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Transcript of the Testimony of Nathaniel Jeter

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
NATHANIEL JETER

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, July 14, 2010, beginning at 8:40 a.m.

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1 A P P E A R A N C E S

2

3 ROBERT S. WILSON, ESQUIRE

4 U.S. Department of Labor

5 Office of the Regional Solicitor

6 1100 Wilson Boulevard

7 22nd Floor West

8 Arlington, VA 22209-2247

9

10 ERIK SHERER

11 Mine Safety and Health Administration

12 1100 Wilson Boulevard

13 Arlington, VA 22209-3939

14

15 JOHN O'BRIEN

16 Safety Inspector

17 West Virginia Office of Miners'

18 Health, Safety and Training

19 Welch Regional Office

20 891 Stewart Street

21 Welch, WV 24801-2311

22

23

24

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TERRY FARLEY
West Virginia Office of Miners'
Health, Safety and Training
1615 Washington Street East
Charleston, WV 25311

PATRICK C. MCGINLEY
West Virginia Independent Investigation
West Virginia University College of Law
P.O. Box 6130
Morgantown, WV 26506-6130

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* Exhibit not attached

P R O C E E D I N G S

ATTORNEY WILSON:

Good morning. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an investigator with the Mine Safety and Health Administration. Also present are individuals with the State of West Virginia. Terry?

MR. FARLEY:

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

MR. O'BRIEN:

John O'Brien, with the West Virginia Office of Miners' Health, Safety and Training.

MR. MCGINLEY:

Patrick McGinley, with the Governor's independent investigation team.

ATTORNEY WILSON:

Today is July 14, 2010, and we're here to conduct an interview of Nathaniel Jeter. All members of the Mine Safety and Health Administration Accident Investigation Team and all members of the State of West Virginia Accident Investigation Teams shall keep confidential all information that is gathered from

1 each witness who voluntarily provides a statement
2 until witness statements are officially released.
3 MSHA and the State of West Virginia shall keep this
4 information confidential so that other ongoing
5 enforcement activities are not prejudiced or
6 jeopardized by a premature release of information.
7 This confidentiality requirement shall not preclude
8 investigation team members from sharing information
9 with each other or with other law enforcement
10 officials. Everyone's participation in this interview
11 constitutes their agreement to keep this information
12 confidential.

13 Mr. Jeter, government investigators and
14 specialists have been assigned to investigate the
15 conditions, the events and circumstances surrounding
16 the fatalities that occurred at the Upper Big Branch
17 Mine on April 5th, 2010. The investigation is being
18 conducted by MSHA pursuant to Section 103(a) of the
19 Federal Mine Safety and Health Act and by the West
20 Virginia Office of Miners' Health, Safety and
21 Training. We appreciate your assistance in this
22 investigation.

23 You may have an attorney or other
24 personal representative present with you. Do you have
25 an attorney or representative?

1 MR. JETER:

2 No, sir.

3 ATTORNEY WILSON:

4 Your statement today is completely

5 voluntary. You may refuse to answer any question, and

6 you may terminate your interview at any time. You may

7 also request a break at any time. This is not an

8 adversarial proceeding. Formal Cross Examination will

9 not be permitted. However, appropriate leading --- or

10 appropriate follow-up questions will be permitted.

11 Your identity and the content of this

12 conversation will be made public at the conclusion of

13 the interview process, and it may be included in a

14 public report of the accident, unless you request that

15 your identity remain confidential or if your

16 information would otherwise jeopardize a potential

17 criminal investigation. If you request us to keep

18 your identity confidential, we will do so to the

19 extent permitted by law. In other words, if a judge

20 orders us to turn over your identity or some other law

21 requires that we reveal your identity, we may do so.

22 Also, there may be a need to use the information that

23 you provide to us in other investigations or hearings

24 concerning the explosion. Do you understand your

25 right to request confidentiality?

1 MR. JETER:

2 Yes, sir.

3 ATTORNEY WILSON:

4 Do you have any questions about that?

5 MR. JETER:

6 No, sir.

7 ATTORNEY WILSON:

8 All right. After the investigation is

9 complete, MSHA will issue a public report detailing

10 the nature and the causes of the fatalities in the

11 hope that greater awareness about the causes of

12 accidents will reduce their occurrence in the future.

13 Information obtained through witness interviews is

14 frequently included in those reports. We will be

15 interviewing additional witnesses, so we ask that you

16 not discuss your testimony today with anyone outside

17 of this room.

18 MR. JETER:

19 Okay.

20 ATTORNEY WILSON:

21 A court reporter will be recording the

22 interview, so please speak loudly and clearly so that

23 she's able to take everything down.

24 MR. JETER:

25 Yes, sir.

1 ATTORNEY WILSON:

2 If you do not understand a question
3 asked, please ask that the question be rephrased.
4 Please answer each question as fully as you can,
5 including any information that you may have learned
6 from someone else. Again, I want to thank you in
7 advance for your appearance here today. Your
8 cooperation is critical in making the nation's mines
9 safer.

10 After we have finished asking questions,
11 we will provide you an opportunity to add anything
12 else that you think may be useful to the record. And
13 if at any time after this interview you think of any
14 additional information, you can contact Norman Page,
15 who is MSHA's lead accident investigator, and his
16 contact information in the letter that we provided to
17 you this morning.

18 Terry, is there anything you'd like to
19 add?

20 MR. FARLEY:

21 Yes. Mr. Jeter, on behalf of the Office
22 of Miners' Health, Safety and Training, we'd like to
23 advise you that the West Virginia Coal Mine Health and
24 Safety Regulations also provides protection for miners
25 against potential discrimination resulting from

1 participation in these interviews. I'm going to
2 provide you with some contact information, along with
3 my business card, should you experience any such
4 treatment. I'd also advise you that if you need to
5 file a claim, you need to do so within 30 days from
6 the time it happens. All right?

7 MR. JETER:

8 Yes, sir.

9 ATTORNEY WILSON:

10 Pat, is there anything that you wanted to
11 add before we get started?

12 MR. MCGINLEY:

13 Yeah. Just briefly, Mr. Jeter, we're all
14 here to try to find some answers to what happened ---
15 what caused the explosion. We've got families that
16 are looking to us, and so we appreciate you being here
17 and helping us to try to figure out what happened and
18 maybe prevent similar disasters in the future.

19 ATTORNEY WILSON:

20 All right. Mr. Jeter, if you'd face the
21 court reporter, she'll swear you in.

22 OFF RECORD DISCUSSION

23 -----

24 NATHANIEL JETER, HAVING FIRST BEEN DULY SWORN,
25 TESTIFIED AS FOLLOWS:

1 -----

2 ATTORNEY WILSON:

3 Would you please state your full name for
4 the record?

5 A. My name is Nathaniel Jeter.

6 ATTORNEY WILSON:

7 And can you state your address and
8 telephone number?

9 A. [REDACTED]

10 Phone number [REDACTED]

11 ATTORNEY WILSON:

12 And what's the ZIP code?

13 A. [REDACTED]

14 ATTORNEY WILSON:

15 Thank you. Terry, do you want to start
16 with the questioning?

17 MR. FARLEY:

18 Sure.

19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Mr. Jeter, have you been interviewed by anybody
22 else about the UBB explosion and accident?

23 A. No, sir.

24 Q. Are you currently employed anywhere?

25 A. Right now, yes, sir.

1 Q. Where are you working now?

2 A. I work at Beckley Auto Mall.

3 Q. Okay. Did you formerly work at the Performance
4 Coal Upper Big Branch Mine?

5 A. Yes, sir.

6 Q. Okay. Before I ask you any questions about UBB,
7 did you work --- when did you first start working in
8 the coal mines?

9 A. It was two-and-a-half years ago, which was March.

10 Q. Okay. How long did you work at UBB?

11 A. Two-and-a-half. Two-and-a-half years.

12 Q. Okay. All that two-and-a-half years was at UBB?

13 A. Yes, sir.

14 Q. Were you a contractor or were you a ---?

15 A. When I first --- excuse me. I didn't mean to cut
16 you off. When I first started I was a red hat, which
17 was a contractor.

18 Q. Okay. How long --- what contractor were you with?

19 A. I was with Stanley Consulting.

20 Q. Okay. How long were you with Stanley?

21 A. The formal 90 days and whatever, six months,
22 something like that.

23 Q. Okay. But before you became a Massey employee,
24 how long did you work for Stanley?

25 A. It had to be like --- well, it didn't take long

1 for me to get hired. It was like six months.

2 Q. Okay.

3 A. And then I did my 90-day trial, stuff like that.

4 Q. Okay. All right. Now, when you first started
5 with UBB, what was your job? What did they hire you
6 to do?

7 A. Dust man. I was a dust guy, plus supply section.

8 Q. Okay. Now, when you say dust guy, does that mean
9 you were responsible for rock dust?

10 A. Yes, sir, track dust.

11 Q. Okay. Now, was that for the entire mine?

12 A. Well, there was another crew besides myself, but
13 then as time went on, it became just me ---

14 Q. Just you?

15 A. --- for the whole mines.

16 Q. A lot of territory to cover?

17 A. Yes.

18 Q. Now, did anyone work with you on this dust crew?

19 A. When I first started, the gentleman's name was
20 Kelly Wallace.

21 Q. Kelly Wallace?

22 A. Yes, sir.

23 Q. Did you always have someone working with you on
24 the dust crew?

25 A. Yes, sir. When I was a red hat, yes, sir.

1 Q. Now, after you were no longer a red hat, did you
2 have a helper?

3 A. At that time, yes, sir, I did, and his --- God,
4 what was his name? Good Lord have mercy, I can't
5 remember that gentleman's name. But I wasn't by
6 myself.

7 Q. Okay. Now, you said you worked maybe
8 two-and-a-half years at UBB. When did you leave UBB?

9 A. It was probably --- I don't want to give out false
10 information. It was probably three weeks before the
11 explosion.

12 Q. Okay. All right. So you would have started at
13 UBB sometime, I guess, in 2007; is that about right?

14 A. Yes, sir.

15 Q. Okay. All right. Now, when you worked at UBB,
16 particularly this year, let's just stick with 2010,
17 who was your supervisor? Who was your boss?

18 A. My last boss' name was Gary May.

19 Q. Gary May, okay. Which shift did you work?

20 A. I worked graveyard shift, hoot owl.

21 Q. What time did you usually start?

22 A. We would have to be there at 10:30, be dressed and
23 ready to go underground at 11 o'clock.

24 Q. Okay. And was that a nine-hour shift or a
25 ten-hour shift?

1 A. It depends. If a belt would break, I would have
2 to go to the section and help them with the best
3 because I was the motorman at the time. I was outby.

4 Q. Okay. All right. Now, I guess as a motorman and
5 a person who does the --- operates the track miner
6 duster, you would have visited practically all
7 sections of the mine; is that fair?

8 A. Sometimes. It varies. If my superior told me I
9 had to go to a certain place, I would have to go
10 there, so ---.

11 Q. But how many days out of a workweek were you
12 actually rock dusting?

13 A. It wasn't every day. I'll tell you that. It was
14 not every day. Probably like three days out of a
15 workweek. If not, they have us doing something else,
16 setting timbers, building stoppings or supplying a
17 section. It varies.

