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Transcript of the Testimony of **Richard Hodge**

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STATEMENT UNDER OATH
OF
RICHARD (RICK) HODGE

taken pursuant to Notice by Leslie Blake, a Court Reporter and Notary Public in and for the Commonwealth of Pennsylvania, at The National Mine Health & Safety Academy, 1301 Airport Road, Beaver, West Virginia, on Wednesday, July 20, 2011, beginning at 4:02 p.m.

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ATTORNEY WILSON:

Let's go on the record. Good afternoon.

We're now on the record. My name is Robert Wilson.

I'm an attorney with the Office of the Solicitor,
United States Department of Labor. Today is July
20th, 2011, and we're here to conduct an interview of
Rick Hodge. Mr. Hodge, thank you for coming in today.

MR. HODGE:

Okay.

ATTORNEY WILSON:

With me is Dean Cripps, who is an
investigator with the Mine Safety and Health
Administration. Also present are individuals from the
State of West Virginia. Phil, do you want to state
your appearance?

MR. ADKINS:

Yes. Phil Adkins, West Virginia Miners'
Health, Safety and Training.

ATTORNEY KOERBER:

Barry Koerber. I'm with the Attorney
General's Office, but I'm assigned to represent the
Office of Miners' Health, Safety and Training.

ATTORNEY WILSON:

1 Mr. Hodge, government investigators and
2 specialists have been assigned to investigate the
3 conditions and events and circumstances surrounding
4 the fatalities that occurred at the Upper Big Branch
5 Mine on April 5th, 2010. The investigation is being
6 conducted by MSHA, pursuant to Section 103(a) of the
7 Federal Mine Safety and Health Act and by the West
8 Virginia Office of Miners' Health, Safety and
9 Training. As part of that investigation, we are
10 conducting interviews of people who may have relevant
11 information, and we appreciate you coming in today ---

12 MR. HODGE:

13 Okay.

14 ATTORNEY WILSON:

15 --- and offering whatever information you
16 can provide.

17 You may have an attorney present with you
18 today. Do you have an attorney?

19 MR. HODGE:

20 No, sir.

21 ATTORNEY WILSON:

22 All right. Your statement today is
23 voluntary.

24 MR. HODGE:

25 Yes, sir.

1 ATTORNEY WILSON:

2 You may refuse to answer any question.

3 You may terminate the interview at any time.

4 MR. HODGE:

5 All right.

6 ATTORNEY WILSON:

7 Also, if at any time you want to take a

8 break, please just let me know and we'll go off the

9 record. This is not an adversarial proceeding, so

10 formal Cross Examination-type questions will not be

11 asked.

12 Your identity and the content of this

13 interview will be made public at the conclusion of the

14 investigation process. It may be included in a public

15 report that is released by either MSHA or the State,

16 and it may be used in other enforcement proceedings.

17 If you request us to keep your identity confidential,

18 we will do so to the extent permitted by law. In

19 other words, if a judge orders us to reveal your name,

20 we may have to reveal your name anyway, even if you

21 request confidentiality.

22 After the investigation is complete, MSHA

23 will issue a public report detailing the nature and

24 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 through these interviews will be used in that report.
3 We may be interviewing additional witnesses, so we
4 request that you not discuss your testimony with
5 anyone outside of this room.

6 MR. HODGE:

7 Okay.

8 ATTORNEY WILSON:

9 A court reporter will be recording the
10 interview, so please speak loudly and clearly. If you
11 do not understand a question asked, please ask that
12 the question be rephrased.

13 MR. HODGE:

14 Okay.

15 ATTORNEY WILSON:

16 Please answer each question as fully as
17 you can, including any information that you may have
18 heard from someone else.

19 After we have finished asking questions,
20 we will provide you an opportunity to add anything to
21 the record that you may think is relevant to the
22 investigation. After the interview is complete, if
23 you think of any additional information you may
24 contact us with that information. And we provided you
25 with a letter today that was previously sent to you

1 requesting your appearance here today. In that letter
2 is contact information from Norman Page, who is MSHA's
3 lead accident investigator. So please keep that for
4 your records, and if you think of anything else,
5 please contact us.

6 Again, I want to thank you in advance for
7 your appearance here today. Your cooperation in this
8 investigation is critical in making the nation's mines
9 safer.

10 Barry, do you have anything you'd like to
11 add?

12 ATTORNEY KOERBER:

13 Yeah, real briefly. Mr. Hodge, when you
14 were here before I believe I gave you a memo that I'm
15 going to give you another copy of today. And what
16 this memo is is simply the address of the West
17 Virginia Board of Appeals. The West Virginia Board of
18 Appeals is the administrative tribunal that hears
19 cases involving coal miner discrimination.

20 MR. HODGE:

21 Yes, sir.

22 ATTORNEY KOERBER:

23 In the event you believe that you have
24 been discriminated against for participating in this
25 interview today or in the one that you was at earlier,

1 this is the agency to which you file your complaint.
2 The complaint does not have to be anything elaborate.
3 It can simply be a letter explaining what happened. I
4 would caution you, however, though. You only have 30
5 days from the day of the discriminatory event to file
6 your complaint with the West Virginia Board of
7 Appeals. Also, I do not have Mr. Bill Tucker's
8 business card with me here today. Mr. Bill Tucker is
9 the lead accident investigator.

10 MR. HODGE:

11 I think I've got one of his in my truck.

12 ATTORNEY KOERBER:

13 Okay. Well, his cell phone number is on
14 this memo. So if anything should pop into your head
15 after you leave here today that you think would be
16 beneficial to the accident investigation that you'd
17 like to share with Mr. Tucker, please feel free to
18 call him.

19 MR. HODGE:

20 Thank you, sir.

21 ATTORNEY KOERBER:

22 That's all I have.

23 ATTORNEY WILSON:

24 Mr. Hodge, at this point, I'll ask that
25 you face the court reporter, and I will ask that she

1 swear you in.

2 -----

3 RICHARD (RICK) HODGE, HAVING FIRST BEEN DULY SWORN,
4 TESTIFIED AS FOLLOWS:

5 -----

6 ATTORNEY WILSON:

7 Would you please state your name for the
8 record?

9 A. Richard Hodge.

10 ATTORNEY WILSON:

11 And I'll turn it over to Dean to start
12 the questioning.

13 EXAMINATION

14 BY MR. CRIPPS:

15 Q. Okay. Rick, once again, I want to thank you for
16 coming back in again and helping us out here. I read
17 through your first transcript, and so I'm not going to
18 try to go over a whole lot of the stuff you talked
19 about in the first ---

20 A. Okay.

21 Q. --- interview, but there is a few things that I
22 want to clear up just a little bit on, ---

23 A. Sure.

24 Q. --- so we'll proceed along here. How about
25 telling me a little bit about your employment history

1 with Massey?

2 A. Well, I started with Massey in '95 or '96. I
3 don't remember which year it was. It was with
4 Independence. And I worked at Independence until
5 2000. Then I left Massey and went to mine then for
6 Joe Phillips, which is Pocahontas Mine now. And then
7 I came back with Massey in 2002 at the Marsh Fork
8 Eagle Mine, which was --- at that time it was
9 operating under --- Craig Boggs was the president, so
10 it was operated under Elk Run.

11 Q. Okay.

12 A. And I was there for a while, and then they wanted
13 me to take the UBB Mine, which I really didn't want
14 it, but they kind of forced me into taking it. You
15 know, Craig asked me to go down there and do some work
16 down there, so I went down there. And I stayed there
17 until (b) (7)(C) , and I went off of
18 work in September 2008, so ---.

19 Q. And in your first interview you said you went to
20 work at UBB in January of '07.

21 A. I think it was somewhere around in there. I
22 wasn't sure about that, but it's pretty close.

23 Q. Okay. And you said they wanted you to take over
24 UBB. What do you mean by that?

25 A. Go up there as the mine superintendent.

1 Q. Okay. So was you the top official at the mine?

2 A. Yes, sir.

3 Q. Okay. And you reported to Mr. Boggs at the time?

4 A. Mr. Craig Boggs, when I first went there, was the
5 president over at Performance. And not long after I
6 was there, they kind of turned --- I guess they
7 switched management around, and Chris Blanchard, who
8 was with Marfork, took control of UBB.

