

1           **WEST VIRGINIA MINE HEALTH & SAFETY ADMINISTRATION**

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6           **IN RE:**

7                           **THE INVESTIGATION OF THE**  
8                           **APRIL 5, 2010, MINE EXPLOSION**  
9                           **AT THE UPPER BIG BRANCH MINE**

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13                   **The interview of PACER PETTRY taken upon oral**  
14                   **examination, pursuant to notice and pursuant to the**  
15                   **Federal Rules of Civil Procedure, before Nichelle**  
16                   **N. Drake, Professional Reporter and Notary Public**  
17                   **in and for the State of West Virginia, Thursday,**  
18                   **February 10, 2010, at the National Mine Health &**  
19                   **Safety Academy, 1301 Airport Road, Beaver,**  
20                   **West Virginia.**

21  
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**EXAMINATION INDEX**

**PAGE**

**PACER PETTRY**

BY MR. CRIPPS . . . . .	10
BY MR. TUCKER . . . . .	35
BY MR. McATEER . . . . .	39
BY MR. MAGGARD . . . . .	46
BY MR. CRIPPS . . . . .	55
BY MR. MAGGARD . . . . .	63
BY MR. McATEER . . . . .	64
BY MR. CRIPPS . . . . .	66

**EXHIBIT INDEX**

**PAGE**

**Exhibits**

<b>1</b>	<b>Subpoena (Retained by Polly Hampton)</b>	<b>8</b>
<b>2</b>	<b>Affidavit of Service (Retained by Polly Hampton)</b>	<b>8</b>

1           MR. KOERBER: My name is Barry Koerber.  
2 I'm the assistant attorney general. I'm assigned  
3 to represent the West Virginia Office of Miners  
4 Health Safety & Training's accident investigation  
5 team for UBB investigation. Today is February the  
6 10, 2011. I'm going to ask beginning on my left  
7 and going around the table for the people to  
8 introduce themselves and who they're with.

9           MR. TUCKER: Bill Tucker with the West  
10 Virginia Office of Miners Health Safety &  
11 Training.

12           MR. MAGGARD: Jasey Maggard with MSHA.

13           MR. CRIPPS: I'm Dean Cripps with MSHA.

14           MS. HAMPTON: Polly Hampton with the  
15 Solicitor's Office for the Department of Labor.

16           MR. McATEER: Davitt McAteer with the  
17 Governor's Independent Investigation.

18           MR. KOERBER: We have one person in the  
19 back. I'd ask that he identify himself.

20           MR. BECK: I'm Jim Beck with the Governor's  
21 Independent team.

22           MR. KOERBER: We have a court reporter  
23 here today. She's with Johnny Jackson &  
24 Associates, a court reporter firm in Charleston,

1 West Virginia. A couple things about the court  
2 reporter, first, for everybody's benefit and  
3 especially her benefit, please say yes and no and  
4 not uh-huh or uh-uh. And I'm going to ask that you  
5 wait until the interviewer asks the question before  
6 you begin your question, and I'm going to ask for  
7 all the interviewers to please wait until  
8 Mr. Pettry finishes with his answer before we begin  
9 the next question so we don't have two people  
10 talking over each other.

11 The court reporter -- the court reporting  
12 firm is operating under a three day turnaround on  
13 the transcripts. What that means is that they'll  
14 have this transcript typed up on paper three days  
15 from now. This being Thursday, three business days  
16 would be Tuesday evening. Come Wednesday morning  
17 this transcript will be ready for review. If you  
18 would like, you can call Johnny Jackson &  
19 Associates and schedule a time that is convenient  
20 for you or you can go into their office up in  
21 Charleston, West Virginia and they'll put you in a  
22 conference room where you'll have privacy to review  
23 your transcript and they'll give you an errata  
24 sheet where you can make any corrections upon any

1 errors that you may find in the transcript.

2 That is something you certainly can do.  
3 You do not have to do it, but it will be available  
4 come Wednesday morning if you would like to call  
5 and schedule an appointment. You do not have to  
6 call Wednesday. You can call any reasonable time  
7 thereafter, but Wednesday is the earliest that you  
8 can.

9 If for any reason whatsoever you want to  
10 take a break, just say so and we'll take a break.  
11 We're going to ask that you not discuss your  
12 testimony with anybody after you leave this room  
13 just for the purposes of protecting the integrity  
14 of the investigation.

15 I think Polly may have something that she  
16 wants to talk to you about. I'm going to ask her  
17 to do so at this time.

18 MS. HAMPTON: Yes. Before we got started  
19 here today, I handed you a letter on behalf of the  
20 accident investigation team for MSHA. Did you get  
21 a chance to review that letter?

22 THE WITNESS: Some of it. Not all of it.

23 MS. HAMPTON: Do you have any questions  
24 for me based on what you did read?

1 THE WITNESS: No, ma'am.

2 MS. HAMPTON: Okay. One thing I would  
3 like to point out to you is in that letter is  
4 contact information for Norm Page. He is the team  
5 leader for the MSHA accident investigation team.  
6 If you leave here today and you suddenly remember  
7 something else that you think is relevant,  
8 something you think he should know, please don't  
9 hesitate to contact him and let him know whatever  
10 you think is important.

11 THE WITNESS: Okay.

12 MR. KOERBER: Could you please swear in  
13 the witness.

14 PACER PETTRY, DEPONENT, SWORN

15 MR. KOERBER: Would you please state your  
16 full name for the record and spell your last.

17 THE WITNESS: Pacer Dean Pettry,  
18 P-E-T-T-R-Y.

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

21 THE WITNESS: [REDACTED]  
22 Concord, West Virginia, [REDACTED]

23 MR. KOERBER: Are you expecting an  
24 attorney or personal representative to be here with

1 you today?

2 THE WITNESS: No.

3 MR. KOERBER: Are you here -- are you  
4 appearing here today as a result of receiving a  
5 subpoena?

6 THE WITNESS: Yes.

7 MR. KOERBER: This is a copy of the  
8 subpoena I showed you earlier. This is the  
9 affidavit of service I showed you earlier. I'll  
10 ask that the subpoena be marked as Exhibit 1 and  
11 the affidavit of service Exhibit 2.

12 (Exhibit Nos. 1 and 2 marked for  
13 identification.)

14 MR. KOERBER: What was your job title on  
15 April 5, 2010, at the UBB Mine?

16 THE WITNESS: Head gate, I was -- I was  
17 just, you know what I'm saying, getting into  
18 running the head gate.

19 MR. KOERBER: No. No. No. What -- what  
20 was your job --

21 THE WITNESS: Utility, utility was my job  
22 title.

23 MR. KOERBER: Okay. I'm going to also  
24 give you a memorandum that contains the address of



1 the West Virginia Board of Appeals. The Board of  
2 Appeals is the administrative body charged with  
3 hearing among other things complaints by coal  
4 miners who are alleging that they were  
5 discriminated against for doing something that they  
6 were entitled to do. West Virginia Code 22A-1-22,  
7 which is the discrimination statute prohibits  
8 anybody from discriminating against a coal miner  
9 for participating in an interview such as this. If  
10 you find that you've been discriminated against for  
11 participating in this interview, this is the body  
12 where you would lodge your complaint. The  
13 complaint does not have to be anything formal. It  
14 can simply be a handwritten letter explaining what  
15 you feel happened to you. I would caution you,  
16 though, under the code you only have 30 days from  
17 the day that the discriminatory act occurs against  
18 you to file your complaint.

19 I'm also going to give you Bill Tucker's  
20 business card. Bill is our lead investigator for  
21 the UBB accident for purposes of the state. If  
22 anything pops up after this interview that you  
23 think would be important for us to know, that would  
24 be helpful in trying to figure out what was the

1 cause of the explosion on April 5th, please feel  
2 free to call Mr. Tucker. And this is Johnny  
3 Jackson's business card I spoke about earlier.

