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20
21 **Also Appearing: Davitt McAteer, Governor's**
22 **Independent Investigation team; Jasey Maggard**
23 **and Dean Cripps, MSHA**
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1 MR. KOERBER: Would you please
2 swear in the witness, please.

3 First of all, let me give the
4 preliminaries. My name is Barry Koerber.
5 I'm the Assistant Attorney General. I'm
6 assigned to the accident investigation
7 team for the West Virginia of Office of
8 Miners' Health Safety & Training.

9 Today is February the 8th, 2011.
10 We're here at nine o'clock for an
11 interview of Kevin Brown.

12 And I'd ask that the court
13 reporter swear in the witness.

14 KEVIN BROWN, WITNESS, SWORN

15 MR. KOERBER: Mr. Brown, would
16 you please state your full name for the
17 record and spell your last.

18 THE WITNESS: Kevin Chadwick
19 Brown, B-r-o-w-n.

20 MR. KOERBER: And would you
21 please state your address for the record
22 as well and your telephone number.

23 THE WITNESS: Street address is
24 

1

MR. KOERBER: And you appeared here for an interview on May 22nd, 2010. Does that sound about right?

2

THE WITNESS: Yes.

3

MR. KOERBER: And we're asking you here again for some clarifying questions from what we learned before.

4

5

Are you appearing here today as a result of receiving a subpoena?

6

7

THE WITNESS: Yes.

8

MR. KOERBER: Is that a copy of the subpoena?

9

10

THE WITNESS: Yes.

11

MR. KOERBER: I'd like that to be Exhibit A.

12

13

And this is a copy of the Affidavit of Service, which I'd like to be Exhibit B, or 1 or 2, however you want to do it.

14

15

16

17

(Exhibit Nos. 1 & 2 marked for identification.)

18

19

We also have several members of

1 the accident -- of other accident
2 investigation teams here today.

3 Beginning with the person to my
4 left, I would ask that the people identify
5 themselves and who they're with.

6 MR. TUCKER: Bill Tucker with
7 Office of Miners' Health Safety &
8 Training.

9 MR. MAGGARD: I'm Jasey Maggard
10 with MSHA.

11 MR. CRIPPS: Hi, Chad. I'm Dean
12 Cripps. I'm also with MSHA.

13 MS. HAMPTON: I'm Pollyanna
14 Hampton. I'm with the Solicitor's Office
15 for the Federal Department of Labor.

16 MR. MCATEER: I'm Davitt McAteer
17 with the Governor's investigative team.

18 And for the record, today is
19 February the 9th.

20 MR. KOERBER: My apologies.

21 MR. MCATEER: That's okay.

22 MR. KOERBER: I'm one day
23 behind.

24 We also have some other people in

1 the back of the room. I'd ask that they
2 identify themselves and who they are
3 with.

4 MR. WATKINS: I'm Tim Watkins
5 with MSHA.

6 MR. HESS: Leland Hess with
7 MSHA.

8 MR. STEFFNER: Clead Steffner
9 with MSHA.

10 MR. PAGE: Norman Page with MSHA.

11 MR. KOERBER: Mr. Brown, the
12 court reporter here is with a firm by the
13 name of Johnny Jackson & Associates. That
14 court reporter firm is in Charleston, West
15 Virginia. They are operating under a
16 three-day turnaround for those individuals
17 that would like to have an opportunity to
18 review their transcript after it is
19 printed up.

20 Today being Wednesday, three
21 business days would be Monday. Come
22 Tuesday morning, if you would like, you
23 can call Johnny Jackson & Associates, and
24 I'm going to give you their business card

1 with their telephone number on it, to
2 schedule a time that is convenient for you
3 as well as them. It will have to be
4 during regular business hours for them.

5 And if you would like, they will
6 put you in a conference room where you
7 have privacy, and you will have the
8 opportunity to read your transcript. And
9 you will be given an errata sheet, which
10 is another sheet of paper that goes along
11 with the written transcript, that if you
12 find any errors in the transcript, you can
13 note those errors on the errata sheet.

14 That is something that you can
15 do; it is not something that you have to
16 do; it is your choice.

17 As we also mentioned, I'm sure,
18 back in May, West Virginia Code 22A-1-22
19 provides certain protections for coal
20 miners from being discriminated against
21 for participating in interviews such as
22 this.

23 What I have also that I want to
24 give you is a memorandum which contains

1 the address of the board of appeals. The
2 board of appeals is the administrative
3 body that hears discrimination cases.

4 If you believe at some time you
5 are discriminated against for
6 participating in this interview, this is
7 the body that you file your complaint
8 with. And the complaint can be very
9 informal, just simply write a letter
10 explaining what happened.

11 I would caution you, though, that
12 you only have 30 days from the day that
13 the discriminatory action occurs to which
14 to file your discrimination action.

15 Okay?

16 I'd also like to give you a
17 business card for Mr. Bill Tucker, our
18 lead accident investigator. Should
19 anything come up after this interview that
20 you think it would be beneficial for us to
21 know about, I would urge you to contact
22 Mr. Tucker. I'm going to give you that.

23 Ms. Hampton, I think, has
24 something that she would like to mention

1 to you as well, and I'm going to give her
2 an opportunity to speak, but this is yours
3 to take home with you.

4 MS. HAMPTON: Hi, Mr. Brown. I'd
5 just like to put on the record that before
6 we went on the record today, I handed you
7 a letter from the accident investigation
8 team for MSHA; is that correct?

9 THE WITNESS: Yes.

10 MS. HAMPTON: And did you get a
11 chance to read that letter?

12 THE WITNESS: Yes.

13 MS. HAMPTON: Did you have any
14 questions for me about the content of that
15 letter?

16 THE WITNESS: No.

17 MS. HAMPTON: I just would like
18 to point out to you that similar to what
19 Mr. Koerber had said is that our contact
20 information is contained in that letter,
21 and if after you leave here today you have
22 any other information you think is
23 relevant that you would like to share with
24 the accident investigative team, please

1 don't hesitate to contact us.

2 THE WITNESS: Okay.

3 MR. KOERBER: At this point in

4 time, I'm going to turn it --

5 What's your name again, sir?

6 MR. CRIPPS: Dean Cripps.

7 MR. KOERBER: To Dean Cripps to

8 begin the questions.

9 EXAMINATION

10 BY MR. CRIPPS:

11 Q. Do you mind if I call you Chad?

12 A. No.

13 Q. Is that all right?

14 A. That's fine.

15 Q. Chad, you came in I think on May 22nd. We

16 appreciate you coming back in. Since the day of

17 your first interview, we've been underground, been

18 on the longwall a lot since then. We've seen the

19 condition, and naturally we have a lot more

20 questions now since we've actually seen the

21 conditions of the longwall, so I appreciate you

22 coming in and helping us out with the questions

23 we've got.

24 The thing I want to point out, I have

1 already found out with being with all the guys on
2 longwall from out here, I'm from the Midwest. The
3 terminology I use is a little bit different than
4 what you guys use out here, so if you don't
5 understand what a DA rim is or something like that,
6 just say it and then we'll get together. I have
7 already had to change my lingo considerably since I
8 have been here.

9 How about let's start out today, just pick
10 out a normal day from the time you arrive on the
11 mantrip on the section, get off the mantrip, just
12 explain to me what your normal shift would consist
13 of.

14 A. The first thing we do is go -- and
15 depending where we hot seated and depending on
16 where they was at with the shearer, whether we
17 bitted up there, or if it was on the face, we
18 automatically changed our bits, checked the water
19 sprays, the electricians would do all the other
20 servicing, greasing, check the oil and the water
21 pressure.

22 If all that was normal, we would go ahead
23 and start running.

24 Q. I'm going to back you up just a little

1 bit. When you get off the mantrip, you stop at the
2 power center?

3 A. Yeah, that's where they would set our
4 packman, the remote controls for the shearer, stop
5 and pick that up, and that's the only time I would
6 stop there.

7 Q. And would each of the shearer operators
8 pick up a packman?

9 A. Yes.

10 Q. And carry it onto the face with you?

11 A. Yes.

12 Q. Let's say a day shift, when you arrived on
13 the unit on day shift, would the shearer be running
14 at that time?

15 A. No.

16 Q. So you would go in and do what?

17 A. That's when you'd go in and wherever it's
18 sitting at there, you go ahead and do your pre-op,
19 check your bits, see if they need changed, check to
20 see if there's any water sprays out, check the
21 water pressure on the shearer.

22 It's been a while.

23 And the electrician will go ahead and
24 grease and check the oil and all that.

1 Q. What about when you was on the second
2 shift?

3 A. The second shift is the same, it just
4 depended on where they was at.

5 If they were running, if they were close,
6 like say mid face, close to the head or tail,
7 either way it was going, we would finish it out
8 before we would check anything.

9 Q. And why is that?

10 A. I don't really know why. It was just
11 force of habit, I guess.

12 When we would go in, the first thing that
13 was on our mind or told to was to run coal until we
14 get to a head or tail, because mid face usually was
15 a little bit lower than head or tail to check your
16 bits.

17 Q. Now, let me confirm something here.
18 You're the shearer operator; is that correct?

19 A. Yes.

20 Q. And you operate the --

21 A. Tail side.

22 Q. -- the tail side of the shearer. Okay.
23 Do you work on A crew?

24 A. I was on C crew.

1 Q. You were on C crew.

2 Kevin Medley is your boss?

3 A. Yes.

4 Q. And you worked, the last shift you worked
5 was?

6 A. The Saturday prior to the accident.

7 Q. Okay. Okay. Very good. Okay.

8 Let's talk about your pre-op that you did,
9 you do when you first go in. Explain that to me in
10 as much detail as you can, if you would.

11 A. That's been a while since I have been on
12 the wall now. But we would, when we got to the
13 shearer, you pull the line back to get out there to
14 check your bits and see to pull shields in to cover
15 yourself.

16 You just made sure the bits weren't dull,
17 check the oil, they'd check your oil in the arms
18 while you check your bits and your water sprays,
19 spin the drum around, if there was any sprays
20 out -- on the head drive I know we usually kept a
21 bucket of extra water sprays to change if we had
22 any out. And that's pretty much all the operator
23 would do.

24 They had a pressure gauge to hook, but I

1 have never hooked it up myself on a shearer to
2 check the water pressure. I always seen
3 electricians hook it up.

4 Q. Where did they hook it up, do you know?

5 A. On the back of the shearer. I've never
6 seen it hooked up on the head.

7 I know on a miner you hook it up on the
8 head and it would spray the cutter head, but on the
9 shearer, I've never seen it hooked up there.

10 Q. So you've never seen it hooked into the
11 drum?

12 A. No.

13 Q. When you say on the back of the shearer,
14 you mean the face side of the shearer?

15 A. Yes.

16 Q. And that's the sprays that spray onto the
17 face, I guess?

18 A. Onto the face.

19 Q. So what would they do, take a spray out?

20 A. Yeah, take a spray out, put the hose in
21 where the spray was with the pressure gauge on it
22 to check the pressure. Then if it was right,
23 they'd put the spray back in.

24 Q. You said you pulled the line back?

1 A. Yes.

2 Q. The line, is that the conveyer?

3 A. Yeah, the pan line.

4 Q. The pan line. I have learned that since I
5 have been here, but that's ...

6 Now, why would you pull the pan line back?

7 A. To get the shearer itself out of the face
8 so we could pull the shields in over our head to
9 protect us from the top where we was at.

10 Q. The bits on the drum would be sumped into
11 the face somewhat?

12 A. Somewhat, yeah.

13 Q. And so you pull the pan back to make it,
14 what, easier to spin the drum?

15 A. Easier to spin the drum and to get
16 ourselves away from the face in case it would roll
17 out.

18 Q. And then you said you pulled shields in?

19 A. Yes. Usually two to three shields over
20 top, one over top of the drum and at least one or
21 two over you.

22 Q. And that's just, why is that?

23 A. Just extra protection in case the top had
24 a little bit of draw rock.

1 Q. You say you checked the sprays. What does
2 that entail?

3 A. All we do was check if they're there. If
4 they were there, we considered them okay to run.

5 Q. By being there, do you mean --

6 A. They were in the slot the water spray was
7 supposed to be.

8 Q. Did you count the number of sprays that
9 was operating?

10 A. Usually, if you spin it all the way
11 around, once you got back to where you first
12 started setting bits, if you'd seen all the sprays,
13 I've never counted them myself, I know I think
14 there was supposed to be 43 maybe. Like I say,
15 it's been a while, but I've never actually sat down
16 and counted them myself.

17 Q. When you spin the drum, how did you
18 actually do that?

19 A. My foot on one bit or insert and my hands
20 on the other.

21 Q. And just use your body weight to --

22 A. Yeah.

23 Q. -- just kind of step on it and reach up
24 and grab it and turn it real slow?

1 A. Yes.

2 Q. When they would check the pressure, do you
3 know what pressure you was required to have on the
4 shearer?

5 A. It's been a while. I don't know.

6 Q. Okay.

7 A. I can't remember that.

8 Q. That's fine. If you don't remember, you
9 don't remember.

10 But you say the mechanic normally did
11 that?

12 A. Yes.

13 Q. Who would that be on your shift?

14 A. That would have been Tommy Estep or Dustin
15 Ross.

16 Q. Did they both do that, or did you see them
17 both do that?

18 A. Yeah, they worked together. If one of
19 them was done on one side, they would go ahead and
20 do whatever it was that wasn't finished yet.

21 Q. So while that was going on, they would
22 also be servicing the shearer?

23 A. Yes.

24 Q. Did you say that?

1 A. Yes.

2 Q. Setting the bits, who set the bits on the
3 shearer?

4 A. The operators, the shearer operators, and
5 the jack setter would usually help one side or the
6 other.

7 Q. And so that would be you?

8 A. Well, yeah. Myself and the other
9 operators.

10 Q. So you have set bits on the shearer?

11 A. Oh, yes.

12 Q. How about just, in as much detail as you
13 can, explain the process to me of setting bits.

14 A. Well, you would -- it depends on how bad
15 they were. If you definitely use the wrench that
16 they had and beat them out with a hammer, we would
17 just toss them back across over into the line that
18 you walk on the face where the pontoons of the
19 shields are, and they usually just piled up there.

20 Q. The wrench you talk about, a crescent
21 wrench, a socket wrench?

22 A. No, it looks like -- it's a bit wrench.
23 It looks like a weird fork, just two prongs. Had a
24 rubber piece on the back of it and a small metal

1 handle to hold on to.

2 Q. And you beat that wrench with a --

3 A. Three-pound hammer.

4 Q. With a hammer?

5 A. Yeah.

6 Q. But the wrench is designed to be struck

7 with a hammer?

8 A. Yes.

9 Q. And the fork is -- are they kind of wedged
10 shape?

11 A. Yes.

12 Q. And that's so that they'll drive in behind
13 the bits to pull the bits out?

14 A. Yes.

15 Q. How do you determine when a bit needed to
16 be changed?

17 A. Depending on how much carbon was left in
18 it.

19 Some of them, where we was in a lot of
20 sandstone on that face, it didn't matter how often
21 you changed them, it would melt them down to
22 nothing. There would be no carbon left in it
23 period.