9 Q. Okay. And you reported to Blanchard?

10 A. Yes, sir.

11 Q. And what was your job title at UBB?

12 A. Superintendent.

13 Q. Prior to going to UBB, when you was at Marsh Fork
14 Eagle, ---

15 A. Yes.

16 Q. --- what was your job title?

17 A. Superintendent.

18 Q. Okay.

19 A. Yes, sir.

20 Q. So about how many years was you the superintendent
21 of mines?

22 A. Gosh, I don't know. I started in, like I said,
23 '95. From probably '96 up until I^{(b)(7)(C)}, so ---.

24 Q. Okay.

25 A. September 2008. Approximately 12 years.

1 Q. When you come in here in January, which would have
2 been January of 2011, ---

3 A. Okay. Yes, sir.

4 Q. --- I believe in your interview you said you were
5 still on Massey's payroll.

6 A. I was, yes, sir.

7 Q. Is that correct?

8 A. Yes, sir.

9 Q. Okay. Are you still on Massey's payroll?

10 A. No, sir. I was on --- drawing (b) (7)(C) because
11 (b) (7)(C) . And I've been trying to get
12 released for work, you know, to go back to work, since
13 October of last year, trying to get the doctor to
14 release me. And finally, in --- around April, you
15 know, they started talking like they might let me go
16 back to work. So in May I got released, and I went
17 back to Massey and took all my classes and, you know,
18 caught up my card and everything. And they was ---
19 actually offered me a fire bossing job on the evening
20 shift. And I didn't want that, so this company here
21 offered me a superintendent job, put some mines in for
22 them, so that's what I'm doing now.

23 Q. Okay. So you actually left Massey then in about
24 May of ---?

25 A. Well, I started back to work on June 2nd.

1 Q. And on June 2nd you started with Rhino?

2 A. Yes, sir.

3 Q. Okay.

4 ATTORNEY WILSON:

5 And Rhino is with Eastern, is that ---?

6 A. That's Rhino. Eastern is --- it's its own
7 company. It's not part of Eastern. It's just called
8 Rhino Eastern. It's actually --- Rhino owns like 52
9 percent and Patriot owns 48 percent, something like
10 that. I don't really know. I don't get into that
11 part of it.

12 ATTORNEY WILSON:

13 To your knowledge, does Rhino have any
14 affiliation with Alpha?

15 A. No, sir.

16 ATTORNEY WILSON:

17 It does not?

18 A. No. No, they're their own company.

19 BY MR. CRIPPS:

20 Q. Okay. In your time at UBB, what shift did you
21 work?

22 A. Well, mainly dayshift, but there was times I'd
23 come out on all shifts. But mostly dayshift.

24 Q. Okay. Do you recall how long after you had
25 started at UBB that Chris Blanchard replaced Mr.

1 Boggs?

2 A. I don't really remember. It was like maybe four
3 months. I'm not really sure about that, but it wasn't
4 too long after I started there.

5 Q. Okay. In your first interview --- and as we go
6 along, if I refer to your first interview, and if I
7 make a statement you don't recall, then by all means
8 let me know that you don't recall saying that. I
9 don't want to put words in your mouth. I was reading
10 the transcript and you said something to the effect of
11 when you arrived at UBB, the mine was in pretty rough
12 shape.

13 A. Yeah. Well, Craig had asked me --- even when I
14 was at the Marsh Fork Eagle Mines, he come up to the
15 mines and talked to me. He was wanting me to go down
16 there. And he told me himself that the mines was, you
17 know, pretty bad shape. They had been getting a lot
18 of violations and, you know, having some other
19 problems and --- you know, I don't really know what
20 was going on down there, but that's what he had told
21 me. That's one reason I really didn't want to go.

22 Q. So when you actually got there and went
23 underground, was what he told you, in fact, true?

24 A. Pretty much, yes, sir. He didn't lie to me.

25 Q. Can you explain some of the conditions to me if

1 you ---?

2 A. Well, they had some falls in the return. I think
3 there was three. And they had had a miner sitting
4 over there and a shuttle car. And that was like the
5 first thing we done there was to clean them falls up.
6 Actually, the map doesn't go down far enough. And I
7 set up the Lower Big Branch section there, put in
8 overcasts and got the section ready to run, because we
9 was putting a section in that was on the Lower Branch.

10 Q. Okay.

11 A. And also, we was working on all these seals.

12 Q. Okay. That's the seals to the old longwall panel?

13 A. Yes, sir, to the longwall panel. We had a
14 contractor --- there was a contractor there doing it.

15 Q. Okay. When you went to UBB, who did you replace
16 as superintendent there?

17 A. I can't think of his name. I really don't. If
18 you would tell me, I would remember. But I can't
19 think of his name. I know the mine foreman there was
20 --- they called him Lunger, and I really don't
21 remember his name. But the guy that I replaced, you
22 know, I've known him for a long time, but I can't
23 think of his name.

24 Q. Okay. Well, we looked a little bit about the time
25 frame that you was at UBB Mine, and one thing that we

1 looked at was the number of citations that was issued
2 to the mine. And it appeared that the number of
3 citations reduced in the period of time that you was
4 there.

5 A. Actually, the mine was in pretty good shape, or I
6 thought it was, whenever I left to go off to have
7 surgery. I mean, we never got a whole lot of
8 violations. We got some, but you know, not no great
9 amount. And actually, the mine, I thought, was in
10 pretty good shape.

11 Q. You talked a lot in your first interview about
12 rock dusting. Can you tell me ---?

13 A. I've always put down a lot of dust. I mean, you
14 know, every mine that I'm at --- but I would say that
15 I put down probably three loads --- three tractor-
16 trailer loads a week, plus, you know, whatever I had
17 --- whatever I put in the tank, maybe a tank or two a
18 week. I done a lot of dusting.

19 Q. Was the mine dusted better when you left there
20 than when you arrived there?

21 A. Was it dusted before I got there?

22 Q. Let me rephrase that. When you left, do you feel
23 that the mine was in better shape as far as the
24 dusting as opposed to when you arrived ---?

25 A. Oh, absolutely. Yes, sir. I mean, actually, the

1 mine looked pretty good whenever I left.

2 Q. Okay. So when --- as superintendent, did you have
3 any problems from upper management or people above you
4 as far as getting the supplies and equipment that you
5 needed to dust the mine?

6 A. Well, you know, they kind of fussed a little bit
7 about, you know, some of the stuff you buy. I have to
8 do a budget, you know, every month, what I was going
9 to buy. And I always budgeted a lot of dust in, but I
10 only had one track duster, but you know, --- pod
11 duster. And there was an old one out on the yard that
12 I don't know how long it had been since it had run,
13 but I tried to get Chris to buy me another duster, and
14 he never would, so I actually took the old one and got
15 it fixed up enough to where it would run where I
16 wouldn't have to.

17 Q. Okay. You said you tried to get Chris to buy
18 another one. That was Chris Blanchard?

19 A. Yes, sir.

20 Q. Okay. But the old pod duster that was on the
21 yard, you say you did get it fixed?

22 A. Oh, yeah, got it running, too.

23 Q. Okay. So while you was there, you actually had
24 two ---?

25 A. Two pod dusters, yes, sir, plus, you know, I had

1 some --- the smaller Bantam dusters and actually was
2 putting trickle dusters at all these heads, but I
3 didn't have them --- I didn't have them at all the
4 heads whenever I left, but I had them all ordered for
5 all the heads. I just didn't stay there long enough
6 to get them all put in. But I had it at most of the
7 six-foot drives, and I think I had them all up on the
8 Lower Branch, all the four-foot drive, before I left.