18 Q. Okay. Now, we'll just stay with 2010 here.

19 A. Okay.

20 Q. So is it fair to say then that you might be rock
21 dusting about three days a week?

22 A. Yeah, something along that line. Yes, sir.

23 Q. Okay. Now, what kind of equipment --- what kind
24 of track-mounted rock dusting machine equipment did
25 you use? Do you remember? Can you describe it for

1 me?

2 A. Sure. It's a big track duster. It's orange, had
3 two pods on it, which was very faulty. I asked them a
4 long time ago, can they fix the equipment. It
5 wouldn't work.

6 Q. Okay.

7 A. Sometimes it would clog up, so we would have to
8 spend 30 minutes trying to unclog the hoses to get
9 dusted. Then it would clog up again.

10 Q. Okay.

11 A. Just it was faulty equipment, and nobody wouldn't
12 fix it.

13 Q. Okay. Now, how long was it in that condition?

14 A. It's been like that since I started.

15 Q. Two-and-a-half years?

16 A. Yes, sir.

17 Q. Now, when you had to unclog it, does that mean you
18 had to use some type of a stick or a bar, or how did
19 you go about that?

20 A. You have to separate the hoses and you have to
21 beat the dust out of the hoses.

22 Q. Okay. So the hoses would clog up?

23 A. Yes, sir, because there was not enough air
24 pressure to push the dust out.

25 Q. Okay. All right. Now, once you got them

1 unclogged, did they function okay then?

2 A. It functioned fine until the air pressure drops
3 down again.

4 Q. Okay.

5 A. So basically we would have to carry hand dust also
6 on a motor ---

7 Q. All right.

8 A. --- just in case, to play it safe.

9 Q. So if I'm reading you right here, this thing just
10 didn't have enough air pressure ---

11 A. No.

12 Q. --- to function right?

13 A. Right.

14 Q. Okay. Do you have any idea how many --- how much
15 rock dust your machine would hold?

16 A. It would hold two pallets of 40 bags.

17 Q. Two pallets of 40 bags?

18 A. Forty (40) pound bags, and it would be 40 one ach
19 pallet.

20 Q. It would be about a ton-and-a-half, wouldn't it,
21 maybe a little more?

22 A. I'm not good with math, but I'll go with what
23 you're saying.

24 Q. I'm not good at math either, but I'm just --- you
25 know, 40 --- 40-pound bags would be like 1,600 pounds.

1 So a pallet-and-a-half would get you easily a
2 ton-and-a-half. Okay. I think you already answered
3 the next question. The rock duster had hoses?

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

5 Q. It didn't have any sprays or anything mounted on
6 the machine?

7 A. It had sprays on the back when we would have to
8 spray the track like going down from the drift mouth
9 all the way down to almost the Glory Hole.

10 Q. Now, did the sprays work?

11 A. No.

12 Q. Any at all?

13 A. No. We would have to rig it up. And you want me
14 to explain to you what that is?

15 Q. Please.

16 A. I take my cutter, cut off two pieces of hoses, use
17 a T, which was supposed to be for the dusters, to
18 sprinkle the dust out. And we would run it to each
19 side, run the hoses off, what we would use, the
20 regular hand dust hose, and it would shoot each side
21 of the rib and the track and top. Again, the company
22 did not want to fix it.

23 Q. Okay. So you kind of had to engineer the thing a
24 little bit to get it to work?

25 A. Yes, I had to jimmy rig it.

1 Q. Okay. All right. I got you. Now, if you were
2 rock dusting an entire shift, about how many loads of
3 dust did you go through?

4 A. I would go through like almost three loads of dust
5 before I can even get to my goal. But then you have
6 to fight with --- you have your fire bosses coming in.
7 You got your electricians coming. So this whole track
8 is being used, so to try and get my shift done in an
9 orderly fashion, it's like going through traffic.

10 Q. Yeah. People coming and going and you starting
11 and stopping?

12 A. Every time.

13 Q. All right. I got it. Now, were you limited just
14 to the track or did you do conveyor belt lines, too?

15 A. I did the beltlines also as far as my hoses would
16 allow me to go.

17 Q. Okay. So how far into the belts could you usually
18 reach from the track? Could you reach --- would the
19 hoses reach far enough into the belt entry to go into
20 the belt entry?

21 A. Just --- we would have to go into each break and
22 it would reach the beltline, each break. But we would
23 have to drag the hose back the other way, hit another
24 break, stop, drag the other hose. That's how it would
25 go.

1 Q. Okay. Since you're traveling the track entries at
2 UBB, you probably know that they had a number of
3 airlock doors on their track; is that correct?

4 A. Yes.

5 Q. Were those track doors --- in what kind of
6 condition were they in?

7 A. Some of them were fair. Some of them were --- the
8 top was pretty much crush them out until they ---
9 built, but we would still go through them.

10 Q. Did they look ---?

11 A. Some.

12 Q. Some?

13 A. Some did, not all of them.

14 Q. Did it look like in some instances they had been
15 damaged by vehicle collisions with track-mounted
16 equipment?

17 A. No, I wouldn't say that.

18 Q. Were the doors also equipped with smaller man
19 doors for individuals to go through?

20 A. Yes, sir.

21 Q. Would it have been in all of the track doors or
22 just some of them?

23 A. Some of them, not all of them. Just some of them.

24 Q. Did any of the doors operate automatically,
25 mechanically, with a button to activate them?

1 A. On the track, but ---

2 Q. Yes.

3 A. --- if you're walking towards the section you have
4 to pull it by hand. Now, most of them on the track,
5 you would have to get out and open them. Now, with
6 the air pressure, if you're not careful, you can lose
7 some fingers.

8 Q. Okay. All right. They kind of ---

9 A. Yeah.

10 Q. --- slam up?

11 A. It would take some --- there was some doors on
12 after you go to the old Two section, if you would open
13 it --- it would take two of us to open it and to make
14 sure we was clear because when they close, they would
15 push you.

16 Q. Okay. As you travel in and out of the mine, how
17 would you encounter these doors? If maybe one or both
18 of these doors were left open ---?

19 A. You really want me to answer that?

20 Q. Please do.

21 A. If we're doing like the track, sometimes if an
22 electrician goes in there, he will leave the doors
23 open --- not an electrician, a fire boss. He'll leave
24 the doors open to do his run and come back. That way
25 he doesn't have to get off the Jeep to close it. So

1 when he's on his way out, then he wouldn't close the
2 doors.

3 Q. Okay. This fire boss, is that the guy who does
4 the fire boss exam every night before the midnight
5 shift or after it starts?

6 A. He would be on the midnight shift sometimes. I
7 don't even know if he's still working with the company
8 or not when I was working he would be on my shift.
9 And when I had to dust that section, I would have to
10 wait for him to come out in order for me to get in
11 there.

12 Q. So as he was traveling through the mines he would
13 leave doors open?

14 A. Well, on this particular section he would leave
15 this door open because he didn't want to have to get
16 out of the Jeep to close it.

17 Q. Okay. Now, which particular vehicles are you
18 talking about?

19 A. That would be the old Two section.

20 Q. Old Two section. Now, the old Two section, would
21 that be the ---?

22 A. The one by 78 Break.

23 Q. Okay. Would that have been where you turn left
24 and they drove the longwall tailgate entries? Is that
25 where the old Two section is?

1 A. No. That's the one --- that goes to the Glory
2 Hole, where you talk about turning left. The old Two
3 section, you keep straight. That 78 Break. This goes
4 to the glory Hole, but straight is the old Two
5 section.

6 Q. You'd go to your right to go to the Glory Hole?

7 A. Right, you go straight.

8 Q. And when you come to the left, this would be Two
9 section down through here, ---

10 A. Yes.

11 Q. --- where I've got my hand, ---

12 A. Yes, sir.

13 Q. --- okay, which eventually becomes the tailgate
14 for the longwall?

15 A. Right.

16 ATTORNEY WILSON:

17 Do you want to just use a highlighter and
18 just right here just write Number Two section? Is
19 that all right?

20 MR. FARLEY:

21 Sure, please.

22 ATTORNEY WILSON:

23 Just write along where you were referring
24 to just in large letters there Number Two.

25 A. Where ---?

1 ATTORNEY WILSON:

2 Yeah, just overtop of that.

3 A. Okay.

4 ATTORNEY WILSON:

5 You wrote three Number Twos.

6 A. Well, this is the Two sections going ---.

7 ATTORNEY WILSON:

8 Right. Just so, like I said, when people

9 are looking at the map we know ---

10 A. Okay.

11 ATTORNEY WILSON:

12 --- what you're referring to as the

13 Number Two sections.

14 BY ATTORNEY FARLEY:

15 Q. All right. We've got a fire boss who

16 intentionally leaves airlock doors open?

17 A. Just the laziness, I guess, of the person.

18 Q. Can you identify the person for me?

19 A. I never knew his name. Like I never really came

20 in contact with him. But he's not with the company

21 anymore anyway. They fired him because he wasn't

22 where he was supposed to be. He said he was doing

23 stuff and he was never there.

24 Q. Do you know when he was fired?

25 A. No, sir.

1 Q. Would it have been 2010?

2 A. No. This was ---.

3 Q. 2009?

4 A. This is when I was working. This was in '09.

5 Q. Okay. How long did this individual work for the
6 company? Do you recall?

7 A. He was with the company for about a year.

8 Q. Do you know why he was fired, besides leaving
9 doors open intentionally?

10 A. I couldn't really say other than the fact that
11 sometimes he would be asleep.

12 Q. Okay. That will do it every time. If you have
13 any of the individuals', please let me know, ---

14 A. Okay.

15 Q. --- even if you have to call us later. Now, back
16 on your rock dust equipment, the hose that you had, do
17 you remember approximately how long they were?

18 A. They were --- the longest I had was 250 feet.

19 Q. 250 feet?

20 A. And that would clog that out tremendously. It
21 would work for a few minutes, but when we go to say
22 like four more breaks and it was as bad move, so I
23 would have to drop down to 150.

24 Q. So the longer the hose, the more likely it's going
25 to clog?

1 A. Yes, sir.

2 Q. The more air pressure you would need?

3 A. Yes, sir.

4 Q. That's understandable. Is there any kind of a
5 bulk rock dust storage tank on the surface?

6 A. Yes.

7 Q. Did you ever use it to fill your duster?

8 A. All the time. If not, we'd have to break the pods
9 open and use two pallets of rock dust to fill it up by
10 hand.

11 Q. Okay. Now, other than this one fire boss who
12 apparently left doors open for his own convenience,
13 did you routinely see doors left open elsewhere
14 through the mine?

15 A. No, sir.

16 Q. Okay. Now, after this individual left, did you
17 see doors left open again?

18 A. No, sir.

19 Q. Okay. As you traveled through the mine, did you
20 visit any of the working sections? Did you spend any
21 time on the actual working sections?