4 And with that, I'm going to turn it over  
5 to Dean to begin the questions.

6 EXAMINATION

7 BY MR. CRIPPS:

8 Q. Okay. Pacer, first of all, I want to  
9 thank you for coming back in to answer questions  
10 for us today. Since the explosion on April 5th,  
11 have you been back underground at UBB?

12 A. Yes.

13 Q. What have you done there?

14 A. Just cleanup, cleaning track, setting  
15 cross-back.

16 Q. When did you start doing that?

17 A. I don't recall the date, but I'd say  
18 around -- They sent me back about a month, probably  
19 around two or three months ago; and then I went  
20 back to where I'm at now.

21 Q. So fill me in. Where did you go right  
22 after the explosion?

23 A. Revolution Coal up in Prenter.

24 Q. And you stayed there until you were sent

1 back to UBB?

2 A. Yes.

3 Q. And where are you now?

4 A. Revolution.

5 Q. Okay. When you was back at UBB, did you  
6 have a chance to get up on the longwall face?

7 A. No.

8 Q. Was you up in the head gate?

9 A. No. As far as I went was 78 --

10 Q. Okay.

11 A. -- at the split.

12 Q. Okay. Myself and Jasey here, we've been  
13 up on the longwall face many times. So  
14 consequently since your last interview that you did  
15 we've gained a lot more information and that's why  
16 we need to ask you some more -- you and a lot of  
17 your buds some more questions.

18 You said at the time of the accident you  
19 was classified as longwall utility?

20 A. Yeah. Yes.

21 Q. What was you doing the last shift before  
22 the explosion?

23 A. Head gate.

24 Q. You was operating the head gate?

1           A.    Yes.

2           Q.    Okay.  Was you operating it by yourself?

3           A.    Yes, unless I'd run into a problem because  
4 I was really training for it and then I would  
5 holler at somebody and they'd come help me.

6           Q.    Was there a time prior to the explosion  
7 when during your training you had been operating  
8 the head gate with someone else?

9           A.    Yes.

10          Q.    Who would that have been?

11          A.    Most of the time Luke Ford.

12          Q.    Okay.

13          A.    You know what I'm saying, if I had any  
14 problems, I just hollered at him or him or Timmy or  
15 Mikey, one of them would come over.

16          Q.    Okay.  So how long had you been operating  
17 the head gate by yourself?

18          A.    Approximately a week and a half.

19          Q.    Okay.  As longwall utility, did you do any  
20 other jobs on the longwall face?

21          A.    No.

22          Q.    Okay.  You never pulled shields?

23          A.    No.  I mean I went down the face, you know  
24 what I'm saying, to work with somebody; but I was

1 just like pulling for like an hour. They was just  
2 showing me how to operate them, but I would never  
3 do it by myself.

4 Q. What about operating the shear?

5 A. Well, I went down there, you know what I'm  
6 saying, Roger Scarberry. You know what I'm saying,  
7 he just showed me how to operate it like five or  
8 ten minutes, you know what I mean. It wasn't  
9 operating really.

10 Q. How about -- Talk to me or tell me about a  
11 normal shift. And here, again, I'm talking about  
12 prior to the explosion at UBB. Start with me for  
13 with a normal shift when you arrive on the section  
14 on the man trip. Go through what your last  
15 shift --

16 A. My last shift?

17 Q. Your last shift, a shift where you would  
18 have been operating as the head gate --

19 A. Head gate operator?

20 Q. Yeah.

21 A. When we get off the man trip, we usually  
22 have a safety meeting and I -- It's according to if  
23 I worked day shift or evening shift. If I worked  
24 day shift, I'd go down to the head gate and then

1 start up the pumps or whatever, get the belts, make  
2 sure the belts are up, call out. And when we start  
3 up, you know what I'm saying, call outside to  
4 dispatch; and then just go from there, call it  
5 every 30 minutes.

6 Q. When you was on -- let's stick with when  
7 you were on day shift. By the time you arrived on  
8 the face, how quick was it -- was you started up  
9 loading coal?

10 A. I would say as soon as we got there. I  
11 mean, as soon as we got there and they got on the  
12 face, they would holler up there and say start the  
13 shear and I would start everything up for them.

14 Q. Did they do anything up at the shear prior  
15 to starting up?

16 A. I wouldn't know that because I was at the  
17 head gate.

18 Q. Okay. What about on the afternoon shift  
19 when you arrived on the section?

20 A. Most of the time, evening shift, the head  
21 gate man would already be there; so it just picked  
22 up from there. Everything is already started up.  
23 You just take over from there.

24 Q. So you may arrive on the section and the

1 belt, the conveyor and the shear would be  
2 operating?

3 A. Yeah. Yeah. Then after that, you know  
4 what I'm saying, I would just talk to him a couple  
5 minutes, see how everything's going, any problems;  
6 and I would just, you know what I mean, start off  
7 where he had left off at.

8 Q. Would the shear operator, would they  
9 proceed down the face?

10 A. Yeah. Yeah. They would go down there and  
11 switch out with the shear operator on the face and  
12 the jack setters would switch out.

13 Q. Would this often be done without a  
14 interruption in production?

15 A. Yeah. I mean -- I mean, it all took about  
16 ten minutes. They went down there and might have  
17 said something and they just switched out.  
18 Everybody's ready to leave.

19 Q. Would they shut the conveyor off when they  
20 did this?

21 A. No.

22 Q. It would continue the run?

23 A. Yeah. Yes.

24 Q. What about the shear then? Would it

1 continue to run to your knowledge?

2 A. To my knowledge, it would. Yeah. Yes.  
3 Because I wouldn't have to start the shear or  
4 nothing, you know what I mean, unless they had  
5 problems with it.

6 Q. Did you ever notice -- When you come in,  
7 say on day shift, how often would the shear be at  
8 the head gate?

9 A. Up on the head?

10 Q. Yes.

11 A. It's probably 50 percent of the time, 75  
12 percent of the time. Sometimes it'd be on the  
13 head, sometimes mid-face, sometimes tail. It would  
14 be different places on the line.

15 Q. Did you ever notice if -- did the  
16 operators have to set bits at the beginning of the  
17 shift?

18 A. I would say maybe once or twice. Most of  
19 the time third shift took care of the bitting or  
20 the evening shift, the following day, you know what  
21 I mean, would take care of the bitting.

22 Q. What about when you come in on evening  
23 shift?

24 A. Sometimes. Sometimes not.



1 Q. Okay.

2 A. It just, you know what I'm saying, depends  
3 on where they left at or if it needed bitted or  
4 whatever.

5 Q. But if the bits and sprays were in good  
6 shape, would they continue to operate?

7 A. Yeah. Yes.

8 Q. Did you ever notice if they -- ever see  
9 them changing or working on any water sprays on the  
10 shear?

11 A. No, never did see them.

12 Q. Okay. Did you ever see anybody do water  
13 pressure check on the shear?

14 A. No.

15 Q. Okay. As part of your job, did you ever  
16 do any -- I'd heard them called the 30 minute call  
17 out.

18 A. Yes.

19 Q. Explain that to me if you would.

20 A. Well, you've got to call out every 30  
21 minutes and tell where the shear is at, how much  
22 they run, if there's any down time. I mean, if  
23 there was down time, what it was over, like biting  
24 service or something broke or something like that.