9 Q. Okay. In your first interview you said that you
10 had two crews --- or two dust crews on the third
11 shift.

12 A. I did, yes, sir.

13 Q. And so those two dust crews are the crews that
14 used the two pod dusters?

15 A. Yes, sir.

16 Q. Okay.

17 A. And I also done a lot of dusting myself, me and
18 Bill Harless, who was the mine foreman there. You
19 know, if we had days that we didn't have a whole lot
20 going on, we would go and dust ourselves.

21 Q. When you say go and dust, what did that amount to?

22 A. Put down a load or two out of the pod duster. You
23 know, he would run the motor and I'd drag the hose,
24 and we'd dust.

25 Q. Okay. So you would use the pod dusters on

1 dayshift ---

2 A. Yeah.

3 Q. --- is what you're saying?

4 A. Right.

5 Q. Okay.

6 A. Yes, sir.

7 Q. You said you was putting down two or three trailer
8 loads of dust a week?

9 A. I would say that would be pretty accurate.

10 Q. What do you mean by a trailer load? And I guess
11 specifically, are you talking about bump dust going
12 into the tank outside?

13 A. No. I'm talking about this bag dust. I guess
14 them --- I don't remember if they was a ton or two-ton
15 bags, you know, that come in the big super bags.

16 Q. Yes.

17 A. Yeah.

18 Q. And so the two or three trailer loads you're
19 talking about are the super bags?

20 A. Yes. Uh-huh (yes).

21 Q. Okay. And so did you use the super bags to fill
22 the pod duster?

23 A. No. We actually used the super --- the bags for
24 --- like on the sections and a lot of places down in
25 the return and some of the outby areas on the section

1 that's used in the scoop. The tank --- the tank
2 outside is what we filled our pod dusters up with. We
3 had just a big tank outside.

4 Q. Okay. The pod dusters, how much dust did they
5 hold; do you know?

6 A. No, sir. I don't know. I know they hold
7 probably, I would say, six or eight ton into each pod.
8 It had two pods.

9 Q. And you fill the pod dusters out with a bulk tank
10 on the surface?

11 A. Yes, sir. And it's got a pump on it that pumps it
12 into it and then it's got also a blower on, you know,
13 which works off of a --- I don't know how it works,
14 but it worked pretty good.

15 Q. How often did you have to fill that tank on the
16 surface?

17 A. It just depended on how far you had to go. If you
18 had to come way up in here, up on the north belt, Five
19 and Six North belts, you know, you can put down
20 probably two or three loads a night maybe, ---

21 Q. Okay.

22 A. --- because you'd have to go back out and fill it
23 back up.

24 Q. The tank outside, did you fill the pod dusters out
25 of it?

1 A. Yes.

2 Q. How often did you empty it after refilling?

3 A. I don't think I ever did empty one, but I always
4 made sure that Greg, who was the purchasing guy, I
5 told him, make sure that we kept that tank full.

6 Q. And so that was Greg Clay?

7 A. Greg Clay, yes, sir.

8 Q. And he was the purchasing guy, and so he would be
9 in charge of making sure that tank ---

10 A. Yes, sir.

11 Q. --- stayed full?

12 A. And I don't think I ever did see it empty.

13 Q. Okay.

14 A. He always kept it full.

15 Q. Okay. But you don't know how often he called the
16 truck in to ---

17 A. No, sir.

18 Q. --- fill that tank?

19 A. No, sir, I don't. I really don't.

20 Q. Okay. But any of those loads that was used to
21 fill that tank would be in addition to these two or
22 three trailer loads ---

23 A. Oh, yeah.

24 Q. --- that you referred to earlier?

25 A. Yes, sir.

1 Q. Okay. How about just the small bags of dust?

2 A. Well, we used a lot of it because we kept it at
3 the trickle duster. You know, I'd always take a
4 pallet and put it at the trickle duster and have the
5 fire bosses run the trickle duster and then cut them
6 off before they make their fire boss run so they
7 wouldn't have to walk in the dust. But I kept dust at
8 the trickle dusters for them to fill them up with, and
9 we also kept it up on the section for the scoop man
10 and stuff. As they mined, they would hand dust
11 and ---.

12 Q. Okay. Who was in charge of making sure you had
13 that main dust at the mine?

14 A. Well, Greg done all the ordering, but I always,
15 you know, would check on the yard and make sure we had
16 plenty of dust. But Greg would always order it.

17 Q. Okay. So once again, any of the bag dust that was
18 ordered was in addition to the two or three loads ---

19 A. Yes, sir.

20 Q. --- the super bags that you used a week?

21 A. Yeah.

22 Q. Okay. The super bags, I'm not familiar with
23 them ---

24 A. Right.

25 Q. ---- where I come from. Explain to me how them

1 work and how you actually applied the dust out of
2 those bags.

3 A. They're just --- they're nylon bags is what they
4 are. I guess they hold maybe two ton. And you know,
5 we'd take them underground and actually use a
6 forklift. We had underground forklifts, and we'd pick
7 them up and run your blade on the scoop and dump it in
8 your scoop. And it's got --- you just push it out and
9 hit the Flinger.

10 Q. Okay. So there was a Flinger duster on the scoop?

11 A. Yeah. And you put your dust in the bucket. And
12 as you put your blade out, it feeds that Flinger
13 duster.

14 Q. Okay. The Flinger duster, is that a alter-type
15 duster? Does it fit right on the ---

16 A. Yeah.

17 Q. --- right on the bucket?

18 A. Uh-huh (yes).

19 Q. Okay. And so those two or three trailer loads
20 would have been applied using a scoop then?

21 A. Your biggest part of them, yes, sir.

22 Q. Okay. And then so as you're applying those two or
23 three trailer loads with the scoops, then you also at
24 times had two pod dusters running?

25 A. Yeah.

1 Q. Okay. Now, you said in your first interview that
2 --- let me rephrase that. Did you have some kind of a
3 schedule set up that you actually rock dusted the
4 mine ---?

5 A. Yeah. I had a board on the wall at the mine
6 office, one probably half the size of that, and I had
7 all the belts listed on it. And I had the days that
8 they would be dusted, and we stuck to it pretty good.

9 Q. How often would you have to go back and start
10 over?

11 A. I think it cycled out about every week. So you
12 know, we would start --- for example, if you started
13 on one belt on Monday and you might dust One, Two and
14 Three on Monday and Four, Five and Six on Tuesday. By
15 the time we do everything, it would cycle around about
16 a week at a time.

17 Q. Okay. And so to do all that dusting in a week is
18 that using the two dust crews?

19 A. Yes.

20 Q. And then in addition to the ---

21 A. Right.

22 Q. --- scoops ---?

23 A. Yeah. Well, actually I don't remember if I had
24 the --- I don't think I had the sections actually on
25 the board. All I had was the belts and, you know, I

1 had --- there was a lot of belts there, so I think all
2 I had on there was the belts. I don't believe I had
3 the sections listed on the board, just the belts.

4 Q. Okay. So at the time that you was there, and I
5 understand this map has a lot of the mine that's not
6 shown, but what was the extent of the belts up into
7 the north area of the mine?

8 A. Well, actually, it would run from the Glory Hole
9 to the outside.

10 Q. Okay. So was coal actually being put down the
11 glory Hole?

12 A. Yes, sir. The longwall at Logan's Fork was
13 running and dumping coal down the Glory Hole that was
14 coming out from Performance there.

15 Q. Okay. Was the belt out the Ellis Portal while you
16 was there?

17 A. It wasn't complete. We had already punched out to
18 Ellis Portal and was upsetting heads over there, but
19 --- and they had the tube across the road, but I don't
20 think they actually had the belts running whenever I
21 left.

22 Q. Okay. So you still had the Third North belt in
23 place up the --- I think it's referred to as the Old
24 North Mains?