24 Q. By carbon, you talking about the carbide

1 tip in it?

2 A. Yes.

3 Q. So I mean, what's the condition you've
4 seen some of the bits in when you've changed them?

5 A. Completely nubbed down from the -- I'm
6 trying to -- I guess they were six inches to begin
7 with, estimating, and there would be an inch of a
8 head of the bit left, no carbide period.

9 Q. When you're cutting in that sandstone with
10 those bits in that condition, how did it cut?

11 A. That sandstone, one pass and that's just,
12 you know, changing the bits on the head, by the
13 time you got to the tail, there at that instance
14 when you cut out once on the tail, you couldn't
15 even completely cut out at the top. You just back
16 up, change bits, have to change some bits.

17 Q. Is that when you would see all the
18 sparking --

19 A. Yeah.

20 Q. -- coming off the bits?

21 A. Yes.

22 Q. I think in your interview before you
23 mentioned about the sparking coming off the bits.

24 So explain to me how, if you're cutting

1 towards the tail, for instance, and you need to set
2 bits, explain to me the process of doing that.

3 A. We usually carried bits. We stuck as many
4 buckets of bits as we could on the shearer itself
5 and packed them with us, because we knew we was
6 going to have to change them by the time we got to
7 the tail at least, when we got to the tail.

8 If we got there, if we couldn't make it
9 all the way to the tail, because there was some
10 instances we never made it passed 150 shield, the
11 rock just wouldn't let us, so we cleaned up as best
12 we could to get a spot safe enough for us to bit
13 up.

14 Q. Would you have to turn the shearer
15 around --

16 A. Yes.

17 Q. -- to bit? Why is that?

18 A. Just turned it up to make sure I scrap
19 enough bottom, because the drum itself I think was
20 64 inches high, and I wanted a little more room
21 than 64 inches to get myself and my tools to work
22 safe out there to bit up.

23 Q. Okay. I understand.

24 Go back just a minute to checking the

1 water and the sprays. So you did check your sprays
2 and the mechanics checked the water pressure?

3 A. Yes.

4 Q. Did you or do you know of anybody that
5 made a record of any kind of that exam?

6 A. No. If anyone did, the electricians may
7 have put it down in their PM sheets, but I've never
8 seen their sheets, so I'm not sure.

9 Q. They didn't do it on the shearer or have a
10 board hanging at the headgate or the tailgate that
11 you're aware of?

12 A. Not that I'm aware of.

13 Q. But that was normal every shift, to check
14 your sprays and check your pressure?

15 A. Check the sprays, yes. Check the
16 pressure, I didn't pay attention to them what they
17 was doing back there, so I can't say that they did
18 check it every time, every day. But I have seen it
19 checked every now and then, I do know that, but I'm
20 not going to say every day.

21 Q. That's fair enough.

22 The gauge that you talk about that they
23 used, do you know where that gauge was kept?

24 A. Possibly a toolbox, because most

1 electricians wouldn't leave any of their tools.
2 Like anything they used on a daily basis, wouldn't
3 leave it out for the fact being one shift may not
4 have it and they may put it up in their box.

5 Q. Oh, surely not.

6 A. Oh, yes.

7 Q. I understand. Okay.

8 So to your knowledge, there was no certain
9 place off the headgate or the tailgate where a
10 gauge was kept just for that purpose?

11 A. No.

12 Q. After you check the sprays --

13 And let me back up. If you come in at the
14 start of the shift and you had sprays missing, what
15 would you do?

16 A. Usually I would have a couple in the
17 shield, the teardrops of the shields, there would
18 be a couple random there.

19 If they didn't have them and I was not on
20 the head, we could get them, someone that was
21 passing by there, because the three operators were
22 always to the shearer before anyone else was, and
23 the electricians will usually, and the boss Kevin,
24 would usually follow us down at the first of the

1 shift anyhow so we could holler on the Control
2 phones to someone to pick up the sprays on their
3 way down.

4 Q. How difficult is it to change the sprays,
5 either replace missing sprays or change the clogged
6 sprays?

7 A. Clogged sprays, if you check by turning
8 the water on -- I mean, either way, a staple like
9 that, you know, two minutes at the tops to change
10 one. That's if it's stuck in there good, the
11 staple had been beat from rock and stuff like
12 that. It's very simple.

13 Q. After you get the run at the beginning of
14 the shift, now you start running. Is it common for
15 sprays to come out?

16 A. Yes. The sprays, I have seen them --
17 you'd be full drum at the head, and when you get to
18 the tail, three or four is already missing.

19 For some reason -- that's like I guess the
20 staple, where the staple would go in the shearer
21 drum itself would get loose and they would fly out
22 from head -- one pass, one head to tail.

23 Q. So you've seen three or four come out in
24 one pass?

1 A. Yes.

2 Q. Normally then in a pass, you've got three
3 or four out. When would you replace those missing
4 sprays?

5 A. As soon as I noticed them.

6 Most of the time you'd carry them in your
7 pocket if you knew that was going to happen. If it
8 become a custom problem that they're going to fly
9 out and you know you're going to stop at the tail
10 anyhow, just carry some with you.

11 Q. And then change them when you get to the
12 tail?

13 A. Yeah.

14 Q. Did it normally coincide with setting
15 bits?

16 A. Yes.

17 Q. I'll tell you what, if you would, just
18 explain to me, make a cut for me from the --
19 starting at the head, go all the way to the tail.
20 Tell me everything that's going on with the shearer
21 and going on on the face.

22 A. Just head to tail?

23 Q. Yeah.

24 A. I mean, on that one, you start out, you

1 could go, I'm going to say a decent speed of about
2 35 foot per minute to maybe 50. It's been a while,
3 like I said. Until you got to about 75 shield.

4 Then I think the top was a little bit
5 ragged and you might have to fight some rock. What
6 I mean is when it falls into the conveyer to -- be
7 slightly too big to go under the shearer, have to,
8 you know, fight with it, break it with the shearer
9 itself to get it to fit underneath and then, you
10 know, it's backing up in case you have to re-cut
11 bottom.

12 Other than that, I think one pass at the
13 end was taking about 58 minutes, maybe a little
14 over an hour. I'm not really -- like I said, it's
15 been a while.

16 But I think the sandstone may have started
17 around 150 shield at the end. That's an estimate.

18 That sandstone top, once we got down
19 there, that's where most of our time took was
20 cutting the sandstone out on the tail, because
21 you'd back and forth, back and forth to re-cut
22 the -- it would push the drum itself out of the top
23 where it was so hard, and no matter how good your
24 bits was, it would push them out, plus dull them up

1 real good.

2 Q. So that was -- you'd have to go back and
3 trim the top, is that what you're saying?

4 A. Yes.

5 Q. Why is that? I mean, why is it important
6 to keep the top trimmed?

7 A. Well, on the tail and the head, we tried
8 to keep it a certain height just in case something
9 breaks down and you get the parts in on either
10 side. And to clear the head drive and the tail
11 drive itself, you need to at least -- well, not at
12 least, but it's best to have more than 70-some
13 inches. You don't want the shields setting on top
14 of the drives. Just cause problems for everything.

15 Q. I'll back up, because I asked you about
16 cutting. You're at the head and you're cutting to
17 the tail?

18 A. Yes.

19 Q. You're the tailgate shearer operator.

20 So I understand if you're the tailgate
21 operator, you have control of the tailgate drum as
22 far as the positioning up and down; correct?

23 A. Yes.

24 Q. I think you also have control of the tram;

1 is that correct?

2 A. Yes.

3 Q. So when you're going to the tail, where
4 would the tailgate drum be located?

5 A. In the top.

6 Q. So when you're going to the tail, the
7 tailgate drum is taken out the top?

8 A. Yes.

9 Q. What about the headgate drum?

10 A. He's cutting the bottom.

11 Q. So it's tramping.

12 And I say that in case some people is not
13 familiar with the longwall. I know you, you think
14 everybody understands that, but I found that's not
15 the case, so that's the reason -- I know you
16 probably think I'm asking some pretty simple
17 questions here, but that's...

18 So when you're tramping the tail, you're
19 cutting the top out. Now, when you turn around and
20 come back to the head.

21 A. The tail operator is cutting the bottom,
22 the head end operator is cutting the top.

23 Q. So when you're cutting to the tail, where
24 is the shield man located?

1 A. Cutting to the tail, he's behind the
2 headgate operator -- the head end operator pulling
3 the shields.

4 Q. So by behind, you mean he's towards the
5 headgate?

6 A. Towards the headgate, yes.

7 Q. Towards the headgate into the longwall?

8 A. Yes.

9 Q. Where are the two shearer operators
10 located?

11 A. I usually stood at the midpoint of the
12 shearer. I know that's not where you're supposed
13 to stand, but to see what I was doing, I was
14 standing at the midpoint of the shearer where all
15 the controls, power and stuff, the JNA unit was, so
16 I could see what I was cutting.

17 Now, the head end operator, he was always
18 outby his drum at least one or two shields.

19 Q. By outby, he was towards the --

20 A. Towards the headgate.

21 Q. -- headgate?

22 And so with him being towards the
23 headgate, then he could get a good view of his drum
24 to see the amount of bottoms --

1 A. Yes.

2 Q. -- he was cutting?

3 And by you being located at the midpoint
4 of the shearer, explain the reason for that.

5 A. Well, I would sit there -- I wouldn't be
6 in as much dust, but I was still in a little bit of
7 dust. But to see what I was cutting at the top, at
8 the midpoint I found that you could see where the
9 air had already blew the dust out and I could see
10 what I was cutting, if I needed to back up and
11 retrim top or if I could just keep going.

12 Q. Now, when you -- explain to me when you
13 get down to the tail, explain right there at the
14 tailgate when you're actually cutting out the tail
15 where you're located, where the shield man is
16 located.

17 A. He would step the lines back in a wedge,
18 it's kind of a stair step, the shields back, and he
19 would just sit with the head end operator, they
20 usually sit about 160 waiting on me to cut out.

21 I would cut all I could out, usually
22 wasn't enough but just to clear the drum out, flip
23 the cowl back up, scrap what bottom I could, then
24 raise the arm up and re-cut the top again as I went

1 back out.

2 I usually repeated that process probably
3 three times in that condition with the sandstone
4 the way it was.

5 And after I got everything to where I
6 wanted it, we were back up to where he stair
7 stepped. The shield operator would pull them into
8 where he stair stepped, lined up toe-to-toe with
9 the ones that have not been pulled in yet, pushed
10 the tail out again, cut that out, repeat the same
11 process when I first cut it out, and then we would
12 head to the head.

13 Q. You say when you've got the tail cut out,
14 you flipped the cowl?

15 A. Yes.

16 Q. Did you have to sump down a little bit to
17 get some clearance to flip the cowl?

18 A. Yes.

19 Q. But then when you turn around and go back,
20 you say you cut the head, or I'm sorry, the roof?

21 A. Yeah. I would cut the top at least two
22 more times. Just by it being at the hardest part
23 it was two more times, but the bottom, I think the
24 bottom wasn't as hard at that time.

1 Like I said, it's been a while.

2 But you wouldn't have to cut it but once
3 or twice.

4 Q. Because what I'm used to seeing is you cut
5 out the tail and you sump down and then you cut the
6 bottoms going the other way.

7 A. Yeah.

8 Q. When did you actually cut the bottoms?

9 A. I would cut the bottom after I was done
10 with the top. I mean, when I would go out, I would
11 sump down a little bit and cut a little bit of
12 bottom on my way backing up to set up to re-cut the
13 top, but I would never sump it down as far as I
14 wanted to go at first.

15 Q. Would you say if you wasn't in all this
16 sandstone, is that the normal procedure for cutting
17 out the tailgate?

18 A. No. If we wasn't in all the sandstone, I
19 probably would have cut out top once, wouldn't have
20 had to touch it again, just sump down, cut the
21 bottom, and went out on the bottom one more time
22 just to make sure that I got all of it and then
23 headed back.

24 Q. Where do you stand or did you stand when

1 you was cutting out the tail here on this
2 particular panel?

3 A. At the stagger shield most of the time. I
4 think that's where the ACT. was. It's right where
5 the tail drive hooked to the pan line itself.

6 Q. That's probably about 173 shield?

7 Let me put it like this, the ACT box is at
8 173 shield.

9 A. Okay. I was trying to remember how many
10 shields.

11 Q. There's 176 shields on the face.

12 A. It's been a long time since I was there.

13 Q. I understand.

14 And there's three shields that's hooked to
15 your tail pan, then you got I think what you call
16 the stagger shield.

17 A. Yes.

18 Q. But that's where the ACT box ...

19 Was it a little hard to see down there?

20 A. It wasn't that bad. Well, there when the
21 air got cut in half, when the air went from around
22 100,000 down to I think around 50,000, I'm not
23 really sure on the numbers anymore, but it got a
24 little bit harder to see, but it wasn't that bad

1 before then when we had a lot more velocity going.

2 Q. I noticed that -- I mean, that tail drive
3 and the covers over the top of them is pretty high
4 down there, and it looked like you was losing some
5 height on the tail. There's not a lot of clearance
6 between the shields and the top of that tail
7 drive.

8 A. Yeah.

9 Q. And so you've done your -- I always called
10 it the snake. You guys called it the shuffle.
11 That's where, if I'm understanding right, he
12 staggers the shields in, for a better word, and
13 just pushes the pan over.

14 A. Yes.

15 Q. And forms kind of, something like an S
16 shape or something like that.

17 Where would the pan actually be all the
18 way in against the face, what shield approximately?

19 A. He usually started at 155, so I would say
20 around 145 it would, you'd have a full drum. It
21 would be all the way against the face.

22 Q. And when in all that process then would he
23 go ahead and pull up the shields the rest of the
24 way?

1 A. When we would come back after our first
2 cut out on the tail, after we got to where he had
3 stopped and we was clear of his, where he started
4 stepping them back staggering them, he would pull
5 the jacks in to line them back up to where they
6 would be even again and push the line out, cut out
7 on the tail, and then we would go back to the head.

8 Q. Go towards the head.

9 And so each time you cut out on the tail,
10 I mean, in the conditions that you're in now, you
11 had to make multiple passes right there at the tail
12 to get the head -- the top and the bottom cut out?

13 A. Yes.

14 Q. The three last shields, the tailgate
15 shields, were them normally kept pulled in all the
16 way? Do you recall?

17 A. Not if we were running. The only time
18 they were pulled in -- I mean, if they thought the
19 top was going to fall, they would spot them before
20 we left again, but normally, no, they were left
21 back with the rest of the line. After it pushed,
22 that's where they stayed.

23 Q. Okay. Okay. Now, when you're cutting,
24 you've done your shuffle and you're heading for the

1 headgate now. Explain to me that process going to
2 the head. What I'm looking for is where you stand,
3 where the shield man is at, and where the headgate
4 operator is at.