1 But, yeah, you would have to call out every 30  
2 minutes.

3 Q. When you called out, who did you talk to?

4 A. Dispatch.

5 Q. On all the shifts you talked to dispatch?

6 A. Yes, just dispatch.

7 Q. Do you know who that person was or those  
8 people were?

9 A. It was just different dispatchers. I mean  
10 names I can't recall.

11 Q. Okay. But did you do that every shift,  
12 day shift, second shift, weekends?

13 A. Yes, day shift, second shift, weekends.

14 Q. That was the 30 minute call out.

15 A. Yeah, 30 minute call out.

16 Q. The information that you called out, how  
17 did you obtain the information?

18 A. If I didn't -- if they didn't holler up  
19 there and tell me at the head gate, I would holler  
20 at them down on the face. I would ask them where  
21 the shear's at, how many passes do you have, was  
22 there any down time.

23 Q. And --

24 A. And, you know what I'm saying, they would

1 give it to me if they didn't call out. If they  
2 didn't holler at me and give it to me first, I'd  
3 just holler at them before the 30 minutes was up  
4 and that's how I'd get it.

5 Q. Would that be -- When you hollered at  
6 them, would that be the shear operators or the  
7 boss?

8 A. Most of the time the boss. Well, all  
9 times the boss. I never hollered at the shear  
10 operator. Sometimes I would holler at the shear  
11 operator just to ask where the shear was. Like if,  
12 you know what I'm saying, if he was off the tail or  
13 something, I would just call out and get it, give a  
14 report. But I'd say 95 percent it was the boss.

15 Q. So was the boss usually on the face?

16 A. Yeah. Yes.

17 Q. How much of the shift would you say?

18 A. I would say at least 75, 80 percent of the  
19 shift.

20 Q. Okay.

21 A. As far as I was aware. You know what I  
22 mean, I was at the head gate. Sometimes he would  
23 come up there, you know what I'm saying; but most  
24 of the time, he was on the face. Most of the time

1 you would holler at him, that's where he'd be.

2 Q. Okay. When you wanted to holler down the  
3 face at him, how did you do that?

4 A. By phone.

5 Q. Okay.

6 A. Up on the head gate.

7 Q. And that phone was connected to other  
8 phones down on the face?

9 A. Yes.

10 Q. Okay. Was that the Control system?

11 A. Control phone.

12 Q. What about when you called outside? Did  
13 you use the same phone?

14 A. Yes, but it was -- it was a phone that had  
15 two different knobs on it so you could call one  
16 outside and one was down the face.

17 Q. Okay.

18 A. It was like two different phones just in  
19 one box.

20 Q. Okay. Could -- could someone down the  
21 face then call all the way outside?

22 A. No. I don't believe so; but, no, I don't  
23 think.

24 Q. Okay. So when you -- when you're working

1 at the head gate, if you needed to talk to those  
2 guys, could they hear you pretty good when you  
3 talked to them on the phone?

4 A. Yes.

5 Q. Paged them?

6 A. Yes.

7 Q. If they paged you, could you hear them  
8 pretty good?

9 A. Yes.

10 Q. Okay. Is it pretty noisy up at the head  
11 when it's running?

12 A. Yes.

13 Q. Do you wear any kind of hearing  
14 protection?

15 A. Earplugs.

16 Q. You wear earplugs?

17 A. Yes.

18 Q. Does that interfere with you being able to  
19 hear the phone at all or can you tell?

20 A. Not really. I can hear the phone good.

21 Q. Okay. Do you -- do you turn the water on  
22 and off going down the face?

23 A. From the head gate -- Well, I can. We've  
24 got valves, you know what I'm saying, to push the

1 water down the face. Yeah, I can turn it off on  
2 the shear and on the line.

3 Q. Where's those valves located?

4 A. Right there at the head gate. Right there  
5 where the screen is. It's probably, I don't know,  
6 15 foot from it I'd say.

7 Q. Can you describe those valves or just what  
8 you've got --

9 A. Yeah, it's on a -- it's on a big old two  
10 inch line. You just raise them up. There's three  
11 or four of them, and then they got wrote on them,  
12 shear, shear water, pressure or whatever. I forgot  
13 the names of them; but you know what I'm saying,  
14 they're just right there. You just raise up those  
15 valves.

16 Q. Are there valves on both sides?

17 A. No. I'm pretty sure just the face side.

18 Q. Okay. When -- when would you ever turn  
19 that water off?

20 A. When they tell me.

21 Q. Okay. So when --

22 A. Or, you know what I'm saying, like if they  
23 say -- like they holler up there and say they're  
24 going to bit up, you know what I'm saying, after

1 that, I kind of learned you've got to turn the  
2 water off because they get wet. So, you know what  
3 I'm saying, I just turn it off.

4 Q. So, what, they would call when they were  
5 still running, say, when the conveyer goes off,  
6 we're going to bit up?

7 A. Yeah. Like if they shut the shear off,  
8 they'll just holler and tell me they're going to  
9 bit up and I just cut the water off for them.

10 Q. What about if, say, the face is running  
11 and the belt goes off? What happens?

12 A. It shuts off too, I believe. Yeah, I'm  
13 pretty sure if the belt goes off everything goes  
14 off.

15 Q. Okay. Do you shut the water off then?

16 A. Yes.

17 Q. Do you just shut the water off or do you  
18 wait for them to call you?

19 A. Well, it seemed like I shut it off. If  
20 it's a belt and then the face goes off, seems to me  
21 like I shut the water off.

22 Q. Okay. Do you know -- does the shear ever  
23 run without the water turned on it?

24 A. Not that I'm aware of.

1 Q. Okay. Have you ever seen the shear  
2 operator set bits on the shear?

3 A. Yes.

4 Q. When you've seen it, what location on the  
5 face are they actually doing it?

6 A. Just different places. Most of the time,  
7 the head or the tail but I seen them bit up  
8 mid-face too.

9 Q. When you say at the head, is that the -- I  
10 mean, is the head gate drum, the shear all the way  
11 up the belt entry?

12 A. No. Most of it's back about 20 shields.  
13 They don't come all the way to cut up -- I mean cut  
14 out and they go back and do their shuffle, and they  
15 would bit up about 20 shields I'd say.

16 Q. Okay. How can they bit up there? Do you  
17 know?

18 A. How can -- What they do?

19 Q. Yes.

20 A. I don't know. They just always have.

21 Q. That's just the way they always do it?

22 A. Yeah. They always come out and cut out  
23 and, you know what I'm saying, and go back into  
24 their shuffle and then they'll bit up.



1 Q. Okay. The big box hanging on the end of  
2 monorails, it's got the big four bays on it. The  
3 head gate controller is what I call it. How do you  
4 refer to that box?

5 A. Just head gate.

6 Q. The head gate?

7 A. Yeah, the head gate.

8 Q. Are you familiar with any of the switches  
9 or the emergency stop switches on it?

10 A. E-stops, yeah, somewhat, you know what I  
11 mean.

12 Q. Can you describe one of them to me.

13 A. One is them is a big old red button that  
14 says E-stop.

15 Q. Pretty obvious?

16 A. Yeah.

17 Q. Have you ever operated that button?

18 A. No.

19 Q. Has anybody ever told you about that  
20 button?

21 A. Not really.

22 Q. Okay. So do you know what it even does?

23 A. Yeah, it shuts everything off, the E-stop  
24 does.

1 Q. By shutting everything off, what do you  
2 mean?

3 A. I figure everything on the section.

4 Q. It kills the power you mean?

5 A. Yes, kills the power.

6 Q. Do you know if it's ever been tested?

7 A. No, I don't know.

8 Q. But you've never operated it yourself?

9 A. No.

10 Q. If somebody called you from down the face  
11 and said kill all the power --

12 A. Uh-huh.

13 Q. -- what would you do?

14 A. I would push that button, E-stop.

15 Q. Okay. And why is that?

16 A. Because that's what's going to kill all  
17 the power.

18 Q. Because that's what somebody's told you?

19 A. Well, yeah, yeah, yeah. Well, I've heard  
20 them talking about it, you know what I'm saying,  
21 this here knocks all the power.

