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Transcript of the Testimony of Mark Edwards

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STATEMENT UNDER OATH

OF

MARK EDWARDS

taken pursuant to Notice by Cynthia Piro Simpson, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, June 21, 2010, beginning at 8:20 a.m.

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I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Baxter	5 - 9
5	STATEMENT	
6	By Mr. Farley	9
7	WITNESS: MARK EDWARDS	
8	EXAMINATION	
9	By Mr. Steffey	10 - 42
10	EXAMINATION	
11	By Mr. Farley	42 - 46
12	RE-EXAMINATION	
13	By Mr. Steffey	46 - 98
14	RE-EXAMINATION	
15	By Mr. Farley	98
16	RE-EXAMINATION	
17	By Mr. Steffey	98 - 101
18	CLOSING STATEMENT	
19	By Attorney Baxter	101 - 102
20	DISCUSSION AMONG PARTIES	102 - 104
21	CERTIFICATE	105
22		
23		
24		
25		

1	EXHIBIT PAGE	
2		PAGE
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10		
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12		
13		
14		
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P R O C E E D I N G S

ATTORNEY BAXTER:

My name is Derek Baxter. Today is June 21st, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is David Steffey, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present is Terry Farley from the State of West Virginia. There are also members of the investigation team present in the room today. Mr. Steffey and Mr. Farley will be conducting the questioning today.

All members of the Mine Safety and Health Accident Investigation Team and all members of the State of West Virginia Accident Investigation Team participating in the investigation of the Upper Big Branch Mine explosion shall keep confidential all information that's gathered from each witness who voluntarily provides a statement until the witness statements are officially released. MSHA and the State of West Virginia shall keep this information confidential so that other ongoing enforcement activities are not prejudiced or jeopardized by a premature release of information. This

1 confidentiality requirement shall not preclude
2 investigation team members from sharing information
3 with each other or with other law enforcement
4 officials. Your participation in this interview
5 constitutes your agreement to keep this information
6 confidential.

7 Government investigators and specialists

8 have been assigned to investigate the conditions,
9 events and circumstances surrounding the fatalities
10 that occurred at the Upper Big Branch Mine-South on
11 April 5th, 2010. The investigation is being conducted
12 by MSHA under Section 103(a) of the Federal Mine
13 Safety and Health Act and the West Virginia Office of
14 Miners' Health, Safety and Training. We appreciate
15 your assistance in this investigation.

16 You may have your personal attorney

17 present during the taking of this statement or another
18 personal representative, if MSHA has permitted it, and
19 may consult with your attorney or the representative
20 at any time. Do you have a personal representative
21 here today?

22 MR. EDWARDS:

23 No, sir.

24 ATTORNEY BAXTER:

25 Your statement is completely voluntary.

1 You may refuse to answer any question and you may
2 terminate your interview at any time or request a
3 break at any time. Since this is not an adversarial
4 proceeding, formal Cross Examination will not be
5 permitted. However, your personal legal
6 representative may ask clarifying questions as
7 appropriate.

8 Your identity and the content of this
9 conversation will be made public at the conclusion of
10 the interview process and may be included in the
11 public report of the accident, unless you request that
12 your identity remain confidential or your information
13 would otherwise jeopardize a potential criminal
14 investigation. If you request us to keep your
15 identity confidential, we would do so to the extent
16 permitted by law. That means that if a judge orders
17 us to reveal your name or if another law requires us
18 to reveal your name or if we need to reveal your name
19 for other law enforcement purposes, we may do so. We
20 request that you refrain from discussing your
21 statement with others who may be interviewed. Also,
22 there may be a need to use the information you provide
23 to us or other information we may ask you to provide
24 in the future in other investigations into and
25 hearings about the explosion. Do you understand?

1 MR. EDWARDS:

2 Yes.

3 ATTORNEY BAXTER:

4 Do you have any questions?

5 MR. EDWARDS:

6 No.

7 ATTORNEY BAXTER:

8 Okay. After the investigation is

9 complete, MSHA will issue a public report detailing
10 the nature and causes of the fatalities in the hope
11 that greater awareness about the causes of accidents
12 can reduce their occurrence in the future.