25 A. Yes. Uh-huh (yes).

1 Q. Okay. And so you dusted that belt?

2 A. Yes, sir.

3 Q. And then the Fourth and Fifth North?

4 A. Yes.

5 Q. And then I guess the Sixth and Seventh North?

6 A. Yes, sir, and the Glory Hole.

7 Q. And the Glory Hole?

8 A. Yes.

9 Q. Okay. And so at that time it took two rock dust
10 crews working every nightshift to keep that dusted?

11 A. Oh, yeah. Yeah.

12 Q. Was you pretty successful at keeping your rock
13 dust crews actually rock dusting?

14 A. Well, yeah, because, you know, I made it a point
15 that, you know, they needed to stay on it, you know,
16 because the belts --- that coal coming from the Glory
17 Hole, a lot of it was water and slop, and it would
18 slop off on the belt line and be kind of nasty, and
19 we'd have to clean it up. And it was ongoing. It was
20 --- it was an ongoing battle to keep the belts and
21 stuff dusted and looking pretty good. I mean, it was.

22 Q. How about as far as dusting the intakes and the
23 returns outby the units? Did your crews take care of
24 that?

25 A. Yeah. Well, actually, I'd use the same crews, but

1 we'd just have to run the hose over through the doors
2 and stuff and just blow it down the intake and down
3 the return, which worked pretty good.

4 Q. So by doors you mean man doors?

5 A. Yes, sir. Uh-huh (yes).

6 Q. And so the extent of your dusting is you would
7 stop the duster on the track in line with the set of
8 doors?

9 A. Back the hose over and run it through the door and
10 just blow it down the return and let it blow as far as
11 it would go for five minutes or ever how long they
12 would stand holding it, just let it blow down through
13 there, and then move it to the next door and do the
14 same thing.

15 Q. Okay. What about when they was dusting the belt
16 lines, was the belt lines and the track in the same
17 entries?

18 A. No. Some of it on the Lower Branch was, but
19 usually the track entry and a belt entry was in
20 separate entries.

21 Q. Okay. So how did they get the hose over onto the
22 belt line?

23 A. Drag it. Just drag it.

24 Q. Was there stoppings between the belt and the
25 track?

1 A. No. No, there was no stopping between the belt
2 and track. We just have to drag the hose over through
3 the break and over onto the belt line.

4 Q. Okay. But you could then just move one crosscut
5 at a time ---

6 A. Right.

7 Q. --- to dust the belt?

8 A. You'd have to drag the hose over and come up here
9 as far as you could and dust your way back and then
10 move and do the same thing because the air was moving
11 this way, to keep the dust from blowing back out on
12 the ---.

13 Q. And your guys, would they normally try to dust to
14 where they would have the dust blowing away from them?

15 A. Yeah. But they'd always come out white anyway,
16 so ---.

17 Q. Okay. This, I just want to ask your opinion.
18 Since you've left on April 5th, the day of the
19 explosion, we had quite a long belt extending into
20 Headgate 22, we had belts in the 22 crossover, and we
21 had a longwall belt. In your opinion, could one rock
22 dust crew ---

23 A. Ain't no way.

24 Q. --- keep up with the belts.

25 A. Ain't no way.

1 Q. Say that again.

2 A. Ain't no way.

3 Q. Okay.

4 A. Not with, you know, all that, plus that up there
5 on extra, no.

6 Q. Okay.

7 A. You'd be lucky to keep up with it with two.

8 Q. And you said it was --- took you about a week just
9 doing the belt ---?

10 A. It was an ongoing battle constantly, constantly.
11 I actually dusted some Federal men out one day, and
12 they thought I done it on purpose.

13 Q. Did you?

14 A. Probably.

15 Q. If you was superintendent at the mine, was you the
16 person that was in charge of how your mine foreman
17 allocated their people as far as what jobs to do?

18 A. Yeah.

19 Q. Who was your third shift mine foreman at the time?

20 A. Davey --- oh, shoot. I can't remember the name.
21 But he quit after a while and went down to Brody.

22 Davey --- I don't remember his last name. Sorry.

23 Q. Did you ever have instances where the third shift
24 mine foreman wouldn't put the people to the dusting
25 --- or the dust crews dusting the way ---?

1 A. Not very often, only --- you know, he had guys and
2 he would work on the belts. He took care of all
3 six-foot belts and everything. We changed out belt.
4 If we had any bad belt, we would change it out and
5 make splices and do things so that the belts and stuff
6 would be ready to run every morning. But he hardly
7 ever took the crews from --- dust crews off. I mean,
8 they was usually there all the time.

9 Q. You, as superintendent, did you expect for the
10 belts to be rock dusted?

11 A. Oh, yeah.

12 Q. Okay.

13 A. Yeah. I done had one shut down once before, and I
14 wouldn't get another one.

15 Q. Okay. And so did you pass that knowledge or that
16 attitude on to your mine foreman?

17 A. Absolutely. Yes, sir. And he knowed it, too. I
18 mean, me and Bill worked --- I don't know if you all
19 talked to Bill Harless, but me and him worked pretty
20 good together. He knowed exactly what I wanted and,
21 you know, he made sure it was done that way.

22 Q. Do you feel that the maintenance men above your
23 level shared your feelings as far as the rock dusting?

24 A. Probably not. They didn't share --- we didn't
25 share much feelings together anyway.

1 Q. Do you have any instances where they, you know,
2 perhaps said anything to you in regard to rock
3 dusting?

4 A. Probably. Me and Chris never did really get along
5 very well together anyway. There was into things that
6 --- I just didn't do things the way he wanted to do
7 ---. Usually I tried to make sure the mines was about
8 as right as I could get it. But you know, we
9 disagreed on a lot of things. I don't remember
10 anything in particular, but we just didn't see eye to
11 eye on a lot of things.

12 Q. Okay. While you was there, you explained that you
13 had a couple crews of men that rock dusted the belts.

14 A. Right.

15 Q. What belt, as far as just general cleaning,
16 shoveling of the belts, belt heads, belt tails ---?

17 A. Well, you know, I had a few guys that done some of
18 that on the midnight with Davey. He had --- I don't
19 remember how many men he had, but most of the time I
20 had trainees with the fire bosses on dayshift, and
21 they done most of the cleaning on the belts and stuff.
22 I'd give the fire bosses two or three red hats, and
23 they would go and take care of their belts. And I'd
24 give the other fire boss two or three red hats, and
25 they'd go take care of their belts. So they kept them

1 pretty clean.

2 Q. Okay. I was reading in --- I think it was in your
3 first interview that you mentioned that there was a
4 time which those ---?

5 A. When they take them away.

6 Q. When they took them away.

7 A. Oh, yeah. Yeah. Yeah, they took them away in ---
8 well, Chris and them said that they wanted to get rid
9 of all the contractors, and so they did. And we run
10 about a month and I think the State man came in and
11 put an order on one of the belts, and we was down for,
12 I don't know, maybe a day, something like that, until
13 we got it cleaned up. And ---

14 Q. Go ahead. I'm sorry.

15 A. --- I told them that the fire bosses couldn't keep
16 the belts clean by theirselves, so I had to have people
17 put on. And he told me that to work the fire bosses
18 12 hours a day and have them shovel the belts when
19 they wasn't fire bossing. But you know, most of the
20 fire bosses was like --- they was older guys. There
21 wasn't no way they could shovel belt constantly. So I
22 finally made them give me back the red hats and --- or
23 the trainees and --- or the guys on the belts. After
24 that, I pretty well took care of them.

25 Q. And so did that occur after the belt had been shut

1 down?

2 A. Yes.

3 Q. But there prior to that, Chris wanted the fire
4 bosses to actually take care of cleaning the belt?

5 A. Adjusting the belt, yes.

6 Q. And that's the only people that you had cleaning
7 the belts at that time?

8 A. Just the fire bosses. And you know, a lot of them
9 --- (b) (7)(C) , you know, so ---.

10 He's lucky he can fire boss, let alone shovel.

11 Q. Did they have any other duties they had to do
12 besides shovel and fire boss?

13 A. Well, they was always, you know, --- no, not
14 really. Usually just fire boss the belts, and they
15 would do what work they did on ht belts, you know, was
16 it running during the way, which ain't a whole lot.
17 If you had water or something on the belts, it would
18 pump the water and stuff off and just normal little
19 things.