5 A. The headgate operator is right around,
6 standing around almost even with his drum, always a
7 little bit ahead, so he's not in, because the head
8 end, when you're going to the head, puts out a lot
9 of dust and water if you stand right there at it,
10 and the air hitting it and you right at the water,
11 you get -- you're a muddy mess.

12 But I was standing about midpoint of the
13 shearer as always just so I could see what I was
14 cutting.

15 The shield operator on the tail, he would
16 always just follow behind us pulling the shields
17 in.

18 Q. Your shearer, does it have like any type
19 of horizon control? Could it determine how much
20 bottom it's cutting and adjust itself, or is it
21 strictly manual?

22 A. Manual.

23 I know what you're talking about. They
24 called it memory cut, I believe, on that.

1 Q. Yes.

2 A. And I have never seen that work. And I
3 have worked at two different mines, and I have
4 never seen it work.

5 Q. So it was up to you to determine how much
6 bottom was being cut?

7 A. Yes.

8 Q. So consequently, you need to be able to
9 see the drum to determine that?

10 A. I usually looked at my arm to see how far
11 off the pan line it was to judge how much I was
12 cutting.

13 Q. And in a normal relatively flat panel,
14 would you, if you was going to the head, would you
15 sump the drum all the way as far as it would go?

16 A. No. I would usually leave it about six
17 to -- probably about five to six inches off the pan
18 line, and it would usually stay level.

19 Q. What if you just sumped it down every
20 time, every pass, what would happen?

21 A. You would be heading to China. It would
22 turn the pan line over. Eventually it turns over
23 so hard that the shearer itself doesn't want to
24 tram. It's like both your shafts that tram it are

1 broken. We had that incident happen a couple of
2 times with new operators on this panel.

3 Q. I started to say, it sounds like you've
4 heard of that or seen that.

5 A. Oh, yeah.

6 Q. What if you, instead of five to six inches
7 off the pan, you leave it a foot off the pan?

8 A. It will raise up and you'll -- the pan
9 line itself will tilt back a little bit like this
10 and you'll lose height. That's how you -- if you
11 want to come out of bottom and actually lose
12 height, you'd say your shields are stroked out,
13 they go -- the range on them is nine foot to hit --
14 be setting on the bottom and the top. If it's
15 anything over that, if something falls, that
16 shield's struck down, it's not holding anything, if
17 something falls, it can slam that shield all the
18 way against the pan line, no problem, with nothing
19 holding it.

20 If you bring it up like that, that will
21 get it back to where it's anchored in something and
22 then you can level the pan line back out.

23 Q. And so I guess this is your opinion. Is
24 it pretty important to cut the bottoms correctly at

1 the right level?

2 A. Yes.

3 Q. Some of these questions I already know the
4 answer to, if you haven't been able to tell.

5 Now, when the shield man is pulling the
6 shields behind you, as I understand, you cut both
7 directions on this pan?

8 A. Yes.

9 Q. Or on this face. And so consequently,
10 when you're cutting towards the head, the shields
11 are being pulled in as the shearer makes the cut?

12 A. Yes.

13 Q. Then is the pan being pushed also?

14 A. Yes.

15 Q. As I understand, you'd been a shield man
16 also; is that correct?

17 A. Yes.

18 Q. So explain that process to me if you would
19 as far as how the guy pulls the shields and pushes
20 the pan.

21 A. On the JOY shields that we had here at
22 Massey, the prime, as they called it, did not
23 work. You would pull in the shields manually
24 one-by-one on the computer itself, not actually

1 climb inside where the spool valves are.

2 But the prime for the push actually,
3 that's the only part of it that did work. So after
4 you went, say, 10 or 15 shields, you could push I
5 think it was -- I'm not even going to speculate, I
6 can't remember. I haven't seen a box in a while.

7 But you could hit the button to have it
8 pushed, and it would push out within say five
9 shields of where you even pushed the button.

10 As long as you kept pulling shields in,
11 you would be -- you could push the line out all the
12 way.

13 Q. So when you say that you have to pull them
14 all manually, you did that, it was actually
15 electrically from the adjacent shield?

16 A. Yes.

17 Q. So if you wanted to pull in number 150,
18 you stood on 149?

19 A. Yes.

20 Q. How would you -- explain that process to
21 me. Was it a one-button process or?

22 A. No, it was a -- usually a three-button
23 process. You would hit the direction, there's
24 arrows on each side of the CIU, one pointing, say,

1 if you're at 150, one pointing at 151, one pointing
2 at 149.

3 You push the directions to pull in 151,
4 hit -- it was pretty simple, just arrows
5 everywhere. Hit the down and advance, and it would
6 pull the shield in, then set it to the top.

7 Q. Do you know what LAS stands for? Explain
8 that to me.

9 A. Lower advanced set. You could hit the
10 direction LAS, but half the time in my -- my
11 experience in using that button, they wouldn't come
12 in 100 percent, and you would break a shearer pin,
13 and when you come back through, you're either going
14 to sit there and fight with it to fix it or you're
15 going to try and walk it in doing pretty much the
16 same thing.

17 That button would lower it, advance it,
18 and set it itself, but like I said, 90 percent of
19 the time it didn't work the way it was supposed to.

20 Q. And by not coming in all the way, you mean
21 the shield would not advance?

22 A. The shield would not advance all the -- as
23 far as it needed to go.

24 Q. And what problems would that create?

1 A. Your line would be, won't be pushed out of
2 the way, your shield, the pin that holds the shield
3 itself to the line with the ram that pushes the
4 line out after the shield has been pulled in would
5 normally break.

6 Q. And that's -- it would break when you was
7 pushing the pan line?

8 A. Pushing the pan line.

9 Q. That would be because if every shield was
10 in except for one, something has got to give?

11 A. Yeah.

12 Q. Right? If that shield sat against the
13 roof, obviously the shield is not going to move.

14 A. Right.

15 Q. So if the shield man is advancing each
16 shield individually, how in the world did he keep
17 up?

18 A. Got to be fast.

19 Q. I'd say.

20 A. And it actually got pretty easy. It
21 depends --

22 Now, there was times that you had to stop
23 and wait on him. Now, you would never leave,
24 especially going head to tail, because what we were

1 really supposed to do was cut about 20 shields,
2 stop, let him go back and set so he wouldn't be in
3 all the dust. I'm not going to sit here and tell
4 you that's what we did, because that would be a
5 lie.

6 Q. I understand.

7 A. And we wouldn't, but we would not take off
8 and leave him. I would keep check on him, me being
9 the tail end operator, I would keep check on him,
10 watching him. If he was getting 10 shields behind,
11 I would stop. Because you don't want a man back
12 there in the dust having problems. You don't know
13 what's going to happen.

14 One instance, the same shield -- well, he
15 was actually my shearer operating partner at the
16 end. A backboard cover that was on the back of the
17 pan line that covers all the cables, wires, it had
18 fallen off and was covered in gob, all the coal
19 fines from water coming out of the bottom of the
20 pan line. He was pulling the shield in. That
21 cover came and hit him in the leg. And I was just
22 sitting and waiting on him, because he was about 15
23 shields back.

24 If I hadn't stopped and waited on him, he

1 could have just been stuck down there by himself.
2 So I -- and for that reason, I always waited after
3 about 10, 15 shields. I would stop and wait on him
4 regardless.

5 Q. Right. And so the prime on these shields,
6 have they worked on this face at all?

7 A. No. The advanced prime, I never did try
8 to use it, but I didn't set shields on it, but I
9 never did see it work. From the whole -- since I
10 have been with Massey, I have never seen that
11 advanced prime work. And on their longwall, I was
12 only with them two years, so ...

13 Q. Now, was you over at Logans Fork on the
14 longwall?

15 A. Yes. I'm actually back there now.

16 Q. Oh, you're at Logans Fork?

17 A. Yes.

18 Q. On the?

19 A. Miner section.

20 Q. On the miner section.

21 But was your shield man at Logans Fork?

22 A. Yes.

23 Q. And so the lower advanced set prime didn't
24 work?

1 A. No.

2 Q. Before I get away from it, the push prime
3 that you mentioned, explain that to me.

4 A. You would program in the prime on the
5 direction it was going. If you were going to the
6 head, you would prime it towards the tail.

7 I might have said that wrong.

8 If you were going towards the tail, you
9 would program it to go towards the tail.

10 And as you would go, you could push the
11 push prime button, and it would push within three
12 shields of where you would push the button, and as
13 long as you kept -- usually it would even -- that
14 was a little worse than the DBT shields I run at
15 Harris. They would go within five and it wouldn't
16 mess with your line, but after you pushed that, you
17 had to pull in at least two to three more shields
18 so it wouldn't break a shearer pin.

19 Q. And so the advanced -- so when he's
20 pulling the shields coming towards the headgate, he
21 doesn't have to go back down the face to push the
22 pan over --

23 A. No.

24 Q. -- so he can cut back to the tail? That's

1 what the push prime, he can set that and --

2 A. And push wherever he's at and he doesn't
3 have to go back.

4 Q. So it's just individually, he has to
5 lower, advance, and set the shields?

6 A. Yes.

7 Q. When he sets the shields, when he pulls
8 them and sets them, how does he determine how much
9 pressure or up pressure to put on the legs, or is
10 the up pressure on all the time?

11 A. I guess it's on all the time, because it
12 automatically, it will stop going up. You'll watch
13 the legs. I mean, it just -- that's how I -- I
14 never seen a gauge or anything like that.

15 Q. Do you have to hold the button until it
16 stops?

17 A. You could. I mean, I usually did until it
18 completely stopped, because I didn't want a shield
19 pushing back on me, then I'd have to stop
20 everything and run back there and pull it back in.
21 That's what I did. And I'm sure that's what the
22 others did, too.

23 Q. When you go over to the headgate, what
24 about cutting out at the head?

1 A. I would usually raise my drum up enough to
2 where it wouldn't be cutting deep into the bottom
3 at the head where I was cutting the tail. I would
4 get outby, because cutting out on the head creates
5 a horrible amount of dust for anyone behind it. No
6 one would be hanging out behind the inby where that
7 drum is cutting out. That's just horrible.

8 Q. So where would you --

9 A. Usually I would be closer to, say, number
10 three shield.

11 Q. And the headgate guy, he's around the
12 middle of the shearer by then, or is he out in the
13 --

14 A. The head end operator, he's usually
15 standing at probably four or five shield.

16 Q. Have you ever sort of cut out and you need
17 to set bits either on the head or the tail, where
18 do you normally, where on the face do you set the
19 bits?

20 A. On the head end, we usually set them
21 around -- the tail drum usually was around eight,
22 between 18 and 21 shield. That's where I set all
23 of mine up.

24 Q. Did they ever set bits with the -- say

1 they cut out and stick that headgate drum out there
2 in the headgate entry. Did you ever do that?

3 A. No.

4 Q. Is there a reason why or?

5 A. I normally just didn't like to do that,
6 because that's open, it's open and really can't
7 protect it unless you was to set say a timber or
8 something like that. Even though where the stage
9 loader and the crusher and everything was is
10 bolted, I still wouldn't want to trust that where
11 it's just freshly been cut out, plus you've got an
12 extra rib that could roll on you.

13 Q. What about down at the tailgate, would you
14 ever cut out the tail and set your drum out there
15 to set bits or wash sprays?

16 A. No, just by experience I have seen that
17 tail entry fall too many times and rocks fall in
18 from the last shield on the line. I wouldn't set
19 them out, out in the tail entry.

20 Q. Have you ever seen it done?

21 A. No.

22 Q. Where would you set it, on the tailgate,
23 where would you?

24 A. We usually went back to around 160.

1 That's where the tail end would be, around 160.
2 The head end, probably 10 shields further than
3 that.

4 Q. Let me look here at my notes real quick,
5 if you don't mind.

6 I want to talk just a little bit, I want
7 to rehash a little bit about what you said in your
8 first interview about the sparks that you've seen
9 while you was cutting.

10 Just give me a little history or tell me
11 about seeing sparks as you're cutting.

12 A. In normal top, the slate top, I wouldn't
13 see it, but in the sandstone, it didn't matter how
14 much air, how much water we had, anytime you're
15 hitting that sandstone, there were sparks flying.
16 Brand new bits, bits that have been half a pass,
17 whatever bits we had, I seen sparks.

18 Q. Do you recall, did you see them on the
19 3rd, the last shift that you worked?

20 A. I don't even remember how much we loaded
21 that day, so -- I'm sure I did. If we cut out on
22 the tail, I'm sure I did, because that was where
23 most of the sandstone was.

24 Q. I was reading your transcript of your

1 first interview, and you mentioned something about
2 pop-offs and fireballs.

3 A. Fireballs. Yes, I did. And apparently, I
4 was the only one -- the crew I was on was the only
5 one to see them, because the crew that we lost and
6 plus the other crew, the A crew, I have asked them
7 and -- well, take that back. The boss that was on
8 the A crew at that time, Michael Webb, was my
9 shearer operating partner when I was seeing the
10 little fireballs.

11 And I don't remember, to be exact, how
12 many. I know it was around five or six. But the
13 size of -- from the range of a softball probably to
14 something a little bit bigger, maybe a basketball
15 was the biggest.

16 And when I did see them, they would
17 just -- you know, I wouldn't see them for long.
18 The water and the air would push them towards the
19 tail, and I guess nothing ever came of those.

20 Q. Where did they originate from?

21 A. Just cutting in the face from anywhere
22 from mid face. Usually around mid face, actually.
23 It never on either end. The head or the tail, it
24 was always in the middle part of the face.

1 Q. But it would be when you was cutting
2 towards the tail?

3 A. Cutting towards the tail. I seen it a
4 couple of times -- the head end operator seen it
5 once or twice cutting toward the head, but I think
6 his was mostly from coal dust, because I mean, it
7 was just orange.

8 Q. Okay. The ones you seen, was they --

9 A. Well, some of mine were orange, too. It
10 was dust. But I mean, there was one that was blue
11 flame before it hit the dust.

12 Q. Let's see. Your chief electrician is Tom
13 Estep?

14 A. Yes.

15 Q. And your electrician is?

16 A. Dustin Ross.

17 Q. On the shearer, if you need to work on the
18 shearer, how did you kill power on it?

19 A. I think they locked it out at the
20 headgate. The blade switch that was at the
21 headgate itself, I believe they locked it out and
22 locked it up there.

23 Q. There's a red E-stop button on the
24 shearer. Are you familiar with that?

1 A. Yeah.

2 Q. Did you ever use that?

3 A. We would use that just to see, but if they
4 were ever going to work on it, they always
5 killed -- locked it out regardless. I mean, I have
6 seen them turn it off and just turn it back on with
7 that E-stop, but I've never seen them just use that
8 to work on it.