22 A. Yes, sir.

23 Q. Which ones? Can you identify them for me, please?

24 A. The double doors, which is the new Two section,
25 which is the Glory Hole. I was there. We had to

1 build some stoppings over a track there with a man
2 door. We had to build a stopping there. And a couple
3 other places I've been to.

4 Q. Do you remember the last time you were in that
5 area you just mentioned?

6 A. Do you remember the last time you were in that
7 area you just mentioned?

8 A. The Glory Hole?

9 Q. Yes.

10 A. The last time I was there I was moving a power
11 box, which I was not trained for.

12 Q. Okay.

13 A. They had me on a motor and another gentleman and
14 two other guys on a motor, which the motor wasn't
15 working properly. I broke the trucks on it trying to
16 pull this power box out Number Two. It wasn't wrote
17 up on the board for me to do the Number Three. That
18 was not my job. That was the section crew's job. They
19 was supposed to pull it out.

20 Q. Okay. Now, this power box, were you supposed to
21 pull it on the track?

22 A. Yes, sir.

23 Q. Now, was it on a flatcar?

24 A. No, sir.

25 Q. Track-mounted equipment?

1 A. No, sir.

2 Q. You were just dragging it?

3 A. Dragging it with shearer rope and hooked up to my
4 motor.

5 Q. How far were you trying to take it?

6 A. Outside.

7 Q. Now, how large was the power box?

8 A. It was enough to run equipment. It wasn't real
9 big, but it wasn't small. It was a middle-sized one.

10 Q. It was wider than the motor you were using?

11 A. Yes.

12 Q. Was it higher than the motor you used?

13 A. I'm trying to go back into this.

14 Q. That's all right. Take your time. It's all
15 right.

16 A. No.

17 Q. Did it have wheels?

18 A. No.

19 Q. Just flat bottom?

20 A. Just a flat bottom.

21 Q. No skids or anything?

22 A. It had a --- it come with a skid already on it,
23 but it was a flat bottom.

24 Q. So you were just dragging it on the rails?

25 A. Yes.

1 Q. Did it make sparks?

2 A. Of course. But of course now the thing that was
3 bothering me, if I'm a dust guy, I'm not trained to
4 pull power equipment. I was placed in that position.
5 That's the thing that bothers me. And then when I
6 didn't get it out in time enough, that became a
7 problem. So I had a problem with Mr. Gary May. He
8 wrote me up for not doing my work, lack of work.
9 First off, the track wasn't --- it wasn't even fire
10 bossed to make sure everything was safe. I did not
11 have a rescue ride just in case something happened.

12 Q. Was somebody with you when you moved this power
13 center?

14 A. Yes. There was three other gentlemen with me.

15 Q. Do you remember how they were?

16 A. Oh, God. It was three guys from Sean Walker's
17 crew.

18 Q. Sean Walker, was he ---?

19 A. He was the supervisor for hoot owl until we got
20 somebody that could help him out. He was the
21 supervisor when he pulled out the power center.

22 Q. You don't remember who was with you?

23 A. No.

24 Q. If I got you right, you were in the Glory Hole?

25 A. Yeah. It was 132 Break. That was where the

1 double doors are. That's the end of the track.

2 Q. Now, when you say you took it to the surface, did
3 you go out --- which portal did you go out?

4 A. Do you mean outside?

5 Q. Yes. Did you go out Ellis or UBB?

6 A. I never made it outside. I made it as far as to
7 the Old Two section where it splits off at, where if
8 you go straight it goes to the Glory Hole.

9 Q. Okay. So you got down around 78 with it?

10 A. No. I never made it to 78. You've got two
11 places. You've got 78 and --- all right. This is 78
12 here?

13 Q. Right.

14 A. You keep going down. Let's see if I can get this
15 right here. Let me get this right. All right. The
16 Glory Hole, you go through 78. Okay. I keep going
17 --- okay. Now, 78 goes to the Glory Hole. If you
18 keep going straight, Two section, it makes another
19 turn. You still got a ways to go because you actually
20 get to the Two section area. If you go straight
21 there's the Glory Hole right there. So I never made
22 it to the first mouth of the Two section because you
23 pass the mother drive before you get to 78 Break.

24 Q. Right.

25 A. Okay. So I never made it past the first part of

1 where it connects from the Glory Hole to the Two
2 section.

3 Q. Okay.

4 A. I made it as far as, like I said, 132 Break and my
5 truck broke. So the only thing was the front because
6 at the time all those curves, the motor couldn't take
7 it.

8 Q. So if your truck broke, you got a motor and power
9 box broke down on the track?

10 A. Right.

11 Q. Okay. Now, at that point did somebody come to
12 help you and ---?

13 A. No. Eventually we had to pull the motor. I had
14 to unhook and they had to pull that power center back
15 to where we got it from.

16 Q. Now, I guess you had to tow the motor off the
17 truck?

18 A. Well, with nothing being pulled on it, you could
19 still drive it if the front trucks were working. But
20 the back trucks broke because it's a four-wheel drive.
21 So at that particular time, after I didn't get the
22 task done, I wasn't capable of doing my job.

23 Q. Okay. So you were written up for --- because the
24 trucks broke?

25 A. No. I was written up for lack of work.

1 Q. All right. But the trucks broke?

2 A. Right.

3 Q. Which would have prevented you from going in any
4 farther?

5 A. Yes, sir.

6 Q. Now, if the trucks hadn't broke, how far do you
7 think you would have gotten with it?

8 A. If we'd have kept tugging on it, I would have
9 eventually got it outside. But it was just hard
10 trying to get it around those curves when you've got
11 the lip of the power box going into the track.

12 Q. Right. It's not really designed to be transported
13 in that manner.

14 A. Well, I wasn't trained for it, and I was just
15 doing what they asked me to do. See, I didn't know it
16 would get me in a lot of hot water. What I learned
17 from the other guys is that, well, if it's not wrote
18 up on the board on there, you're not supposed to be
19 pulling it. It was just a mess.

20 Q. Meaning an equipment move?

21 A. Right. It's supposed to be on the board when
22 you're doing an equipment move.

23 Q. All right. Now, can you give me a date and a time
24 --- can you give me --- tell me, approximately, when
25 you tried to do this?

1 A. This is on my shift, which I got underground and I
2 got to where I needed to get to around about 12:45
3 exactly.

4 Q. All right. Now, was that 2010?

5 A. No. That was the middle of '09.

6 Q. June? July?

7 A. It had to be --- it was still cold at that time.
8 It was still cold.

9 Q. Okay. So when you say still cold, does that mean
10 it's early in 2009?

11 A. Yeah. It was still cold at that time.

12 Q. But you don't remember who was working you on
13 that?

14 A. No, sir. No.

15 Q. Okay. All right.

16 EXAMINATION

17 BY ATTORNEY SHERER:

18 Q. Mr. Jeter, ---

19 A. Yes, sir.

20 Q. --- when you were trying to pull that power box,
21 who asked you to do that? Do you recall?

22 A. It was wrote on the board, and I guess that came
23 from Gary May, that we needed to pull the power box.

24 Q. Okay. And you indicated that he got on you
25 because you didn't pull it all the way out of the

1 mine?

2 A. No. Sean Walker started mouthing off because I
3 didn't get it out, started complaining, well, you
4 know, I couldn't do my job and stuff like that. If
5 I'm not trained properly to pull a power center, how
6 do you expect me to get it out?

7 Q. Sure. And did Gary May get on you at some later
8 time about that?

9 A. Eventually he just started letting stuff build up
10 because I was complaining about safety issues, and he
11 didn't like that. He wanted me to be a go-getter, no
12 matter what it took to get the job done, and I wasn't
13 for that.

14 Q. Now, in your training at this mine, had they ever
15 gone over miners' rights?

16 A. No. That came at a later date. They came with a
17 handbook. Because the whole time I was there with the
18 company I didn't see these handbooks and these rights
19 that we had.

20 Q. Have you filed a 105(c) complaint?

21 A. Have I? No, sir.

22 Q. Thank you.

23 A. Uh-huh (yes).

24 Q. When you were rock dusting, you mentioned you
25 would dust down the track entries. Were any of those

1 track entries connected to the belt entry?

2 A. The breaks you mean?

3 Q. Yes.

4 A. Yes, sir.

5 Q. So as you went along and dusted the track, you
6 dusted the belt?

7 A. One night we was dusting the track line. But if
8 the beltline needed to be dusted, they would focus on
9 the beltline and nothing else.

10 Q. So you had to --- did you use the hoses to dust
11 the beltlines?

12 A. Yes, sir.

13 Q. So they weren't common with the track entries?

14 A. No.

15 Q. There were stoppings between the belt entries and
16 track entries?

17 A. Some places you would have to find man doors.
18 Now, like on the longwall, there's five breaks then
19 there's a man door. So you would have to travel down
20 the track five breaks, then you'd go to a man door and
21 hopefully with the air the dust would get down to
22 where it needed to get to. So you would have to stand
23 in there about 5 to 15 minutes to let that air travel
24 that dust down the beltline.

25 Q. Okay. Now, have you ever figured out how much ---

1 what the distance was from the portal where the belt
2 dumped --- or it went out of the mine back to say the
3 longwall? Do you know what that distance is, roughly?

4 A. (Indicates no).

5 Q. Okay. Could you ---?

6 MR. MCGINLEY:

7 Excuse me. For the record, you have to
8 say yes or no.

9 A. No, sir. I'm sorry.

10 BY MR. SHERER:

11 Q. In a week's time, were you able to dust that
12 entire beltline?

13 A. Not really. Not really. Not really.

14 Q. Okay. Did you get any instructions on where to
15 dust on that beltline and where not to?

16 A. No. They'd just tell me. If they needed the
17 beltline dusted, they'd say, do the longwall beltline,
18 and I would go as far as my hoses would allow me to
19 go.

20 Q. Okay. Now, when you took your hoses through the
21 man door to dust the beltline, did most of the dust
22 get all along the beltline or was it just around the
23 end of the hose?

24 A. No. It would get to where it needed to get to.

25 Like it would go on the other side of the belt. It's

1 wherever you pointed at, it would get there. But as
2 far as like distance-wise, if it's not enough air
3 pressure, it wouldn't do what it was supposed to do.

4 Q. Okay. So you weren't able to get the entire
5 length of the belt?

6 A. Right.

7 Q. Just because of the equipment you were using?

8 A. Yes, sir.

9 Q. Now, what about further out, away --- I understand
10 there was a lot of air current up around the longwall,
11 a lot of ventilation there.

12 A. Uh-huh (yes).

13 Q. What about further outby, was it harder to dust
14 the belt out --- the further out you got?

15 A. It depends on the track. Some of the track was
16 pretty --- it wasn't stable.

17 Q. Okay.

18 A. And it would derail us sometimes.

19 Q. Oh, okay.

20 A. So that played a part in it also.

21 Q. Okay. Let me ask you, did you ever get --- so
22 you're dusting the track entry as you're going along?

23 A. Uh-huh (yes).

24 Q. You're dusting the belt as you take the hoses into
25 those entries through the man doors. Were there any

1 blocks knocked out that you could put the hose
2 through?

