



**APPEARANCES**

1  
2 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**  
3 **Barry L. Koerber, Assistant Attorney General**  
4 **1615 Washington Street, East**  
5 **Charleston, WV 25311-2126**  
6 **(304) 558-1425**

7 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**  
8 **Bill Tucker, Health & Safety Administrator**  
9 **1615 Washington Street, East**  
10 **Charleston, WV 25311-2126**  
11 **(304) 558-1425**

12 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**  
13 **John O'Brien**  
14 **1615 Washington Street, East**  
15 **Charleston, WV 25311-2126**  
16 **(304) 558-1425**

17 **U.S. DEPARTMENT OF LABOR**  
18 **Office of the Regional Solicitor**  
19 **Pollyanna Hampton, Esquire**  
20 **1100 Wilson Blvd.**  
21 **22nd Floor West**  
22 **Arlington, VA 22209-2247**  
23 **(202) 693-9389**

24 **ALLEN, GUTHRIE, McHUGH & THOMAS, PLLC**  
25 **Eric Silkwood, Esquire**  
26 **Laidley Towers, Suite 800**  
27 **500 Lee Street**  
28 **Charleston, WV 25301**  
29 **(304) 345-7250**

30 **Also Appearing: Patrick McGinley and Suzanne**  
31 **Weise, Governor's Independent Investigation**  
32 **team; John Godsey, MSHA**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**EXAMINATION INDEX**

<b>RICK HODGE</b>	<b>PAGE</b>
BY MR. O'BRIEN . . . . .	14
BY MR. GODSEY . . . . .	27
BY MR. MCGINLEY . . . . .	32
BY MR. O'BRIEN . . . . .	38
BY MR. GODSEY . . . . .	39
BY MR. MCGINLEY . . . . .	42

**EXHIBIT INDEX**

	<b>PAGE</b>
<b>*Exhibit</b>	
1 Subpoena	11
2 Acknowledgement of Service	11
3 Map	25

**\*Exhibits retained by counsel**

1 MR. KOERBER: My name is Barry  
2 Koerber. I'm an Assistant Attorney  
3 General.

4 I'm assigned to the West Virginia  
5 Office of Miners' Health Safety and  
6 Training's UBB Accident Investigation  
7 Committee.

8 Today is January 6th, 2011. It's  
9 about 1:15.

10 We have three different teams  
11 present at the table that will be asking  
12 questions. And at this point in time, I'd  
13 ask everybody to identify themselves.

14 MR. TUCKER: Bill Tucker with the  
15 West Virginia Office of Miners' Health  
16 Safety and Training.

17 MR. O'BRIEN: John O'Brien with  
18 the West Virginia Office of Miners' Health  
19 Safety and Training.

20 MR. GODSEY: John Godsey, MSHA.

21 MS. HAMPTON: Pollyanna Hampton,  
22 Solicitor's Office with the Department of  
23 Labor.

24 MR. MCGINLEY: Patrick McGinley

1 with the Governor's Independent  
2 Investigation team.

3 MR. KOERBER: Mr. Hodges.

4 THE WITNESS: Yes.

5 MR. KOERBER: The court reporter  
6 here will be transcribing everything  
7 that's said here today, and she'll also be  
8 the person that swears you in shortly.

9 THE WITNESS: Can I say one thing  
10 before you go?

11 MR. KOERBER: Yeah.

12 THE WITNESS: Drop the S off --

13 MR. KOERBER: Mr. Hodge.

14 THE WITNESS: Yes. I don't have  
15 an S on --

16 MR. KOERBER: I apologize.

17 THE WITNESS: That's okay.

18 MR. KOERBER: The court reporter,  
19 there's a few ground rules for the court  
20 reporter, to make her life much more  
21 easier. Okay?

22 One, please wait until the  
23 question is asked before you begin to  
24 answer. And I would ask that all of our

1 interview people wait until Mr. Hodge  
2 answers the question before you begin your  
3 next question so that we don't have people  
4 talking over one another. Okay?

5 Also, you can't nod your head up  
6 and down and side to side to indicate yes  
7 and no, because that doesn't show up on  
8 the transcript. You need to say yes or  
9 no. Uh-huh, huh-uhs don't work either.  
10 It's got to be yeses and nos.

11 Also, there may be a point in  
12 time where we're dealing with something on  
13 the map, and it's so easy for all of us  
14 here just to point at something and say,  
15 "I was here and then I went over there."  
16 But for purposes of the court reporter, we  
17 would ask that you try to identify where  
18 exactly you are on the map so that if  
19 somebody is reading this six months down  
20 the road, they'll know where "here" and  
21 "there" was. Okay?

22 Also, the court reporter is  
23 working for the Office of Miners' Health  
24 Safety and Training, and they are doing

1           this work on a three-day turnaround, three  
2           business days. So the transcript that  
3           comes from today's interview will be  
4           prepared and ready by next Wednesday  
5           morning, and that would be Wednesday of  
6           next week.

7                         In the event you desire to read  
8           your transcript for accuracy and if you  
9           find any errors while reading that  
10          transcript, you can make any corrections  
11          on an errata sheet.