22 Q. Okay.

23 A. And I kind of figured it would too.

24 Q. Generally something that's big and red.

1           A.   Yeah, big and red, knock everything out.

2           Q.   Okay.  Do you pull in shields up around  
3 the head gate?

4           A.   No.

5           Q.   Okay.  Who takes care of pulling those  
6 head gate shields?

7           A.   Jack setter.  I mean, as far as I know.

8           Q.   Okay.  When you've turned the water off on  
9 the valves that we was talking about, do you have  
10 to turn the pumps off before you shut that water  
11 off?

12          A.   No.

13          Q.   Okay.  So you just turn --

14          A.   Turn the valves, yes.

15          Q.   Okay.  Have you ever seen a pressure gauge  
16 up around those valves?

17          A.   Yes.

18          Q.   Do you recall what kind of pressure you  
19 generally have on those, that gauge?

20          A.   No.

21          Q.   Okay.  Are those valves pretty hard to  
22 turn on and off?

23          A.   No, they're just normal.  They're not real  
24 loose or real hard.  They're just --

1           Q.    But before you -- when they call and say  
2 turn the water off, you don't go to the controller  
3 and hit a button to stop the pumps or anything?

4           A.    No.

5           Q.    So consequently when you turn the water  
6 back on, do you have to hit a pump to start the  
7 pumps or anything?

8           A.    No.

9           Q.    You just turn the valve?

10          A.    Just the valve.

11          Q.    And they've got water?

12          A.    They've got pressure.

13          Q.    What about when the conveyer is off and  
14 they call to start the conveyer? Can they start it  
15 from down the line?

16          A.    The belts?

17          Q.    No, the conveyer?

18          A.    The chain?

19          Q.    The face chain, yes.

20          A.    No.

21          Q.    How does the face chain have to be  
22 started?

23          A.    Well, it's got to be started from the  
24 head gate. You've got to push to longwall fault

1 reset as long as you got your lights. Because up  
2 there on that box, it's got two lights where they  
3 can lock the chain out or lock the face out; but as  
4 long as I got lights, I got to push longwall fault  
5 reset and auto start and it starts the face.

6 Q. Okay. You say as long as the lights are  
7 on.

8 A. Yes.

9 Q. Why would the lights be off?

10 A. I mean, you can lock the chain out by the  
11 side of your phone, on the left side of your phone,  
12 it's got a little toby (phonetic) switch to lock  
13 the face out.

14 Q. Okay.

15 A. And there's another way to lock it out  
16 too. Right there on your box is a red button and  
17 it locks the face out.

18 Q. Let me back up to the phone first.

19 A. Uh-huh.

20 Q. You say there's a switch on the phone?

21 A. Yes, sir, on the left side.

22 Q. And it's a toggle switch?

23 A. Yeah, toggle switch.

24 Q. So when you operate that switch, it will

1 shut the conveyor off?

2 A. Yes, shut the chain off.

3 Q. Okay. So as long as that switch -- I  
4 assume that switch then -- it's not a spring run.  
5 You just flip it one way?

6 A. Right, flip it off and flip it back on,  
7 but it can't start until I start at the head gate.

8 Q. But if one of those switches are turned  
9 off, can you start it at the head gate?

10 A. No.

11 Q. But when they turn the switch back on, the  
12 conveyor won't start on its own?

13 A. No.

14 Q. So when they set bits on the shear, what  
15 do they do?

16 A. Lock the face out.

17 Q. With that switch?

18 A. With that switch.

19 Q. Okay. What about -- how do they kill  
20 power on the shear?

21 A. I don't know.

22 Q. Now, you said something about a red button  
23 on the box.

24 A. Yes, on the box on the shields, they can

1 knock it and it kills pumps on the face for your  
2 shields.

3 Q. Okay.

4 A. Knocks all the pressure.

5 Q. So the box you're talking about is the --  
6 is it CIU box?

7 A. Yes. Yes.

8 Q. You've heard it referred to as CIU?

9 A. Yes.

10 Q. And there's a red button on the front of  
11 that?

12 A. Yes.

13 Q. And that kills the hydraulic pressure on  
14 the face?

15 A. Kills the pumps.

16 Q. Okay. So what happens if the pumps are  
17 killed?

18 A. If the pump's cut, you can't operate the  
19 jacks. No pressure to them.

20 Q. So you can't pressure the pan either?

21 A. Right, no.

22 Q. You can't drop the shield?

23 A. No.

24 Q. Okay. Bear with me. I've got to kind of

1 look through my list. I've asked a lot of  
2 questions of people. I forget what I've asked to  
3 whom.

4 A. That's fine.

5 Q. When you're up at the -- at your --  
6 running the head gate, what all areas up there do  
7 you trammel?

8 A. Most of the time from the head gate to the  
9 first shield.

10 Q. Okay.

11 A. Up on the head.

12 Q. From the head gate you mean --

13 A. To the head drive.

14 Q. Okay. What about out around the tail  
15 piece for the belt?

16 A. Tail piece for the belt?

17 Q. Where your stage loader dumps on the --

18 A. Yes. Yes.

19 Q. Is that right there near the head gate?

20 A. Uh-huh. Yes.

21 Q. Okay. When you're at the controller, how  
22 much of your shift is standing right there in front  
23 of the controller would you say?

24 A. I'd say -- I'd say probably 25 percent of



1 it.

2 Q. When you're there at the controller, are  
3 you pretty well in a location where you can hear  
4 the phones from the face --

5 A. Yes.

6 Q. -- and from outside?

7 A. Yes.

8 Q. Okay. Have you ever known the phones not  
9 to work?

10 A. The ones outside or down the face?

11 Q. Both.

12 A. The ones outside, I've always known  
13 working; and down the face, sometimes one of the  
14 phones will go out but still you can hear people.  
15 They've got so many phones down the face, sometimes  
16 some of them phones go out, one; but they'll fix  
17 it. That's the only ones I've known of ever going  
18 out.

19 Q. Okay. You're -- Are you familiar with the  
20 methane monitor readout at the head gate?

21 A. Up on the head gate, yes, somewhere.

22 Q. Where is that located?

23 A. Right there beside the phone.

24 Q. Do you -- That's just a readout; is that

1 correct?

2 A. Just a readout.

3 Q. Do you know where the sensor or the  
4 sniffer is located?

5 A. Well, I do now. I think it's mid-face,  
6 but that's a different mine, you know what I'm  
7 talking about, Revolution; but there I didn't know.

8 Q. But you did know that the readout was  
9 there?

10 A. Yes.

11 Q. Okay. In your short time at the head  
12 gate, have you ever noticed it to read any methane  
13 at all?

14 A. No. I think -- I think about the only  
15 thing I ever seen was 0.1.

16 Q. And you've never known of the face  
17 shutting off because of that methane monitor?

18 A. No.

19 Q. Okay. Have you had any knowledge of that  
20 methane monitor being bypassed?

21 A. No.

22 Q. Okay. You've never seen it bypassed?

23 A. No.

24 Q. Okay. Have you heard of it being

1 bypassed?

2 A. No.

3 MR. CRIPPS: Okay. Okay. We'll, I'm  
4 going to turn it over to somebody else and let them  
5 question you a little bit.

6 EXAMINATION

7 BY MR. TUCKER:

8 Q. I've got a couple for you. You said you  
9 were the head gate operator. Did you ever -- And  
10 you done that for about a week and a half?

11 A. Yes. Well, five -- I was on it, but I was  
12 with somebody; but all together, around five to six  
13 weeks, but about a week and a half I was by myself  
14 unless I needed somebody to help then I would  
15 holler at them.