3 A. No, sir.

4 Q. Okay. So you just went through the man doors?

5 A. There was man doors and then there was openings to
6 where there was no stoppings or anything like that.
7 You can actually go through an actual break and get to
8 the beltline.

9 Q. Okay. So it was common at that point?

10 A. Yes, sir.

11 Q. How many --- just on average, how many breaks
12 would it be common like that?

13 A. On the track entry?

14 Q. Uh-huh (yes).

15 A. You can go down at least about --- I would say
16 nine breaks. There would be openings where you can
17 get through. Some have curtains, but then other ones
18 just have --- they're just open. You can just walk
19 right through them and get to the beltline.

20 Q. So most of them were open along there?

21 A. Yes, sir.

22 Q. Now, did you ever get off outside of the track
23 entry or the belt entry to say the returns or the
24 intakes? Did you get back there and dust?

25 A. When you say --- when you say that, I'm not ---.

1 Q. Oh, okay. Let's look at one of them here. Get
2 out on the main line. Let's see. Here's the belt
3 entry, ---

4 A. Right here. Okay.

5 Q. --- this red one.

6 A. Uh-huh (yes).

7 Q. And I'm looking at the Number Five North belt
8 area. The yellow entry is the track entry?

9 A. Right.

10 Q. So here we've got a --- between --- if you're
11 going --- as you're facing inby in the mine ---

12 A. Uh-huh (yes).

13 Q. --- to the right you go through another set of
14 stoppings and you got an intake?

15 A. No. We would have to do that by hand. We
16 wouldn't go over there with the duster. Sometimes we
17 would. Not all the times. Because like I said, our
18 duster was --- it was messed up. It was jacked up
19 pretty badly.

20 Q. Sure.

21 A. So they would focus on the beltline and track
22 entry.

23 Q. Sure. So you'd have to hand dust this intake?

24 A. Yes, or they would go over there with a scoop and
25 hook up the flinger ---

1 Q. Oh, okay.

2 A. --- to the scoop and go in there and dust that.

3 Q. Who would do that with the scoop?

4 A. It would be any boss on that shift that would have
5 to do it, but it would be on an earlier shift.

6 Q. Okay. Now, there's another set of stoppings and
7 you go through those and there's two returns over
8 there. Did you ever get back there?

9 A. No, sir.

10 Q. Never got in the returns? Okay. Now, on the belt
11 entry here, as you're facing inby, if you go back to
12 the left there's another set of stoppings and there
13 --- it looks like --- it's a neutral, so some of these
14 stoppings are out. There's another neutral entry over
15 to the right of the beltline. Did you ever get back
16 there?

17 A. Never been back there before.

18 Q. Okay. How about these parallel north mains, no
19 track. It's your intakes.

20 A. No. We would hand dust that. They would have us
21 walk the had dust over there.

22 Q. Okay. How much of that hand dusting did you guys
23 do?

24 A. Whichever could fit on a motor, we would take it
25 in sometime on a motor or either on a flatcar. We

1 would take about three pallets with a flatcar, and it
2 would be about three of us.

3 Q. Okay. So three guys and toting dust over, how
4 many breaks did it take to get over there?

5 A. To get to where we had to dust at?

6 Q. Sure.

7 A. I didn't really count. It was a long walk.

8 Q. It was a long walk, okay. How often would you do
9 that?

10 A. Whenever they needed it done.

11 Q. Okay. And who would tell you?

12 A. Well, sometimes it would never be told to us.
13 We'd have to go check on the board. Like we would
14 have to go upstairs to see what was needed to be done
15 at that night, and we would check up on the board.
16 Because my superior at night, he has to do other
17 things, so we have to check the board to see what we
18 have to do.

19 Q. Okay. Do you know who wrote that on the board?

20 A. No.

21 Q. Okay. How often would you get instructions either
22 verbally or on the whiteboard to go over and do those
23 entries?

24 A. It was like every now and then. If not, Mr.
25 Walker would have something for us to do. If it's not

1 taking out trash, we would be shoveling, ---

2 Q. Okay.

3 A. --- cleaning the belt heads out.

4 Q. So you guys are pretty busy?

5 A. Yes, sir.

6 Q. Now, when you're over in those off entries, away
7 from the belt and the track, what condition were they
8 in? Do you recall? Were they in good, clean shape?
9 You could walk along them pretty easy?

10 A. No, sir.

11 Q. What were they?

12 A. Some of the tracks --- from them putting water on
13 the belt, some of them was pretty wet. Some of the
14 track you couldn't see. Like sometimes it would bow
15 down and you couldn't see the track.

16 Q. Okay. What about just walking over there and
17 carrying those bags of rock dust, was that good
18 walking?

19 A. It was very hazardous. It was not to where so you
20 can walk. You would have to watch your step and make
21 sure, you know, you don't tear up your ankle, like I
22 did, but ---.

23 Q. Were there a lot of draw rock on the floor?

24 A. Yes, sir. From fall from the top. From it
25 falling from the top.

1 Q. Okay. What about just the condition of the dust
2 over there, did you ever get back there and find it
3 gray?

4 A. Sometimes it would be gray, and we'd just put more
5 dust --- make fresh dust, yes.

6 Q. Sure. How about black, did you ever find any
7 black dust back there?

8 A. Sometimes, yes.

9 Q. How often was that?

10 A. It wasn't every day. It was like every now and
11 then you would see that. but they had somebody else
12 doing it besides me at the time. Who was ever working
13 on that section, they would hand dust.

14 Q. Okay. So they'd hand dust near the working
15 sections?

16 A. Uh-huh (yes).

17 Q. What about back in the main north, coming into the
18 mine, who dusted?

19 A. The drift mouth?

20 Q. Yeah. Uh-huh (yes).

21 Q. Well, it was told to me when I got shifted over to
22 hoot owl that I couldn't dust on production anymore.
23 I would have to dust when production wasn't running.
24 So if you guys would show up or anybody, they get a
25 tip, Gary May would take the duster and motor and he

1 would go dust the whole drift mouth.

2 Q. So Gary May would dust the drift mouth but just
3 when inspectors showed up?

4 A. Sometimes. It depends. If not, I'm back to my
5 normal duties, hoot owl, dusting the whole mines by
6 myself. We would go over the south side, which is a
7 dangerous part for me. I don't like it because the
8 track goes down. And at that particular time I had a
9 motor with no dust --- no sanders in it, and we was
10 out of sand for approximately three weeks. They
11 couldn't get no sand. So Mr. Gary May decided to take
12 it upon himself, he wanted me to go down there to the
13 south side, which is --- I'm trying to get this right.
14 You go up ---.

15 Q. Here's probably a better map. This is --- this
16 map up on the board is the entire mine.

17 A. Okay.

18 Q. And here's the UBB portals.

19 A. All right. The south side, you would make a left.
20 That would be either east main or north main?

21 Q. Uh-huh (yes).

22 A. Okay. There's a hill. It's a dangerous hill.
23 This is how much section you've got from my top to the
24 actual height of it itself, and he wanted me to go
25 down there and dust to that, the beltline at --- where

1 the rocks drop on that. He wanted me to dust there.
2 I told him I don't think it's safe because I don't
3 have no sanders in there. He said, well, I did it.
4 Why is there a problem with you doing it? I was never
5 trained on a motor to run it. I trained myself by
6 watching when I was working with Kelly Wallace.

7 Q. You were never trained ---?

8 A. No, I wasn't task trained on a motor, sir.

9 Q. Okay. Did you ever have a motor run away when you
10 were operating it?

11 A. Yes, sir, I sure did.

12 Q. Did it derail?

13 A. No, but it derailed the mantrip. What happened
14 was my respirator got caught onto the brake, and when
15 I went to go try and jump back on it, it slid down a
16 hill and it dropped off all my supplies and everything
17 else. And I thought I had killed the guy I was
18 working with. He was on the rib, laughing. I was
19 scared to death because that was my first time
20 actually driving a motor by myself.

21 Q. So that was your task training?

22 A. Well, basically.

23 Q. Okay. Let me ask you a general question.

24 A. Sure.

25 Q. This is an opinion, but you're probably one of the

1 best qualified to render this opinion. Do you think
2 the rock dust was adequate throughout this mine?

3 A. Do I think it helped it?

4 Q. No. Was it adequate? Was it --- was there enough
5 rock dust applied to stop the propagation of an
6 explosion?

7 A. You want my honest opinion?

8 Q. I certainly ---.

9 A. No.

10 Q. Okay. And why do you say that?

11 A. Because the equipment that I was using, it was not
12 getting to where it needed to get to properly. I took
13 my rock dusting very seriously.

14 Q. Sure.

15 A. When they asked me to do my job, I did it to the
16 best of my abilities. If I felt the track was not
17 safe to where I could get to where I needed to get to,
18 I let my superior know. If he had a problem with
19 that, then I'd go someplace else, get me a Jeep, fill
20 it up with a bunch of hand dust and go get to where I
21 got to get to. Whether it's me losing my job or
22 whatever it takes me to be, so be it.

23 Q. Okay. Do you know approximately how many people
24 worked at this mine? Would it be a couple hundred
25 possibly?

1 A. I couldn't even count, to be honest with you. But
2 I know on our shift it was 30 guys.

3 Q. Okay. Thirty (30) guys on the hoot owl, which is
4 primarily maintenance. I think the official number on
5 the --- around the time of the explosion was about
6 168. Does that sound about right?

7 A. It may, but I --- I don't know for sure.

8 Q. Okay. So would you say this is a large,
9 high-production mine?

10 A. Yes.

11 Q. So this large, high-production mine had one crew
12 that was basically responsible for rock dust?

13 A. Yes.

14 Q. Of the time that you guys worked, approximately
15 how much time was spent on rock dust versus the other
16 work you mentioned, the hauling supplies, shoveling
17 belt?

18 A. Taking out trash.

19 Q. Taking out trash.

20 A. It would usually be our whole shift. If they had
21 something for us to do out of rock dusting, it would
22 be the whole shift. If we had to move a piece of
23 equipment or if we had to fix a belt or shall I say
24 where we had to take out a roller because of one of
25 the belts, the roller --- the bearings went out on it,

1 so we had to take that out, that took about the whole
2 shift. If not, it went on to the wee morning hours.

3 Q. Would you say that you applied rock dust half the
4 time?

5 A. Yes.

6 Q. About half the time you'd dust, half the time you
7 did these other things?

8 A. Right.

9 Q. How many days a week did you guys work?

10 A. Seven days a week.

11 Q. Seven days a week. So approximately
12 three-and-a-half days a week you'd apply rock dust,
13 three-and-a-half days you'd do other work?

14 A. Other work, yes.

15 Q. Just on average. Some of the time you could ---
16 and some of the entries you could rock dust with
17 equipment?

18 A. Right.

19 Q. Some of the entries you had to carry dust by hand?

20 A. Some, yes, sir.

21 Q. And some parts of the mine you said you couldn't
22 operate the motor in and rock dust, so you had to dust
23 that by hand?