12                        If you would like to do that, I'm  
13          going to give you a business card from  
14          Johnny Jackson & Associates. They have a  
15          business office in Charleston, West  
16          Virginia, and you can call and set up a  
17          time and an appointment where you go into  
18          their office and they'll provide you with  
19          a conference room where you'll have  
20          privacy and you can read and make whatever  
21          changes you want on the errata sheet. The  
22          only thing is, they won't let you take a  
23          copy home with you. Okay? That's one of  
24          the items that I'll give you here



1 MS. HAMPTON: And did you have  
2 any questions for me about the content of  
3 that letter?

4 THE WITNESS: No, ma'am.

5 MS. HAMPTON: I'd just like to  
6 point out that at the end of the letter,  
7 there's some contact information for Norm  
8 Page. He is the leader of the Federal  
9 Accident Investigation team, so if at any  
10 time you have any other information you'd  
11 like to share with the team or any  
12 questions or anything, feel free to please  
13 contact Norm.

14 THE WITNESS: Yes, ma'am.

15 MR. KOERBER: Would you please  
16 swear in the witness.

17 RICK HODGE, WITNESS, SWORN

18 MR. KOERBER: There is one other  
19 person in the interview room. I would ask  
20 for the record -- in the audience of the  
21 interview room -- that I'd ask that he  
22 identify himself and who he is with for  
23 purposes of the record.

24 MR. ADKINS: Phil Adkins, West

1 Virginia Office of Miners' Health Safety  
2 and Training.

3 MR. KOERBER: And you got the  
4 oath in. We're done. Okay.

5 MR. MCGINLEY: I should say for  
6 the record as well that Suzanne Weise, who  
7 is part of the Governor's Independent  
8 Investigation team, will be coming in the  
9 room shortly.

10 MR. KOERBER: Okay. Thank you.

11 Sir, would you please state your  
12 full name for the record and spell your  
13 last.

14 THE WITNESS: Richard Edward  
15 Hodge.

16 MR. KOERBER: And you spell Hodge  
17 as?

18 THE WITNESS: H-o-d-g-e.

19 MR. KOERBER: And what is your  
20 address and telephone number?

21 THE WITNESS: [REDACTED]

22 [REDACTED]

23 [REDACTED].

24 MR. KOERBER: And your telephone

1                   number?

2                   THE WITNESS: Area code

3 (b) (7)(C)

4                   MR. KOERBER: And are you  
5 appearing here today as a result of  
6 receiving a subpoena?

7                   THE WITNESS: Yes.

8                   MR. KOERBER: This is a copy of  
9 that subpoena that I'm going to have  
10 marked as Hodge Exhibit A (sic). And just  
11 for the record, on the subpoena I have  
12 Hodge with an S, and I apologize for that  
13 error as well.

14                  THE WITNESS: You ain't the first  
15 one.

16                  MR. KOERBER: Also, as Hodge  
17 Exhibit B (sic), I'd like to have marked  
18 the Affidavit of Service showing that you  
19 were served on the 29th day of December.

20                         So those two will be exhibits.

21                                 (Hodge Exhibit Nos. 1 & 2 marked  
22 for identification.)

23                  MR. KOERBER: Sir, do you have an  
24 attorney with you here today?

1 THE WITNESS: No, sir.

2 MR. KOERBER: I notice we do have  
3 another attorney at the table. I would  
4 ask that he identify himself, his firm,  
5 and who he represents.

6 MR. SILKWOOD: Eric Silkwood with  
7 Allen Guthrie & Thomas here on behalf of  
8 Performance Coal Company.

9 MR. KOERBER: Mr. Hodge, I'd also  
10 like to give you a little bit of  
11 information.

12 I'm going to give you a  
13 memorandum for you to take home, West  
14 Virginia Code 22A-1-22. It provides  
15 protections to coal miners for  
16 discrimination for participating in  
17 interviews such as this.

18 In the event something would  
19 occur, in this memorandum is the address  
20 of the board of appeals. The board of  
21 appeals is the administrative tribunal  
22 that is charged with hearing  
23 discrimination complaints. We have their  
24 address. And should you feel that you've

1           been discriminated against, you can file  
2           your complaint with the board of appeals.

3                       Also, I would like to caution you  
4           that the code only allows 30 days after  
5           the discriminatory event occurs for you to  
6           file your complaint with the board of  
7           appeals.

8                       I'm also going to give you the  
9           Johnny Jackson & Associate Court  
10          Reporter's business card, which I spoke of  
11          earlier. Should you choose to set up an  
12          appointment to go in and read your  
13          transcript, this is who you call and this  
14          is where you go.

15                      And I'm also going to give you a  
16          business card for Mr. Bill Tucker.

17          Mr. Bill Tucker is the lead investigator  
18          for the Office of Miners' Health Safety  
19          and Training. And should anything occur  
20          later on that you think we need to know  
21          about as far as if you think of anything  
22          relevant, please contact Mr. Tucker.