16 Q. Did you ever take a call out from the  
17 foreman like maybe if he was down on the face and  
18 relayed the fire boss report --

19 A. No.

20 Q. -- to the outside?

21 Okay. Mr. Nelson mentioned that you made  
22 a comment about smelling gas a week or so prior to  
23 the explosion.

24 A. Yes.

1 Q. Could you tell us about that.

2 A. Yeah. We was coming to work, and I -- I  
3 told Luke Ford, because I haven't been in the mines  
4 long -- and I told him that I smelled natural gas,  
5 and he kind of laughed and said you can't smell  
6 natural gas underground. So I said, "Well, I know  
7 what I smelled," you know what I'm saying. But I  
8 wasn't in the mines long, so I thought maybe I  
9 smelled something different. But that's what it  
10 would have smelled like, natural gas. And it seems  
11 like to me when I smelled it it was about four or  
12 five breaks in by 78.

13 Q. So it wasn't while you were right up on  
14 the longwall?

15 A. No.

16 Q. Was it while you were coming in the mines?

17 A. Yes, coming in.

18 Q. Did anybody else say anything or --

19 A. No.

20 Q. So you was with your longwall crew when  
21 you were coming in --

22 A. Yes.

23 Q. -- and smelled it.

24 Okay. And you had mentioned in your last

1 interview about the air fluctuating some.

2 A. Yes.

3 Q. I was reading over that and just wondering  
4 how would you -- how would you describe that when  
5 you say it's fluctuating? Where were you when you  
6 noticed that?

7 A. Well, I noticed it two or three times.  
8 Seemed like to me it was the last opening, you know  
9 what I'm saying. You could feel the air pick up,  
10 and then after that it would stay like that a  
11 minute or so, and then it would go back down where  
12 it was. But it -- I don't know what caused it, you  
13 know what I mean.

14 Q. You don't have any idea?

15 A. No.

16 Q. And about when was that? Do you recall?

17 A. I couldn't recall that.

18 Q. Would you say within a month of the  
19 explosion? Could you --

20 A. Yeah, I'd say -- I'd say within a month  
21 one time because it was three or four times that I  
22 noticed it.

23 Q. While you were up on the longwall section,  
24 did you smell anything odd while you were around

1 near the head gate entry? Did you ever smell --

2 A. No.

3 Q. -- anything odd?

4 A. No.

5 Q. So you was -- I know for the last week and  
6 a half you were on the head gate, but you had  
7 mentioned that you were down the jack line some  
8 also --

9 A. Yes.

10 Q. -- training, just learning how to move  
11 shields up and different things. Did you -- Was  
12 there times that maybe you would spend a whole  
13 shift in a jack line?

14 A. No.

15 Q. So you would just go in for short periods  
16 of time and then back out?

17 A. Yes.

18 Q. When they would call and ask you to turn  
19 the water and shut the power off, what would you  
20 do?

21 A. Well, whenever I turned it off, it was  
22 water. They never asked me to turn the power off.

23 Q. So you never killed the power?

24 A. No. No. I always just turned the water

1 valves. If they -- if they killed power, they'd  
2 only lock the line out and then I would have  
3 started back up.

4 Q. Okay. So would they call you sometimes  
5 and say they were going to be setting bits?

6 A. Yes.

7 Q. And did they ask you to do anything during  
8 those times --

9 A. Well, when I was --

10 Q. -- or just let you know?

11 A. Just let me know. When I first started  
12 head gate, they'd say turn the water off because  
13 they were getting wet already. But after that, you  
14 know what I mean, I kind of never turned the water  
15 off when they'd do the belt, so I automatically  
16 turned it off.

17 Q. When they bitted up, that's the only thing  
18 you did was turn the water off?

19 A. Yes.

20 MR. TUCKER: That's all I have.

21 EXAMINATION

22 BY MR. McATEER:

23 Q. Pacer, can I ask you a couple of  
24 questions? Were you -- Where are you working now?

1           A.    Revolution Coal in Prenter.

2           Q.    Okay.  What was your last shift you worked  
3 at UBB?

4           A.    It was Saturday.  I don't recall if it was  
5 day or evening shift.

6           Q.    The Saturday before the explosion?

7           A.    Yes.

8           Q.    That would be the third, right?

9                    You talked about the 30 minute calls.  Who  
10 instructed you how to make the call, who to call,  
11 et cetera?

12           A.    Woody, Woody Woodrum.  He was the one  
13 there most of the time, which I worked with Woody,  
14 Rex, both of them, you know what I mean; and they  
15 showed me different things.

16           Q.    And what did they tell you that the calls  
17 were for?

18           A.    Just really how much they run production,  
19 down time.

20           Q.    So you've testified that you talked about  
21 the shear location, how much was run, any down time  
22 and the cause of it?

23           A.    Yes.

24           Q.    That was about three things?



1           A.    Yes.

2           Q.    Okay.  And you were instructed to call the  
3 dispatcher?

4           A.    Yes.

5           Q.    Did you ever call Greg Clay?

6           A.    Yes.

7           Q.    Anybody else that you can remember?

8           A.    No.  I just remember that name, Greg Clay.

9           Q.    When you were getting instructed for --  
10 the instructions for this head gate, did you ever  
11 get any training for the job itself?

12          A.    Just there.

13          Q.    Just from Woody?

14          A.    Yeah, Woody and Luke Ford.

15          Q.    Okay.  And did you ever get any training  
16 on emergency procedures?

17          A.    Such as if something happened?

18          Q.    Right.  Right.

19          A.    Yes.  Okay.

20          Q.    Okay.  Who would that be from?

21          A.    I can't recall.

22          Q.    But it was -- it would have been one of  
23 these guys that you mentioned?

24          A.    No.

1 Q. Luke --

2 A. Seemed like to me it was in a safety  
3 meeting one time and they was going after -- they  
4 were going over who all done what, and the head  
5 gate man was supposed to call outside and  
6 communications. That was his job. Seemed like to  
7 me it was Timmy Davis.

8 Q. But did -- you have a head gate operator  
9 and you're supposed to be doing communications in  
10 emergencies, was there a procedure that you had or  
11 anything like that, a piece of paper?

12 A. No, not that I was aware of.

13 Q. Uh-huh. Did you get a certification for  
14 mining training, you know, miners certification or  
15 electrician or anything like that?

16 A. Just underground. Is that what you're  
17 talking about?

18 Q. Yes. Now, you worked for a period of --  
19 I've gotten a little confused, and that's easy  
20 because I sometimes miss things. When did you  
21 start here at UBB?

22 A. I don't know the exact date, but seemed  
23 like to me it was around October of the following  
24 year.

1 Q. October of '09?

2 A. Yes.

3 Q. And you worked as utility for that period  
4 of time?

5 A. Yes.

6 Q. And did there ever come a time during that  
7 period of time that you had -- were working on  
8 water flooding the longwall?

9 A. No.

10 Q. Where did you work for that period of  
11 time?

12 A. What do you mean? When I first started?

13 Q. Yeah.

14 A. Went up there around the section, up  
15 around the longwall. I was just outby.

16 Q. But on the longwall section?

17 A. Yes, on the longwall section.

18 Q. Did you work anyplace else, Head Gate 22  
19 or anyplace?

20 A. No.

21 Q. So you were always on the longwall?

22 A. Yes.

23 Q. Was there any time when you had -- there  
24 was concern about flooding the longwall?

1           A.    No.

2           Q.    No, nothing like that.   Okay.   Where were  
3 the controls for the head gate power disconnect  
4 located?

5           A.    Power disconnect?

6           Q.    The power disconnect.   You had controls  
7 that -- You are on the head gate now.   Did you have  
8 controls to disconnect the power?

9           A.    Not that I was aware of.   The only thing I  
10 knew about was the buttons.

11          Q.    The B-stops?

12          A.    Yeah, the A-stops and how to start it up.  
13 Mostly that's all I've ever done was start it up.  
14 I never hit a E-stop.