20 Q. Did they grease any head rollers or bearings?

21 A. Yeah. Now, they did grease, yes, sir.

22 Q. And what did they grease?

23 A. They greased the --- most of the hose was run over
24 to a certain point, so they could actually grease all
25 the heads and take it and the tailpiece.

1 Q. So would they grease them as part of the fire boss
2 run or would they do that?

3 A. They would do that prior to the fire bossing.

4 Q. Okay. So in addition to having to shovel the
5 belts, they was also ---

6 A. Greasing

7 Q. --- greasing and doing maintenance work on the
8 belts?

9 A. Right.

10 Q. So in your general opinion, did the mine get in
11 better shape in the time that you was there?

12 A. Well, I think it did, but I mean I don't want to
13 say that just because I was there it did, but actually
14 I thought it was in pretty good shape. We did get a
15 hold of the violation and we run a little bit of coal,
16 but you know, the mines wasn't bad. It really wasn't.
17 I didn't think it was.

18 Q. And I think that's probably reflected in the fact
19 that, like I said before, we looked at the violations
20 during that period of time and we've actually had a
21 trend that the violations ---?

22 A. I know we was on the --- we got on the PPO for not
23 --- prior to --- I guess what had happened before I
24 ever came there, because I hadn't been there long when
25 they got put on that PPO, and managed to get off it in

1 90 days, so ---.

2 Q. Okay. Now, we also noticed in that citation trend
3 I was telling you about that shortly after the time
4 frame that you left the mine the number of citations
5 started increasing ---

6 A. Oh, yeah?

7 Q. --- dramatically.

8 A. I didn't really keep up with it after I left. I
9 know that --- I would have several guys that would
10 call and talk to me about it that were still working
11 there, and they would tell me in there some things
12 that was going on, so ---. You all probably done
13 heard them also.

14 ATTORNEY CRIPPS:

15 Okay. Phil, do you got anything you want
16 to ask, or Barry?

17 ATTORNEY KOERBER:

18 No questions.

19 MR. ADKINS:

20 No questions.

21 MR. CRIPPS:

22 Okay. Do you have anything you want to
23 ask?

24 EXAMINATION

25 BY ATTORNEY WILSON:

1 Q. Just to sort of elaborate, you said that you and
2 Chris Blanchard didn't see eye to eye on a lot of
3 things?

4 A. Yeah, just a lot of things. You know, I didn't
5 want --- actually didn't want the longwall coming back
6 there, so you know, I went down and talked to him.
7 And they had asked me about --- whether to bring the
8 longwall back or maybe just to add another section.
9 We only had two at the time. Maybe add the third, so
10 you know, ---. And I know that, really, conditions
11 --- if you'd run up there and look, condition just
12 wasn't there for the longwall. There was a lot of
13 rock. But you know, they was pretty well settled on
14 the longwall, so that's what they done.

15 Q. And when you say they were pretty settled on
16 bringing the longwall back, who ---?

17 A. I would say Chris and --- Chris Adkins and maybe
18 Mr. Blankenship. I'd say they had already decided on
19 the longwall.

20 Q. Were you aware of any specific instances when Mr.
21 Blanchard would go up on the working sections?

22 A. Yeah, but I never did travel with him up on any of
23 them. Jason would go up --- Whitehead. He was the
24 vice-president. He would go up on the sections some
25 during --- through the week and --- well, I wouldn't

1 go with him. I'll put it to you that way. You know,
2 I didn't --- I wouldn't do what they done. I wouldn't
3 do it.

4 Q. What do you mean?

5 A. I mean, Jason was the vice-president, and he would
6 go up on the second and, you know, just tear the
7 curtain down and start wanting to run coal, you know,
8 and do things that he shouldn't be doing. And the
9 guys would come out and complain to me about it. And
10 you know, I told them there wasn't a whole lot that I
11 could do because he was the vice-president of the
12 company. If he wants to go up there and run coal,
13 then I guess that was his prerogative. But you know,
14 he done --- he went about it the wrong way.

15 Q. What do you mean by tearing curtains down?

16 A. I'm talking about tearing the ventilation down,
17 just trying to run everything like wide open, to run
18 big numbers.

19 Q. I guess when you have a continuous mining machine
20 up in a hearing, ---

21 A. Yes.

22 Q. --- you usually have a line curtain ---

23 A. Yes.

24 Q. --- across that last open break, ---

25 A. Right.

1 Q. --- up to direct air up into the face; right?

2 A. Yes.

3 Q. Okay. And ---.

4 A. You tear that out, then you don't have any air.

5 Q. Right. But if you tore that curtain down that
6 would allow easier access for shuttle cars to go up;
7 is that right?

8 A. Yes.

9 Q. And is that why he would tear that down?

10 A. Yes.

11 Q. And what would that do to the ventilation up in
12 the face where they were mining coal?

13 A. Well, you wouldn't have any and --- plus you
14 pissed all the men off. And they'd come out and
15 complain to me about it, but you know --- that's why I
16 never would go up on the section with him. If he went
17 --- if he wanted to go up there, I never would go with
18 him. I wanted no part of it.

19 Q. Now, are you referring now to Mr. Blanchard or Mr.
20 Whitehead?

21 A. Mr. Whitehead.

22 RE-EXAMINATION

23 BY MR. CRIPPS:

24 Q. And Mr. Whitehead was the vice-president; right?

25 A. Yes.

1 Q. And so he's the one that you're talking about
2 going up ---

3 A. Yes, sir.

4 Q. --- on the unit and running coal?

5 A. Right. Yeah.

6 Q. Okay. I may have misunderstood. I thought you
7 said it was Chris.

8 A. No, it wasn't Chris. Chris, I never traveled with
9 him either. If he wanted to go to the section, he'd
10 just go, but I never would travel with him.

11 Q. Now, let me get this now. You say you was the
12 superintendent at the mine?

13 A. Yes, sir.

14 Q. But was you the top management person at the mine
15 site?

16 A. Yes, sir, I was.

17 Q. Okay. And so when the vice-president or the
18 president of the company actually traveled underground
19 at the mine, you, as the top management person, did
20 not travel with them?

21 A. No. I hardly ever traveled with them. You know,
22 if they wanted to go up on the section, I would go
23 another direction.

24 Q. Explain --- I have a hard time understanding that.

25 A. I do, too, but I still done it.

1 Q. Because when vice-presidents show up, ---

2 A. Right.

3 Q. --- all the management people are traveling with
4 him.

5 A. Yeah. Well, you know, Jason would show up every
6 morning, probably nine o'clock, after all the crews
7 went in or 8:30, something like that, and want to go
8 up on --- most of the time he would go up on the Lower
9 Branch section because a lot of the younger guys was
10 up there. My son actually worked up there. And he
11 would want to go up there, and he would ask me to go,
12 and I'd tell him I wasn't going to go. And if he
13 wanted to go, he could catch the supply motor up,
14 which a lot of times he'd go out and catch the supply
15 motor up and ride up and go up there and see how much
16 coal we could run. And then he would come out around
17 one o'clock or two o'clock and brag about how much
18 coal they run and stuff. And then Chris had called me
19 one time and asked me why I couldn't run coal like
20 Jason. And I told him that I wasn't going to run coal
21 like Jason does, and if they want somebody to run coal
22 like Jason does; they can get somebody up there to
23 take my place.

24 Q. So when Jason would go up on the end, what would
25 the section boss do?

1 A. Well, he would kind of just let him do what he
2 wanted to do because, you know, he worked for him. So
3 if he wanted to tie the curtain down, put both of the
4 miners up there and all three or four buggies and
5 start loading, running everything all at one time, I
6 guess he could do that if he wanted to. It's his coal
7 mine. But I didn't have no part of it.

8 Q. Okay. But you say that he'd go to units where the
9 younger guys ---?

10 A. Yes.

11 Q. By that do you mean younger or just --- age-wise
12 or experience-wise?

13 A. Both. You know, the guys up there on the --- what
14 I call the headgate at the time was probably the best
15 crew of men that they had on Route 3. You know, they
16 was all mostly older guys and every one of them knowed
17 what they was doing. And you could go on that section
18 any time you wanted to and it would be about as close
19 to perfect a section you could get. I mean, you
20 didn't have to worry about the curtain being up or
21 cleaning or dusting. It was always like that, always.
22 So he wasn't like to go up there and mess with them
23 because they'd usually run him off.