9 Q. Do you know what the E-stop button
10 actually did?

11 A. I figured it just killed power to the JNA
12 unit myself, because the power is still feeding in
13 from the cable.

14 Q. Now, is that -- I mean, have you seen it
15 pushed before?

16 A. Oh, yeah.

17 Q. And seen power on the shearer or?

18 A. No.

19 Q. Have you ever known of it not working?

20 A. At Logans Fork.

21 Q. At Logans Fork?

22 A. Yes.

23 Q. What did you --

24 A. I think there was a wire on the button

1 itself that went into whatever circuit it was
2 supposed to go into, I think the wire itself was
3 loose or corroded. It just broke loose from the
4 circuit.

5 Q. Okay.

6 A. And they locked it out and repaired it.

7 Q. That was on the shift while you was
8 underground?

9 A. Yes. That was with the crew that we
10 lost. When I was at Logans Fork, I was with that
11 crew.

12 Q. So you worked with that bunch at Logans
13 Fork?

14 A. Yes.

15 Q. When they fixed it that day, I know it's
16 been a while, do you remember how long it took
17 them?

18 A. Just to fix that wire, probably 20
19 minutes. At that time it was Grover Skeens and
20 Dustin Ross. Grover was the chief electrician on
21 that crew.

22 Q. But now the E-stop switch, is it inside
23 the panel, the actual wiring of it?

24 A. Yes, yes.

1 Q. It's inside the panel.

2 About a week before the explosion, I
3 looked at some of the production reports and you
4 guys had some downtime, had a problem with the
5 E-stop switch on the shearer. Do you recall that
6 at all?

7 A. No, sir.

8 Q. You don't remember the switch being
9 replaced on your shift? March the 29th was the
10 exact date.

11 A. Not the E-stop button, no.

12 Do you know if it was the day shift or
13 evening shift?

14 Q. It was your crew, but I don't remember
15 what shift you was on. But I can tell you here
16 real quick.

17 A. I was on evening shift, I know --

18 Q. It was on day shift.

19 A. Was it on day shift?

20 Q. You guys was on day shift.

21 A. If it was the 25th, I should have been on
22 day shift.

23 Q. 29th.

24 A. 29th.

1 Q. Exactly, I guess.

2 Well, on the front of the shearer, there's
3 a junction box. Are you familiar with that?

4 A. Yes.

5 Q. That the cable goes into?

6 A. Yes.

7 Q. Have you ever even anybody have to get
8 into that on your shift?

9 A. I have seen them have to get in there to
10 work on them or dry it out. It had a problem with
11 water getting in it for a little bit. I know they
12 got in there and dried it out, but when the
13 electrician is working on something, I usually just
14 leave.

15 Q. Maybe you've talked to the guys that's
16 been there, but I mean, when we checked, there's a
17 diode inside of that junction box, the diode for
18 the ground monitor. Do you have any idea what I'm
19 talking about or what the diode was for?

20 A. Yeah, the diode -- shoot, it's something
21 to do with the mule train, I thought, but I can't
22 remember.

23 Well, I mean, the diode is usually for
24 like feedback or power. I don't remember why it

1 was in there.

2 Q. But the E-stop switch on the shearer, as
3 far as you know, if you hit the E-stop switch, if
4 you was cutting, you hit the E-stop switch, would
5 the drums shut off?

6 A. Yes.

7 Q. Have you ever known that not to work?

8 A. Not at -- when we went back to UBB, no.

9 Q. Let me clarify that. At UBB, at this
10 longwall?

11 A. No.

12 Q. I understand you already answered about
13 Logans Fork and I appreciate that.

14 So at UBB, have you ever known that E-stop
15 switch not to function?

16 A. Not when I hit it. Every time I have
17 went, have hit it, it's worked, but it's not been
18 very often, really.

19 Q. Has anybody else told you anything about
20 it not working?

21 A. No, sir.

22 Q. If your -- it's three o'clock in the
23 afternoon on day shift and the shearers cut out at
24 the tail, would you be in the crew? Would you stop

1 right there and leave it to go out for the end of
2 the shift?

3 A. We hot seated. We did not leave until the
4 following crew relieved us, so we didn't get to
5 stop running until the evening shift was there to
6 take over. And by "there," I mean they would meet
7 us on the face where we were cutting to relieve us
8 out. When they got there, wherever we was at, shut
9 it off, you all have fun, be careful.

10 Q. And so when they showed up the second
11 shift, they come, the operators come down to the
12 face, they'd have their fresh packman with them?

13 A. Yes.

14 Q. You guys then walk off the face, take your
15 packmen with you?

16 A. Yes.

17 Q. And put them on charge.

18 So with what we have now with the shearer
19 being sitting at the tail and I think maybe
20 somebody explained to you in your first interview
21 or the condition of the face right now, the
22 shearer's sitting at the tail, and it's just cut
23 out into the tail entry, but it hasn't sheared
24 down.

1 A. I have seen the pictures on the internet,
2 yes.

3 Q. You've seen the pictures.

4 A. Yes.

5 Q. So when you seen the pictures, the two
6 shearer operators and the shield man and the
7 utility men are up around 105 shield? So I mean,
8 does it make sense to you that they're just leaving
9 at the end of the day?

10 A. No.

11 Q. So would you mind rendering an opinion
12 about if they are not leaving at the end of the
13 shift, why do you think that they might be leaving?

14 A. If they were leaving, it's because
15 something was wrong. There's no other, because
16 those guys, you know, I worked with them for a year
17 on that crew until the September before when I was
18 pulled to make that third crew, myself and Dustin
19 Ross. They would be on the face until we got
20 there. There's no way unless something was wrong
21 they would leave unless, you know, not early.

22 Q. And so I think Gary Corralis was the
23 tailgate shearer operator on that crew?

24 A. Yes.

1 Q. When you was working on them, when they
2 was cutting out the tail and Gary was operating the
3 shearer, where would he normally be located to cut
4 out the tail?

5 A. The same place I stood. I learned a lot
6 about running the shearer from Gary. He would
7 stand around the ACT at 173 shield.

8 Q. Right.

9 A. And he would do the same as I, watch the
10 top cutting out, but I mean, he could do it a lot
11 quicker. He had a lot more experience than I did.

12 Q. The other shearer operator, about the same
13 as what I think Roger is the -- or, no, you're with
14 Dakota; right?

15 A. Yeah.

16 Q. Joel Price, that was the shearer operator?

17 A. Yes.

18 Q. I mean, would he stand outby the --

19 A. Yes.

20 Q. -- headgate drum?

21 A. Yes.

22 Q. Would they normally -- the headgate drum,
23 now you're cutting out the tail. Would they raise
24 that headgate drum any at all while you're cutting

1 the tail out?

2 A. Yes.

3 Q. Why would they do that, or explain that to
4 me.

5 A. We always, from a certain distance, I
6 don't remember exactly which shield, but after the
7 shuffle was completely finished, he didn't need to
8 cut the bottom anymore. We just let the --
9 whatever ends on the tail, we let the tailgate
10 operator decide how much bottom he wanted to gauge
11 from where the shuffle ended to the tail drive
12 itself. That way it would be completely even, he
13 didn't have two people, one guy cutting it deep,
14 the other guy at, say, eight inches off the pan
15 line, the other one four inches off the pan line.
16 To keep the entire tail drive itself even with the
17 last 15 shields, no one else would cut that
18 bottom. The head end would raise it up, if the
19 tail is cutting out, vice versa.

20 Q. So when you was at the headgate, you would
21 raise your drum and let him do all the cutting --

22 A. Yes.

23 Q. -- up there? Okay.

24 I mean, that's another thing we're seeing,

1 is the headgate drum is up just a little bit down
2 there now.

3 I guess you haven't been back to UBB since
4 the accident?

5 A. I worked one day outside and I couldn't
6 work anymore there.

7 Q. Okay. I understand.

8 So you haven't been on the longwall face?

9 A. No.

10 Q. Have you talked to any of the guys that's
11 been up there with us?

12 A. No.

13 Q. So you're not real familiar about the
14 condition of the face or anything like that?

15 A. No.

16 Q. Are you doing okay? Do you need a break?

17 A. I'm fine.

18 Q. Heard a lot of talk about wedge cuts. Do
19 you know what I'm talking about?

20 A. Yes.

21 Q. Tell me what a wedge cut is.

22 A. If the head or the tail was behind or if,
23 say, for some reason the miner section got the
24 entry off a little bit and you wasn't completely

1 cutting out on the head or the tail, there would
2 usually be a ledge, so we would take a wedge,
3 depending on which way you needed to push it, is if
4 you wanted to push it towards the tail, the line
5 itself, the whole line, get more slack, more cut
6 out on the tail, you take extra wedges off the
7 head, cut out one or two times on the head more
8 than you did on the tail and just drop it back.

9 Q. Who decided?

10 A. Usually the boss.

11 Q. And he would tell you where to?

12 A. Yeah, where to start and where to stop.

13 Q. When you set up the wedge cut, tell me how
14 you'd set the pan and the shields up to do the
15 wedge cut.

16 A. Usually in that instance, the line was
17 already kind of crooked and the shields could be --
18 you could pick out spots where the shields were.
19 Say some shields would be six inches farther pulled
20 than the others, you could start there and just
21 line them up toe to toe, and they would even out
22 eventually and you could just push it all out to
23 make the line straight that way, too.

24 But if you were just going to do it to be

1 doing it, you could start -- if I was doing it on
2 the head, I would go probably to 35 shield before I
3 started stepping them out, just so you don't have
4 that big crook right there at the head.

5 Q. When you take off say from the head going
6 towards the tail, the shield man is right behind
7 you normally pulling the shields in?

8 A. Yes. Behind the head operator

9 Q. Behind the shearer? The head operator.

10 Now, the headgate operator, did he take
11 care of some of the shields, pulling them in?

12 A. Usually one of the electricians would take
13 care of the, what we called the gate shields, the
14 ones that stood out from -- they got one, two,
15 three, four, that's the shields they took care of.
16 They would pull them in for nine times out of 10.

17 Q. Let me tell you. You haven't been on the
18 face, so I'll tell you. Right now the shearer is
19 sitting at the tail, and they've been down on day
20 shift and they cut from the head all the way to the
21 tail, but none of the shields are pulled in from, I
22 don't know, probably number 40 all the way to the
23 head. None of the shields are pulled, and
24 consequently, the pan is not pushed. I mean, does

1 that sound normal to you?

2 A. They might have been dropping the head.
3 In dropping the head, it's like a reverse wedge.
4 You don't pull any shields in to push the line
5 out. You don't start until, say, maybe you get to
6 35, then you start stepping them in, and then
7 eventually it will be a full pull to where it will
8 be completely back in the face again. But --

9 Q. Go ahead. I'm sorry.

10 A. I guess that's all it would sound like to
11 me, if to 40 shield it's not pulled and pushed.

12 Q. When you're cutting to the tail and you
13 get to the tailgate, I think you said earlier the
14 shield man started to stagger about 150, 155. Is
15 that what you said?

16 A. Somewhere in that area.

17 Q. So from that area towards the headgate,
18 would all them shields be pulled in all the way and
19 the pan pushed.

20 A. It should be pushed all the way if they
21 are already on the tail. None of them should be
22 pulled in unless they were spot shields.

23 Q. I understand. But the pan should be
24 pushed over?

1 A. Yes.

2 Q. So right now down there, they're not.
3 From back to -- heck, I don't know, do you remember
4 the number? Back to 120, something like that,
5 maybe not that far, there's -- none of the shields
6 are pulled in and the pan is not pushed that we
7 could tell. Does that make any sense to you?

8 A. Not unless they were going to take an
9 extra cut out of the middle only.

10 Q. Have you ever seen that done before?

11 A. Yeah, I have seen it done, but that would
12 be dropping the head and the tail, and that's just
13 kind of confusing to me. But I mean, if the middle
14 is bowed back, then I can understand it, because
15 that causes a little bit of a problem with your
16 Bretby cable.

17 Q. If the face looks like a smile?

18 A. Yeah.

19 Q. That's generally not a good thing, is it?

20 A. No, it's not, but I have seen it done like
21 that several times. Got a lot of end whackers.

22 Q. You're saying them wedge cuts not always
23 to steer the face?

24 A. Yes, sometimes just to pencil a little

1 extra coal in.

2 Q. A little coal.

3 Let's see. Of course, on the second shift
4 on Friday it's always nice to end up at the head,
5 isn't it, than the tail?

6 A. Well, the way we worked with the three
7 crews, Friday didn't matter, because 6:00 and 3:00.

8 Q. Okay. But it's -- well, I won't say
9 that. I have seen that before, too.

10 And we're trying to figure out why the pan
11 is set up now. You get down around mid face in
12 that area and the shields are pushed up and the pan
13 is pushed over against the face. In fact, it looks
14 like some of the shields have been --

15 Let me ask you this: Have you ever, when
16 you pulled the shields up and you pushed the pan,
17 there's a limited amount of stroke; is that
18 correct?

19 A. Yes.

20 Q. A limited distance that the pan will push?

21 A. Yes. Usually around, I'm going to say
22 three feet.

23 Q. When the pan is pushed like that, is there
24 any distance between the front side of the pan and

1 the face?

2 A. Probably six inches, eight inches,
3 something like that.

4 Q. Have you ever seen the shields pulled in a
5 little and the pan pushed over to get that extra
6 six inches?

7 A. Yes, I have. And that over sumps you and
8 slows you down if it's pulled in a little bit too
9 much. You have to undercut it so you won't hit a
10 shield. Our old boss at Logans Fork was notorious
11 for that. And it's not a good thing to do.

12 Q. What would be the reason for that?

13 A. Try to take out a bow, that was their
14 theory. But like I said, it over sumps you and
15 slows you down and you lose more time than you gain
16 anything. Instead of taking out an extra cut out
17 of the middle, that would be the easiest way to do
18 it.

19 Q. I mean, evidence of that, I guess
20 depending on how far they pulled the shields in,
21 the shields would be closer to the pan line than --

22 A. Yes.

23 Q. -- than normal?

24 Have you ever had instances where they

1 pulled all the shields in and didn't push the pan?

2 A. I have seen it happen a few times. The
3 push just didn't work through that area and it
4 would actually be an electrical problem in like,
5 say, one of the CIU boxes.

6 Usually, though, the boss or the
7 electrician always followed on my crew, always
8 follow us down so if we come up to that problem,
9 they pushed it out for us.

10 Q. Okay. Did it make it difficult for you
11 guys to travel up there if the shields were up and
12 the pan wasn't pushed?

13 A. We always would stop the shearer before
14 that was happening and make sure they pushed out.
15 If not, that could be a result of the bottom being
16 brought up too quick and it just leaves a ledge,
17 and you could go through there slow re-cutting the
18 bottom. We tried to knock them off push, re-cut
19 the bottom, back the shearer all the way back up to
20 where we was out from under that area, push the
21 line back out, and usually that would clear it up
22 to where you can just continue running.

23 Q. But you'd have to cut the bottom back out?

24 A. Yes.

1 Q. What about when they over sump and you're
2 cutting the top, does that cause you any problems?
3 Say you're cutting rock top.

4 A. Yeah, it would cause a lot of problems.
5 But if you could just back it up, it would be okay,
6 but I mean, the line is going to be crooked.