23          Okay?

24                      THE WITNESS: Yes.

1 MR. KOERBER: So let me give this  
2 to you.

3 And one other thing that we're  
4 mentioning to everybody that we call in  
5 for interviews, potentially it's possible  
6 that we may feel the need to call certain  
7 people back. Whether one of those people  
8 will be you or not, I have no idea, but I  
9 just want you to be aware that that is a  
10 potential scenario.

11 And with that, I'm going to turn  
12 the interview over to Mr. O'Brien to start  
13 the interview.

14 EXAMINATION

15 BY MR. O'BRIEN:

16 Q. First of all, Mr. Hodge, I would like to  
17 thank you for coming in and helping us out. We  
18 appreciate it.

19 How many years of total mining experience  
20 do you have?

21 A. 28 and a half.

22 Q. And what mining certifications do you  
23 possess or do you have?

24 A. I have got a West Virginia mine foreman's

1 card and also for training, training card, methane,  
2 or a dust card. I think that's it.

3 Q. Could you give us a brief history of your  
4 coal mine employment?

5 A. Well, I worked for Maben Energy for 16  
6 years as an equipment operator.

7 And after they went bankrupt, I went to  
8 Independence Coal, which was part of Massey, and  
9 took a mine foreman job and worked my way up to  
10 superintendent and been superintendent with Massey  
11 for 12 years.

12 I left for two years and went to work for  
13 Joe Phillips, put the mines in down at Josephine.

14 And after Joe sold out, then I left and  
15 went back with Massey and wound up at Performance  
16 the early part of 2007, I think. Somewhere around  
17 in there.

18 Q. Are you currently employed?

19 A. I am.

20 Q. And where would that be?

21 A. Elk Run Coal.

22 Q. And what is your job?

23 A. Mine superintendent.

24 Q. And at which mine?

1           A.   Actually, I'm currently off on sick leave,  
2   so I don't -- that's my job title, but I actually  
3   don't have a mines.

4           Q.   Which mine did you work at last and when?

5           A.   Sir, I don't remember the name of the  
6   mines, but it was just for about a month and a half  
7   before I went off sick in the latter part of July  
8   and August of 2008.

9           Q.   And it was one of the Elk Run's --

10          A.   Yes.

11          Q.   -- operations?

12          A.   Yes.

13                    There was a mine superintendent there.

14   All I was doing was helping him at the time.

15          Q.   Where were you at before that?

16          A.   At Performance.

17          Q.   And which mine were you at there?

18          A.   Upper Big Branch.

19          Q.   And how long were you at Upper Big Branch,  
20   from when to when roughly?

21          A.   From the early, I think, January of 2007  
22   up until July of 2008.

23          Q.   And what was your job title or titles  
24   during that period of time?

1 A. I was a general, or mine superintendent.

2 Q. Mine superintendent?

3 A. Yes.

4 Q. And you have been -- I apologize for  
5 this. You've been off since July or August of  
6 2008?

7 A. Yes.

8 Q. But you are still an employee of --

9 A. Yes.

10 Q. -- Massey?

11 A. Yes.

12 Q. Okay. Thank you.

13 What I'd like to focus on -- well, yeah,  
14 what I'd like to focus in on now is when you were  
15 at UBB, your time at UBB as superintendent.

16 Basically, what were your job duties?

17 A. Just oversee all the general everyday mine  
18 practices and oversee all the workforce and  
19 production. Just about everything, really.

20 Q. And who did you report to? Who was your  
21 immediate supervisor at UBB?

22 A. When I first went or at the last? I mean,  
23 I had two different supervisors at one time.

24 Q. Why don't you give us both if you don't

1 care?

2 A. When I first went to Upper Big Branch,  
3 Craig Boggs was the president and James Hancock was  
4 the general manager. And then it switched hands  
5 and went to -- and I don't remember the dates or  
6 even when it happened, but it was later went to  
7 Chris Blanchard and Jason Whitehead.

8 Q. While at UBB, did you have any, did you  
9 encounter any methane problems?

10 A. We did have some methane problems, yes,  
11 sir.

12 Q. Could you elaborate some on that? Tell us  
13 some of the problems.

14 A. Well, we had a borehole up -- I don't even  
15 think it's on the map maybe. Yeah. Here. We had  
16 a little bit of methane up around in here, but it  
17 never was nothing too ...

18 MS. HAMPTON: You just pointed to  
19 the map. This is a map of --

20 THE WITNESS: Yes.

21 MS. HAMPTON: -- the Upper Big  
22 Branch Mine longwall area.

23 Now when you were pointing to  
24 here, where precisely were you pointing on

1           the map? Could you describe in words the  
2           location?

3                       THE WITNESS: The abandoned gas  
4           well.

5                       MS. HAMPTON: The abandoned gas  
6           well.

7                       THE WITNESS: Yes.

8           Q. What did you call that part of the mine?  
9           Do you remember?

10           A. North Mains, I think. I think that's what  
11           we called it, the old North Mains section, which  
12           was abandoned. Or it wasn't abandoned, but it was  
13           just old works.

14           Q. And what kind of methane problems did you  
15           encounter?

16           A. Never got no more than probably one  
17           percent. Never got up any higher, but we kept the  
18           ventilation up in there and kept everything  
19           ventilated. We never, nothing more than one  
20           percent.