24 Q. That was an older, more experienced crew you said?

25 A. Yes, sir.

1 Q. Okay. But the younger crew, in your opinion, with
2 him up there and operating that way, would that in any
3 way give those young guys any thoughts or any ideas
4 about the way they was expected to run coal?

5 A. Well, it did. And my son bossed up there for a
6 while, too. I mean, he's a young man. I mean, he's
7 only 27 now, so then he was probably 23, 24. And I
8 told him, I said, if that's what Jason wants to do, I
9 said, don't you have no part of it. I said, you just
10 let him do what he wants to do, but you're not going
11 to do it that way, so --- and he always tried to run,
12 you know, pretty good, so ---. I think that's why he
13 won't boss no more.

14 Q. Well, that's what --- you know, could Jason have
15 been training a whole bunch of future bosses up there?

16 A. That could have been. Oh, I'd sure hate to work
17 with any of them.

18 Q. But at the time this was going on, was your son
19 bossing or was he just on the crew?

20 A. Well, he bossed a little bit, but most of the time
21 he was on the crew. He run the miner up on that
22 section and --- I think Denny Hughes was the boss up
23 there, and I think he works for the Feds now. He's a
24 federal mine inspector.

25 Q. Okay.

1 A. I think Denny was up there section bossing.

2 Q. I was reading in I think one of your interview
3 transcripts you made a statement about the first day
4 that Blanchard came to the mine.

5 A. Oh, yeah.

6 Q. Explain that or talk about that.

7 A. That's when he come up there and wanted me to ---
8 he came in my office and told me that I need to go up
9 on the --- well, I called it --- it was One section
10 then, but it was the headgate section, the one that
11 had the older guys. And he told me I need to go up
12 there and fire two of them. And I asked him, for
13 what? And he said, well, you go up there and fire two
14 of the oldest guys. The rest of them will fall in
15 line and do what we want them to do. And you know, I
16 told him, --- I probably can't say what I told him,
17 but you know, I told him I wasn't going to do it. And
18 if he wanted to go fire somebody, he needs to go up
19 there and do it himself because I wasn't going to do
20 it. I said, that's the best crew of men you got.
21 That's probably the best crew of men Massey's got, to
22 be honest with you. And so he got mad and left.

23 Q. So that crew is the crew that you talked about
24 that when you go on their section, ---

25 A. Oh, yeah.

1 Q. --- by being right, you mean having curtains up?

2 A. I mean, it's --- I'd say it's about as close as
3 you can get to being a perfect section. It was always
4 clean; the curtain was always up and always had air.
5 I mean, it was a --- didn't matter when you went up
6 there, it was always like that.

7 Q. So do you think that Blanchard --- or Mr.
8 Blanchard and Whitehead didn't think those guys was
9 producing enough?

10 A. Well, I think he just wanted to --- I think he
11 just wanted to --- I think him and Jason had a power
12 thing going on. They wanted everybody to be
13 intimidated by them. I think that's what they was
14 after. They was wanting people to try to work off of
15 fear and make people afraid of them so they'd do what
16 they wanted them to do. But to be honest with you, I
17 don't know anybody that's afraid of them.

18 Q. Before you come to UBB, when you worked at the
19 other Massey mines, ---

20 A. Uh-huh (yes).

21 Q. --- did you work for Blanchard or Whitehead at
22 all?

23 A. No.

24 Q. Before you come to UBB and you was superintendent
25 I think you said at Marsh Fork Eagle, ---

1 A. Marsh Fork Eagle.

2 Q. --- who was the president at that time that you
3 worked there?

4 A. Craig Boggs.

5 Q. So he was over more than just one mine, Mr. Boggs?

6 A. Yes, sir. He had Elk Run plus he kind of took
7 care --- actually, it was Bill Potter. When I first
8 went to Eagle Mines, it was Bill Potter. That's who I
9 worked for. And I think Bill left during some period
10 and went to work for another company, and Craig took
11 his place. So it was Craig and James Hancock.

12 Q. Okay. While you was at Marsh Fork Eagle and the
13 other mines, did you ever have those other presidents
14 or vice-presidents come underground like you've been
15 explaining to Blanchard and Whitehead?

16 A. Yeah. Potter come underground whenever I was at
17 the Eagle Mines, and Craig come up there pretty often
18 and come underground.

19 Q. When they was underground, would you travel with
20 them?

21 A. Yeah.

22 Q. Okay. Why the difference between when Potter and
23 Craig ---?

24 A. Craig always tried to do the right thing. I mean,
25 Craig was good to work for and he would never tell you

1 to do anything that you wasn't supposed to do. I
2 mean, Craig wasn't --- I always liked working for
3 Craig. And actually, the Eagles Mines was probably
4 one of the best mines that they had. It was
5 always --- it was always in good shape.

6 Q. Did they rock dust?

7 A. Oh, yeah. I put down a lot of rock dust there,
8 too. That's the reason it was --- it was actually a
9 contract mines. Before I went to work up there, they
10 had contracted it out and it was shut down. It was
11 under order for float dust and numerous things. And I
12 went in and rehabbed it and they released it, and it
13 turned out to be a good mine.

14 Q. Okay. In your time as a superintendent, did you
15 actually train people on rock dusting?

16 A. Oh, I'm sure I have. I mean, I've showed people,
17 you know, what to dust and how much to put down and,
18 you know, the way I wanted it. And mine might be a
19 little different than everybody else's.

20 Q. Well, how did you want it as far as how much dust
21 did you expect them to put down?

22 A. Well, I wanted to make sure that, you know, if you
23 walked in it, like on the belts, that you didn't get
24 none of that --- you know how the belt lines are, you
25 get a lot of float dust and stuff on it. You have to

1 put it down heavy enough to where if you walked the
2 belts, then you don't get that black dust popping up
3 to the top. So usually about --- I don't know, about
4 a half inch or so, if you could get it down, it'd
5 usually take care of it pretty good.

6 Q. Okay. And you say a half inch, and then at UBB,
7 while you was there, generally within probably a
8 week's time you'd go back and do that again?

9 A. Yeah. It was just a --- it was a never-ending
10 cycle.

11 Q. One pod duster, and as I understand, each post
12 duster had two tanks on it; is that correct?

13 A. Yes, sir.

14 Q. If both those tanks were full and dusted in the
15 way you just explained, about how many crosscuts could
16 one duster ---.

17 A. Usually you can get --- maybe two loads you can do
18 one belt line, if you go out and fill up and come
19 back, which didn't take that long, maybe an hour.
20 Probably two loads, you could do one belt line.

21 Q. So two loads is actually --- let me think of the
22 distance, four of those handfuls of dust?

23 A. Right.

24 Q. And you say you would do one belt line?

25 A. Right.

1 Q. How long were the belts?

2 A. Well, I don't remember how long the belts are. I
3 don't know, 2,000 feet maybe, 1,500 feet, ever how
4 long --- I don't even remember how long the belt line
5 was. I had them all marked down how long they was. I
6 had it wrote on the board. But it's been a pretty
7 good while. I don't remember how long they are.

8 Q. Okay.

9 A. Some of them's 3,000 feet, I mean.

10 Q. So if they're on hundred-foot crosscuts, then ---?

11 A. Thirty (30) breaks.

12 Q. Thirty (30) breaks is 3,000 feet.

13 A. Right. Yeah.

14 Q. So two loads of dust would ---

15 A. Yeah, pretty much.

16 Q. --- generally do the 3,000 feet?

17 A. Yeah.

18 Q. Okay.

19 A. Plus we had trickle dusters at the belt heads, and
20 it would --- it would carry the dust a pretty good
21 ways down through there. A lot of times it would stay
22 pretty white, especially back towards the head and
23 stuff, where the trickle duster was at. It would ---
24 you know, it would get thicker around the heads and
25 then thinner as it went on down the belts, but it

1 carried a pretty good ways.

