go over?

9 A. No.

10 Q. And you did fill out 5023s for your guys?

11 A. Yes.

12 Q. And how did you mark them?

13 A. Experienced miner.

14 Q. Experienced miner. Was any contract between you,
15 on behalf of your company, and Massey or Performance
16 Coal that you had to have certain training before they
17 came to work at UBB?

18 A. They have a setup for Massey. It's called MIT
19 training.

20 Q. Uh-huh (yes).

21 A. And what is required from them is to have a valid
22 driver's license, an updated annual retraining. And
23 that's pretty much really, I guess, all that they
24 require.

25 Q. The guys that goes there, they get the MIT

1 training before they go to work at Performance?

2 A. Yes.

3 Q. Who conducts that training?

4 A. Most all safety directors for each company. Like
5 Marfork's will do theirs.

6 Q. Who did the training for UBB?

7 A. I'm going to say the Route 3, which would have
8 been at Marfork office. And some of them may have ---
9 you know, once you get the MIT training on the
10 contract side of it, if you get it done at, say,
11 Independence, the MIT training is good, but the mine
12 site specifics they do at the mine. So they could
13 have got their MIT --- what I'm trying to say is they
14 could have got it at Marfork. They could have got it
15 at Independence Coal. I'm not sure.

16 Q. Did you ever sit in on any MIT training ---

17 A. Yes, I have.

18 Q. --- with your employees? What did it consist of?

19 A. A lot of videos, mostly all Massey safety rules,
20 you know, what they expect, pretty much, you know,
21 close clearances, you know, a lot of videos, a lot of
22 talking.

23 Q. Was any of it mien specific or was it company
24 policy?

25 A. Usually if --- during the MIT process if --- if I

1 knew that one employee was going, say, to Upper Big
2 Branch, that before they'd leave, they would get the
3 --- you know, go over the map at that particular mines
4 there or --- most of the time when my guys go to the
5 mines, they get it at the mines.

6 Q. Did you ever go the mines with the guys to observe
7 them getting trained?

8 A. Yes.

9 Q. And what did it consist of?

10 A. Everything's done at MIT except going over the map
11 and the walk-through.

12 Q. Did he go over the plans?

13 A. Yes.

14 Q. Ventilation plans, roof control plans?

15 A. Yes.

16 Q. And did you ever go to a walk-through of the
17 mine ---?

18 A. I have gone with them.

19 Q. And where did they take you to in the mines
20 when they did ---?

21 A. To the deepest point on the --- in the intakes,
22 both sections or in the one section, walked in, take
23 you in, the secondary out. A lot of walking involved.

24 Q. Did you say the deepest point. Did they take you
25 to the longwall way on the section?

1 A. I would say they --- well, I'm going to say we
2 went to the splits of each section and up toward the
3 faces but probably not crossing the faces of either.

4 Q. Did they observe any of the mining practices and
5 have them explained to them?

6 A. I'm not sure.

7 Q. You're not sure. Okay. Are you an approved
8 instructor?

9 A. Yes.

10 Q. How did you get the Instructor's Card?

11 A. I sat through a class. It's been so long, Jerry,
12 I really ---.

13 Q. You took a three-day class?

14 A. I'm trying to think of her name. Cook.

15 Q. Sharon Cook?

16 A. Sharon Cook. While I was at Independence, I think
17 I, you know, attended a class there or however it
18 works. It's been a while.

19 Q. Do you have --- you stated earlier you have
20 someone else doing the instruction for your company?

21 A. Yes.

22 Q. And who is he?

23 A. His name is Danny Berry.

24 Q. Danny Berry?

25 A. Yes.

1 Q. Okay. At the mines --- who conducted the training
2 for your employees at the mines?

3 A. Most of the time ---.

4 Q. At UBB?

5 A. At UBB I'm going to say it was probably Jack Roles
6 and Gary May.

7 Q. And you observed them doing training?

8 A. At UBB, I don't remember.

9 Q. Does your company have a practice or a policy of
10 people being trained at the mines.

11 A. I'm not sure what you're asking.

12 Q. Do they provide you with the records of training,
13 that they ---?

14 A. No. I get a copy of the MIT training. And after
15 they go to the mines, they have a copy of their MIT,
16 and what is conducted at the mines just goes in their
17 mine file.