13 Information obtained through witness interviews may be
14 included in these reports. Since we will be
15 interviewing other individuals, we request that you
16 not discuss your testimony with any person aside from
17 your personal representative or counsel.

18 A court reporter will record your
19 interview. Please speak loudly and clearly. If you
20 do not understand a question asked, please ask us to
21 rephrase it. Please answer each question as fully as
22 you can, including any information you've learned from
23 someone else. I would like to thank you in advance
24 for your appearance here. We appreciate your
25 assistance in this investigation. Your cooperation is

1 critical in making the nation's mines safer.
2 After we finished asking questions,
3 you'll have an opportunity to make a statement and
4 provide us with any other information that you believe
5 to be important. If at any time after the interview
6 you recall any additional information that you believe
7 might be useful, please contact Norman Page at the
8 telephone number or e-mail address provided to you.

9 MR. FARLEY:

10 Mark, on behalf of the West Virginia
11 Office of Miners' Health, Safety and Training, I would
12 like to advise you that West Virginia Coal Mine Health
13 and Safety Regulations also protect miners against
14 potential discrimination. I want to pass along to you
15 my business card, along with some contact information
16 should you experience any such treatment as a result
17 of participating in this interview. We'd advise you
18 now that should you have to file a claim, it has to be
19 done within 30 days of the event.

20 MR. EDWARDS:

21 Okay.

22 ATTORNEY BAXTER:

23 Please swear the witness in.

24 -----

25 MARK EDWARDS, HAVING FIRST BEEN DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 -----

3 EXAMINATION

4 BY MR. STEFFEY:

5 Q. Would you please state your full name and spell
6 your last name?

7 A. Mark Anthony Edwards, E-D-W-A-R-D-S.

8 Q. Will you please state your address and telephone
9 number?

10 A. It's [REDACTED]

11 [REDACTED]

12 Q. Okay. You did state your telephone number.

13 A. Yes.

14 Q. Are you appearing here today voluntarily?

15 A. Yes, sir.

16 Q. All right. Has anyone made any promises
17 concerning the testimony you're about to give?

18 A. No.

19 Q. Anybody given you anything in exchange for the
20 testimony you're about to give?

21 A. No.

22 Q. Has anyone made any threats concerning the
23 testimony you're about to give?

24 A. No.

25 Q. Has anyone else interviewed you concerning the

1 accident and your knowledge of the conditions in the
2 mine?

3 A. No.

4 Q. Mark, how many years of mining experience do you
5 have?

6 A. Three years.

7 Q. Would you give a brief description of your coal
8 mine employment history?

9 A. I worked at Double Bonus for two years. Prior to
10 --- I don't remember the exact dates, but for two
11 years, and then I went to Performance. So from April
12 of 2009 back three years.

13 Q. Do you have any mining certifications?

14 A. No.

15 Q. Just experienced miner?

16 A. Just experienced miner, yes.

17 Q. Are you presently employed?

18 A. No.

19 Q. Where did you work at prior to being hired at
20 Upper Big Branch?

21 A. Double Bonus Coal Company, Pineville, West
22 Virginia.

23 Q. So you said you got three years of experience?

24 A. Yes.

25 Q. And how much of it was with Massey?

1 A. A year.

2 Q. A year?

3 A. Right close to a year. Not exactly a year, but
4 just a few months shy of a year.

5 Q. When was your last day at UBB?

6 A. March 31st.

7 Q. Okay. And was this your last day with Massey
8 also?

9 A. Yes, sir. I was hurt, off work. I was still
10 employed.

11 Q. Okay.

12 A. Six months past that. I can't remember my exact
13 date, but I was not at the mine site as of March 31st
14 --- or 30th.

15 Q. Okay. So you hurt your [REDACTED] did you say?

16 A. Yes. I hurt my [REDACTED] at Upper Big Branch Coal
17 Company.

18 Q. Okay. How did you do that?

19 A. Running the shuttle car. And I guess either the
20 brakes didn't work or the gas was sticking on it, and
21 I just went down an incline and barreled into the rib,
22 and it threw me up against the top.