2 MR. CRIPPS:

3 Okay. I'm going to take a break here.

4 Anybody got any questions?

5 OFF RECORD DISCUSSION

6 SHORT BREAK TAKEN

7 MR. CRIPPS:

8 Rick, I have just a couple more questions

9 for you. Barry, did you or Phil have anything?

10 ATTORNEY KOERBER:

11 Phil might have one or two.

12 MR. ADKINS:

13 I have one question.

14 EXAMINATION

15 BY MR. ADKINS:

16 Q. You stated that you had a door repaired after you
17 scheduled your rock dust for the belt line?

18 A. Yes, sir.

19 Q. Where was that door located?

20 A. It was located in the hallway going to the mine
21 office. I kept it in the hallway there between my
22 office and actually where the chief electrician's
23 office was.

24 Q. So it would have been upstairs?

25 A. Yes, sir, upstairs. Uh-huh (yes).

1 ATTORNEY KOERBER:

2 On the UBB side?

3 A. Yes. And everybody could see it. And most of the
4 guys would come up in the office and talk to me every
5 morning, sitting there and shoot the bull. I put it
6 where everybody could see it.

7 MR. ADKINS:

8 Okay.

9 RE-EXAMINATION

10 BY MR. CRIPPS:

11 Q. Rick, you had mentioned or stated earlier that the
12 guys would come out and complain when Vice-President
13 Whitehead was on the unit.

14 A. Right.

15 Q. Any of your guys ever complain to you when
16 Blanchard was underground about any of the things that
17 he had done?

18 A. No. I think my son complained to me once before
19 about something that happened over at another mines.
20 Chris had taken him over to one of the other mines to
21 run the miner, and they was trying to punch out, and
22 he told me he was letting the belt entry set and had
23 his curtain all rung and was running the single
24 shuttle --- center shuttle car up and down the belt
25 entry, and Chris come up there and got mad because he

1 wasn't running the other shuttle car and tore all the
2 curtain and stuff down and told him to get that other
3 buggy up there. And you know, Aaron, which is my son,
4 told me that, you know, it was so dusty up there after
5 that, he couldn't hardly see. You know, he had
6 everything narrowed down to 16 foot and was trying to
7 stay out of the buggy's way and trying to cut outside.
8 He said he couldn't hardly see, so ---. That's about
9 the only time I heard, what I can remember, about
10 complaining about Chris.

11 Q. Okay.

12 A. The guys didn't like him coming to the mine
13 because he was like a little asshole. You know,
14 that's about what he was.

15 Q. Okay. In your time at the mine, who was in charge
16 of the ventilation made the calls about ventilation
17 changes or how the mine would be ventilated?

18 A. Well, if I had like a ventilation change or
19 anything like that, the engineers would get all that
20 approved for me, I mean, and that was up to me to do
21 all that. So most of the time I done the ventilation
22 changes.

23 Q. Was there any ventilation changes that Chris or
24 Jason told you they wanted performed?

25 A. I know I had a block superintendent, Gary May,

1 that every now and then he liked to do a ventilation
2 change right in the middle of the shift. So I had to
3 kind of reel him in a little bit on that.

4 Q. What exactly is a block superintendent?

5 A. Well, it's a --- it was someone that took your ---
6 actually, this section, at the time --- the tailgate
7 section was up about 20 breaks, right here I think,
8 somewhere around in here.

9 Q. You're talking about the tailgate One North ---

10 A. Yes.

11 Q. --- section?

12 A. And would take care of just a certain area of the
13 mine. I would give him the section and so many breaks
14 outby to take care of and, you know, keep --- look for
15 a violation and go up on the section and help any
16 section that just needs help, just different things.

17 Q. Okay. And you say that he liked to make changes
18 in the middle of the shift. What do you mean by that?

19 A. Yeah, he liked the miners not to stop and start
20 working on air, so I put a stop to that.

21 Q. And so by that, you mean he's doing that with
22 people underground?

23 A. Right. You know, there's people on a section
24 trying to run coal.

25 Q. So in your understanding, he was making a major

1 ventilation change?

2 A. Yeah. He would be down there working on trying to
3 get his --- I don't actually know what he was doing,
4 to be honest with you. I don't think he did either.
5 But you know, I told him, I said, Gary, don't be
6 knocking a stopping while we're trying to run coal. I
7 said, you can't do that, so I stopped it.

8 Q. And so his --- what was his position at that time?

9 A. He was the block superintendent.

10 Q. Okay. But as far as in the hierarchy at the mine,
11 where did that fit in?

12 A. He worked for Bill Harless and, you know, Bill
13 Harless --- Bill Harless worked for me, and he worked
14 for Bill Harless. He was under the mine foreman.

15 Q. Okay. So would it surprise you that on April 5th
16 he was the superintendent?

17 A. It would surprise me.

18 Q. Okay.

19 A. Surely he wasn't.

20 Q. Actually, I think he was a mine foreman.

21 A. God.

22 ATTORNEY KOERBER:

23 What was his name again?

24 A. Gary May.

25 MR. CRIPPS:

1 Gary May.

2 BY MR. CRIPPS:

3 Q. I think actually he was mine foreman on the UBB
4 side.

5 A. That's just as bad. You got to be kidding me. I
6 didn't know that. Maybe he was up there working on
7 the air. I don't know. It's hard to tell.

8 Q. Okay. Looking at the map again real quick, last
9 time you left you said the tailgate One North section
10 was in at --- you pointed at approximately 20
11 Crosscut.

12 A. Well, I think --- actually, I think the tailgate
13 whenever I left was actually in a little bit farther
14 than that. I was giving an example down here, but
15 whenever I left I think the tailgate was up --- I
16 swear, I couldn't remember. It was a pretty good ways
17 up there. It may be up in here, because the headgate
18 was probably up about this far whenever I left.

19 Q. So on the tailgate you was pointing at around 75
20 Crosscut?

21 A. Yeah.

22 Q. And the Headgate One North you pointed to about 40
23 Crosscut?

24 A. Yeah. They was up in there a pretty good
25 distance. I can't remember exactly how far it was, to

1 be honest with you.

2 Q. Okay. Was you there when the tailgate One North
3 section actually broke off the main entries and
4 started developing?

5 A. Yes.

6 Q. Was that section originally started for a longwall
7 panel?

8 A. No. No.

9 Q. Do you know what the intentions were for driving
10 that panel?

11 A. Actually, I thought we were just going to have a
12 miner section to drive this, and then they decided
13 they was going to bring the longwall back because here
14 --- let me think of where it's at. This is on Six
15 North belt, at 85 --- between 85 and --- I put these
16 overcasts in during Christmas and brought the intake
17 and everything over in and actually put these doors
18 up.

19 Q. You're looking at the Six North belt. It looks
20 like there's three overcasts built at 81, 82 and 83
21 Crosscuts.

22 A. Right. Yes, sir.

23 Q. And so you installed those overcasts?

24 A. Yes. And I also wanted to install these in the
25 track, but they wouldn't give me time to do them.

1 They told me that --- just put the doors up. We
2 didn't have time to put in three more overcasts. I
3 only had a week to do all that, so ---.

4 Q. Okay. So you had a week to ---

5 A. Yeah.

6 Q. --- build six overcasts?

7 A. Actually, all the equipment was still over here
8 because we just cut through all this. All the
9 equipment was over here, so I had to move all the
10 equipment over, cut the overcasts, build the
11 overcasts, set the equipment up, and I had like 26
12 stoppings to build outby before the end of Christmas
13 break.

14 Q. Okay. So you was pointing --- the equipment was
15 right where the --- what I call the parallel --- the
16 North Parallel Mains ---

17 A. Yes.

18 Q. --- intersected with the North Glory Mains or the
19 Glory Mains there on the Six North belt?

20 A. Right.

21 Q. And so you had to move all the equipment basically
22 from there across the Six North belt. How did you do
23 that? Did you break the belt?