24 A. Right.

25 Q. Okay. Thank you.

1 A. Yes, sir.

2 Q. This fire boss that was fired on the old Two
3 section, could you describe him physically? Was he
4 older, younger?

5 A. Old. Old.

6 Q. Old guy.

7 A. Snow white hair.

8 Q. Snow white hair. Big guy? Little guy?

9 A. Yes, sir, big guy.

10 Q. Big guy. Did he have a nickname?

11 A. No, sir.

12 Q. Did he have any distinguishing physical
13 characteristics? Wear glasses?

14 A. He had droopy cheeks. That was about it. But he
15 never wore glasses.

16 Q. Okay. Have a beard, moustache, anything like
17 that?

18 A. Yeah, he had a beard.

19 Q. Okay. A white beard?

20 A. Yes, sir.

21 Q. Okay. Thank you. So you mentioned that when the
22 inspectors were coming, Gary May would dust certain
23 parts of the mine?

24 A. When he knew we had company come by, the entries,
25 like the drift mouth and stuff like that on either

1 parts of the mine, would be dusted. And I would be
2 wondering, how did this get white because I don't
3 remember dusting this. And I'd hear from one of the
4 guys that Gary May or either one of his guys that he
5 had on his team dusted the drift mouth, which I was
6 supposed to be doing on my shift. But they tell me
7 that I can't do it with production running. Well, how
8 did it get dusted?

9 Q. That's a good question. What about other parts of
10 the mine, the production sections and such, did
11 somebody call in that inspectors were on the property?

12 A. Yes, sir.

13 Q. How common was that?

14 A. That was pretty common.

15 Q. Okay.

16 A. I thought it was just regular routine. So we all
17 need to get in ship shape and stuff like that. And
18 you know, I didn't know they was not supposed to be
19 doing that.

20 Q. Sure. So when inspectors were on the property,
21 the rock dust was flying and the curtain was going up?

22 A. Well, the curtains was up. I was already on my
23 post, doing what I needed to do. But if you all
24 decided to come by in the morning or if they got wind
25 of it, oh, everything is just nice, just --- I'm like,

1 wait a minute. I'm supposed to be doing this. How
2 did this get done? And again, like I said, they say I
3 can't dust when production is running. So how is it
4 getting done?

5 Q. Did you ever hear people complaining about not
6 having enough air or having low air on the various
7 sections?

8 A. No.

9 Q. Okay. Did you ever question the amount of
10 ventilation in the mine?

11 A. No, because I thought it was safe when I worked
12 there.

13 Q. Okay. Were you ever involved in ventilation
14 changes?

15 A. Just building stoppings.

16 Q. Okay. When you were building those stoppings ---
17 well, did you ever knock out any stoppings?

18 A. No.

19 Q. Okay. When you were building those stoppings,
20 were miners working inby?

21 A. No. No, sir.

22 Q. Okay. And you say that normally they ran with
23 ventilation curtains at this mine?

24 A. Certain areas that I've been along, like over
25 there at the Ellis section, over there, where they was

1 building another section, down part of it there's a
2 curtain that's just --- it's an old curtain and
3 there's a lot of water up under there. You would just
4 have to go through the curtain and dust that beltline.

5 Q. Okay. Did you ever hear about methane monitors
6 being bridged out or covering up the sniffer with a
7 bag or anything like that?

8 A. I got wind of that. I thought they was just
9 clowning around and stuff like that. It went in one
10 ear and out the other because you can't really believe
11 everything you hear ---

12 Q. Sure.

13 A. --- in the mines.

14 Q. Okay. But you have heard that?

15 A. Yes, sir.

16 Q. Any particular section or place?

17 A. No, not --- not to my recollection, no, sir.

18 Q. Now, you say that you had some valid safety
19 concerns, ---

20 A. Uh-huh (yes).

21 Q. --- particularly with the motors, with your
22 training, with the sanders?

23 A. The problem was I talked too much. The S1 is
24 supposed to mean safety first. Okay. That's what I
25 thought.

1 Q. Sure.

2 A. You give me a duster that's supposed to work
3 properly. If you want me to do my job properly, I
4 need equipment that works properly. If I come to you
5 and say, look, my duster is not working, we need to
6 get it fixed, please don't blow me off. Because if
7 something happens, they're going to be looking at me,
8 well, why this didn't get done and such and such and
9 such. My duster ain't working. I get this, well,
10 that ain't no excuse. I got that all the time.

11 Q. So you had valid safety concerns?

12 A. Yes, sir.

13 Q. And you expressed those concerns to your ---

14 A. Superiors.

15 Q. --- superiors?

16 A. Yes, sir.

17 Q. And they blew you off?

18 A. Right.

19 Q. Do you think that you suffered retaliation because
20 of those valid safety concerns?

21 A. Sometimes I think I do.

22 Q. Okay. Do you know if anybody else had problems
23 like that?

24 A. A couple other guys that was running that duster
25 because I started working on the section. But in the

1 mines that I was in, you have cliques. And if you're
2 real good with the boss and stuff like that, you can
3 get off certain stuff ---

4 Q. Sure.

5 A. --- and get put back to where you need to be. So
6 that left me back on the duster again. So again,
7 there was a problem with that. And it started getting
8 worse. Your indicators wasn't working to let you know
9 how much air pressure you had. You had to guess.
10 Sometimes it took them approximately a year before
11 they could get the dust off the track. What I mean by
12 that, it was too low to the ground. So certain
13 sections you would go to, if your track bows down, ---

14 Q. Yeah, the bottom.

15 A. --- your dust is sitting like this. So when you
16 do release it, your draw heads come back together. So
17 you've got the motor and a duster like this. So when
18 they release, hang on.

19 Q. Sure.

20 A. So it would drop you something nice, so ---.

21 Q. I can imagine.

22 A. They lifted up two inches off the ground. Took me
23 about a year to get that done. Then that still became
24 a problem because it was higher than the motor. So I
25 couldn't see over the duster. So sometimes you can

1 put the duster in certain places where you can
2 actually see where you're going. Then if you're going
3 inby with the duster on your motor, you can't really
4 see. So when you're dusting and your air is going
5 outby, you're eating the dust.

6 Q. Oh, jeez.

7 A. So it was --- the communication wasn't there. I
8 complained too much.

9 Q. Sure. Mr. Jeter, ---

10 A. Yes, sir.

11 Q. --- from where I'm sitting, you were probably one
12 of the most important people in this mine, putting out
13 this rock dust. I mean, rock dust is something we
14 don't think about much until we have one of these
15 accidents. And do you feel like you were getting the
16 support you needed to do your job?

17 A. No, sir. And you can put that on record. No.

18 Q. Okay.

19 A. I feel as though if I was getting the support, me,
20 personally, I don't think this accident would have
21 even took place. I would still have a job.

22 Q. Okay. And what happened to your job? Would you
23 mind explaining that to us?

24 A. Sure. I was parked in a break one day. I had a
25 red hat with me at the time. My red hat was tired.

1 We just got finished loading a flatcar full of trash,
2 metal and everything else that needed to go outside,
3 so it was time for us to end our shift. So I pulled
4 over and --- forgot which curtain it was. Wait a
5 minute. Hold on. It's before you get to the doors at
6 --- what break is that? It's over there by Four
7 North. I don't remember the name of that break.

8 Q. Okay.

9 A. Ellis Five or Four North, where it splits off at.
10 Okay. We was in one of the breaks there, waiting for
11 the crews to come in. So my guy was asleep, so the
12 supervisor, which was the vice-president, he was
13 underground that day, so he pulled up and said, what
14 you all doing over here asleep? I said, I was not
15 asleep. I'm waiting for the crews to come in so I can
16 get outside. My helper is asleep. So we --- me, him
17 and Gary May did not get along. So he said, well, you
18 report to Gary May. So I went upstairs and said, Gary
19 May, you heard what happened; right? He said, yeah.
20 You're suspended. And he fired my red hat. Okay. No
21 problem. I get to the bath house, go to change my
22 clothes, he called me back upstairs. He said, you're
23 suspended for three days upon an investigation. So he
24 said, call me Wednesday, and we'll set up a meeting.
25 Wednesday I called. The person that accused me of

1 being asleep was not in the meeting. The safety
2 director was in the meeting and Gary May was there.
3 He said, well, this is from higher-ups. I got to let
4 you go, you're fired. I said, I'm fired for something
5 I didn't do? I said, you can give me some type of
6 probation or something. I didn't do anything. I
7 don't mind taking that. But to fire me ---. He said,
8 well, this is from higher-ups. It was a personal
9 issue between me and him. Come to find out the red
10 hat that was fired was hired back. His record was
11 clean. So it was a personal issue.

12 Q. Okay.

13 A. And that's the way I took it. And I'm going to
14 stand by that.

15 Q. Sure. So you were basically waiting to get the
16 track?

17 A. Uh-huh (yes). My guy was tired. He was asleep,
18 so I'm sitting there on my motor.

19 Q. Sure.

20 A. And the vice-president pull up. He said, what you
21 all doing over here asleep. I said, I was not asleep.
22 I'm waiting for you guys to pass by. He said, yeah,
23 you were asleep and the switch was thrown. Now, I had
24 three other mantrips pass by me. If that switch was
25 thrown, the first mantrip to pass by me would have

1 slammed into my motor, no questions asked, so ---.

2 Q. Did you have any recourse on that firing?

3 A. What do you mean?

4 Q. Were you able to ask for an investigation or file
5 a complaint about it?

6 A. No. I talked to --- who did I talk to? I talked
7 to --- I forgot the gentleman's name. A short
8 gentleman. God, Lord, I forgot his name. But anyway,
9 I talked to him. He said, well, you know, we just
10 have to see how this plays out because, you know, you
11 being accused of asleep is something serious. I said,
12 but I was not asleep. He said, well, you know, you
13 just have to see how this plays out. There was no
14 investigation on it or anything like that. It was
15 just --- to me, personally, it was because I knew
16 about all the safety issues, and they were not meeting
17 what they were supposed to meet.

18 If you're on a section and you want me to dust a
19 section and your track sits about as high as my
20 stomach and you want me to go over that and you all
21 got crib blocks up under it and half headers, if that
22 motor and my duster decides to T over that track and
23 it snaps, ain't no trying to get air bags and put it
24 back on the track. I'm going to hurt myself, and I'll
25 wind up killing my red hat, ---

1 Q. Sure.

2 A. --- which nobody understands a red hat is a
3 critical person down there. I have to watch over him
4 like if he's my son because he plays an important
5 role. If something happens to him, I'm in trouble. I
6 get fired.

7 Q. Well, we don't want you to kill anybody.

8 A. No. And that was the problem there. Nobody
9 wanted to listen. Nobody took that seriously.

10 Q. Okay. Now, after you were fired --- you said it
11 was about three weeks before the explosion.

12 A. Uh-huh (yes).

13 Q. Do you know if they replaced you and your red hat?

14 A. Well, the red hat was still dusting. He was on
15 the section for a little while because the person I
16 used to ride with, his name is Rodney Osborne, he told
17 me.