7 Q. Right. What kind of problem would it
8 cause if you're over sumping and you're in rock
9 top?

10 A. You pretty much have to undercut where the
11 shields are if it's pulled in too close so you
12 don't break a cutter shaft.

13 Q. What about if the shields are bad?

14 What I'm getting at, if you're over sumped
15 and the drum is cutting into the face too far and
16 your bit pattern is not matching up with the last
17 cut, is that going to leave a --

18 A. It's going to leave a ledge on the top.

19 Q. A ledge on the top?

20 A. Yes.

21 Q. The reason I say that, we see some of that
22 down there right now on the face. Does that make
23 sense to you?

24 A. Yeah, yeah.

1 Q. Why is that?

2 A. That's just, I have seen a lot on that
3 face period, I mean, just habits of people that
4 were up there.

5 Q. We got it right now at the headgate and
6 the tailgate.

7 A. Wow. Headgate I can understand. There
8 was a few of those shields they was pulling in just
9 trying to push it a little more.

10 You can pull it up three or four inches
11 and it won't affect anything, but anything more
12 than that, sometimes it gets a little too far.

13 Q. And at the headgate it's a pretty good
14 distance. At the tailgate it's not very far that
15 they did, but right down there -- in fact, if you
16 know what you're looking for and you get on
17 Massey's web site, they've got some pictures on
18 there and you can see it.

19 Did you ever see Jack Rolls on the face?

20 A. Yeah, on day shift I seen him usually, I'm
21 going to say every other day at least.

22 Q. Did you ever know of him going down in the
23 face, going down to the tailgate?

24 A. There's times he would come across the

1 line from the tailgate. You never knew where Jack
2 was going to pop up. Honestly, he was everywhere.
3 If he was underground, he was running around like
4 crazy.

5 Q. Would he ever call for a wedge cut, or has
6 he ever told you to do a wedge cut?

7 A. Not at UBB, I don't believe. I know he
8 did at Logans Fork, but that was just I think to
9 aggravate our boss.

10 Q. So did you ever see him when he's on the
11 face, is he ever talking to Kevin?

12 A. Yes, yes.

13 Q. Did you ever hear him -- does he give
14 Kevin instructions?

15 A. If he seen something that we may have
16 overlooked or he thought needed to be done, if
17 he -- when we was on day shift.

18 On evening shift, he would have already
19 been underground, and he would tell us before we
20 went underground about it. Like if we needed to
21 take an extra cut off the tail or an extra one off
22 the head or drop it, one way or another, he would
23 inform us.

24 Q. If the condition of the pan now, if they

1 was going to take a cut off the middle of the face
2 on day shift on the 5th, if that's indeed what they
3 was planning to do, that's Rick Lane was the boss,
4 would Rick call that, you think? I mean Jack was
5 on the face that day, would jack have called it?
6 Or could either one of them have called it?

7 A. Either one of them could have called it,
8 but at that time, I would say it was more Rick than
9 it would have been Jack, because Jack was outside
10 when we got there, and I was on evening shift that
11 day. Jack was already outside, so he'd probably
12 been outside since about two o'clock, if not more.

13 Well, I probably showed up at two
14 o'clock. I forgot we started at 3:00 then. So
15 he'd probably been outside since 1:30 at least, so
16 at that time I'd say Rick Lane made the call.

17 Q. So when you got to the mine, Jack was
18 already outside?

19 A. Yes.

20 Q. You got there about 2:00?

21 A. About 2:00, yes.

22 Q. So did you talk to Jack?

23 A. Yes.

24 Q. Did he tell you he'd been on the face?

1 A. Yeah, he said they'd been down until I
2 forget what time that they got the shearer started
3 back up. I don't remember what the problem was,
4 but the shearer was down. I think it had something
5 to do with some kind of pin on the shearer.

6 Q. A range and arm, tailgate range and arm
7 pin.

8 A. Yes.

9 Q. But he told you it had been down?

10 A. Yes.

11 Q. Did he tell you if it was running or not?

12 A. At that time it was running.

13 Q. But did he tell you where the shearer was
14 when they was working on it?

15 A. I can't remember if he did or not.

16 Q. So you say he's outside about 1:30?

17 A. That's an estimate. I know I got there at
18 2:00, he was already outside, so that's just an
19 estimate?

20 Q. Okay. Okay. That's fine.

21 We've heard or we've had some talks about
22 a 30-minute call out. Do you know what the
23 30-minute call out is?

24 A. 30 minutes before the shift the --

1 Q. I'm sorry. 30 minutes from the longwall.
2 Every 30 minutes --

3 A. Yes, yes, I do know. I forgot about
4 that. They needed a production report or any kind
5 of report from the longwall. The headgate operator
6 called out every 30 minutes letting them know what
7 was going on. If we were running and say we made
8 it half a cut past the last 30 minutes from the
9 call, he had to call that out. Every 30 minutes he
10 had to call the dispatcher and let them know what
11 we were doing.

12 Q. Do you know, was there a record kept of
13 that 30-minute call out?

14 A. I'm not sure. There should have been,
15 because I'm sure it was faxed to the president and
16 all that, Chris Blanchard and all them.

17 Q. So who did the 30-minute call out?

18 A. Most of the time, unless it was like a
19 fire boss report, Woody would call out all the
20 30-minute reports just letting them know. That was
21 the headgate operator's job.

22 Q. That's Kenny Woodrum?

23 A. Yes, Kenny Woodrum.

24 Q. He's the headgate operator on your crew?

1 A. Yes.

2 Q. And I have seen the -- and there is some
3 records of those call outs, and I have seen those
4 records. And there's quite a bit of information in
5 them actually, the shearer direction, the shearer
6 speed, the shearer location.

7 How did the headgate operator determine
8 all of that information?

9 A. The speed I'd say he guessed.

10 But there was a screen he could see pretty
11 much where we were at. It would show what shields
12 had been pulled and pushed, what part of the line
13 had been pushed, and it would also show him if we
14 were heading -- he could tell if we were going to
15 the tail or coming back to the head.

16 Q. So the screen on the shearer, you could
17 see the speed of the shearer; is that correct?

18 A. Yes.

19 Q. But every 30 minutes he wasn't calling and
20 asking you guys how fast you're going?

21 A. No. He knew that we probably wouldn't
22 have answered him anyhow.

23 Kenny was a real likable guy and he liked
24 to carry on and joke, and we would have probably

1 thought he was just messing with us, so we wouldn't
2 have answered him or gave him some off-the-wall
3 answer if we did.

4 Q. So the screen that he's looking at that
5 you were talking about, that's located at the
6 headgate?

7 A. Yes.

8 Q. Near his work location?

9 A. Yes.

10 Q. And is that that SCC screen?

11 A. I believe that's what it's called.

12 Q. It's in the big white box?

13 A. Yes.

14 Q. And on that screen, it doesn't show
15 shearer location, nothing to do with the shearer;
16 is that correct?

17 A. Correct.

18 Q. But it does show shields?

19 A. Yes.

20 Q. Right?

21 And what you can tell is what shields have
22 been advanced and which ones are currently being
23 advanced and which ones where the pan is being
24 pushed?

1 A. Pushed, yes.

2 Q. So from looking at that and knowing how
3 you pull the shields, he had a pretty good idea
4 where the shearer is located?

5 A. Yes.

6 Q. And probably have an idea of which
7 direction it was going?

8 A. Yes.

9 Q. The speed, now that's a coin toss; right?

10 A. Yeah. He was guessing.

11 Q. Now, on day shift we know that they kept a
12 record of the call out. When you guys was on
13 second shift, did he also do a 30-minute call out?

14 A. Yes.

15 Q. On the weekends did he do a 30-minute call
16 out?

17 A. As far as I know. I mean, the dispatcher
18 was there every day like we were, so I'm sure he
19 had to call out the report the same as he would on
20 a weekday.

21 Q. When you was on day shift on the weekdays,
22 do you actually know who took that 30-minute call
23 out?

24 A. I'm not sure.

1 Q. I think it was somebody in the warehouse
2 or something took the longwall call out.

3 Okay. I think I'm going to take a break
4 and let somebody else ask you some questions that
5 have got some.

6 Are you okay or do you need a break?

7 A. I'm fine.

8 EXAMINATION

9 BY MR. TUCKER:

10 Q. I have just got a few, Chad. Dean is very
11 thorough. He does a good job.

12 When you was cutting out on the tail just
13 say maybe in the last 10 feet or so that you're
14 cutting out under the current conditions, how long
15 would that normally take? Get turned around and
16 head back to the head.

17 A. Under the conditions, it could take up to
18 25 to 30 minutes just there in that one spot.
19 That's a little bit more time than needed. I'm
20 just estimating, because it's been since that
21 Saturday prior to that since I have been there.

22 But there's been instances I have been
23 down there in the same conditions and just for some
24 reason I guess the top would be loose already and

1 it would cut out and I wouldn't be down there 15
2 minutes.

3 Q. Did you normally -- did you notice anybody
4 going out into the tail entry?

5 A. Only the boss, Kevin.

6 Q. How often would you estimate that he would
7 go out?

8 A. Usually once or twice a shift. Depending
9 at that last stopping that was on the tail side
10 that we had to knock when we got up to it, if it
11 needed, he would go out an extra time if we was at
12 it to where it needed knocked.

13 Q. Would that be a daily thing or just
14 occasionally, or how did that usually work?

15 A. Knocking the stopping?

16 Q. As far as going out into the tail entry.

17 A. Into the tail entry, he'd go out in it
18 every shift.

19 Q. You mentioned earlier that you have seen
20 maybe going from the head to the tail up to three
21 or four sprays out --

22 A. Yes.

23 Q. -- on occasion. What would be the maximum
24 number of sprays that you've ever seen out at one

1 time?

2 A. No more than four.

3 Q. Could you tell what would be the
4 difference in your pressure on the shearer when you
5 started losing sprays?

6 A. I'm not really sure. I mean, I'm sure it
7 would go down a little bit, but I'm not really --

8 It was always dusty regardless. The only
9 way I have ever seen a major difference is when the
10 water is just turned off to being on.

11 Like I say, if we lost water on the
12 longwall for some reason, you could tell real quick
13 and the shearer would be stopped, because if
14 there's no water, you can't see a thing on the
15 longwall.

16 Q. From out in the jack line where you would
17 be, do you get much spray, much water on you being
18 in the jack line?

19 A. Only on the head, when you're cutting out
20 on the head at the headgate itself. Other than
21 that, no.

22 Q. You mentioned that you talked to Jack
23 Rolls on the 5th. You got to the mines
24 approximately two o'clock. About what time would

1 you estimate you talked to him?

2 A. After we all were ready, we actually all
3 sat -- that's where the longwall crews would go and
4 sit, and that bathhouse was in the longwall office,
5 which was Jack's office, Bobby Goss' office, so we
6 would sit and talk to him until it was time to go
7 underground.

8 It was a good way of actually knowing what
9 we was getting into prior to the shift. You know,
10 we were there on the call out 10, 15 minutes before
11 shift starts and all that. So I'd say we talked to
12 Jack approximately 30 minutes before we started the
13 shift.

14 Q. Are you aware of any conversation he may
15 have had with the longwall crew?

16 A. Other than -- no, I'm not, other than him
17 knowing that they were down. I mean, I know he'd
18 been underground that day, but I don't know
19 anything that was said other than just they were
20 down and had started running not long before
21 evening shift time was.

22 Q. What time did you normally leave the
23 longwall office? I mean ...

24 A. We would go downstairs, we started to go

1 to our mantrip usually around 10 'til 3:00, 10
2 minutes 'til 3:00.

3 Q. So you'd probably been in Jack's office up
4 until about 10 'til 3:00?

5 A. Yes.

6 Q. Did you overhear any call outs made from
7 underground?

8 A. No.

9 Well, Kevin Medley talked to them on the
10 phone, but everything was fine at that time I know,
11 that I know of, Kevin talked to Rick on the phone
12 like a normal day. And we went downstairs,
13 gathered our stuff up, and went into the drift
14 mouth to get to the mantrip.

15 Q. So you left probably 10 'til 3:00, headed
16 toward the mantrip, you say?

17 A. Yeah. Well, by the time we got downstairs
18 and actually gathered our stuff up, we probably
19 five minutes 'til before we started heading towards
20 the underground.

21 Q. Have you heard anything about any call
22 outs that Mr. Rolls may have taken after you all
23 left the office?

24 A. No, sir.

1 Q. On your shift, have you had any problems
2 with the hinge pins on the ranging arm?

3 A. I myself seen it once. I know what pin
4 you're talking about. That's the same one I think
5 they were down over that day; correct?

6 Q. Right.

7 A. Yeah, it fell out once on our shift, and I
8 didn't notice it until it was almost the end of the
9 shift is when we noticed it. So while we were
10 getting prepared to work on it, the following shift
11 was already there.

12 Q. So you haven't actually seen them repair
13 one on your shift?

14 A. No.

15 Q. Are you aware if they would be doing any
16 cutting or welding?

17 A. I'm not sure.

18 Q. Not aware. Okay.

19 That's all I have for now.

20 EXAMINATION

21 BY MR. MCATEER:

22 Q. Chad, it's my turn. And I just want to
23 thank you for coming in again. You've been real
24 helpful.

1 You said that at one point the hinge pin
2 on the ranging arm, while you were at work had
3 malfunctioned, and you said you were getting
4 prepared to work on it. How would that -- if you
5 could describe how you might -- how a crew might
6 work on it.

7 A. How they actually repaired it, I don't
8 know.

9 We were just cleaning up to getting it
10 clean enough to where they could get behind the
11 shearer. I know they would have to get behind it
12 to work on it. We were just getting it cleaned
13 enough, running the shearer back and forth cleaning
14 all the gob we could out so they could get back
15 there to work.

16 Q. And then would you have moved shields?

17 A. Yes. Pull shields in over top of them.
18 If the face was bad, we would set a timber or
19 something behind it.

20 Q. Now, who would do the work then?

21 A. The electricians.

22 Q. And how many on your crew, the typical
23 crew, how many would that be?

24 A. Two.

1 Q. Two. What would you do?

2 A. If they needed anything brought up to
3 them, we would bring it to them. Any get extra
4 help they needed, we would do.

5 Q. So they might, in fact, say can you give
6 us a hand on this or?

7 A. Yes.

8 Q. Yeah. And if they didn't say that, what
9 would you do?

10 A. Sit and watch them.

11 Q. During that time if you were sitting
12 there, would you have done anything else?

13 A. If we needed to go ahead and bit up, yeah,
14 we would go ahead and set our bits, check our
15 sprays, do any servicing we needed, anything else,
16 like any small work that needed done, help the
17 utility man set timbers by the headgate operator if
18 he needed help.

19 Q. Sure, sure. Now, is it possible that in
20 the 30-minute period or an hour period you could
21 lose bits keeping them where they were in the
22 operation?

23 A. Lose them. Well, yes, I have seen inserts
24 that the bits go in never keep a bit in it. You

1 could go one, one pass and the bit will fly out
2 just from a bad insert, need to change the whole
3 insert. And that one pass will also dull some bits
4 up.