23 Q. Okay. Did they have you sign anything after that?

24 A. No. I went straight to --- in fact, it's funny
25 that you bring that up first because as soon as the

1 accident happened, there was no EMT on the section.
2 There was no --- there was no emergency ride. The
3 brake --- the track was five to six breaks --- I'm a
4 little unsure, I'm not exactly, five to six, maybe
5 seven breaks from the section. I had to run the scoop
6 all the way there, and it took them probably an
7 hour-and-a-half to get me out, if that. I don't
8 remember exactly how long. But no, I've not signed
9 anything.

10 Q. What day did this occur on?

11 A. That happened on March 30th or the 31st. It was
12 the last day of March.

13 Q. Okay.

14 MR. FARLEY:

15 And in 2009?

16 A. Yes, sir. Yes. 2009.

17 BY MR. STEFFEY:

18 Q. All right. Then what happened?

19 A. Well, I was treated by Doctor [REDACTED], and he
20 included --- concluded with, you know, my injury, that
21 I would probably be better off to find another
22 profession. So I'm in the process of that right now.

23 Q. Did anybody from UBB meet you at the emergency
24 room?

25 A. Yes, they did. It was the safety guy. I forget

1 his name. It wasn't the boss that was working with me
2 or nothing like that. It was the safety director.

3 Q. And who was that?

4 A. Oh, man. I know his name, too, know his name
5 well. You can ask me that in a minute, and I'll think
6 of it, but ---.

7 Q. Did he have any conversations in private with the
8 doctor?

9 A. It's very possible. I'm not sure.

10 Q. What was that doctor's name again?

11 A. I can't remember her name. I apologize.

12 Q. That's all right.

13 A. But I would say this. I would say that while he
14 was there, I went to the doctor. They diagnosed me
15 with something really minor. Then I went home and
16 then I was having the worst trouble, couldn't hardly
17 walk, and I went back to the doctor the next day, and
18 there was a different doctor there. And he had put in
19 some extra work and did an MRI on me. They concluded
20 that there was an injury to [REDACTED].

21 Q. Did he refer you to a specialist or anything?

22 A. Yes, he did. He referred me to a specialist. I
23 called the specialist. And he was a surgeon. And the
24 surgeon said, at this point in time we probably need
25 just to get you in with a doctor, let Doctor [REDACTED]

1 see what he thinks, and then we'll go from there. But
2 yes, I was initially referred --- and I have all that
3 information. I can't remember the doctors' names or
4 nothing like that, but I do have it.

5 Q. What did the company do after that?

6 A. Oh, man. It seemed like Berman was his name.

7 Berman. It seemed like to me that they were just ---
8 they would call me all the time and harass me about
9 coming back to work. It's very important to get back
10 to work. It's very important to get back to work. It
11 was never --- it seemed like their attention was more
12 on me getting back into work as to me getting well.

13 Q. Did you ever take them a doctor's excuse?

14 A. Oh, yeah. Oh, yeah. We --- they had access to
15 all of that, all that stuff. In fact, I talked to
16 Berman on several occasions. Like I said, he called
17 me all the time. So I talked to him on several
18 occasions, and there were several occasions I couldn't
19 get in touch with him.

20 Q. And how long did this go on?

21 A. About six months. Four to six months, somewhere
22 in that area.

23 Q. Then what happened?

24 A. I concluded that I didn't think I could ever go to
25 work underground again, especially in the conditions

1 down there.

2 Q. So you quit or ---?

3 A. Yes. I didn't quit. I chose --- my doctor told
4 me not to go back.

5 Q. Okay.

6 A. And I have proof of that, because I had to present
7 it to unemployment compensation.

8 Q. Okay. All right. What section did you work on?

9 A. I worked on the Number Three working section.

10 Q. Number Three working section. And was that the
11 headgate section?

12 A. No. That was that section, I think. The section
13 right over here.

14 Q. When you say that section, ---?

15 A. Okay. I think --- there was --- there's --- have
16 you guys been to UBB?

17 Q. Yeah.

18 A. Okay. You know how you start down in the head on
19 the south side where you all --- everything happened
20 at, where this was?

21 Q. The Ellis Portal?

22 A. Yeah. There was a section --- no, where the bath
23 house was. Do you know where the office was at
24 Performance Coal, you went in across the bridge?