18 Q. So the red hat went on the section for ---?

19 A. A little while, then he wound up getting back on
20 the duster. They put him back on the duster.

21 Q. Did they have somebody else, a black hat, to run
22 the duster?

23 A. I'm not sure because I wasn't there. I was only
24 going by what my buddy was telling me, that he was
25 back on the duster.

1 Q. Okay. So you were having trouble keeping up with
2 dusting the mine; ---

3 A. Uh-huh (yes).

4 Q. --- is that a fair statement?

5 A. Yes.

6 Q. And you were fired, so they had to get a new crew
7 to dust. Do you think that they were able to do as
8 much as you guys had been doing?

9 A. No.

10 Q. Okay. Thank you.

11 MR. SHERER:

12 That's all the questions I've got.

13 MR. FARLEY:

14 Who was the red hat?

15 A. His name was Dustin. I don't know his last name.

16 MR. FARLEY:

17 Could it have been Ross, Dustin Ross?

18 A. Okay. It could have been. He's a younger
19 gentleman, a young boy. Drives a red F150.

20 MR. SHERER:

21 That's about half the population of
22 Beckley.

23 A. He was 18. I don't know if he had a birthday
24 already, but when he was working with me he was 18
25 years old.

1 ATTORNEY WILSON:

2 Who was the vice-president that accused
3 you of sleeping?

4 A. That person, I never really remembered his name,
5 but he replaced --- oh, God.

6 MR. SHERER:

7 Could it be Jason Whitehead?

8 A. Yes. He replaced Jason. He replaced ---. Is
9 that the vice-president's name? He was an older
10 gentleman. He wasn't real old, but he was ---.

11 MR. FARLEY:

12 Persinger? Wayne? Wayne Persinger?

13 A. The name sounds familiar, but whoever --- he was
14 with Gary May at the time. Gary May know he is. He
15 know the vice-president.

16 ATTORNEY WILSON:

17 Are you doing okay or do you want to take
18 a break?

19 A. Oh, no, I'm fine.

20 ATTORNEY WILSON:

21 Okay. Pat?

22 EXAMINATION

23 BY MR. MCGINLEY:

24 Q. Mr. Jeter, ---

25 A. Yes, sir.

1 Q. --- you think this fellow who accused you of
2 sleeping was a vice-president. Are you sure he's a
3 vice-president?

4 A. Yes.

5 Q. Why do you think that?

6 A. Because it was told to me. And he was --- God,
7 I'm trying to remember the gentleman that left and
8 this guy took his place. And the gentleman that was
9 the vice-president there, he was a big guy, had a big
10 build, always had muscles on him, I keep forgetting
11 his name.

12 Q. When did he leave and the other fellow who accused
13 you of sleeping come in? Do you have any sense of
14 that?

15 A. No, sir. No, sir.

16 Q. You said that at some point you were working alone
17 when you were dusting?

18 A. One night I did work alone and I was dusting the
19 track. And again, I had to jimmy rig that to get it
20 to work. And I don't like working alone, by myself.

21 Q. Sure.

22 A. Because if I get hurt, ain't nobody going to know
23 anything.

24 Q. Right.

25 A. They'll come in later on and see either I'm hurt

1 or dead, one of the two.

2 Q. So except for that time, you always had somebody
3 with you?

4 A. Yes, sir.

5 Q. You said when you had problems with a duster, you
6 asked them to fix it. Who did you ask? Do you
7 recall?

8 A. I talked to Gary May. I talked to --- I talked to
9 Gary May. I talked to the supervisor, which is,
10 excuse my expression, on his hat it said D-I-C-K on
11 it, and, well, it fit the description.

12 Q. Everett Hager?

13 A. Thank you. And he cussed more than a truck
14 driver. I couldn't get no response from either of the
15 two.

16 Q. Over what period of time did you complain about
17 it?

18 A. I complained to them the first time when we had
19 that meeting when they did the cuts on our pay, took
20 back our raises and told us we had to pay our own
21 insurance and everything else. I talked to the young
22 guy. What is his name? Lord have mercy. God, these
23 names is like killing me. What is his name. He used
24 to come down there sometimes and work, a young fellow.
25 He's --- what is his name? He's in partner with the

1 company himself. I keep forgetting his name. I don't
2 know if it's Jason Whitehead or not. He's young. It
3 could be.

4 MR. SHERER:

5 Chris Blanchard?

6 A. Thank you, Chris Blanchard.

7 BY MR. MCGINLEY:

8 Q. And what would he say --- so this happened a
9 couple of times or ---?

10 A. In the first meeting we had the cuts and he was
11 asking questions, and I said to him, well, when are
12 they going to get the track duster fixed? He said,
13 what track duster? What are you talking about? I
14 said, that orange thing that I use with two pods on
15 it. He said, track duster? I didn't know we had a
16 track duster. I said, well, yeah. We need to get
17 that fixed. He said, well, I'll look into it. So
18 they had the write-up for it, all the parts and
19 everything, but it never left the mines.

20 Q. Do you know, approximately, just as ballpark
21 estimate, of when that conversation took place?

22 A. I don't remember when we had actual --- when they
23 was cutting our pay and all that there other stuff,
24 but it was a big meeting on that. It was a Wednesday
25 morning.

1 Q. 2009? 2010?

2 A. It was 2000 --- it had to be somewhere in 2008.

3 Q. 2008, okay. And did you complain --- how often
4 did you talk to the bosses about this equipment not
5 working?

6 A. When my work couldn't get done, I would let them
7 know why my work couldn't get done.

8 Q. So how often would that be?

9 A. It wouldn't be every day. Sometimes I would have
10 a good day, where the duster would work. Then other
11 days it would just be --- when it sits outside,
12 moisture gets in it. If it's not sealed properly,
13 moisture gets inside the duster. So your dust becomes
14 wet and hard. So as soon as it decides to spit out,
15 it forms a ball and sits right in the hose there.

16 Q. It clogs?

17 A. Yes.

18 Q. So would that happen once a week, once a month?
19 Do you have a ---? I'm not trying to ---.

20 A. I know. I know. I know. I'd say every other
21 week I would have a problem like that. One week it
22 would be a good week. I could get through my work
23 with no problem. Then that next week, start that
24 Monday, from that Sunday night, it's a bad day from
25 then on. It's playing with the duster, trying to get

1 it to work, trying to get underground to get
2 everything to work properly, trying to get to where I
3 need to get to, get it dusted, go home.

4 Q. Would the bosses come down on you, criticize you
5 when you couldn't get it all done?

6 A. Yeah.

7 Q. They would?

8 A. Uh-huh (yes). Oh, yeah, definitely. They made
9 little smart remarks.

10 Q. And you would say, well, the machine isn't
11 working?

12 A. Right. And Gary May is all saying --- he always
13 said, that's not an excuse.

14 Q. And what period of time --- you said you knew that
15 they ordered parts and so forth, but they never came
16 in. When would that have happened, sometime --- 2009,
17 2010, 2008? Have any sense?

18 A. This was --- actually, they had the stuff in.
19 they had the order sheet. In 2009 they had the order
20 sheet because they got tired of me complaining. So
21 the beginning of 2009, the order sheet was there, but
22 it never went out to get it fixed. Everybody telling
23 me, oh, yeah, the parts will be in, such and such,
24 just to blow me off. So I'm thinking, okay, it's
25 going to be a good day. Let me go ahead and just work

1 with what I got with right now. Hopefully I have my
2 stuff fixed. No.

3 Q. When did you figure out that it wasn't going to
4 happen, that they weren't going to bring in new parts
5 and fix the machine?

6 A. Well, it didn't take a light bulb to go off but
7 the third day. It got bright when I knew it wasn't
8 going to get fixed. Sometimes I would have to sit my
9 duster in the motor barn to get it --- to see if they
10 was going to work on it. Nah, nah.

11 Q. Did anybody outside work on it at all?

12 A. You had John Henline. Like if I had light
13 trouble, he would work on it, like to fix my lights
14 and stuff like that because it's been --- one night I
15 had to go underground and my lights wasn't working
16 properly because somebody took a 966 and backed into
17 and broke of my lights. So one time I had to go under
18 there with no lights.

19 Q. Well, what about fixing --- trying to work on
20 the ---?

21 A. He would do what he can. But he was an
22 electrician. He couldn't do but so much.

23 Q. I'm going to sort of go back and forth ---

24 A. Sure.

25 Q. --- between issues here. With regard to the

1 airlock doors, did you observe them --- you have to
2 get out for most of them. They weren't automatic; is
3 that right?

4 A. Right. Yes, sir.

5 Q. And when you closed them, did they sometimes open
6 again as you were walking away?

7 A. Some of them. Some of them would do that. Where
8 there wasn't enough air pressure, it would do that.
9 It wouldn't close all the way like it was supposed to.
10 But then after a while, after the track started coming
11 up, it would catch the door, and you would have to
12 actually pull it close, and then it would stay closed.
13 But some --- yeah, sometimes the doors wouldn't close
14 all the way and just open back up.

15 Q. So did you have to go back and close them?

16 A. Yes, sir. One door in particular was right there,
17 Four North. The first set of airlock doors was at
18 Four North, right there, before you get to the turn
19 right there in Four North.

20 Q. But you only saw doors open with that one
21 particular fire boss?

22 A. Yes, sir, just that --- just that, in particular,
23 the incident with him. And then, evidently, they must
24 have said something to him and never no more with
25 that.

1 Q. When you were --- you said you were written up
2 with regard to dragging the power center. Did you
3 ever --- did you get anything in writing? Written up
4 is a --- you know, a term that you hear with regard to
5 employment, but did they give you some kind of written
6 slip that said, you know, you're on probation or
7 you've been written up?

8 A. No, just he wrote me up saying lack of work. And
9 I asked him, could I get a copy of that. He said, no,
10 this is my copy. There was never nothing where he has
11 a copy and I have a copy to let me know that I got
12 wrote up and this shouldn't happen again.

13 Q. The reason I ask that is we're looking for dates.

14 A. Right.

15 Q. And so there is something that would show you
16 where he had written something about this incident
17 with the power center?

18 A. No, it wasn't a wrote-up on the power center. It
19 was the wrote-up of lack of work because of me
20 complaining too much.

21 Q. Okay.

22 A. That's what that was about. It wasn't a write-up
23 on the power center. The power center was wrote on
24 the board that I was supposed to be pulling it.

25 Q. Okay. I understand. But you did get criticism

1 about ---

2 A. Oh, yeah.

3 Q. --- what went on with the power center?

4 A. Uh-huh (yes), because I couldn't do my job
5 correctly. He got to send somebody else to do it
6 because I don't know what I'm doing. If I'm not task
7 trained on pulling the power center, why would you
8 send me down there?

9 Q. Who was it that criticized you for that?

10 A. Sean Walker. He was talking over the mine phone.
11 I just blew it off, whatever. Well, send somebody
12 else to do it.

13 Q. You talked about handbooks that mentioned miners'
14 rights, ---

15 A. Uh-huh (yes).

16 Q. --- that they came --- you got them sometime after
17 you started work or --- did you get something in
18 writing about what your rights are as a ---?