21           Q. What was the most methane that you know of  
22           that was ever detected at Upper Big Branch while  
23           you were there?

24           A. One percent.

1 Q. One percent?

2 A. Yes.

3 Q. And where were the, roughly, where were  
4 the mining operations taking place when you were  
5 last there?

6 A. The headgate for the longwall had just  
7 started and was not advanced very far. They was  
8 only in, I'm going to say 10 breaks, maybe, maybe  
9 more than that. But the tailgate, they were up in  
10 there a pretty good ways.

11 Q. And that's of the current longwall  
12 that's --

13 A. Yes.

14 Q. Okay. Thank you.

15 Would you describe UBB as a gassy mine  
16 overall?

17 A. No, sir. I mean, it did liberate a little  
18 bit of methane up around the well, but very seldom  
19 did we ever pick anything up in the faces.

20 Q. And when you say "in the faces," is that  
21 while you're mining?

22 A. Yes.

23 Q. What would the most do you recall picking  
24 up while mining?

1           A.   Probably two to three tenth percent.

2           Q.   Was there a longwall operating at this  
3 mine when you were superintendent?

4           A.   No, sir.

5           Q.   Were you aware of any methane inundations  
6 prior to you coming to UBB?

7           A.   Just rumors what I had heard.

8           Q.   Could you help us out and tell us what you  
9 heard?

10          A.   Well, I was sent to --

11                   I'll pass on that one. I don't know how  
12 to answer that.

13                   Well, just for the methane, just from the  
14 rumors I heard from the past superintendents and,  
15 you know, talking about hitting methane when the  
16 longwall was there before. And I know they'd had  
17 some dust problems and, you know, ventilation, just  
18 rumors what I'd heard.

19          Q.   Well, when you took over superintendent,  
20 did you have to correct any dust problems or  
21 methane problems?

22          A.   No, not so much as methane problems, but  
23 we did have some dust problems and a few little  
24 problems.

1 Q. When you say "dust problems," were they,  
2 where was the dust being generated? Was it on the  
3 active sections, outby or?

4 A. Probably outby because of the, we put  
5 down, we had to put down a lot of rock dust and try  
6 to catch up with parts of the mines that had been,  
7 I guess, special where they was building the  
8 seals. You know, they was building seals whenever  
9 I came there and sealing off the old longwall  
10 panels.

11 Q. For my benefit, when you're saying "dust  
12 problems," is that dust in the air or dust  
13 accumulations along the mine floor --

14 A. Dust accumulation.

15 Q. -- roof and ribs?

16 A. Yes, dust accumulation.

17 Q. And that was throughout what part of the  
18 mine, pretty much the whole mine or part of the  
19 mine?

20 A. Pretty much all of it.

21 Q. Were you involved in any methane  
22 ignitions --

23 A. No, sir.

24 Q. -- at UBB?

1           A.    No.

2           Q.    Is superintendent the only position you've  
3 held at UBB?

4           A.    Yes.

5           Q.    Did anyone at Massey ever make a decision  
6 dealing with ventilation or any other problem that  
7 you disagreed with while you were superintendent?

8           A.    Yeah.  Yes.  When we was building the  
9 overcast for the airway for the -- actually, where  
10 the section was moving to, they made a decision to  
11 put up electric doors instead of taking the time to  
12 put overcast in.  I didn't really care much for  
13 that.

14          Q.    And that was in the area that was mining  
15 during April 5th?

16          A.    Yes, that was at the mouth of the -- well,  
17 actually, it's between the headgate and tailgate  
18 section, the mouth of the tailgate section.

19          Q.    What was the reasoning for putting up  
20 doors versus overcast?

21          A.    Really, I don't think they gave me a  
22 reason, just for time factor.  We done most of the  
23 work during the Christmas break of 2007, and we  
24 only had like a short time to get it all done.  It

1 was a time factor.

2 Q. And you said you only had a short time.  
3 And that was for what, longwall panel development?

4 A. That was for, yes, that was for actually  
5 the whole mine development, because everything  
6 moved inby where the overcast was being built,  
7 where they needed to be built.

8 Q. Now the doors you're referring to, are  
9 they the ones that's currently on this map that's  
10 before you? Are any of the doors?

11 A. I never looked. I haven't looked at the  
12 map.

13 Yeah, right there. I don't know how to  
14 describe that where you can understand it. It's at  
15 the mouth of a tailgate panel.

16 Q. I can't see the number. What break is  
17 that close to? It's on 6 North Belt around 80,  
18 somewhere around 80. Okay. 85, 84.

19 MR. SILKWOOD: Are you talking  
20 about these?

21 THE WITNESS: Uh-huh. The two  
22 doors.

23 MR. SILKWOOD: Inby it looks like  
24 19666 Spaad.

1 THE WITNESS: Spaad number.

2 MS. HAMPTON: And, again, the  
3 witness is looking at the longwall map of  
4 the Upper Big Branch Mine.

5 MR. KOERBER: And that needs to  
6 be marked as Exhibit 3.

7 MS. HAMPTON: Do you want to have  
8 him mark with a pen?

9 THE WITNESS: Do you want me to  
10 just circle it?

11 MR. O'BRIEN: Just circle it, if  
12 you will, please.

13 MS. HAMPTON: So the witness just  
14 circled the area with a pink marker.

15 (Hodge Exhibit 3 marked for  
16 identification.)