15          Q.    And did you have anything that would  
16 disconnect the blades?

17          A.    I wouldn't be aware of that.

18          Q.    Okay.   How about the water valves?   You  
19 talked about those.   Where were they?

20          A.    They were -- Like you're facing the  
21 screen.

22          Q.    Right.

23          A.    They were to your right approximately 15  
24 foot.

1 Q. Uh-huh.

2 A. So I was going -- going towards the face.

3 Q. You think that's a safe location for  
4 these?

5 A. I really wouldn't know.

6 Q. From your station, how much of the face  
7 could you see, the longwall face?

8 A. I could see the head approximately six or  
9 seven shields.

10 Q. Six or seven shields in?

11 A. Yeah.

12 Q. Okay. Did you ever see Jack Roles during  
13 the time you were operating as head gate operator?

14 A. Yes.

15 Q. And what would he -- Tell me how you would  
16 see him.

17 A. He would just be coming up there to check  
18 something on the face or if there was a problem.  
19 He would come -- he wouldn't be there too long.

20 Q. What other management people did you see?

21 A. I seen Harold a lot, Harold Lilly.

22 Q. How about Chris Blanchard?

23 A. No. Delbert Bailey, I'd seen him a lot.

24 Q. Jason Whitehead?

1           A.    No.

2                   MR. McATEER:   That's all the questions I  
3 have right now.

4                                   EXAMINATION

5 BY MR. MAGGARD:

6           Q.    I have a few.   What was your first day at  
7 UBB?   Did you already answer that?

8           A.    I don't even really know.   It seems like I  
9 started about October, right around hunting season.

10          Q.    Okay.   And how long had you -- where had  
11 you worked at prior to October?

12          A.    I was working for Brian Buzzard,  
13 Mountaineer Labor Solutions.   I was working over  
14 toward Madison somewhere.

15          Q.    And how long had you worked for them?

16          A.    Probably about three or four months and  
17 that's when I started in the mines.

18          Q.    So have you just gotten your black hat  
19 when you come to UBB?

20          A.    It was a little bit after.

21          Q.    After?

22          A.    Yes.

23          Q.    Okay.   And where did you take your new  
24 miner training at?

1           A. I think it was -- it was Oak Hill for my  
2 test, my black hat test?

3           Q. No, your -- I guess in West Virginia you  
4 probably had, what, 80 hours or 40 --

5           A. Yes.

6           Q. Where did you take that training at?

7           A. From Danny Banks in Whitesville.

8           Q. And when you came to UBB who -- what did  
9 you do your first day?

10          A. First day I -- first day was really a mine  
11 tour. They just showed me everything in the mine,  
12 Jack Roles did.

13          Q. Was he the only one with you?

14          A. I'm pretty sure.

15          Q. Okay. Did he -- did you have -- do you  
16 remember him filling out any paperwork for you?

17          A. Yes.

18          Q. What did he fill out?

19          A. I don't recall that.

20          Q. Do you remember a document, a 5000.3  
21 document that he might have filled out?

22          A. I don't know for sure.

23          Q. What about the second day you was at UBB?  
24 Did you go to work?

1           A.    Yes.

2           Q.    What did you do?

3           A.    Seemed like to me the second day I started  
4 with Timmy Davis and I was setting props.

5           Q.    Tell me a little about what a utility  
6 man's duties are?

7           A.    Setting line timbers up towards the head  
8 gates. You've got to be so far out from the face.  
9 And scooping the road, rock dusting the last open,  
10 setting props over in the return and setting cribs  
11 in the last open.

12          Q.    Who would help you set props in the  
13 return?

14          A.    Mostly I was out there by myself unless  
15 there was a lot of them where they had contractors  
16 there, they would help me.

17          Q.    How would you get the props up there?

18          A.    In a scoop.

19          Q.    Okay. So you drove a scoop as a longwall  
20 utility man?

21          A.    Yes.

22          Q.    And who -- who trained you on how to run  
23 the scoop?

24          A.    Timmy Davis.



1 Q. Do you remember any kind of paperwork he  
2 filled out when you took that training?

3 A. Hazard training. He went over the whole  
4 equipment with me.

5 Q. Do you remember any kind of 5000.3  
6 document for that?

7 A. No.

8 Q. Did you have your own methane detector?

9 A. No.

10 Q. Did you ever have one at UBB?

11 A. No.

12 Q. Did anyone ever loan you one?

13 A. No.

14 Q. When you were working on the head gate,  
15 what kind of supplies -- Would you have to make  
16 supply runs or anything for the guys on the wall?

17 A. No. If they needed something, I would  
18 holler at whoever was outby and I would tell them  
19 they need something out at the face.

20 Q. And typically what kind of supplies would  
21 you holler for them to get?

22 A. Tools, chain ratchets. It was according to  
23 what the situation was.

24 Q. What about bits?

1           A.   Now, sometimes I would go to the last open  
2 break and I'd take bits to the -- right there at  
3 the head drive, there's a big hole under it and I  
4 would stock it up if I wasn't doing nothing at the  
5 head gate.

6           Q.   So where would you get those bits to stock  
7 them up at?

8           A.   Right there at the last open break that  
9 you come into the face. They always dump them  
10 there on the rib.

11          Q.   Who would transport them up to the last  
12 stop?

13          A.   Utility man or somebody on the third shift  
14 brought them up and they were already there.

15          Q.   So you've kind of been on both sides of  
16 that. You've been a --

17          A.   Right.

18          Q.   -- head gate man that runs from the last  
19 open break --

20          A.   Right.

21          Q.   -- put them where they need them?

22          A.   Yeah.

23          Q.   And you've also been a utility man that  
24 brought them up to the head gate?

1           A.    Yes.

2           Q.    Okay.  As the utility man, do you -- where  
3 did you get your bits from?

4           A.    Return.  Or -- or not a return, but a in  
5 intake over there, off the track, they bring  
6 everything off the track and store everything in  
7 intake.

8           Q.    Do you remember bringing up any water  
9 sprays as a utility man?

10          A.    No.

11          Q.    What about as a head gate operator?  Did  
12 you have to -- did they bring you any water sprays  
13 up?

14          A.    No.

15          Q.    Did you ever get any calls from the boss  
16 or anybody along the face that they needed water  
17 sprays?

18          A.    No.

19          Q.    Okay.  When you were over and they brought  
20 the shear up to the head and they were changing  
21 bits, how many times do you think you seen them  
22 changing bits?

23          A.    Right there at the last, they would change  
24 it a lot where they kept talking about it was so

1 hard and -- and they would change on -- they  
2 changed on the head and the tail; and before that,  
3 before the rock started getting so hard, they was  
4 just changing on the head. Right there at the  
5 last, they was changing both head and tail.

6 Q. How many times did they change on the  
7 tail? Do you know?

8 A. Just once as far as I'm aware of.

9 Q. And when -- how many times -- when they  
10 were changing them on the head, did you ever help  
11 them change the heads?

12 A. No. When I was at the head gate I  
13 wasn't.

14 Q. Had you ever watched?

15 A. Before that, yes, when I was working outby  
16 I would help them sometimes and watch.

17 Q. How -- Tell how they would do that, how  
18 they would change bits on the machine.

19 A. They would shut the shear off and then  
20 after I'd pull one of the shields over top of the  
21 drums and they get the drum where it would roll and  
22 they take their hammer and it looks like a big claw  
23 and knocks the bits out.

24 Q. After they change bits, what would they

1 do?