25 Q. Let's get another map here.

1 A. I'm not good at maps. I don't think I've ever had
2 much experience in reading maps.

3 Q. Really?

4 A. Yeah.

5 Q. All right. The Ellis Portal is at this location.

6 A. Now, is this the one where you crossed the bridge
7 and went up ---?

8 Q. Went up the hollow?

9 A. Went up the ---? That's where I was at.

10 Q. So you were at the ---?

11 A. It was the UBB Portal.

12 Q. This is the UBB Portal.

13 MR. FARLEY:

14 At UBB, you crossed the creek at
15 Montcoal.

16 A. That's the one that I was ---.

17 BY MR. STEFFEY:

18 Q. Okay.

19 A. That's the one I went in.

20 Q. That's the one you went into?

21 A. Yes.

22 Q. Okay. That's --- you're right there at the
23 correct portal then.

24 A. Okay. Yeah. There was two portals. There was
25 one that went this way, and I'm assuming it's this

1 one, because we were down in here somewhere.

2 Q. Okay.

3 A. And yeah, this took you right outside; right?

4 Q. No. That's a sealed area right there.

5 A. Right in here ---.

6 Q. Right there is where --- yeah.

7 A. And there's where it ---?

8 Q. Then it goes to the silo?

9 A. Yeah. Yeah. So we were down here on this
10 section.

11 Q. Okay. So that was the portal section. All right.

12 A. Number Three is what we called that.

13 Q. All right. Number Three section. All right.

14 When you first went in the mine your first day, what
15 did they do?

16 A. They just took me underground. They did --- they
17 went up and showed me this and this on the map, but
18 never no clarification or nothing. And I didn't know
19 the map from nothing. You know what I mean? It was
20 nothing but this to me. And they said, your storage
21 is here, your storage is here and here, and pretty
22 much just took me underground.

23 Q. So did they go over lifelines and ---?

24 A. No, they didn't go over that stuff.

25 Q. All right. So am I correct in understanding that

1 you entered the South Portal?

2 A. Yes. Our first ---.

3 Q. UBB Portal?

4 A. Yes.

5 Q. All right. Approximately how long was your travel
6 time to the section?

7 A. Fifteen (15) minutes.

8 Q. Fifteen (15) minutes, okay. How may miners
9 typically worked on the 029 --- not the 029, but the
10 Number Three section?

11 A. Gosh. We had a full crew, two motormen, three
12 buggy men, four bolt men. So probably anywhere from 9
13 men to 11 men.

14 Q. Okay. Did you travel through any of the equipment
15 doors?

16 A. Equipment doors?

17 Q. Operating doors.

18 A. Yes, we did. We did.

19 Q. Okay. Do you remember about where they were?

20 A. They were right before we would get to the
21 section. As far as break numbers or anything of that
22 nature, no. We just ---.

23 Q. Okay.

24 A. Let's just talk about the equipment doors, what
25 you can remember. Were the doors automatic or did

1 they have to be open by hand?

2 A. Both. They were automatic, but sometimes we had
3 to open them by hand.

4 Q. When you had to open them by hand, did they have
5 anything that was a chain or anything to secure them,
6 to keep them from just being open?

7 A. No.

8 Q. Did you ever find them open?

9 A. Yeah, I did. Yes.

10 Q. What condition were these doors in?

11 A. Well, when we first started working down there,
12 they were in awful shape. But the men had complained
13 about them so much, they did do some work and update
14 them.

15 Q. When you say update them ---?

16 A. Well, I knew they installed two --- one to two,
17 I'm not sure exactly, new sets of doors. And the
18 other doors was --- they were updated pretty
19 regularly, I can say that. I mean, ---.

20 Q. Now, what shift did they update them on? Did they
21 do it with your crew underground?

22 A. No, they never did it with me. I was on the coal
23 crew.

24 Q. You was on the coal crew, so they didn't ---?

25 A. I went through them. I went straight to a

1 section. I don't know if they sent anybody outby to
2 do it or ---.

3 Q. Okay.

4 A. But I don't think so because we only had one
5 electrician ---

6 Q. Okay.

7 A. --- at each section to do that.

8 Q. Do you remember about how far apart the sets of
9 doors were?

10 A. The first set was probably a break. It was a
11 break in between probably --- the first set of doors
12 was probably --- the first set of doors was probably a
13 hundred foot. I'm thinking --- and then the second
14 doors was probably 50 foot. And then they had another
15 set of doors that was probably 50 foot.