17 BY MR. O'BRIEN:

18 Q. Before that time, before that set of  
19 doors, did you have any other doors in the coal  
20 mine?

21 A. Yes.

22 Q. Hollis (phonetic) doors?

23 A. Yes, we had a set up on -- well, there was  
24 a set coming in the drift about five or six breaks

1 in from the outside. And then when the section was  
2 up on what we called the Lower Big Branch, which I  
3 don't have a map, we had a set of airlock doors up  
4 there.

5 Q. Now were those doors in lieu of overcast  
6 or were they for like blowing ventilation purposes?

7 A. No, they were just for holding the  
8 pressure.

9 Q. Holding pressure?

10 A. Yes.

11 Q. Let me jump ahead a little bit. When and  
12 how did you learn about the explosion on April  
13 5th?

14 A. I don't know where I was at. I heard  
15 something on the -- I think I heard it on the  
16 radio.

17 Q. If I may ask, what was your initial  
18 reaction about what happened? Did you have any  
19 idea?

20 A. I didn't know what, when they said the  
21 mine, had a mine explosion, I didn't have no idea  
22 what caused it. I know a lot of people there.

23 Q. Did you ever visit the Upper Big Branch  
24 Mine after the explosion?

1           A.   No, sir.

2                           MR. O'BRIEN:  Well, that's all  
3           the questions I have right now.  I may  
4           have some others later, but thank you.

5                           THE WITNESS:  Yes, sir.

6   EXAMINATION

7   BY MR. GODSEY:

8           Q.   When did the longwall leave?  I think it  
9           went to Logans Fork or something.  Do you remember  
10          what year it left?

11          A.   No, sir, I do not.  I wasn't -- I don't  
12          know.

13          Q.   Had you all had plans on bringing it back  
14          to Upper Big Branch, the longwall?

15          A.   Yes.

16          Q.   And when you were superintendent there,  
17          who was responsible, or did you all have anyone  
18          responsible or just dedicated to ventilation?

19          A.   No, sir, not really.  Just me and -- well,  
20          me and Bill Harless and, you know, just, and the  
21          section bosses.

22                           I mean, as far as the outby and stuff,  
23          most of the time the midnight took care of a lot of  
24          the outby stuff and then me and Bill Harless done a

1 lot of stuff doing, you know, through the shift and  
2 what we could.

3 Q. And I think you said that when you were  
4 there that 1 North Tailgate was being developed, I  
5 believe, and maybe just part of the headgate 1  
6 North.

7 A. Yes.

8 Q. Did you have any ventilation problems  
9 driving the tailgate or having trouble keeping  
10 ventilation there?

11 A. From time to time we did lose, have some  
12 air problems, and I can remember, you know, telling  
13 them to shut down if they had low air. A couple of  
14 times we found a stopping blowed out or crushed  
15 out.

16 Q. Did the upper, the over mining in the  
17 Powellton seam above you, did it ever give you any  
18 concern?

19 A. Not really. I could hear them from time  
20 to time, but I never did, I never really thought  
21 much about it.

22 Q. Did you ever anticipate any problems when  
23 you mined under some of the longwall panels at  
24 Logan?

1           A.   No.  I think most of that had happened, I  
2 think, before I ever had got there.  I seen a lot  
3 of bad ribs and some ribs crushing out, and we had  
4 some, a few falls and stuff that we had to take  
5 care of.  But other than that --

6           Q.   Did you look at the overlays where that  
7 happened?

8           A.   Yes.

9           Q.   Did you see any problems?

10          A.   No, sir.

11          Q.   And you also said that you, when they was  
12 developing there that they used the electric  
13 doors.  What problem did you see by them installing  
14 the electric doors instead of an overcast?

15          A.   Well, there's always room for human  
16 error.  You've got people that even though you hang  
17 a switch beside the track, they still won't take  
18 time to shut the door, you know.

19                    Actually, that's about the only thing.  
20 That and it just, it was an inconvenient, you know,  
21 to me, it's a whole lot better to take your time  
22 and go ahead and cut and build the overcasting, you  
23 don't have to worry about it.

24          Q.   You also stated that you had other doors

1 in there for a track. Did you ever find any of  
2 those left open?

3 A. No, I was pretty strict with them on  
4 keeping the doors and stuff shut. You know, the  
5 doors were put up for a reason.

6 Q. And what system did you all have like  
7 during the day or during the evening, whenever they  
8 were mining, how often would the section foremen  
9 have to call out --

10 A. And I can't remember the exact time, but I  
11 know they called out of the mornings when they got  
12 started loading, and then they would have to call  
13 out by I think it was 10 o'clock that morning and  
14 two o'clock in the afternoon, I think. And I'm not  
15 really sure about the time. I can't remember. I  
16 think that's about right.

17 Q. Who did they even call out to?

18 A. If I was outside, they would talk to me.  
19 If not, they would usually talk to the dispatcher  
20 or the boy that done the purchasing, Greg Clay.