19 A. No, sir.

20 Q. Well, what were the handbooks you were talking
21 about?

22 A. It was handbooks on safety and what you --- what
23 they can have you do and what, you know, your rights
24 to --- if something is unsafe, you have the right to
25 tell them no. Like if it's bad top and they want you

1 to go into bad top anyway, you have the right to tell
2 them no. And you know, if they fire you, that's an
3 investigation right there.

4 Q. So did you actually get a handbook? Do they give
5 you ---?

6 A. No. They showed the book, but I never got one. I
7 seen one of the guys with a book like that, but I
8 said, where do I get my book from? He said, well, the
9 guy's upstairs. By the time I went upstairs, he was
10 gone already.

11 Q. Is this the --- does anybody refer to it as an S1
12 manual?

13 A. No, sir.

14 Q. Have you ever heard of an S1 manual?

15 A. No, sir. All I saw was the S1 on all the
16 billboards and stuff outside. And all they told me is
17 s1 means safety first.

18 Q. Do you know anything else about S1?

19 A. No, sir.

20 Q. What about P2, did you ever hear that term?

21 A. Never.

22 Q. Production --- S1, safety first. P2, production
23 second, never heard that?

24 A. No, I never heard that. That's a new one on me.

25 Q. You said basically that the bosses didn't like you

1 complaining about safety issues?

2 A. Yeah.

3 Q. Were there any safety issues other than those that
4 related to the motor, you know, and the rock dusting
5 that you complained about to them?

6 A. Bad track, bad top. I --- if the beltline was
7 under bad top, I would still have to go in there. And
8 I wouldn't send my red hat in there. I would go in
9 there and actually dust it. I would just look to make
10 sure, you know, nothing is going to fall and just be
11 out of there quick. Some of the timbers in some of
12 the breaks were real out of shape, real bad. I mean,
13 it was a lot of stuff in there. And I said to him,
14 you know, is there any way we can tape some of these
15 sections off until we can get it done? He said, well,
16 no. What you can do is go in there and fix them
17 timbers if you --- you know, you want to do something.
18 I looked at him like he was crazy, me personally.

19 Q. Who were you reporting these to? Was it just ---?

20 A. Gary May.

21 Q. Anybody else other than Gary May?

22 A. No, because at the time that was my boss, ---

23 Q. Okay.

24 A. --- so I would have to report it to him.

25 Q. You mentioned tearing your ankle. What was that

1 about?

2 A. I went --- me and Mark Skaggs, who I was working
3 with at the time, he was on the duster with me for a
4 while, we went and we had to go over to the old Two
5 section and get some structure because they was making
6 a belt move. So I was carrying a stand in my hand and
7 I stepped on one of the rocks, and it split in half
8 and my ankle went with it. I folded on my ankle. So
9 I finished out the job anyway, but I told them that I
10 was going to the hospital about my ankle, and they
11 told me I tore the ligaments up in my ankle. So when
12 I reported back to Gary May, after I got the phone
13 call, because I didn't know they had the number to the
14 hospital, when you go to the hospital ---.

15 Q. What phone call? I don't understand that.

16 A. I got a phone call from the safety director saying
17 that I need to go take a drug test. So I had to go
18 take a drug test, make sure there was no drugs in my
19 system or anything like that, and then I had to report
20 back to them. I stayed off of work for a day, but
21 they told me that, you know, so they can keep the
22 Workers' Comp down and I don't lose my Raymond safety
23 points that I need to come back to work as soon as
24 possible.

25 Q. So did you go to the emergency room?

1 A. Yes, sir. I went to Raleigh General.

2 Q. And what was the diagnosis? What did they say?

3 A. The doctor said I tore some ligaments up in my
4 ankle and I sprained it, but he said the only thing he
5 would do for it is give me an Ace bandage.

6 Q. Okay.

7 A. Until this day it's still swollen. But what I do,
8 I take Advils, and the pain just go away. I just deal
9 with it.

10 Q. So did you lose any time?

11 A. Did I lose any time at work? No, because I
12 reported right back to work because I didn't want to
13 lose my job. I stayed off a day, but then I went back
14 to work, even though I wasn't in physical, 100 percent
15 form to be working, but I still dealt with the pain.

16 Q. When you said you didn't want to lose your job,
17 why would you think you would lose your job if you had
18 an injury?

19 A. Well, it wasn't told to me direct, but you can
20 read between the lines. You know, they say, you know,
21 you don't want to lose your Raymond safety points.
22 And then when they tell me they don't want Workers'
23 Comp to climb up --- I wasn't planning on staying off
24 for a year. I just wanted to get my ankle healed so
25 that way I could come back to work and be 100 percent.

1 Q. Who told you --- who talked to you about not
2 wanting to get the Workers' Comp rates increased?

3 A. Well, a meeting we had with Gary May, he spoke
4 about, you know, Workers' Comp and, you know, how a
5 lot of guys sprain their ankles and stuff like that,
6 then they stay off work for about a month's time. It
7 wasn't going to be no month's time for me. It was
8 just that I messed up my ankle a little bit there.

9 Q. What did Gary May say about Workers' Comp in
10 relation to --- not just to you, but --- are you
11 talking about a meeting with other people you were
12 working with?

13 A. He said, well, you know, some people file false
14 claims on Workers' Comp and stuff. You know, we
15 always have a lot of ankle injuries and stuff like
16 that, and you're going to have that. But you know, to
17 keep Workers' Comp down, you know, just --- you got to
18 be more careful at what you're doing work-wise and
19 stuff like that. But accidents happen at any time.

20 Q. Did he or any other bosses talk about coming back
21 to work even though you had an injury in order to keep
22 Workers' Comp rates down?

23 A. Well, he didn't say that, per se, but you can read
24 between the lines when people are talking. So it
25 didn't take a rocket scientist to know what he was

1 talking about.

2 Q. So you said you did take one day off?

3 A. Yes, sir.

4 Q. And was that a vacation day or ---?

5 A. Well, they took it out as a vacation day. They
6 took it off my vacation.

7 Q. But it was really because of your ankle?

8 A. Right.

9 Q. Was it swollen?

10 A. Yeah. It's still swollen right now.

11 Q. How long ago was this?

12 A. This was in --- this was in the beginning --- no,
13 the middle of '08 when I rigged up my ankle.

14 Q. Okay. You said you were not really able to dust
15 the whole beltline in a week?

16 A. Right.

17 Q. What does that mean, not really?

18 A. If your duster --- again, if it's not working
19 properly, you can't do your job to its performance,
20 like it's supposed to be.

21 Q. Sure. But my question is not really could mean,
22 you know, I just had one more break to finish or there
23 was a lot left. What ---?

24 A. No. It would probably be about three breaks left.

25 And then if we --- one of two things would happen.

1 Either the dust act up or we'd run out of dust. It
2 spits out too much dust or it don't spit out enough.
3 Like I said, it wasn't to the performance it needed to
4 be. Because when I first started, it was working
5 fine. It had a little kinks in it, but it would knock
6 you off your feet with the air pressure. But now it
7 wouldn't even do that.

8 Q. You talked about the first time you ran the motor
9 by yourself and you almost had an accident.

10 A. Uh-huh (yes).

11 Q. Do you recall that?

12 A. Yes.

13 Q. Did you or anybody else report that?

14 A. No, I didn't report it.

15 Q. Why not?

16 A. Because I didn't want to get in trouble.

17 Q. Why did you think you would get in trouble?

18 A. Well, I don't know, but I was just pretty shook.

19 That was my first time I was working with my buddy

20 Rodney. We was supplying a section. He had stuff for

21 the crews, and I did also. So like I said, I was

22 parking my motor, and I thought that it was in park,

23 and when I went to step out my respirator hit the

24 release brake and it moved it. So I went to jump back

25 in to try and grab it, and by the time I did that it

1 already done slammed into the mantrip and knocked
2 everything off. But he jumped out of the way and he
3 was laughing. He thought it was funny. Like I said,
4 I was pretty scared because I thought, ---

5 Q. Sure.

6 A. --- you know, it done killed him or something.

7 Q. And you hadn't had any training on how to operate
8 it at that point or ever?

9 A. Just watching. Just watching. Because I was a
10 red hat at the time and I was a helper in the motor,
11 so I would watch everything that they was doing.

12 Q. Okay. But when you ran the motor, you had your
13 black hat?

14 A. Yes, sir.

15 ATTORNEY WILSON:

16 Do you have a bunch more?

17 MR. MCGINLEY:

18 No. I think that's about it.

19 ATTORNEY WILSON:

20 Maybe we can take a break.

21 MR. MCGINLEY:

22 Yeah, I'm finished. I'm done.

23 ATTORNEY WILSON:

24 Okay.

25 MR. MCGINLEY:

1 Thank you.

2 MR. SHERER:

3 Want to take a short break?

4 A. Sure.

5 ATTORNEY WILSON:

6 Okay. All right. We'll go off the

7 record.

8 SHORT BREAK TAKEN

9 ATTORNEY WILSON:

10 We're back on the record. Erik, do you

11 have anything?

12 MR. SHERER:

13 Yes.

14 RE-EXAMINATION

15 BY MR. SHERER:

16 Q. I've got a few questions to follow up on, Mr.

17 Jeter. You mentioned you complained numerous times

18 about the condition of the duster?

19 A. Yes, sir.

20 Q. Did Gary May or any of the other supervisors ever

21 ride with you on the duster and observe those

22 conditions?

23 A. No, sir.

24 Q. So they never followed up on them?

25 A. No, sir.

1 Q. Okay. Thank you. When you were making those
2 complaints, was there anyone else present besides you
3 and the supervisor?

4 A. Well, my red hat was with me at the time. Then it
5 would just be me and him. Verbally I would ---.

6 Q. And who was that red hat or red hats?

7 A. Red hat was Dustin.

8 Q. Dustin?

9 A. Yes. His name is Dustin.

10 Q. Okay. Thank you. You mentioned a miners' right
11 book --- or miners' rights book.

12 A. Uh-huh (yes).

13 Q. Was that an MSHA book; do you recall?

14 A. It had MSHA on it. It had MSHA stuff on it.

15 Q. Okay. That's a book that we probably publish. We
16 can certainly get you a copy if you're interested.

17 A. Yes.

18 Q. Okay. You mentioned that they wrote up an order
19 for parts ---

20 A. Uh-huh (yes).

21 Q. --- for the duster.

22 A. Yes, sir.

23 Q. Do you recall who wrote that up?

24 A. No. I don't recall who wrote it up, but I saw the
25 sheet. It was upstairs on a desk where they normally

1 do all the orders, send out the orders and stuff like
2 that.

3 Q. Okay. The purchasing agent, would he have had
4 that sheet, Mr. Clay, I think was his name?

5 A. Clay?

6 Q. Yeah, Greg clay.

7 A. Greg, yes.

8 Q. Okay. Do you recall about when that sheet was
9 written up?

10 A. No, I don't recall when it was written, per se,
11 but I do remember seeing it. But he said he had to
12 get clearance.

13 Q. Okay.

14 A. I don't know what that means from that. I guess
15 he has to get the okay from whoever deals with the
16 money department part in order for us to get the parts
17 we need for the equipment, I guess.