2 A. After they changed bits, they would start  
3 the shear back up.

4 Q. Have you ever seen them change any water  
5 sprays?

6 A. No, I never seen them.

7 Q. When they started the shear back up, what,  
8 would they call to the head gate guy to get them  
9 to --

10 A. Yes.

11 Q. -- reset everything?

12 A. Yes, turn the water on or --

13 Q. Okay. As the utility man, what did -- did  
14 you do any kind of work on the mule train?

15 A. No.

16 Q. Okay.

17 A. Maybe -- maybe, you know what I'm saying,  
18 rock dust it. I would have to rock dust it from  
19 there down if it was bad, but that would be all.

20 Q. So where would you get your rock dust at?

21 A. Be over in the intake as well with all of  
22 our supplies.

23 Q. How much rock dust would they keep over  
24 there?

1           A.   Most of it would be a pallet of two but  
2 sometimes they would run out and have to call and  
3 get some.

4           Q.   Were they very quick about getting the  
5 dust up to you?

6           A.   Yes.  Most of the time, once you call them  
7 it would be there on the next flatcar up.

8           Q.   As the longwall utility guy, would you  
9 ever do any rock dusting along the belt line?

10          A.   No.

11          Q.   Who would take care of that?

12          A.   I wouldn't know.

13          Q.   As far as rock dusting, you've scattered  
14 some and --

15          A.   Yes.

16          Q.   Do you recall any times during your -- I  
17 guess you said, what, a week and a half that you  
18 ran the head gate box?

19          A.   Yes.

20          Q.   Do you recall any problems with the water  
21 system outby, mule train, anywhere else that was  
22 affecting you guys?

23          A.   No.

24          Q.   You said there was a pressure gauge up

1 there at the head gate box but you don't recall  
2 what that normally read; is that correct?

3 A. Yes.

4 Q. Okay. Had you ever seen the methane  
5 monitor display enclosure change in any way since  
6 you've been working up there that maybe the lid was  
7 off or anything unusual about it?

8 A. No.

9 Q. Had you ever seen anybody do a calibration  
10 while you were up around the head gate of the  
11 methane monitor?

12 A. No.

13 Q. Do you know where the methane monitor  
14 warning light is on the head gate box?

15 A. No.

16 Q. Okay. As far as sprays on the crusher and  
17 the stage loader, who was -- who took care of  
18 those?

19 A. I wouldn't know.

20 Q. Do you know of any sprays that weren't  
21 working? Had you noticed anything about that or --

22 A. No. Not really.

23 MR. MAGGARD: I think that's all I've got  
24 right now.

## EXAMINATION

1  
2 BY MR. CRIPPS:

3 Q. I'm going to take another round at you.

4 A. Sounds good.

5 Q. Are you doing all right?

6 A. I'm doing great.

7 Q. You need a water?

8 A. No, I'm fine.

9 Q. There's a set of knives up at the head  
10 gate that you can disconnect the shear cable.

11 A. Uh-huh.

12 Q. There's also a set of knives that you can  
13 disconnect the tailgate motor cable. Are you  
14 familiar with those?

15 A. Not at all.

16 Q. Not at all.

17 A. Uh-uh.

18 Q. So is it fair to say you've never operated  
19 either one of those disconnects?

20 A. No, never have.

21 Q. And nobody ever explained to you the  
22 function of them or anything?

23 A. Okay.

24 Q. So then I guess you probably don't know



1 why they're open right now then?

2 A. Right. Uh-uh. Well, I probably seen  
3 them, you know what I'm saying, inside the case,  
4 the blades; but I didn't know what they was for or  
5 nothing. But, you know what I'm saying, I've  
6 walked by them and seen them and stuff, but I  
7 wasn't aware of, you know what I'm saying -- I know  
8 they disconnected power but I didn't know what for.

9 Q. Did you notice that the cover had a window  
10 in it --

11 A. Yes.

12 Q. -- so you could see inside the box?

13 A. Yes.

14 Q. And was there a light on inside that box?

15 A. Yes.

16 Q. So you've seen them --

17 A. Right.

18 Q. You just didn't know --

19 A. I didn't pay any attention to them. I  
20 didn't know what they were for, never did operate  
21 them.

22 Q. Did you see anybody operate them?

23 A. About the only person I ever seen come up  
24 there and operate anything, pulling the blades, was

1 Luke Ford and that's for the welder I'm pretty  
2 sure. Like if they were going to turn the welder  
3 on and off, he would come up there and lock it out  
4 or, you know what I'm saying, lock it in or take  
5 his tags off.

6 Q. Where was the welder at?

7 A. It was a -- it was up there close to the  
8 head gate.

9 Q. Okay.

10 A. You know what I'm saying, it was closer --  
11 the blades for it was. I reckon they had to pull  
12 the blades to, you know what I'm saying, to use it  
13 or whatever.

14 Q. Was it hanging on the monorail --

15 A. Yes.

16 Q. -- the welder?

17 A. Yes.

18 Q. When would they use the welder?

19 A. When they had something broke and had to  
20 weld it.

21 Q. Okay. Have you ever seen them use it  
22 while they was running?

23 A. No. I'm pretty sure I seen it a couple  
24 times, but they'd shut down first for whatever the

1 reason was.

2 Q. Okay. When -- when the shear had cut out  
3 at the head and turn around and go towards the  
4 tail, what is the next sequence of events that  
5 occurs around the head gate?

6 A. Most of them, they'll push the head button  
7 but sometimes they'll drop the head.

8 Q. Okay. Describe both of them to me.

9 A. Like, if they drop -- if they drop the  
10 head, they don't push the -- push the roller -- the  
11 roller up where you got to steer it; but if they  
12 push it, you got to get up there and steer it as  
13 the jack is pushing the head. There's different  
14 levers there. You got to steer the head drive.

15 Q. So when you say you've got to steer, does  
16 that mean the head gate operator --

17 A. Yes, me.

18 Q. -- you yourself? So you would be steering  
19 the tail piece --

20 A. Head piece.

21 Q. -- while -- Who would be pushing the pan?

22 A. Jack setter.

23 Q. Okay.

24 A. I mean as far as I was aware I'd say it

1 would be.

2 Q. What about when you said -- What did you  
3 say, they dropped the head?

4 A. Yes, dropped the head.

5 Q. Describe that to me.

6 A. Well, they just come up there and cut out;  
7 and right after that, they'd just take back off to  
8 the tail and they would push the head. They would  
9 drop what they caught, but I didn't know what it  
10 was for.

11 Q. Do you know why they did that?

12 A. No. I just heard them talking drop the  
13 head.

14 Q. When they dropped the head, what did it  
15 physically look like up there then?

16 A. Well, you know what I'm saying, you  
17 could -- you could sit there in front of the face  
18 where they come through and cut it, but you know  
19 what I'm saying, most of the time, if you would  
20 push it, it would go pretty much up to the coal  
21 block; but you know what I'm saying, all that there  
22 would be open where they'd cut and left it open, it  
23 would be open.

24 Q. So there would be --

1           A.    Right.

2           Q.    -- some distance between the front of the  
3 pan and the face?

4           A.    And the face, yes.

5           Q.    And that distance probably would be about  
6 the width of the drum --

7           A.    Yes.

8           Q.    -- the shear drum?

9           A.    Yes.

10          Q.    So we're talking three and a half feet,  
11 roughly four feet?

12          A.    Yes.

13          Q.    Does that sound about right?

14          A.    Yes.

15          Q.    Because I can tell you the drum on the  
16 shear we know is 42 inches, three and a half feet  
17 wide.

18          A.    That sounds about right.

19          Q.    When they did that, would they go ahead  
20 and put the shields up or leave the shields back  
21 normally?

22          A.    Seemed like to me they would push the  
23 shields up if I'm right, you know what I'm saying,  
24 push them up to where they catch the top I reckon.