21 Q. And, in turn, did they have to report to  
22 anyone higher than ...?

23 A. Yes, they had to call, to the -- Chris  
24 would call and want to know, or they would call

1 Chris and tell him what they had.

2 Q. And you also said before when you first  
3 went there as superintendent, you had another  
4 individual who was in charge and then they changed  
5 over. Did you see this change in the way things  
6 were run on a day-to-day basis after it was  
7 changed, the people above you?

8 A. I did.

9 Q. What was?

10 A. Really not elaborate on it right now.

11 Q. When you first came there, did anyone ever  
12 talk to you about the ignition explosion they had  
13 in 1997?

14 A. No, sir. No.

15 Q. Were you ever informed that when the mine  
16 reached to maybe over cover that, around a thousand  
17 feet or so, that they had problems with methane  
18 inundations?

19 A. I never even knowed they had an explosion  
20 at the mines before, to be honest with you.

21 MR. KOERBER: I think you're  
22 using "explosion" when you mean  
23 "inundation."

24 MR. GODSEY: In 1997 they said it

1           was an explosion, slash, inundation. I  
2           think that's what the report said.

3                       MR. KOERBER: Okay.

4           Q. Did you all have a system, like say a  
5           state or a federal inspector come on the property,  
6           did you all ever have a system where you all  
7           notified underground that they were on the  
8           property?

9           A. We didn't have a system. Usually, no  
10          matter if it was state or federal or even company  
11          people, you know, we would always try to let the  
12          section bosses know that they had company coming to  
13          the section.

14          Q. How would you do that?

15          A. Just by telling them.

16          Q. Telling they were coming.

17          A. Yes. It wasn't just for state and  
18          federal, but for, you know, company people also, if  
19          we had anybody show up there.

20          Q. Give me a second. I'll come back in a  
21          minute.

22                               EXAMINATION

23                   BY MR. MCGINLEY:

24           Q. Mr. Hodge, were you familiar with Massey's

1 S1 manual?

2 A. Yes.

3 Q. Did that manual have a requirement with  
4 regard to having automatic doors on tracks rather  
5 than manually operated doors where there was, you  
6 know, involving ventilation, like double airlock  
7 doors?

8 A. I think it did say electric doors would be  
9 installed or practical or feasible or something. I  
10 can't remember the way it was worded.

11 Q. So it wasn't an absolute requirement?

12 A. I don't know of anyone, any mines that had  
13 the manual doors up. Was that what you was asking  
14 about, manual doors?

15 Q. Yeah.

16 A. I have never used manual doors. The only  
17 ones I have ever used has always been electric.

18 Q. Were you familiar with the Massey S1  
19 requirement of 20,000 CFM at the last open break on  
20 miner sections? Maybe they didn't have it when you  
21 were at UBB, but I'm just wondering if you know  
22 about it.

23 A. No, I don't. To be honest with you, I  
24 don't remember if it was or not, but I don't think

1 so.

2 Q. Do you recall what MSHA's standard was  
3 with last open break in terms of --

4 A. I'm thinking it was like 12,000 or 12  
5 something.

6 Q. Did you use the S1 manual very often?

7 A. Pretty regular. I mean, I may not  
8 remember a whole lot of it now, but I knowed the  
9 manual pretty well, you know. And there was some  
10 good things in it, there really was.

11 Q. But anything different than, you know,  
12 just normal good safety procedures?

13 A. Just common sense mostly.

14 Q. Things that they do at other mines as  
15 well?

16 A. Yeah.

17 Q. From the questions that you were asked a  
18 few minutes ago, is it fair to say you didn't know  
19 that there was a methane ignition in UBB in 1997?

20 A. No, sir, I did not.

21 Q. And is it fair to say you didn't know  
22 there was a methane inundation that shut the mine  
23 down for a couple of days in 2003, the mine being  
24 UBB? You didn't know about that?

1           A.   No, sir.

2           Q.   And you didn't know about the 2004  
3 inundation that also shut the mine down for a  
4 couple of days in 2004?

5           A.   No, sir.

6           Q.   Would you have liked to have known that?

7           A.   It probably would have been some good  
8 information whenever I was there.

9           Q.   Would that have made you be more, more  
10 vigilant about ventilation, do you think?

11          A.   Well, actually we had, I never had a whole  
12 lot of ventilation problems whenever I was there.  
13 I know we got on the, the pattern of violations.  
14 We was on it for 90 days.

15                    But as far as the miner sections go, we  
16 normally we had pretty good air on both the miner  
17 sections.

18           I know there was times that we would lose  
19 air, stoppings would crush out, you know, things  
20 happen. But we always took care of it, though, our  
21 problems, or tried to. We always tried to take  
22 care of our problems.

23          Q.   Did you know that there were air reversals  
24 at UBB in late 2009, 2010, one of which went on for

1 three weeks?