18 Q. So they did not provide you with 5023 ---?

19 A. No, sir.

20 Q. Did you have some of your employees that began
21 work at Logan's Fork and then be transferred to UBB?

22 A. Not that I remember.

23 Q. Not that you remember. We have training for
24 Performance Coal. Do you know what the policy is when
25 they transfer from Logan's Fork back to UBB or UBB

1 to ---?

2 A. Well, it being contract labor, they should have
3 taken their file to the mines and then get the --- go
4 over the escapeways and walk through, you know, the
5 things there that needs to be done to conduct their
6 experienced miner side of it. But I don't know the
7 process, no.

8 Q. Was you, your company or UBB responsible for
9 making accident reports of your employees when they
10 had an accident at the mines?

11 A. I'm going to say them. I mean, most of the times,
12 Jerry, I don't even know when they get --- when an
13 accident occurs.

14 Q. Is that right?

15 A. That's right.

16 Q. So you don't maintain copies of the accident
17 reports?

18 A. Right.

19 Q. Do you ever know if any of your employees had an
20 accident at UBB?

21 A. I don't remember.

22 Q. In reporting the quarterly man hours, whose
23 responsibility was that? Was that yours or UBB's
24 responsibility?

25 A. It would be --- the man hours would be mine.

1 Q. It would be yours? Do you submit a quarterly
2 report?

3 A. Yes.

4 Q. Who is responsible for reprimanding new employees,
5 UBB, you or the management at UBB?

6 A. The management at UBB. Usually what would be done
7 is if they have a problem, they would, you know, send
8 them to me.

9 Q. How was that coordinated between your company and
10 UBB?

11 A. Most of the times the guys would just show up
12 there and said they wasn't no longer needed.

13 Q. Did you have a policy or procedures for
14 disciplining --- reprimanding your people or
15 disciplining them?

16 A. No, sir.

17 Q. Do you know if your employees receive training on
18 the approved amendments, like ventilation plans at the
19 mines when a company had amendments to them?

20 A. I'm not sure.

21 Q. Not sure. Do you know if any --- have they ever
22 seen any records that they trained your people on the
23 amendments of the plans?

24 A. No.

25 Q. Did you ever know if they had amendments to the

1 ventilation plans?

2 A. No, I do not know, no.

3 Q. How is your guys trained on methane detection?

4 A. Well, I mean, how are they trained on --- they go
5 through it in their classes, and you know, we've got
6 spotters and stuff. I mean, I pretty much --- I don't
7 have guys or nothing to check them or so on, but they
8 all get a hands-on at my office with the spotters.
9 But I mean, honestly, I don't know, Jerry.

10 Q. What do you go over when you go over the spotters
11 with them?

12 A. Really, the one I have is the old style that ---
13 the LED-102 or --- you know, where you just turn it
14 on, turn it off. And then I have a four-gas spotter,
15 and you know, kind of just turn it on, let them know
16 that it's a four-gas detector, kind of what to watch
17 for. And it gives its warnings, but I don't have any
18 gases or nothing to ---.

19 Q. Do you go over any regulations of what's required
20 when they get certain percentages of methane?

21 A. No, I don't.

22 MR. VANCE:

23 Okay. That's all. Bill?

24 EXAMINATION

25 BY MR. TUCKER:

1 Q. I've got a couple questions there for you, Mr.
2 Buzzard. When you worked at UBB, you said you worked
3 there several years, who was the mine foreman
4 superintendent at that time?

5 A. Eddie Lester and Wendell Wills.

6 Q. Do you recall any issues with methane when you
7 worked there?

8 A. Just the pop-off that we had discussed in 2003 or
9 '02.

10 Q. Okay. And you mentioned you was the longwall
11 coordinator, so I guess you spent quite a bit of time
12 on the longwall?