16 Q. Could a supply motor with a flatcar get through
17 there without ---?

18 A. Yeah. But there was one time that we couldn't.
19 We had to stay back and work and do all that we could
20 to get them doggone doors --- just enough to get our
21 mantrip out.

22 Q. Uh-huh (yes).

23 A. And one day I remember very clear, because I was
24 in a hurry that day, and I told the men, I said, as
25 soon as I get in a hurry, you can't get through the

1 doors.

2 Q. So when you couldn't get through the doors, what
3 was going on?

4 A. Well, I guess it had --- the door --- the way they
5 had set them up, it followed a couple inches or
6 something.

7 Q. So it squeaks?

8 A. Yeah. Just --- I mean, we had to rig it to where
9 we could get underneath it with a bar.

10 Q. So the mantrip wouldn't go underneath?

11 A. Not this particular day it wouldn't. We had a
12 bigger mantrip this day.

13 Q. Well, what else did you do? Did anybody set any
14 jacks there for additional roof support or anything?

15 A. We just got under it and ---.

16 Q. Anybody report this to management outside?

17 A. I don't know. I really don't know. Like I said,
18 I was in a hurry that day, and I was just glad to be
19 outside, and I took off.

20 Q. When you would approach these sets of equipment
21 doors, when the doors would be open, what did you
22 observe as far as airflow? Could you tell any
23 differences or anything?

24 A. We were right there. We had the air busting in on
25 us, man. It was coming. It was --- on that section,

1 as dusty as that section was, and I mean dusty, even
2 as much air as we had flowing through there, it was so
3 dusty, I would have to dress real warm, real, real
4 warm because the air was coming through so good.

5 Q. Did you feel the air, though, reverse on the track
6 where they had the doors at when they were open?

7 A. I don't really know what you mean by ---.

8 Q. If the air is flowing --- which way did your air
9 flow, ---

10 A. It ---.

11 Q. --- your belt air?

12 A. I don't know.

13 Q. That's all right. All right. When you say the
14 section was dusty, where did this dust come from?

15 A. I mean, this is something I never understood. And
16 it has to be documented somewhere that this section
17 was so dusty that you when you walked out the intake,
18 you could not see the main in front of you. When you
19 got to the track ---.

20 Q. So was the dust coming from the mine floor?

21 A. It was coming from the mine floor, yes, ---

22 Q. Okay.

23 A. --- the stuff laying on the floor. And we would
24 have to walk that intake to get to the track, and I
25 mean, we would have to walk backwards. We'd have to

1 put stuff on our face because the particles was
2 hitting you, and you would have a ring around your
3 mouth. And we always talked about how in the world
4 they could run coal like that and make us walk through
5 that.

6 Q. Did you ever see anyone on the section dampen the
7 roadways or anything?

8 A. That's --- we talked about why don't they come and
9 dampen the roadways or something, at least just take a
10 scoop and just clean this out, you know, take a day.
11 Tell production to take a day. Get both scoops and
12 just clean the walkway. They never did nothing like
13 that. And we would be walking out, man, ---.

14 Q. When you started with Massey, did anybody ever
15 talk about S1 and P2?

16 A. No. No. Every --- the men would --- once S1 ---
17 but as far as upper management goes, no.

18 Q. Nobody ever came and talked to you about this is
19 our safety standards, this is our policies?

20 A. No. I can't say they did. We would have our
21 little meetings before the shift. But as far as --- I
22 just don't buy that safety stuff, man. I don't. They
23 acted --- used that --- acted like that that was --- I
24 just --- I didn't see it. I didn't.

25 Q. When the miner would be trammed across a section

1 from one cut to the next, did you ever see it trammed
2 with water sprays, trammimg as it went?