24 A. Actually, we did take the belt apart and move
25 everything across and put the belt back together and

1 built overcasts. We had to cut them first and then
2 build them. So there was a lot to do in a week.

3 Q. Okay. But you did --- for the three overcasts
4 over the belt, ---

5 A. Yes.

6 Q. --- you did build those overcasts?

7 A. Yes, sir. And actually, I wanted to do these on
8 the track, but I didn't have time to do that.

9 Q. Okay. Who made that decision?

10 A. That was Chris and them. He told me to just put
11 the doors up and not to worry about the other three
12 overcasts, which is, you know, actually your main
13 intake coming across. I don't know if they knowed at
14 the time they was going to put a longwall in or not,
15 but that was your main intake. And you know how
16 people are with doors. If you leave --- if somebody
17 leaves a door open, you wouldn't have no air. It'd
18 all be going down the track.

19 Q. Right. But the idea of that was to get intake air
20 over to what was going to be the tailgate One North
21 Unit?

22 A. Yes. Yes, sir.

23 Q. Okay. And so then the equipment you said was
24 there at the intersection of the North Glory Mains and
25 the Six North there, you moved that equipment over and

1 that's what was used to drive that Tailgate One North
2 section?

3 A. That's right.

4 Q. Okay. Do you recall about when the decision was
5 made to actually bring the longwall back?

6 A. It was a few months before I left because I was
7 --- the headgate had already moved up here and we was
8 cutting --- we had cut some of this channel for the
9 Mother Drive. I had done some on the midnight up here
10 because we had to take the belt apart and cut over the
11 belt and do some work up there for that Mother Drive,
12 so ---.

13 Q. And so you're pointing to the Mother Drive area
14 from the longwall panel?

15 A. Yeah, about the middle of Six North belt.

16 Q. Okay. And so as you --- had they started
17 developing the One North Headgate while you was
18 still ---?

19 A. Yes. Yes, sir.

20 Q. And you said they was in at about 40 Crosscut?

21 A. Yeah. They was somewhere up in this area right
22 through here. I don't know exactly how far. I don't
23 remember how far it was.

24 Q. Okay. Do you recall that when the decision was
25 made that this was going to be a longwall, did the

1 roof control plan or the projections change at all to
2 increase the size of the pillars or make any changes?

3 A. It hadn't --- it hadn't whenever I left. It may
4 have changed after I left. They brought --- Alma
5 Wallace then come over and took my place, so you know,
6 he was the --- worked the longwall at Logan's Fork.
7 So they may have changed a lot of that. But before I
8 left, it hadn't changed any.

9 Q. Okay. You said --- you talked about the
10 ventilation. When you wanted to make ventilation
11 changes, the engineers got it approved for you.

12 A. Yes. Everything was submitted. But I don't think
13 that --- other than --- I don't remember having a
14 ventilation change at the mines other than --- I think
15 the last one I done was when we sent all the air down
16 through --- down by the seals in the main return. I
17 think that was the last one we ever done while I was
18 there.

19 Q. The engineers that you referred to that helped you
20 on that, who were they? Were they at the mine every
21 day? Did they work at the mine?

22 A. They was there whenever --- when they'd come in
23 and set our spads, but we had our own engineering
24 office down at --- down at the office there, right off
25 --- before you get to the main road there at

1 Performance. We had the engineers down there.

2 Q. Okay. How often would you see them underground,
3 the engineers I mean?

4 A. Most times, just whenever I would call them, you
5 know, if I needed spads on one section or the other or
6 both or whatever. They would come up just whenever
7 I'd call them, two or three times a week probably, to
8 put spads up on a section.

9 Q. Okay. So at the time that you left UBB, how many
10 continuous mining units were actually operating?

11 A. There were just two --- the two sections back
12 there then, the headgate and the tailgate.

13 Q. Okay. As far as ventilating those units, did you
14 have enough air to ventilate those?

15 A. Not really, but you know, both of them had
16 probably sufficient amount of air. I mean, we had ---
17 we struggled with air for a long time. There was a
18 lot of the older stoppings along the Five North belt
19 and Four North and even down Three North and Two
20 North, a lot of stoppings was --- had been there for a
21 long time and the wood was --- it started to rot away
22 from the top of the stopping. We was losing a lot of
23 air, and actually me and Bill Harless had fixed about
24 every stopping from outside at --- actually, to the
25 Glory Hole we had actually plastered about every one

1 of them.

2 Q. Okay. Did that help you on the air?

3 A. It helped a whole lot on the air, but you know,
4 it --- your main return down there next to the
5 outside, you just had like a ten-foot hole that all
6 your return was going out of there. So it's hard to
7 push all that air and dump it out of that little
8 ten-foot hole. I mean, we struggled for air, but both
9 sections usually had pretty good air. There was a
10 time or two that they had to call out that they didn't
11 have air, and I would tell them to shut it down and
12 we'd go find what the problem was. Sometimes it would
13 be a stopping crushed out or something like that,
14 but air wasn't too awful bad.

15 Q. On the times where you would tell them to shut the
16 unit down, would you ever have any repercussions from
17 management above you for doing that?

18 A. Well, they didn't like it, but I think they knowed
19 better than to say a whole lot about it. You know,
20 they really didn't like it, but you know, hey, you
21 can't run with no air.

22 MR. CRIPPS:

23 Okay. That's all I've got for now.

24 ATTORNEY WILSON:

25 I have a few questions.

1 RE-EXAMINATION

2 BY ATTORNEY WILSON:

3 Q. You know, Massey has the policy of S1, P2.

4 A. Yeah.

5 Q. You're familiar with that?

6 A. Yes, sir.

7 Q. Given the things, you know, that you talked about,
8 like Mr. Blanchard ---

9 A. Right.

10 Q. --- and Mr. Whitehead, do you think that they
11 followed the spirit of that policy, S1, P2?

12 A. Probably not the way they should have. I mean, a
13 lot of things in S1, P2 was good in their S1 program,
14 but I don't think that they --- I don't think they
15 stuck to it very well, no.

16 ATTORNEY WILSON:

17 Thank you.

18 MR. CRIPPS:

19 That's all I've got.

20 ATTORNEY WILSON:

21 Then if that's all, then, Mr. Hodge, on
22 behalf of MSHA and the Office of Miners' Health,
23 Safety and Training, I want to thank you for appearing
24 and answering questions today. Again, I'll remind you
25 that we request that you not discuss your testimony

1 with anyone because we may be calling additional
2 witnesses. Again, if we have any follow-up questions,
3 we may contact you in the future. And if you think of
4 any additional information that you want to provide to
5 us, please contact us.

6 A. Okay.

7 ATTORNEY WILSON:

8 Before we go off the record, I did want
9 to give you an opportunity, as I stated at the
10 beginning, to make any kind of a statement that you
11 might want to make or add anything else to the record
12 that you would like to do. You can do that at this
13 time.

14 A. Well, I don't think I have anything, no questions.
15 I tried to answer everything as truthful as I can be
16 with you all. I mean, I don't --- I have nothing to
17 hide from anybody.

18 ATTORNEY WILSON:

19 We appreciate that. Again, I want to
20 thank you for your cooperation. And with that, we'll
21 go off the record.

22 * * * * *

23 STATEMENT UNDER OATH CONCLUDED AT 5:21 P.M.

24 * * * * *

25

1 STATE OF WEST VIRGINIA)

2

3

CERTIFICATE

4

I, Leslie Blake, a Notary Public in and for

5

the Commonwealth of Pennsylvania, do hereby certify:

6

That the witness whose testimony appears in

7

the foregoing deposition, was duly sworn by me on said

8

date and that the transcribed deposition of said

9

witness is a true record of the testimony given by

10

said witness;

11

That the proceeding is herein recorded fully

12

and accurately;

13

That I am neither attorney nor counsel for,

14

nor related to any of the parties to the action in

15

which these depositions were taken, and further that I

16

am not a relative of any attorney or counsel employed

17

by the parties hereto, or financially interested in

18

this action.

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Leslie Blake