13 A. I was longwall coordinator at Revolution, at
14 Independence Coal. I was a jack setter at
15 Performance.

16 Q. So that's even better. You spent quite a bit of
17 time on the longwall?

18 A. Yes.

19 Q. Okay. When you was a jack setter there, did you
20 have to set --- how did that work? Did you pull up
21 each individual jack or could you batch them up, or do
22 you recall?

23 A. The first system we had was an LI10 system that
24 didn't work very well and pretty much had to manually
25 pull them in one by one. Everybody was learning how

1 to cut, and it was bad. But after that, we went to
2 MS40S, which were batch, and it worked very well.

3 Q. Well, while you were on --- and I know that's been
4 a while back, they were some old panels, but do you
5 recall any methane issues that you had during the just
6 normal operation?

7 A. No. I mean, there's a few times that, you know,
8 we've had to curtain down the place due to not enough
9 air on the face, but that's just, you know, part of
10 longwalling, I guess, you know.

11 Q. Okay. And when you hung those curtains, do you
12 recall what --- was that towards the tail more often
13 or toward the head or ---?

14 A. More toward the head side.

15 Q. Okay. When did you hear about the explosion at
16 UBB?

17 A. I was in Missouri, at my sister's, and I had just
18 left, coming home, and my sister had called and said
19 she seen it on the news. And my other sister lives
20 right there above UBB, at Dameron. They had been
21 talking, and so that's how I found out.

22 Q. Have you been back to the mine for any reason
23 since the explosion?

24 A. No.

25 Q. Do you have any recollection when you was

1 underground at UBB prior to the explosion, the last
2 time?

3 A. Right before Logan Fork's longwall was set up,
4 those two or three days. I'm going to say sometime in
5 early '06 or late '05.

6 Q. Did you have any of your employees who you had at
7 UBB ever come to you with any safety concerns?

8 A. No.

9 MR. TUCKER:

10 That's all I have. Thank you.

11 MR. VANCE:

12 I've got one more.

13 RE-EXAMINATION

14 BY MR. VANCE:

15 Q. Do you know if any of your employees done the rock
16 dusting at UBB?

17 A. Was they --- oh, like a rock dust crew?

18 Q. Yeah.

19 A. I'm not sure, Jerry.

20 Q. Not sure?

21 A. I'm not sure.

22 MR. VANCE:

23 That's all I've got.

24 ATTORNEY WILSON:

25 Mr. Buzzard, on behalf of MSHA and the

1 Office of Miners' Health, Safety and Training, I want
2 to thank you for appearing and answering questions
3 today. As a reminder, we request that you not discuss
4 your testimony with anyone else. After interviewing
5 other witnesses, we may have follow-up questions for
6 you. And if so, we will contact you. If at any time
7 you think of any additional information, please
8 contact us at the information that was provided to
9 you.

10 As a reminder, under the Mine Act, your
11 cooperation in this investigation is considered
12 protected activity. So if you believe that any
13 adverse action is taken against you as a result of
14 your cooperation, you should contact MSHA.

15 Before we go off the record, I just want
16 to give you an opportunity at this time. If there's
17 anything else that you want to add to the record, you
18 can do so now.

19 A. No, sir.

20 ATTORNEY WILSON:

21 Okay. Then again, thank you for your
22 cooperation, and we will go off the record.

23 * * * * *

24 STATEMENT UNDER OATH CONCLUDED AT 10:50 A.M.

25 * * * * *

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF (_____))

3
4 CERTIFICATE

5 I, Leslie Blake, a Notary Public in and for
6 the Commonwealth of Pennsylvania, do hereby certify:

7 That the witness whose testimony appears in
8 the foregoing deposition, was duly sworn by me on said
9 date and that the transcribed deposition of said
10 witness is a true record of the testimony given by
11 said witness;

12 That the proceeding is herein recorded fully
13 and accurately;

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



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24
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Leslie Blake