18 Q. Okay. And if I recall correctly, that was
19 sometime in 2009?

20 A. That was my last complaint, yes, sir.

21 Q. Was that early in 2009 or ---?

22 A. Yes, early.

23 Q. Early in 2009?

24 A. Yes, sir.

25 Q. You said that the duster would clog up the hoses

1 and you'd have to beat the dust out of the hoses?

2 A. Yes, sir.

3 Q. How big were those hoses?

4 A. They're about --- I would say about like this, not
5 that big, per se, but I can almost fit my hand around
6 it.

7 MR. SHERER:

8 And the witness has indicated about
9 two-and-a-half, three inches in diameter.

10 A. Two --- yes, sir.

11 BY MR. SHERER:

12 Q. Okay. Were those hoses heavy?

13 A. When they have dust in them, yes. Otherwise, no,
14 they're just as light as a feather. They were plastic
15 hoses. They were green and clear.

16 Q. Okay.

17 A. They had the green circle around it, but it was
18 clear where you could see the dust.

19 Q. Okay. Were they hard to beat the dust out of
20 them?

21 A. Sometimes it would be.

22 Q. How many times might you have to do that during a
23 night?

24 A. Well, sometimes that would be my whole shift,
25 trying to get back started to finish dusting out what

1 I needed to dust out. So it wouldn't happen every
2 day, but I would get somewhere along the line out of a
3 week a bad day to where so I have to pull with the
4 duster. Somebody else ain't bothered to dust.

5 Q. Okay. You mentioned that you hurt your ankle?

6 A. Yes, sir.

7 Q. Do you know if an accident report was made out and
8 sent into MSHA?

9 A. An accident report was made because I had to sign
10 it. But when I went to the hospital and I needed
11 BrickStreet to pay for the bill, they sent me a
12 letter, which I need to find, stating that I wasn't
13 covered for that.

14 Q. You weren't covered for an accident that ---?

15 A. Happened at my job because, I guess, the accident
16 report wasn't filed because I had a lady, her name was
17 Reba, call me.

18 Q. Reba Crawford?

19 A. Yes, sir.

20 Q. Okay. And she's with District 4?

21 A. (Indicates yes).

22 Q. Do you know if a violation was issued because of
23 that?

24 A. I don't know, sir.

25 Q. We'll find out. You kept mentioning that if you

1 found a problem, you would report it to Gary May, and
2 he would say something like, well, you fix it?

3 A. He was just --- I guess he was being smart. I
4 don't know. Me and him did not get along.

5 Q. Well, aside from just you and him, do you think
6 there was a general attitude that if you found a
7 problem or you report a problem, you're responsible to
8 fix it? Is that a fair statement?

9 A. I guess you could say that. I guess you could say
10 that.

11 Q. Did that encourage you to report more problems?

12 A. Me, personally, if --- the thing was the guys that
13 I work with. I was more concerned about safety with
14 them than my own self, ---

15 Q. Sure.

16 A. --- because it was like a brotherhood with these
17 guys, and I took working there as my --- I'm not a
18 coal miner. I'm not from West Virginia. This is my
19 first time working in the mines. I took it very
20 seriously.

21 Q. Sure.

22 A. I took what I did, my job, very seriously. And if
23 I felt as though a safety issue was a problem --- it
24 was told to me a long time ago, if there's a safety
25 problem, then you need to report it to your supervisor

1 so he can fix the problem or we can fix the problem.

2 But it never worked out like that.

3 Q. Okay. So you reported --- in good faith you
4 reported it to your supervisor and he just kind of
5 blew you off?

6 A. Basically, so many words, yes, sir.

7 Q. Thank you.

8 MR. SHERER:

9 That's all the questions I've got.

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. A question about BrickStreet.

13 A. Yes, sir.

14 Q. You said that BrickStreet told you that your ankle
15 injury was not covered?

16 A. Well, the file that --- when I wrote up the
17 accident report, when I signed the sheet on the
18 accident report, from what Reba was telling me, it was
19 never sent in. So before we go back to Reba, let's go
20 back to when BrickStreet sent me a paper and said I
21 wasn't covered.

22 Q. Why did they say you were not covered?

23 A. I don't know. I really don't know. I
24 thought ---.

25 Q. Does that mean that the accident was not reported

1 to them?

2 A. I think so. That's what I'm thinking.

3 MR. MCGINLEY:

4 Do you think you can --- excuse me. Do
5 you think you can find that paperwork from
6 BrickStreet?

7 A. I'm going to try and find it.

8 MR. MCGINLEY:

9 If you can, give it to Mr. Farley.

10 A. Yes, sir.

11 BY MR. FARLEY:

12 Q. So when you injured your ankle, did you complete
13 some type of accident report form with the company?

14 A. Yes, sir. I went right upstairs that night and I
15 filled out an accident report with John Henline. He
16 signed the paper and everything. And it was put on
17 Everett's desk, either Everett's desk or Gary May's
18 desk.

19 Q. Okay. Now, did somebody tell you at that point
20 that you also needed to report your injury to
21 BrickStreet?

22 A. No.

23 Q. Okay. All right. Well, typically, my
24 understanding of the process is that the employee
25 completes an accident report with his employer, ---

1 A. Uh-huh (yes).

2 Q. --- and the employer is responsible to report it
3 to the Workers' Comp agency or BrickStreet.

4 A. No. See, what happened was when I went to the
5 hospital, I think the hospital reported it to
6 BrickStreet, and then I got a letter in the mail
7 saying that I wasn't covered for that. So I don't
8 know how that worked.

9 Q. You told the hospital that it was an on-the-job
10 injury; correct?

11 A. Yes, sir.

12 Q. Okay. And the hospital reported it to
13 BrickStreet?

14 A. Yes, sir.

15 Q. And BrickStreet tells you it's not covered?

16 A. I get a letter in the mail saying it's not
17 covered. I had a sheet signed from them, the
18 hospital, saying that they was going to give the
19 accident report to BrickStreet, that I was here at the
20 hospital, such and such. I don't know how that went
21 about, but ---.

22 Q. Could you possibly provide us with a copy of that
23 letter?

24 A. I'm going to try my best to find that letter. I'm
25 going to try my first.

1 Q. I find it interesting that how BrickStreet can
2 just this or that is not covered.

3 A. Right. I'm going to try my best to find that
4 letter.

5 Q. Okay. All right.

6 ATTORNEY WILSON:

7 Pat, any follow-up?

8 MR. MCGINLEY:

9 Just one or two.

10 RE-EXAMINATION

11 BY MR. MCGINLEY:

12 Q. You said you weren't aware of ventilation problems
13 in the mine?

14 A. Yes, sir.

15 Q. And you thought it was safe?

16 A. When I first started working there, yes, sir. I
17 was --- let me explain something to you. I don't even
18 like putting covers over my head, so I'm very
19 claustrophobic. And I got over that real quick
20 because the guys, when I first started working there,
21 they made me feel like a team there, so I enjoyed
22 working there. But when everything started changing
23 hands, it became more production than safety.

24 Q. When was that, when things started changing hands?

25 A. The last time it changed hands Homer left. He

1 retired, and then that's when Everett took his spot,
2 and Gary May took over where Homer left, so ---.

3 Q. Homer was?

4 A. He was the supervisor of the mine.

5 Q. Do you remember his name? I think we know that,
6 but ---.

7 A. If I'm correct, it's Homer Wallace.

8 Q. Yeah. Okay.

9 A. And he was more like a father to us than a boss
10 and he --- I enjoyed coming to work there. If I had a
11 problem, he would take it upon his self to go fix it.
12 He would go down there and fix it himself or he would
13 get somebody that would know what they was doing to
14 take care of the problem.

15 Q. And about --- at what point in your employment at
16 UBB did that change take place, approximately?

17 A. He was leaving March.

18 Q. Of?

19 A. Of --- let's see, if --- I stand corrected. It
20 was '08 he left.

21 Q. Early, late, if you recall?

22 A. It was like February. Don't quote me on it, but
23 I'm thinking it was February.

24 Q. So did there come a time when you were aware that
25 there were ventilation problems at the mine?

1 A. No. Basically it was kept hush-hush. All I was
2 doing was building stoppings. When they needed a
3 stopping built, they would call us and a couple other
4 guys to build stoppings in certain areas and stuff
5 like that. I didn't know what we was building them
6 for. I was just doing my job.

7 Q. Did you know that MSHA had issued a Notice of
8 Violation for inadequate ventilation?

9 A. Yeah. I caught wind to that, that they had
10 violations with ventilation and stuff like that. Then
11 they had six prior before the explosion that they
12 violation --- ventilation issues.

13 Q. But did you find that out after the explosion?

14 A. Yes, sir.

15 Q. And you didn't --- you weren't aware of, nobody
16 talked about ventilation problems at least among the
17 few people you worked with?

18 A. Right.

19 MR. MCGINLEY:

20 I think that's all. Thank you.

21 ATTORNEY WILSON:

22 Okay. We really didn't use this map, but
23 we did mark it, so I'll go ahead and label this as
24 Exhibit Jeter One.

25 (Jeter Exhibit One marked for

1 identification.)

2 ATTORNEY WILSON:

3 Mr. Jeter, on behalf of MSHA and the

4 Office of Miners' Health, Safety and Training, thank
5 you for appearing and answering questions today. It's
6 been very helpful. Your cooperation is very important
7 to the investigation as we work to determine the cause
8 of the accident. Again, I remind you that we request
9 that you not discuss your testimony with anyone
10 because we will be interviewing additional witnesses.

11 Again, if we have any follow-up

12 questions, we may contact you. And if there's any
13 additional information, including those reports that
14 we've discussed, please contact either us or the
15 state, through Terry, and you'll get that information
16 to us.

17 A. And I'm going to get on those papers for you as
18 soon as possible.

19 MR. FARLEY:

20 I'm curious about that.

21 A. I am, too, now that you mentioned that. So I'm
22 going to go ahead and handle that. Sorry, sir.

23 ATTORNEY WILSON:

24 No problem. Before we finish and go off

25 the record, is there anything else that you want to

1 add to the record, any additional information that you
2 think might be useful or any statement that you would
3 like to make? You can do that now.

4 A. The only thing I want to make a statement is I
5 think I got fired --- I think I was set up to get
6 fired, personally. I was accused of something that
7 never took place. And I don't want my job back. I'm
8 fine. I'm with my family and with God. But I think
9 it was wrong the way they handled the situation. It
10 could have been done a better way. Because one of the
11 gentlemen --- actually, he did get fired because he
12 fell asleep behind the motor while he was driving with
13 a red hat, and he slammed through two doors, so ---
14 but I just think it was personal. It wasn't work
15 related.

16 ATTORNEY WILSON:

17 Okay. Again, I want to thank you for
18 your cooperation in this matter.

19 A. Thank you.

20 ATTORNEY WILSON:

21 And unless there's anything further,
22 we'll go off the record.

23 * * * * *

24 STATEMENT UNDER OATH CONCLUDED AT 10:33 A.M.

25 * * * * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Alison Salyards