1 Q. Now, if they pulled the shields up but  
2 they didn't push the pan, would that make the  
3 walkway --

4 A. Yes, it would be hard to get through.

5 Q. Have you ever seen that situation?

6 A. Yes.

7 Q. Was it tough to walk down the face?

8 A. Yes. You could walk it, you know what I  
9 mean; but you didn't have much room.

10 Q. Okay.

11 A. Most of the time though like if they drop  
12 it, they wouldn't go real far, you know what I  
13 mean. Seemed like about 30 or so shields.

14 Q. Right now the shear is sitting on the  
15 tailgate, but the -- the pan at the head has not  
16 been pushed, the shields have not been pushed.

17 A. Right.

18 Q. Does that make sense to you?

19 A. I really couldn't tell you.

20 Q. Okay. With -- with that knowledge, any  
21 idea what they may have been doing?

22 A. What is it now? The shear's on the tail?

23 Q. The shear is all the way up at the tail;  
24 but up at the head gate, after they cut out the

1 last time, they never pulled in the shields.

2 A. Never pulled no shields in.

3 Q. And never pushed the pan --

4 A. Right.

5 Q. So the gap you described between the pan  
6 and the face --

7 A. So they dropped the head.

8 Q. -- that gap is there but the shields are a  
9 good distance back from the face.

10 A. Right.

11 Q. So do you have any idea what may have been  
12 going on?

13 A. No, not at all.

14 Q. Would you say -- is that normal to do  
15 that?

16 A. Well, I've seen them do both, cut off the  
17 head -- I mean, you know what I'm saying, drop the  
18 head and tail; so, I mean, yeah. I mean, if they  
19 dropped the head, I've seen them do it.

20 MR. CRIPPS: Okay. I think that's all  
21 I've got for you right now.

22 Bill, you have anything else?

23 MR. TUCKER: I don't have anything.

24 MR. MAGGARD: Nothing.

1 MR. McATEER: I don't have anything.

2 MR. CRIPPS: Give me just a second. I  
3 know there is something I missed.

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. I've got one question. You said they  
7 opened the -- did he open the shear disconnect?

8 A. I wouldn't know. I mean, it seemed like  
9 to me they were talking about pulling the --  
10 setting it up or the blades; and there was a box up  
11 there and they would have to give it power. And  
12 Luke would come up there and put the power to it  
13 and then after that put his lock on it. After  
14 that, he would lock it out.

15 Q. So they wouldn't be running when he was --

16 A. No. No.

17 Q. Would the lights be on down the face or so  
18 he could see?

19 A. Yeah. Yes.

20 MR. McATEER: Okay.

21 EXAMINATION

22 BY MR. McATEER:

23 Q. I do have one other one if that's okay.

24 You started out as a contractor with Mountain



1 Labor?

2 A. Mountaineer Labor.

3 Q. Mountaineer Labor. And when you came onto  
4 Massey, were you a contractor or were you a --

5 A. I was a contractor, yes, until I got hired  
6 with Massey.

7 Q. Did you get hired as a contractor first  
8 with Massey and then convert over?

9 A. I started out as a contractor. Then  
10 Massey hired me where I was at, but I was with a  
11 contractor. Then they hired me with the company.

12 Q. And where was that?

13 A. UBB.

14 Q. At UBB. So you were a contractor first at  
15 UBB?

16 A. Yes.

17 Q. And then you converted over to a full-time  
18 employee?

19 A. Yes.

20 Q. When was that?

21 A. Seemed like to me it was around  
22 Thanksgiving when I started working for the company  
23 itself, but I was there before that but as a  
24 contractor.

1 Q. That was in October when you came in --

2 A. Yes.

3 Q. -- then you converted around Thanksgiving  
4 the same year, so you were there a month or you  
5 were there a year?

6 A. Yes, I wasn't there long at all. I was  
7 probably there around three or four months before I  
8 got hired on with Massey.

9 MR. McATEER: Okay. I got you. Thank  
10 you.

11 EXAMINATION

12 BY MR. CRIPPS:

13 Q. The head gate box, do you recall seeing  
14 anybody open any of those panels?

15 A. No.

16 Q. Okay. You never seen anybody go inside  
17 that box for any reason?

18 A. Never.

19 Q. Had you ever heard of anybody working  
20 inside of them boxes?

21 A. No.

22 Q. When you were working on the face, you  
23 ever been dusted out by rock dust up on the face?

24 A. I've seen rock dust, but what do you mean

1 by dusted out?

2 Q. Well, so thick you couldn't see and had to  
3 leave the face?

4 A. Oh, no.

5 Q. Okay. The rock dust you had seen, where  
6 did it come from?

7 A. From the head. I mean from the shear. If  
8 I'd be, you know what I'm saying, tail side of the  
9 shear, it would come from the shear when it's  
10 cutting.

11 Q. What about if somebody's spreading rock  
12 dusting, say somebody rock dusting on the belt  
13 line?

14 A. Oh, I never even, you know what I'm  
15 saying, seen any dust come off of the belt line.

16 Q. When you've been down there around the  
17 shear when it's been operating, you see the dust  
18 coming --

19 A. Off the drums.

20 Q. -- off the drums?

21 A. Yes.

22 Q. Okay. When you see that, is that always  
23 blowing -- which direction does the dust travel?

24 A. To the tail.

1 Q. To the tail. Okay. When you're around  
2 the shear, have they been cutting towards the head  
3 or towards the tail?

4 A. Both.

5 Q. When they're cutting towards the head,  
6 where are the men on the face? Where are they  
7 located in relation to the shear?

8 A. The shear operators or jack setters?

9 Q. All of them.

10 A. Well, one of the shear operators runs the  
11 head. He's on the head side and the tail operator  
12 is on the tail side and the jack setter is on the  
13 tail side of the shear.

14 Q. When they're coming to the --

15 A. Coming to the head.

16 Q. When they're going towards the tail, where  
17 would the guys be located?

18 A. Would be the opposite the jack setter,  
19 would be behind the shear going towards the tail.  
20 After the shear operator runs, the tail would be  
21 back there. And one would be, you know what I'm  
22 saying, running the head side going towards the  
23 tail down the head side.

24 Q. Okay. Okay. That's what I was wanting to

1 know.

2 Does anybody on your crew wear the air  
3 stream helmets?

4 A. Yes. Seemed like he was. Well, I've seen  
5 where they would wear them.

6 Q. Was that at UBB or Revolution?

7 A. UBB.

8 Q. What about at Revolution where you're at  
9 now?

10 A. Yes, they've been wearing them about  
11 probably two or three weeks. It's mandatory to  
12 wear them.

13 Q. Okay. It's mandatory. Was it mandatory  
14 at UBB?

15 A. No, it was just optional.

16 Q. It was optional?

17 A. Yes.

18 Q. Do you think some of the guys on your crew  
19 did wear them?

20 A. Yes. Yes. Yeah.

21 MR. CRIPPS: Okay.

22 MR. KOERBER: Pacer, at this point in  
23 time, if you have any comments you would like to  
24 make, if you would like to clarify anything, you

1 would like to make a statement, if you would like  
2 to ask a question, the floor is yours.

3 THE WITNESS: No.

4 MR. KOERBER: Okay. We'll go off the  
5 record.

6 (The interview of PACER PETTRY was  
7 concluded.)

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1 STATE OF WEST VIRGINIA, To-wit:

2 I, Nichelle N. Drake, a Notary Public and  
3 Professional Reporter within and for the State  
4 aforesaid, duly commissioned and qualified, do  
5 hereby certify that the interview of PACER PETTRY  
6 was duly taken by me and before me at the time and  
7 place specified in the caption hereof.

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

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

20 My commission expires the 19th day of July,  
21 2019.

21 Given under my hand and seal this 14th day of  
22 February 2011.

23 \_\_\_\_\_  
24 Nichelle N. Drake  
Professional Reporter  
Notary Public