5 And from the pictures I seen, though, the
6 bits that I could see on the drum itself didn't
7 look that bad.

8 Q. Too bad, right.

9 How about sprays, could sprays malfunction
10 in a short period of time?

11 A. Yes. They could even clog in one pass. I
12 mean, all but on the inside, there is a small hole
13 through a -- I'm going to say a nylon piece that's
14 in it, that could clog up easily. A little piece
15 of rust could clog it.

16 Q. Did there ever come any time when people
17 would -- when a spray would malfunction and, for
18 example, cause water to be sprayed onto the shearer
19 operator, the tailgate operator, for them to work
20 with that spray and put a nail in it or?

21 A. No, I have never seen that.

22 Q. Were you familiar with the water system
23 that was used to disable the, I'm sorry, to spray
24 water onto the shearer in an effort to try to

1 control if there was a problem with the shearer?

2 A. The fire suppression?

3 Q. The fire suppression. I'm sorry. I'm
4 struggling with that.

5 A. It's supposed to be the right there where
6 both -- I'm trying to think -- the valve chest
7 covers, there was supposed to be a lever, a little
8 hole in the cover itself, there was supposed to be
9 one on I think each side, the head and the tail
10 side.

11 Q. On your shift on the Saturday before, had
12 you seen that lever, do you remember?

13 A. I can't remember.

14 Q. And if the lever were missing, what would
15 you think that that would --

16 A. If it was missing, it should have been
17 replaced.

18 Q. Okay.

19 A. Usually -- well, it should have been
20 replaced the shift that it was found missing on.

21 Q. Found missing.

22 And is there ever any time that you saw
23 the levers that were worked or manipulated or wired
24 into place?

1 A. Those covers broke off a lot. I have seen
2 them weld -- I think actually there at the end,
3 they had two hooks from chains welded to keep the
4 door itself on, so I -- but as far as the fire
5 suppression, I don't know why it would have been
6 messed with.

7 Q. But those doors would come off and get
8 water out into the working area?

9 A. Yeah. Well, you could take the doors off,
10 but the way it was supposed to be is you didn't
11 have to take the door off to get to the fire
12 suppression.

13 Q. So you just flipped a lever?

14 A. Just turned the valve, yeah.

15 Q. And the valve, there's one on the left
16 side and one on the right side?

17 A. I'm pretty sure there is. Like I said,
18 it's been a while since I ...

19 Q. Sure. I understand.

20 Now, in the conversation that you, as best
21 you can recall, in Jack Rolls' office, who was
22 there?

23 A. The crew that I was on, all of us were up
24 there. Jack Rolls was in his office. And I'm

1 thinking Bobby Goss and maybe Danny Lafferty were
2 over in the electrician's office. It was all just
3 kind of bunched in together.

4 Q. And you'd just come back from Easter
5 Sunday, or you guys had worked but --

6 A. We had that Sunday off.

7 Q. Had Sunday off. Right.

8 What was the conversation about?

9 A. We was just asking mainly how they -- if
10 they were running, had they had any problems,
11 things like that.

12 Q. And the answer was?

13 A. He said they'd been down most of the shift
14 working on that pin and had just started up not
15 long before that. I can't remember the exact time,
16 how long they had been running.

17 Q. And if they were down for a lengthy period
18 of time and the sprays weren't changed, the bits
19 weren't bitted up, would that surprise you?

20 A. Yes.

21 Q. When Kevin Medley called out to talk to
22 Jack Rolls, were you there at the time? Were you
23 in hearing distance?

24 A. Not Kevin Medley. You mean Rick Lane?

1 Q. I'm sorry. Rick Lane. I apologize.

2 A. No, I was not, not when he talked to
3 Jack. He talked to Kevin, my boss.

4 Q. Yeah.

5 A. I didn't eavesdrop on him. I was sitting
6 beside of him, but I didn't really pay attention to
7 what they were saying.

8 Q. There was no concern or nothing
9 expressed.

10 A. No, he had no concern. If there was
11 concern, I'm sure Kevin would have said something,
12 because Kevin was -- he's an old school boss, I
13 guess you would say. He's real concerned more
14 about men's safety than he was running coal.

15 Q. And Gary Corrals who you worked under,
16 you've worked with him, what was his attitude
17 toward?

18 A. He was a real, real easygoing guy. I
19 mean, he was a real likable guy. You couldn't beat
20 him.

21 I actually have worked with him and his
22 dad at different situations. But he taught me a
23 lot, and he taught me basically everything I knew
24 about that lot setup on the longwall. The JOY side

1 was from him, so... He done pretty much what he
2 needed to do.

3 Q. Had you had any conversations with him in
4 the weeks before the explosion?

5 A. Not a lot. Just, I mean, passing by him,
6 talking, carrying on. I know he was going through
7 a lot of stress and aggravation. I think he was
8 going through a divorce around that time, so didn't
9 joke as much as normal.

10 Q. Right. Did he ever have any conversations
11 about his work or about his --

12 A. We would ask about the, you know, what
13 kind of conditions we had for the day, you know,
14 hard rock or bottom line need turned over or what.

15 Q. I'm trying not to ask duplicate questions
16 is what I'm trying to do.

17 You say the headgate operator would be the
18 one to call, to make the 30-minute call out, but
19 did that call go out to the dispatcher, or did that
20 call go out to somebody else, to the best of your
21 knowledge?

22 A. I'm thinking if, what he said, it was
23 probably -- on day shift it was probably a -- if it
24 was warehouse, it may have been Greg Clay. I'm not

1 sure. But most of the time I thought it just went
2 to the dispatcher.

3 Q. And you said that it was your
4 understanding that it also went to other people,
5 Blanchard and headquarters. Is that what your
6 understanding is?

7 A. Yes, they faxed the reports. I'm not sure
8 if they faxed every 30 minutes or if like every
9 hour and a half, every two hours. I'm not sure on
10 that.

11 Q. Now, Dean has asked you about this
12 procedure, the fact that the pans weren't in what
13 you might expect them to be, where the locations
14 were. He was suggesting that the pans were
15 different, and you were suggesting that it might be
16 necessary to take a cut out of the middle. Had
17 that happened in your experience to you?

18 A. Taking a cut? Yes, I have seen situations
19 where you have to take cuts out of the middle to
20 line the face up, because if, as we were talking,
21 the face looks like a smile, then at one point
22 either the head or the tail, if not both, it's
23 going to be hard to cut out and you're going to
24 have ledges on both sides and that will cause

1 problems.

2 Q. So would the crew have been -- just
3 guessing, would the crew have been preparing to do
4 that?

5 A. They could have been. I mean, I don't
6 really know what they were doing at the time. They
7 never said what they were doing as far as how they
8 were cutting the face at that point in time, but
9 it's very possible that they could have been doing
10 that.

11 Q. Now, you testified about the pops or the
12 fireballs, and you've described one as orange. And
13 what was the other one?

14 A. Most of them were orange.

15 Q. Okay.

16 A. But I mean, they would all turn orange.
17 The blue color, I was always told, I'm not sure, I
18 have never really been shown a methane ignition, so
19 I was always told blue was methane, but it would
20 just light up enough to catch the coal dust that it
21 could on fire. And then at that time we had --
22 that would be November before, so at that time we
23 had 100,000 plus air, and the air and the water
24 would -- you know, it wouldn't be there no time, it

1 would blow out in feet.

2 Q. Did it move at all?

3 A. It would go towards the tail.

4 Q. Towards the tail.

5 Was there ever a time that it would go
6 toward the gob area or go back toward the gob?

7 A. I have never seen that, no.

8 Q. Did it give you pause?

9 A. Huh?

10 Q. Was it of some concern to you?

11 A. Yes, very. I mentioned it to everyone.

12 The first time I seen it, I almost left.
13 I stopped myself and the shearer and was about to
14 head outside, but when I seen it disappeared, I
15 wasn't, you know, too worried.

16 Q. Do you think the other crews would have
17 had some experience with this as well?

18 A. I asked and one of the other shearer
19 operators actually is my bolt partner now, Roger
20 Scarbro, and I asked him, and he said he never seen
21 it on that panel. As far as any other panel, I
22 couldn't tell you. He's been with them for years
23 upon years.

24 Q. Now, the shearers located down on 173,

1 176, and the operators are located in the lower
2 numbers, the crew, would you leave the shearer?

3 A. Depending on the situation.

4 Q. Okay.

5 A. In their case if they said they seen
6 something that they thought they needed to leave,
7 yes, I would have left it in a heartbeat and
8 wouldn't worry about it. I probably wouldn't have
9 even carried my packman with me. Anything that
10 would have caused me to be slowed down would have
11 been laying down there with the shearer.

12 Q. And if it was necessary to call out and to
13 tell the head -- direct the headgate operator to
14 pull the power and the water, who would have done
15 that?

16 A. Any of them on that line could have called
17 Rex, the headgate operator on that crew, and could
18 have had him pull the power, but I would say Grover
19 or Rick Lane probably called him if the power was
20 pulled and the electricians were down the line. I
21 don't really know where everyone that way was
22 located.

23 Q. Right. In your mind what would have been
24 a reason to pull the power?

1 A. If they seen gas or they seen something
2 ignite and they knew that they couldn't fight it,
3 they would have left. Other than that, I mean, it
4 would have had to have been gas or something in
5 that nature or they wouldn't have left.

6 Q. So you wouldn't expect they would have
7 left if they saw a ball of fire or anything like
8 you'd experienced?

9 A. A small one, probably not, if it done the
10 same thing like the ones I seen did, went out
11 within 15, 20 feet.

12 Q. Right.

13 A. But they were -- I think they were on a
14 panel before at UBB where they hit a major gas
15 pocket or well, I'm not sure which one it was, but
16 they were down a period of two weeks, I believe, to
17 bleed that off, and the same -- nothing happened
18 that time. They just had to bleed the gas out.

19 But the same instance, I guess they seen
20 it and could hear it. I think Spanky and them said
21 it sounded like a freight train coming up out of
22 the bottom when they seen that.

23 Q. You testified that there was a time when
24 the air was cut in half from 100,000 to 50,000

1 CFMs.

2 A. Approximately.

3 Q. Right. Can you recall when that was?

4 A. I think the air change that took -- I
5 think March. I'm not a hundred percent sure
6 anymore on the exact month, but I know it was
7 around springtime when it was cut.

8 Q. Did that impact the dust?

9 A. Yes.

10 Q. Did it impact the velocity air coming
11 across or the feeling you had, I guess?

12 A. Yes. The best way to explain it, before
13 the air was cut in half, even when you was on the
14 tail, you would have to wear a coat if you were
15 down for any time there was so much air, but after
16 the change, I mean, you'd be like walking around
17 this room.

18 Q. Did you say anything to your supervisors
19 about that or anybody?

20 A. We asked about it, but I guess it was a
21 known ventilation change that they done for --
22 someone done for a reason.

23 Q. You testified that the prime on the JOY
24 shields didn't work on the advancing side and you

1 had to go to manual?

2 A. Yes.

3 Q. Had they not worked to your experience
4 ever?

5 A. Not the advanced prime. I have never seen
6 it work on the JOY shields with Massey, no.

7 Q. What would cause you to break the ranging
8 arm pin? What would cause that to happen?

9 A. I really have no idea.

10 Q. And you testified a little bit about the
11 coal fines being -- the one fellow who had gotten
12 behind your shearer, your shearer man had gotten
13 behind because of the backboard cover was covered
14 with coal fines and it hit him or caught him in the
15 leg. Were these coal fines created by the cut or
16 had they been there or?

17 A. No, they built up from -- we had a lot of
18 water running off the face, and just any loose
19 material that had come for, like, say we left a
20 little bit of coal on the top, when the shields
21 moved forward, it just drops in between the cracks
22 and the shields, and it just built up on the tail,
23 if there's a little bit of, like, decline going
24 from mid face to the tail, they would just build up

1 on the pontoons down there.

2 Q. What would the attitude have been on the
3 crew that was in there? The day was broken up.
4 They had a lot of downtime, et cetera. If it was
5 you, what would your thinking be?

6 A. Downtime really didn't affect that crew.
7 I mean, Gary, I keep trying to call him Spanky, I'm
8 sorry, but Gary, it didn't bother him.

9 Him and Joel had been together so long on
10 that crew as shearer operating partners that they
11 didn't care. They could laugh and joke about
12 anything, and that was pretty much that crew's mind
13 set. They carried on more than they did anything.

14 MR. MCATEER: That's all the
15 questions I have at the moment. Thank
16 you, sir.

17 EXAMINATION

18 BY MR. MAGGARD:

19 Q. I'm going to ask you a few. Do you need
20 to take a break or anything?

21 A. No, I'm okay.

22 Q. When your boss done his preshift call
23 outs, any type of call out, where we would he go do
24 that at?

1 A. Headgate.

2 Q. And when he's over at the headgate, you'd
3 be cutting along the face, would it be some time
4 before he could make it back?

5 A. Usually 15, 20 minutes, depending on where
6 we were at.

7 Q. I know you was talking the last time about
8 you had a boss that would wander off and be gone
9 for a long period of time?

10 A. Yes.

11 Q. And he's no longer --

12 A. Yeah.

13 Q. -- working?

14 A. I don't even know where he's at now.

15 Q. During that time period, I mean, you guys
16 just keep on running and --

17 A. We had to call the shots then, because we
18 never knew where he was or what he was going to
19 do. We just -- whatever needed done that we felt,
20 that's what we done.

21 Q. Who would be responsible for doing gas
22 checks when you was in that position where he was
23 gone and you guys were left up there cutting and?

24 A. We all wore a -- well, not all of us, but

1 myself and the chief electrician usually had one of
2 the Solaris multi gas detectors. I just went by
3 what I had on me and the spotter me and the sniffer
4 and the methane detector on the shearer.

5 Q. So you had a multi gas detector, you had a
6 Solaris?

7 A. Yes.

8 Q. Did you take that Solaris home with you
9 and --

10 A. Yes.

11 Q. -- charge it?

12 A. Yes.

13 Q. Where did you calibrate it at?

14 A. At the UBB site. I turned it in since
15 then.

16 Q. When did you turn that in?

17 A. When I came back, I think it was when they
18 sent me back to Logans Fork, it was a day or two
19 after I started back to work, because I had
20 completely forgotten about it, but Jack called me
21 and asked me if I still had it. I returned it, I'm
22 going to say it was probably a month after the
23 explosion, because I didn't work for three weeks.

24 Q. Now, I think the last time you said that

1 probably the highest concentration of methane you'd
2 seen was a half a percent. Was that on the shearer
3 methane readout or where did you see that?

4 A. I would say on the readout on the shearer.

5 Q. Did you check that -- did you take your
6 multi gas detector and do any additional readings
7 when you seen the half percent?

8 A. I did, but I mean, as far as I can go, I
9 can't go any further than where the shearer was. I
10 wasn't about to go out into the actual open top of
11 the face.