2 A. No, I didn't know that. No.

3 Q. Would that be a concern?

4 A. I wasn't up there then.

5 Q. Right, I understand. But that would have  
6 been a concern if --

7 A. Oh, yeah.

8 Q. -- if you'd known that?

9 A. Air reversal?

10 Q. Yes.

11 A. Shit, that ain't very good.

12 But no, sir, I didn't know that.

13 Q. You did work at UBB at some point when the  
14 longwall was operating?

15 A. No, sir.

16 Q. Not before --

17 A. No, sir.

18 Q. Okay.

19 A. No.

20 Q. Would a variation in air readings of 20 or  
21 30,000 CFM over one shift, what would that indicate  
22 to you?

23 A. Probably a stopping or you've got  
24 something down or, you know, an interruption in

1 your ventilation somewhere.

2 Q. And what if that continued for, that  
3 change in ventilation continued for two weeks, what  
4 would that indicate?

5 A. You're probably out of air. I don't think  
6 you -- I don't know many mines that can lose 20,000  
7 cubic feet a day for two weeks and still have air.  
8 I mean, I really don't.

9 Q. It could be that it's being shifted around  
10 to different places in a big mine like UBB?

11 A. Well, there's a problem somewhere.

12 Q. Would it indicate that the approved  
13 ventilation plan is not being followed if you had  
14 such --

15 A. Yeah.

16 Q. -- significant changes?

17 A. Uh-huh.

18 MR. MCGINLEY: That's all the  
19 questions I have for now.

20 MS. HAMPTON: Let's take a break  
21 for just a second.

22 (Break.)

23 MR. KOERBER: I'd like to make  
24 one real quick statement here.

1                   At the beginning of the  
2                   interview, I believe I had asked for the  
3                   subpoena to be marked as Exhibit A and the  
4                   Acceptance of Service to be marked as  
5                   Exhibit B, and then when it came time to  
6                   mark the map, it was marked as Exhibit 3.

7                   I would like the record to  
8                   reflect that we are changing the subpoena  
9                   to be Hodge Exhibit 1, we are changing the  
10                  Acknowledgment of Service to be Hodge  
11                  Exhibit 2, and the map will remain Hodge  
12                  Exhibit 3. Thank you.

13                  MR. O'BRIEN: I just got a couple  
14                  of questions.

15   EXAMINATION

16 BY MR. O'BRIEN:

17                  Q. I got a couple more questions. And if  
18                  they've been asked, I apologize ahead of time.

19                                       Who made the decision about installing  
20                  doors instead of building overcasts?

21                  A. I'm not sure. It would have to be someone  
22                  higher than me. Probably Chris, the president.

23                  Q. Chris?

24                  A. Blanchard.

1 Q. Blanchard?

2 A. Yes.

3 Q. And secondly, why did you leave UBB?

4 A. I was asked to leave because I was sick, I  
5 guess.

6 And Jason came up one Saturday about noon  
7 and told me that I needed to go to Elk Run on  
8 Monday. Well, actually, he told me I need to go  
9 down and see Chris Monday morning. He said they  
10 was going to bring somebody in to take my place.

11 And I went in to Chris and asked him  
12 Monday morning, and he told me, he just said, I  
13 need someone to be there every day. Which I never  
14 missed any work. I know (b) (7)(C)

15 (b) (7)(C) , but I always just went,  
16 whether it was at Charleston or Beckley or whatever  
17 and then come back to the coal mines. They can  
18 pull my time sheets and look and see how much time  
19 I spent at that coal mine, so ...

20 Q. Thank you.

21 A. Yes.

22 EXAMINATION

23 BY MR. GODSEY:

24 Q. Were those doors completed when you were

1 there?

2 A. Yes.

3 Q. Did you ever have any problem with them  
4 finding them open or anything?

5 A. No, sir. No, sir, I did not.

6 Q. Did you all have a daily or weekly  
7 schedule for rock dusting?

8 A. Yes.

9 Q. How often did you do that?

10 A. Every night on the midnight shift. And  
11 then a lot of times we would do it on the day  
12 shift, just depending on what the motor crews and  
13 different -- it just depended on the schedule and  
14 how caught up we was on supplies.

15 Q. Did you have the same thing, did you have  
16 a schedule for returns and intakes? How did you  
17 handle those?

18 A. The section usually took care of their  
19 returns and so far off of a section and then we had  
20 machine dusters that we would dust the returns and  
21 stuff a lot of times through the day, you know,  
22 just put a hose to the door and blowed dust and let  
23 air carry it down on the return. And then on the  
24 midnight most of the time is when we would do the

1 intakes.

2 Q. Did you all have trickle dusters on the  
3 section or anywhere else in the mine?

4 A. We had them at three or four of the  
5 heads. And we did have them on, I think, the Lower  
6 Branch section when it was still up there, but I  
7 don't think we had them up on the tailgate section  
8 at the time. I don't believe we did whenever I  
9 left. But we did have them at some of the heads,  
10 the outby heads, six-foot belts.

11 Q. And up on the Glory Hole, did you have any  
12 problems up there with methane or any problems  
13 around there?

14 A. Just what would bleed I guess from up here  
15 would come down, you know, we would find like one  
16 percent or whatever around the Glory Hole.

17 MS. HAMPTON: And you just said  
18 "up here" and you pointed to the area  
19 where the old abandoned well was that you  
20 had mentioned earlier.