12 Q. Do you recall where the sensors are at for
13 the shearer?

14 A. For the detector, the one on the shearer
15 is pointing towards the operators, closer to the
16 tail side.

17 Q. At what point -- do you remember how long
18 back on this panel here that it was that you seen a
19 half percent --

20 A. No.

21 Q. -- and what point along the face it was
22 you was cutting or?

23 A. No, I can't remember where or when.

24 Q. Do you know, was anybody else on your crew

1 that had detectors?

2 A. Tom Estep should have. He was -- one
3 electrician usually carried one. He was the one to
4 do it.

5 Q. What about the other crews, did you see
6 them wearing any detectors?

7 A. I didn't pay attention, but usually the
8 people to have them was the tail end operator and
9 the chief electrician. And the boss, of course.

10 Q. What types would they have? Would they
11 have the 102s or the Solaris?

12 A. Solaris.

13 Q. Let's talk about the water again. You
14 said that, you know, most of the time you'd just
15 have three or four sprays out, but sometimes you
16 did have plugging and stuff and that -- and you
17 also said that anytime the water was -- something
18 happened to the water, you all shut down.

19 Did you have any times during this panel
20 here that something did happen to the water that
21 you lost pressure or a line busted or anything like
22 that that you recall?

23 A. We've had lines bust before, but I mean,
24 it wasn't nothing, it was just like -- I'm trying

1 to think what it was. They had a problem at the
2 mouth of the section, not our section but the mouth
3 of the wall, probably 78 break, where the track
4 split. The water lines there busted on several
5 occasions, and the guys on the miner sections would
6 normally be the ones that would have to go fix it.

7 Q. Did you ever have to shut down during
8 production because of loss of pressure that you had
9 to go change filters or anything down at the mule
10 train?

11 A. Yeah. They changed filters, but mostly
12 the filters were for -- those filters were for the
13 shield pressure, the water and the shields going
14 to -- and I mean, I'm sure it went to ours, too,
15 but he could change them while we were still
16 running.

17 Q. Had you ever seen anybody changing them
18 out before or seen --

19 A. I know I have seen the sump filters laying
20 everywhere. Dustin Ross -- when it rained and the
21 river got muddy, that was his job. He knew when he
22 went in that day his job was going to be changing
23 filters all shift long.

24 Q. And what time of the year would it get

1 worse as far as muddy water?

2 A. Whenever it was raining hard. Spring, I
3 guess.

4 Q. Do you know if they were having any
5 trouble with the sock filters, that they were
6 plugging up a lot prior to April 5th?

7 A. I'm not sure of the exact time it was, but
8 at one time I think they went through an entire box
9 that was ordered, and I don't know how many is in
10 that. I'm not going to estimate. But they used an
11 entire box of them in one night just for them
12 clogging up so quick due to the water reservoir
13 that we used was filthy.

14 Q. As far as sprays go, you said there was
15 some sprays that they stored over at the conveyer
16 drive, up at the headgate, and then you kept a
17 couple in your pocket as well.

18 A. Sometimes.

19 Q. Sometimes. Okay.

20 Say you were running and cutting down the
21 face and -- was there any way to know how many that
22 was out, or could you tell by the spray pattern
23 that there might have been one out and you'd check
24 it?

1 A. If I was cutting, no, I would not have
2 been able to tell, unless there was a large
3 amount.

4 If you was cutting a little bit and that
5 spray wasn't sumped up in the face, yeah, you would
6 have been able to tell by the stream of water
7 shooting out of it.

8 Now, if you was just -- all of them were
9 sumped in the face and say you had one on the face
10 ring out, I wouldn't have been able to tell until I
11 was not cutting in coal with it.

12 Q. But that -- if you couldn't tell when it
13 was running, which it may be hard because you're at
14 the middle of the machine, do you think you could
15 tell a little bit better when you got at the tail?

16 A. After you cut out the first time and when
17 you come back, if you raise it up and it's not
18 sumped into anything at the bottom or top, you'll
19 be able to tell because of the larger stream of
20 water is shooting out. I mean, there's no plug
21 there. You'll have say a quarter-sized hole there
22 for it to shoot out of.

23 Q. Like a garden hose?

24 A. Yeah, pretty much.

1 Q. Now, have you -- I mean, would it be
2 pretty much normal to run with maybe a couple of
3 sprays out, that that wouldn't be seen as a problem
4 for the guys?

5 A. If you were going back to the head,
6 probably so. If you didn't have them on, you'd
7 probably take it on to the head.

8 Q. Because that would be where all the sprays
9 were at?

10 A. All the sprays.

11 Q. Was there ever a time that there wasn't
12 any -- that you needed to put in sprays that you
13 recall and there wasn't any up at the head? I know
14 there was a lot of bit buckets up there and stuff,
15 it may be hard to find, that you might have had to
16 have somebody bring them in from outside?

17 A. I don't remember ever being down over them
18 for the fact, if they wasn't on the head, they
19 usually had them on the parts cars, the tool sleds
20 they had. There were usually some somewhere on the
21 section at all times.

22 Q. Do you ever remember seeing a different
23 type -- you know, there's brass type sprays and
24 there are the stainless looking sprays. Have you

1 ever noticed any of them being different, that they
2 had the different size orifices or?

3 A. The brass ones were the screw-in type that
4 went to the front where the arm sprayed down on the
5 conveyor chain itself and the back of the shearer.

6 The silver stainless steel went in the
7 drum. They were the staple locked. That's the
8 only thing I ...

9 Q. But as far as let's say like the drum
10 sprays, did you ever see any that were different as
11 far as your spare parts goes?

12 A. No.

13 Q. Is there any of them that are different
14 sizes or?

15 A. I haven't seen any.

16 Q. Was there any -- I guess on your crew, was
17 changing sprays pretty much just put on the shearer
18 operator, that was his job mostly?

19 A. Pretty much, yes.

20 Q. Now, when you got up to the section, let's
21 say day shift, and you get there and you're doing
22 your preoperational checks, okay, and you're
23 checking these sprays, would you ever turn the
24 water on when you checked the sprays or --

1 A. Yes.

2 Q. -- would you just do a visual check of --

3 A. Well, I mean, while you're bitting up -- I
4 didn't mean to interpret you. I'm sorry.

5 Q. You're fine.

6 A. While you're bitting up, we would check
7 them, but they would always turn the water on
8 afterwards just to make sure there wasn't nothing
9 missed. Plus, you never know the sprays that's
10 shooting towards the conveyer, you never knew when
11 they were clogged up or not.

12 Q. As far as dates, dating up or doing a
13 record, you guys wasn't responsible for that;
14 right?

15 A. No.

16 Q. So was there ever a time that, you know --
17 do you think there would be ever a time that the
18 guys might wouldn't have spare parts and, you know,
19 they would be having a bad day, hadn't had a lot of
20 luck during the shift and they possibly would keep
21 running until they got back to the head?

22 A. I would say it's possible. I mean, I have
23 been there and I have had days that I just quit
24 caring. Because I'm sure we all have, get

1 aggravated and just give up. It's very possible.
2 I'm not going to give a yes or no, because I can't
3 really speak for anyone but myself.

4 Q. As far as, you know, when you guys run,
5 what kind of items would you -- let's say like on
6 these sprays, would you ever leave it for third
7 shift to fix?

8 A. I wouldn't leave anything for third
9 shift. You couldn't count on them. They were
10 basically there for looks, I thought. I mean, if
11 it was a small job, yeah, but if it was anything
12 past say eight shield, it probably wasn't going to
13 get done.

14 Q. I know that you said the last time that
15 they didn't have very much time to do a whole lot
16 either, I guess maybe six hours.

17 A. Yeah, yeah, that's true. They really were
18 limited on time. The first hour and a half they
19 were there, we were still running coal on evening
20 shift.

21 Q. As far as, I don't know what all you can
22 remember on the -- I guess you worked evening shift
23 on the Saturday before this happened?

24 A. Yes.

1 Q. Do you remember where you guys left the
2 shearer?

3 A. No, sir, I do not.

4 Q. And how many -- I bet you can't remember
5 how many passes you made that evening either, can
6 you?

7 A. No, no.

8 Q. When you cut out on the tail, is there any
9 chance that you -- one of the guys might would go
10 down to 176 shield when you were cutting down
11 there? Or would it not normally happen?

12 A. No. There's a possibility while we was
13 cutting out, because the jack setter had a few
14 fittings down there that he was supposed to grease,
15 and he would grease it on occasions while I was
16 finishing up cutting out like cutting the bottom.
17 Not while I was cutting top, because he wouldn't
18 have been able to really see what was going on.

19 Q. Do you know of any jack setters that had
20 detectors, or was that not normal for him to have
21 one?

22 A. Duey wouldn't have had a detector. He
23 didn't carry one.

24 Q. I'm going to let Dean take over. Thank

1 you.

2 EXAMINATION

3 BY MR. CRIPPS:

4 Q. If you're doing okay, we're going to plug
5 along here.

6 A. I'm fine.

7 Q. You was talking to Jasey about detectors.
8 I'm just going to keep on with that.

9 The Solaris you carried, did you carry the
10 pouch on your belt?

11 A. I clipped it on my shirt.

12 Q. So the clip on the back of the Solaris was
13 still there?

14 A. Yes.

15 Q. That's where you carried it.

16 Do you know if Gary Corralis carried one?

17 A. I don't think he had a pouch. I know
18 there was times he did carry one. I don't know. I
19 didn't pay attention, I guess, where he kept it.

20 Q. Okay. But you clipped one on?

21 A. Yeah, I clipped it on.

22 Q. So you didn't have a pouch on your belt?

23 A. No.

24 Q. Have you seen the video of the water on

1 the shearer? Have you seen anything?

2 A. No.

3 Q. We actually put water on the shearer where
4 it's sitting right there. Now, what's these --

5 A. That's missing sprays.

6 Q. What we're looking at is a picture of the
7 tailgate drum on the shearer at UBB, and looking at
8 the water coming down the tailgate drum, and those
9 large streams of water are the missing drum sprays;
10 is that correct?

11 A. Yes.

12 Q. You talked about some on the -- what did
13 you call it, the face ring?

14 A. Yeah.

15 Q. That you wouldn't be able to see?

16 A. Yeah.

17 Q. Do you see any of them in that picture?

18 A. I see probably two. But this one here is
19 on the very outside ring, you should have been able
20 to see that one.

21 MS. HAMPTON: You're pointing to
22 that water and you're saying "this one
23 here."

24 THE WITNESS: I'm sorry. The one

1 on the very furthest, it's the outby ring
2 closest to the operator. That would have
3 not have been in the face unless it was
4 over sumped.

5 MS. HAMPTON: Also in the photo,
6 it's the one furthest to the left?

7 THE WITNESS: Yes.

8 Q. And so the ones that's missing in the face
9 ring, why would you have not seen them?

10 A. If you were in the face cutting, I
11 wouldn't have -- myself, I would not have been able
12 to tell just because --

13 MR. MCATEER: You can call them A
14 or B or C and then put a marker there with
15 him, because it's hard for anybody to
16 follow.

17 MR. CRIPPS: I'm not familiar
18 with that. I'm a coal miner like you, so
19 when it comes to this...

20 MS. HAMPTON: I'm actually going
21 to mark this as an exhibit, Exhibit No. 3,
22 so that we'll be able to look at it later
23 when we're reading the transcript.

24 (Exhibit No. 3 marked for

1 identification.)

2 MR. CRIPPS: How do you want to
3 mark those sprays?

4 MR. MAGGARD: I guess it would be
5 fine to put like face side, make an arrow.

6 MS. HAMPTON: If you can just
7 draw directly on it.

8 MR. CRIPPS: Do want him to do it
9 or do you want me to do it?

10 MR. MCATEER: Him to do it.

11 THE WITNESS: I don't know if you
12 can read if I do it.

13 MR. CRIPPS: Here's a pen.

14 MR. MCATEER: Use your red
15 coloring markers.

16 What we're trying to do is for
17 somebody who just sees this third hand so
18 they can understand it. If you'd say
19 spray, face ring spray.

20 MR. CRIPPS: Just circle them two
21 that's on the face ring.

22 MR. MCATEER: And pull the line
23 out to the white and say what it is.

24 MS. HAMPTON: What about a pen,

1 would that show up better, if you circle
2 with a pen and label it in the margin?

3 MR. CRIPPS: There you go. And
4 then just -- there you go. You got her.

5 MS. HAMPTON: Just so we have,
6 for the record, you've labeled the face
7 side and on the right-hand side and then
8 the outside.

9 THE WITNESS: Yes.

10 MS. HAMPTON: And the face side
11 you've indicated two separate sprays.

12 THE WITNESS: Yes.

13 BY MR. CRIPPS:

14 Q. At the end of your shift on Saturday, was
15 any of those sprays missing?

16 A. Not that I can recall, but I mean, it's
17 been such a long time, if I did leave them out at
18 the end of a shift, it would have been because I
19 figured they would have been replaced at the
20 beginning of a shift.

21 Q. We talked about the spotter.

22 On your crew and you'd also worked with
23 the other crew there at Logans Fork, did anybody
24 wear Airstream helmets on the face?

1 A. We did at Logans Fork. We did not have to
2 use them once we got to UBB where it was under a
3 different plan. We used -- we mostly used the
4 respirators. I don't remember the name of the
5 respirators we used.

6 Well, take that back. I believe Gary and
7 Joel still used theirs from time to time and one
8 other person had it, but I don't know if Duey used
9 his or he used a respirator.

10 Q. Was the Airstream helmets kept on the
11 unit?

12 A. There were some that I think were stored
13 underneath the head drive. I don't remember whose
14 it was, but it had been laying there for quite
15 sometime. They left it there and never picked it
16 up, I guess.

17 Q. Was there one available to you if you
18 wanted to use one?

19 A. Yes, if I wanted to use one, I could have
20 got one.

21 Actually, I handed mine in when we went to
22 Logans Fork, but when they told me I could use a
23 respirator, I preferred that.

24 Q. Would you have had to get it from the

1 surface?

2 A. Yes.

3 Q. So there wasn't a spare on the unit for
4 you to use?

5 A. No.

6 Q. We found Airstream helmet parts on the
7 face --

8 A. Yes.

9 Q. -- after the explosion, so I'm wondering
10 where they came from.

11 A. I'm pretty sure there was one step,
12 somebody had stored it under the head drive. I'm
13 not sure whose it was. It had just been there for
14 a while.

15 I don't think Gary and Joel were still
16 using them. At one point in time they did. When
17 we changed those drums out, they clogged up real
18 bad and it was so dusty, I guess it wasn't flushed
19 well enough. We had to change every spray on it
20 twice, and that was due to the water sprays clogged
21 up from all the slag working loose of a new drum.

22 Q. When was that, do you recall?

23 A. Might have been March. February or
24 March. End of February, beginning of March,

1 somewhere in that area.