21 THE WITNESS: Yes. I'm sorry. I  
22 done that again.

23 Q. And did you all use belt air on the  
24 sections when you were there for ventilation?



1 Q. Do you know who he is?

2 A. Uh-huh. Actually, he went to mine foreman  
3 class whenever I was still there.

4 Q. Do you know how Massey kept track of, or  
5 UBB, they kept track of information about the  
6 various cards that miners and foremen would have?

7 A. Well, I don't know how they -- I know  
8 that -- and there was several of them took their  
9 mine foreman class whenever I was there. And we  
10 never kept none of the personnel files at the  
11 mines. They was all down at the --

12 Q. Marfork?

13 A. No, they was down at the safety  
14 department.

15 And when the, whoever, they would pass  
16 their test or get their dust cards or whatever it  
17 would be and I would tell them to make sure they  
18 take their, everything to the safety department so  
19 they can get a copy of it and put it in their file,  
20 because that's where they kept all the personnel  
21 files. We didn't keep none of that at the coal  
22 mine.

23 Q. So would that -- you know, we got a bunch  
24 of records from the mine.



1 takes a copy or goes down to the safety department  
2 and gives them a, so they can get a copy of his  
3 card put in his file. That was, you know, typical  
4 with everybody that took the mine foreman test or  
5 whatever it is, that's what I done.

6 Q. Sure. That makes sense.

7 And there was a card on file, and that was  
8 one where, it had his name on it, but the number  
9 belonged to somebody that took the exam and  
10 actually had the foreman's card, but he worked up  
11 in Marion County. And then he was transferred over  
12 to Slip Ridge in August --

13 A. That must have been after I left.

14 Q. -- 2009. Yeah, clearly. Yeah, it was.

15 And when he went there, he took a training  
16 class and used a different number, and it was the  
17 number of (b) (7)(C) .

18 Now we haven't seen any card that he  
19 gave.

20 Would Slip Ridge be under the same safety  
21 office, do you know?

22 A. No, it would be under Marfork.

23 Q. Okay.

24 A. Yeah. UBB would only use the one down at

1 the safety department.

2 Q. Okay.

3 A. When you come across the bridge there. I  
4 don't know if you've ever been up there or not.  
5 But it's right there when you cross the bridge,  
6 right there on the left.

7 Q. So do you have any idea --

8 A. Why somebody would do something like that?

9 Q. Right. Have you ever heard of that  
10 before, somebody using a phony card?

11 A. Yeah, I heard something about some guy  
12 done it at I think one of the other mines they had  
13 an explosion at. Is that right? Up at --

14 Q. Sago?

15 A. Yeah. Wasn't there somebody up there that  
16 was caught doing the same thing?

17 Q. That or maybe a related?

18 A. Yeah. That's pretty dumb on his part is  
19 my personal opinion, but it don't really matter my  
20 personal --

21 Q. When somebody would come to work at UBB  
22 when you were there as a red hat, when would they  
23 get their experienced miner training?

24 A. When or how?

1 Q. When is --

2 A. Usually they have to be there for -- well,  
3 it just depends on how much -- I think it says six  
4 months or 106 hours or something like that, and 106  
5 hours.

6 Q. But would they start to get trained --

7 A. Immediately?

8 Q. MSHA has got sort of a little yellow sheet  
9 that they have. Was that something that would  
10 start immediately?

11 A. We had a sheet, too, that we would fill  
12 out as they would, a lot of them would complete one  
13 thing and do this and that.

14 Q. So you keep track so that they would --

15 A. Uh-huh.

16 Q. -- go through all the requirements to get  
17 their experienced miner card?

18 A. Right.

19 MR. MCGINLEY: I don't have any  
20 other questions.

21 MR. KOERBER: Mr. Hodge, I don't  
22 know if I said this at the beginning.

23 I'll repeat it anyway.

24 We're telling everybody that,

1 we've interviewed over 250 people, and  
2 we're telling everybody that there's a  
3 potential we may recall certain people, so  
4 I want you to be aware that that's  
5 possible with you as well.

6 Also want to allow you at this  
7 point in time the opportunity to make any  
8 statement, clarify any answer you've  
9 given, add anything to anything you would  
10 like to add something to. The floor is  
11 yours.

12 THE WITNESS: No, I don't think I  
13 have got any questions. And as far as I  
14 think I have been truthful with you as I  
15 can be.

16 MR. KOERBER: Well, we appreciate  
17 that.

18 And we also want to thank you for  
19 appearing here today.

20 And at this time we'll go off the  
21 record.

22 (The interview of RICK HODGE  
23 concluded at 2:36 p.m.)  
24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Lisa Marie Short, a Notary Public and  
3 Certified Court Reporter within and for the State  
4 aforesaid, duly commissioned and qualified, do  
5 hereby certify that the interview of RICK HODGE  
6 was duly taken by me and before me at the time and  
7 place specified in the caption hereof.

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

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

20 My commission expires the 8th day of  
September 2018.

21 Given under my hand and seal this 11th day  
of January 2011.

22

23

24

-----  
Lisa Marie Short  
CCR  
Notary Public