2 Q. The Airstream helmets, when you wear them,
3 do you wear your normal hardhat with them?

4 A. No.

5 Q. So if the guys was wearing an Airstream,
6 what would he do with his hardhat?

7 A. Probably place it either under the head
8 drive or hang it up on a shield somewhere.

9 Q. So it's possibly if they're wearing their
10 Airstream, their hardhats would be on the face?

11 A. They would more than likely be laying
12 underneath the head drive itself, that way they
13 wouldn't have to wear them when they stepped off
14 the face. But I have seen some that will just wear
15 the Airstream helmet and leave their hardhats on
16 the tool cars.

17 Q. And you say under the head drive. Just
18 where exactly are you talking about?

19 A. As soon as you come across the headgate
20 entry there, the drive that sets under the conveyer
21 drive itself where they stored all the bit buckets,
22 they would place them under there.

23 Q. So that's like at number two or number
24 three shield?

1 A. Yes, probably two and three.

2 Q. So it's actually on the face, it's not
3 around the corner --

4 A. Right.

5 Q. -- up to the stage lowered (phonetic)?

6 A. Right.

7 Q. How did you turn the water on and off for
8 the shearer?

9 A. The headgate operator had the shutoff
10 valve. He turned it on all the time.

11 Q. You didn't have a shutoff on the machine?

12 A. Not that I'm aware of.

13 Q. When you were sitting idle and you needed
14 to run, getting ready to run, how would he know to
15 turn the water on?

16 A. He would always turn the water on before
17 we'd start up. Usually we wouldn't have to holler
18 at him on the Control phones or anything.

19 Q. What about as far as turning the water off
20 the shearer?

21 A. If it was setting idle and we needed it
22 off, we would have to yell at him on the phones.

23 Q. What about if the belt went off coming
24 into the unit, what would happen on the face?

1 A. If the belt went off, the conveyer chain
2 would turn off, then we would know to stop
3 running. He would never shut the water off until
4 we, you know, yelled at him to turn it off. He
5 liked to let us get all that moisture raining
6 everywhere.

7 Q. So he wouldn't shut the water off until --

8 A. Until we yelled at him.

9 Q. You yelled at him?

10 A. Yeah.

11 Q. What about on the other crews that you
12 worked with?

13 A. Rex was about the same way. Until someone
14 let him know that they stopped, he wouldn't shut
15 the water off. He would be a little quicker about
16 it than Woody would, though. Woody would let
17 you -- because he knew what you was trying to do.
18 If the belts were going to be off for a while,
19 you're going to pile up a big pile of coal so you
20 can bed down for a little bit.

21 Q. That means you filled the conveyer up
22 where the shearer can't run, you can't set bits --

23 A. Can't set bits, can't do nothing. We're
24 staying put.

1 Q. We're trying to figure out, the water was
2 turned off at the headgate, which I think you was
3 probably told that in your first interview, that it
4 appears the water was shut off sometime in the
5 headgate. But you don't think it would have been
6 shut off without being called from the shearer
7 operators?

8 A. No.

9 Q. Have you ever known -- have you ever seen
10 or known of anybody cutting coal with the water
11 turned off the shearer?

12 A. No, there's no way they would have been
13 able to see.

14 Q. So you don't think that.

15 What if they just happened to be cutting
16 out at the tail and just wanted the water off so it
17 didn't get them soaking wet, would that happen?

18 A. No, not with those guys.

19 Q. How about with you guys?

20 A. No. Ain't no way I would have done it.

21 Q. Do you know, would the conveyer run with
22 the water turned off?

23 A. I don't think so. I believe the water
24 still had to be on for the conveyer to run.

1 Q. So you don't think they would have been
2 loading at the tailgate or cutting at the tailgate
3 with the water cut off?

4 A. No.

5 Q. If you need to shut the conveyer, face
6 conveyer off along the -- say you were at the tail
7 and you need to shut off for some reason, how would
8 you do that?

9 A. There was a -- at 173 or 172, I'm not sure
10 which shield it was now, I think it was 172, there
11 was a Control phone with a -- every Control phone
12 has a switch you can turn the conveyer chain off.

13 Q. And the switch is just you turn it off and
14 they conveyer stops; correct?

15 A. Yes.

16 Q. Also has a page phone --

17 A. Yes.

18 Q. -- built into it?

19 Did you ever know that Control switch not
20 to work? By "not to work," I mean not to shut the
21 conveyer off when you operated the switch.

22 A. Not if the -- no, not unless the phone
23 itself completely wasn't working. I mean, you
24 couldn't just like talk on it but not shut the line

1 off. It always done both.

2 I have known of them to fail and you'll
3 have to go to a different phone, but they would
4 always shut the line off if the phones itself
5 wouldn't work.

6 Q. Do you recall if on your last shift if you
7 had to shut the conveyer off down at the tail any
8 at all?

9 A. I can't remember.

10 Q. Do you recall if the Control switches were
11 functioning in the tailgate area? Let me put it
12 like this, all the Control switches on the face on
13 your last shift you worked.

14 A. I'm pretty sure as far as the conveyer
15 switch. There was some phones that you couldn't
16 hear or you couldn't talk on, but I'm not a hundred
17 percent, because like I said, it's been a long
18 time, that they all -- as far as shutting off the
19 conveyer chain, they did work.

20 Q. You've talked at quite length about
21 cutting the sandstone at the tail and the hard
22 cutting. How long has that been going on?

23 A. I think at the end, like probably from the
24 mid of March, I believe, it's been like that.

1 Q. Prior to that, what, just --

2 A. Mostly slate. I mean, sandstone would
3 roll in and out from head to tail, but I mean, it
4 was never a major problem until the tail become the
5 solid sandstone for quite sometime.

6 Q. Your first interview you was talking about
7 the fireballs that occurred. You stated it was
8 around October, November of '09. Do you recall,
9 was there any after that? Do you recall seeing any
10 after that?

11 A. No, I did not see any after that.

12 Q. Even after the air quantity that you
13 talked about dropped, you didn't see any --

14 A. No.

15 Q. -- fireballs after that?

16 A. No.

17 Q. I want to touch base with you real quick
18 about the fire suppression on the shearer. The
19 hooks you're talking about to hold the cover on
20 over the pump compartment there, the hook on the
21 tail is welded right over the compartment to get to
22 the valve. Any idea how long it's been that way?

23 A. I couldn't recall exactly how long it's
24 probably been that way. I know what you're talking

1 about. You would have had to take that one off.
2 It had been like that for I don't know how long,
3 but it had been that way for a little while.

4 Q. I mean, you recall what I'm talking about?

5 A. Yes, I do.

6 Q. The hook that's there and where it's
7 located over the hole?

8 A. Yes.

9 Q. Now, also on the backside of that, the
10 valve is on the backside, but there's no handle on
11 the valve. Do you recall when that would have
12 been?

13 A. No, I didn't know anything about that.

14 Q. Do you recall it ever being there on this
15 panel?

16 A. I have seen it. But I mean, like I say, I
17 don't remember when it got covered up.

18 Q. The valve on the headgate into the
19 shearer -- let me rephrase that. Where the valve
20 on the headgate end should have been, there was no
21 valve there. Do you recall ever seeing a valve
22 there?

23 A. I never paid attention much to the head
24 side. I just paid attention from the tail down.

1 Q. So you don't know when and if the fire
2 suppression was ever tested?

3 A. No.

4 Q. I want to back up to your last shift when
5 you went underground. I think you said you left
6 the upstairs of the office over there at Ellis
7 Portal you said around 10 'til 3:00. Is that what
8 you normally did, or do you recall specifically
9 that day?

10 A. No, we normally left about that time, just
11 to get all of our stuff ready so we could leave
12 right at three o'clock.

13 Q. Would that be the whole crew?

14 A. Yeah, our whole crew would be under there.

15 Q. Including Kevin?

16 A. Yes.

17 Q. So after 10 'til 3:00 when everybody left
18 the office, do you recall if Kevin talked to
19 anybody on the longwall?

20 A. No, he's always the first one of us to go
21 down the steps to where the light room was.

22 Q. Okay.

23 A. So he didn't talk to anyone else longwall
24 wise until we got back outside.

1 Q. And that was, well, shortly after the
2 explosion when you guys got back outside.

3 A. Yeah.

4 Q. You talked about -- jump around here a
5 little bit and try to fill in a few gaps.

6 When you go on the wall and you do your
7 pre-op and you're checking the water sprays, does
8 management tell you to do that, or does your boss
9 tell you to do that or how does that work?

10 A. Really, they didn't -- outside didn't
11 stress it. Kevin, our boss, would tell you to
12 check, make sure -- cover your own hind end,
13 basically, is what he would say, is check
14 everything, make sure your stuff is right. What we
15 did or didn't was probably on us.

16 Q. So after the beginning of the shift and
17 you replaced all the sprays, then as the shift went
18 on, did you have any guidance at all as far as when
19 to replace sprays or not to replace sprays?

20 A. No, no. He would always ask us when we
21 thought we needed to bit up and check our stuff.
22 Kevin, was -- I mean, he was -- honestly, I'm not
23 trying to just say it, but he was one of the best
24 bosses I have worked for as far as longwall wise.

1 He was really good to us and, I mean, anything we
2 figured we needed to do, he went with it.

3 Q. So is it fair to say that every shift,
4 either at the beginning of shift or very early in
5 the shift, you had downtime?

6 A. Yes.

7 Q. To set bits and --

8 A. Yes.

9 Q. -- sprays?

10 A. Yes. It usually took right around 30 to
11 45 minutes if you're doing it -- the first time we
12 shut down to do it is when they done all the heavy
13 servicing. The electricians would check all the
14 oil and all the PMs they had to do on it. After
15 that it was basically just us changing bits and
16 checking our sprays.

17 Q. When he called out his production report,
18 his downtime, did you ever listen or know what he
19 turned in for downtime?

20 A. No. I mean, normally, I know they counted
21 bitting up as downtime. And when they did that,
22 they included all the electricians' PMs with the
23 bitting up downtime. So I'm not sure what all they
24 said.

1 MR. CRIPPS: Okay. I think I'm
2 done. You got any more questions?

3 MR. TUCKER: Just a couple real
4 quick.

5 EXAMINATION

6 BY MR. TUCKER:

7 Q. You mentioned that when the foreman would
8 call out his preshift report, he'd go to the
9 headgate and typically call it out from there, and
10 that would be close to quitting time when he did
11 that.

12 Would it be normal for him to come back in
13 the jack line, or once he called that out, if he
14 wanted to stay there at the headgate?

15 A. It depended on who it was.

16 Kevin, we seen him on the face more than
17 we did anywhere else. He stayed with us.

18 I can't speak for Rick. I didn't work
19 with him, so I'm not sure.

20 But Kevin would, nine times out 10, he
21 would at least be at the head at the first five
22 shields waiting on us at the end of the shift.

23 Q. That's kind of what I was just wondering,
24 you know, toward quitting time, once they called

1 out if it was kind of normal procedure that you
2 would see him back in the jack line, or once they
3 called out if they pretty much, unless something
4 broke down, if they would stay there at the head.

5 A. Well, on day shift where we hot seated,
6 they knew that after that, I mean, unless they were
7 going to fill out the reports, I would say most of
8 the time -- I seen Rick a few times when we would
9 pass by him. Most of the time he would either be
10 in the last open or he would be on the face a
11 couple shields down spraying off the pontoon. But
12 I don't know. Every day, you know, that differs.

13 Q. Right. Just trying to think back just say
14 a week prior to the explosion. Can you recall
15 specifically any readings that you may have
16 observed on your methane monitor?

17 A. No. I didn't read anything that ever set
18 the alarm off on it.

19 Q. That's all I have.

20 EXAMINATION

21 BY MR. MCATEER:

22 Q. What was the alarm set for on your
23 Solaris?

24 A. I can't remember.

1 Q. That's all the questions.

2 EXAMINATION

3 BY MR. MAGGARD:

4 Q. Did you have your Solaris labeled with
5 your name on it, or was that something you normally
6 do?

7 A. No, I didn't mark anything on mine.

8 Q. How long did you have it?

9 A. Probably since October of the prior year.

10 Q. I know that your buddy there, Woodrum,
11 would take care of your water valve for the shearer
12 and sometimes leave it on a little too long. Do
13 you think it would -- do you ever remember a valve
14 being on the shearer that you could turn it off
15 instead of Kenny having to turn it off?

16 A. No.

17 Q. Do you think it would have been handy to
18 have one?

19 A. It probably would have been. I mean, but
20 he would have eventually turned it off anyhow,
21 because I think the water, the fluid coupling that
22 runs the conveyer chain, I think it comes from that
23 same valve he has to turn off, if I'm not
24 mistaken. And if you put -- I'm not a hundred

1 percent. It's been a long time since I have been
2 into all that junk with the water running through
3 the couplings. I think if you leave the water on
4 too long, it had a problem starting the conveyer
5 itself, too. But it's been a long time.

6 Q. But they don't have a separate valve up
7 there at the headgate for the conveyer holders?

8 A. I don't believe they did.

9 Q. Okay.

10 A. They may have. I didn't really, you know,
11 go into detail looking for it.

12 Q. That's all I got.

13 EXAMINATION

14 BY MR. CRIPPS:

15 Q. I got one more question for you.

16 I told you the shearer's at the tail and
17 the operators were up around 105. If you had -- if
18 you're operating the shearer and it's at the tail
19 and you had an emergency, which way are you going
20 to go off the face?

21 A. It depends on the situation. If something
22 is coming from the head that's causing problems,
23 I'm going off the tail and I'm going down until I
24 got to where I could get out into the old track

1 entry of the old tailgate section.

2 Q. What would make you go towards the head?

3 A. There would have to be an ignition on the
4 tail.

5 Q. Okay. Fair enough.

6 You got any questions for us? Is there
7 anything that we haven't asked that you might be
8 able to provide us some information to help us find
9 out what went on here? We've grilled you pretty
10 hard here for a couple of hours, and I'm sure we
11 didn't ask you everything, and as soon as you leave
12 there's probably going to be something I wished I'd
13 asked you, so if there's any information you know,
14 we'd appreciate if you'd share it with us now.

15 A. I can't think of anything. It's been so
16 long and there's a lot of it that I've tried to
17 forget. The antidepressants help with that, too.
18 But I can't think of anything right off.

19 Q. Okay. I appreciate you coming in, your
20 honesty.

21 A. No problem.

22 MR. MCATEER: Thank you very
23 much.

24 MR. KOERBER: Mr. Brown, on

1 behalf of the Office of Miners' Health
2 Safety & Training, I'd like to thank you
3 as well for being here today.

4 Don't forget the stuff that I
5 gave you earlier.

6 If you have anything at all you'd
7 like to add, now is the time to add it.
8 If you want to make a statement of any
9 sort whatsoever, feel free to make it.
10 Anything you'd like to say?

11 THE WITNESS: No, there's nothing
12 I can think of.

13 MR. KOERBER: We'll go off the
14 record.

15 (The interview of KEVIN BROWN
16 concluded at 11:25 a.m.)

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1 STATE OF WEST VIRGINIA, To-wit:

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

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

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

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

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

22 -----
23 Lisa Marie Short
24 CCR
Notary Public