3 A. No, never one time, ever.

4 Q. Anybody ever state that that's a Massey policy?

5 A. No, never heard that one time. You're the first
6 person I've ever heard that from.

7 Q. Interesting.

8 A. Now, I guess we're probably going to get into
9 talking about working on the section and stuff ---.

10 Q. Yeah. Yeah. We're leading up to that. I'm just
11 trying to ---.

12 A. I just don't want to leave anything out that's
13 going to help your investigation.

14 Q. I'm just trying to jar your memory.

15 A. Okay.

16 Q. That's all we're doing here right now.

17 A. Okay.

18 Q. We're going to get into it here in a second. All
19 right. So let's go back here. We'll talk a little
20 bit more about your dust here in just a few minutes,
21 but let's talk about your Number Three section ---

22 A. Okay.

23 Q. --- I believe that you said that it was, your
24 roof, your rib and your floor. How would you describe
25 that?

1 A. Well, when we first started in there, it was
2 probably 55 to 60 inches, good top, good --- nice,
3 good sandstone top. The roadways was the bumpiest
4 roadways I've ever ridden on in a buggy. They were
5 extremely bumpy. The ribs were falling out left and
6 right.

7 Q. Okay.

8 A. They were falling. At one point I was starting to
9 get scared the ribs were falling so bad.

10 Q. So could you hear them popping and cracking?

11 A. Yes, you could. You know, I was always told it
12 was the gas. You know what I mean? Like you get up
13 in a face and you hear that noise, which is --- you
14 can hear the gas a little bit. But when you're outby
15 off the face, you shouldn't hear that. And it's kind
16 of --- kind of like that. I always wondered why we
17 didn't set timbers around our ribs to secure them
18 because they'd fall off on the corners, and nobody
19 made anything of it and stuff.

20 Q. What size were your centers up there?

21 A. Oh, man. They changed.

22 Q. Changed?

23 A. Yeah. It seems like --- don't quote me on this.
24 I'm not a hundred percent sure. It seemed like they
25 would change our centers. One week we would be on

1 80-foot, I guess, and another week maybe 100 foot.

2 Q. Did anybody ever state why they were changing?

3 A. No. They never stated why.

4 Q. Okay. When you started in the mines there, did
5 anybody ever go over your approved methane and dust
6 control plan for that section?

7 A. No. Let me make this clear, too. When I first
8 started working at UBB, the Number Three working
9 section was not working at this time. I helped get it
10 going, get it started, and helped up set up everything
11 from setting the heads, putting the waterline in to
12 the first piece of coal that was loaded out of there.

13 Q. So was the Number Three section the only place you
14 ever worked at in this mine?

15 A. No. I had worked a couple places during this
16 time, when we was getting this section set up. The
17 mine foreman would ask me to go with him, and we would
18 come in here and work.

19 Q. Now, when you say getting this section set up,
20 what are you talking about?

21 A. The Number Three section. We was getting the
22 Number Three section set up.

23 Q. I thought this was the Number Three section here?

24 A. That's right. That's right. This is it.

25 Q. Okay.

1 A. I was just imagining that big, old piece of paper,
2 and I thought that was my section over there.

3 Q. Okay.

4 A. Yeah. Whenever we was working to get this section
5 set up, he would come steal me for a day and I'd go
6 help him lay track or ---.

7 Q. Okay.

8 A. Like I said, we'd have to go retrieve some --- we
9 had to go retrieve some equipment, a buggy and a miner
10 one day.

11 Q. So they used you as a general laborer also?

12 A. Yes.

13 Q. Did you ever bolt top or anything like that?

14 A. Yes.

15 Q. Okay. What was your experiences bolting top?

16 A. I had no experience.

17 Q. No experience. Anybody task train yon the roof
18 bolter or anything?

19 A. Yeah. I was --- I don't think I was trained well
20 enough, but you know, they do what they had to do as
21 far as telling me.

22 Q. How did they task train you?

23 A. It's hard for me to remember exactly what went on.
24 It was pretty much they just pulled us out of here and
25 just took me up there with --- somebody, the bolter

1 men would teach me and show me the ropes.

2 Q. Who taught you and showed you the ropes?

3 A. The first bolt I ever put up at Upper Big Branch
4 is when we was getting this section ready and we
5 was ---.

6 Q. Now, when you say this section ---?

7 A. I don't know why I keep doing that. I don't know
8 why. When we was getting this section ready, we were
9 hanging up belt. You know, they put the things in the
10 top, I forget, monkey faces, ---

11 Q. Monkey faces.

12 A. --- and we was putting up monkey faces. And
13 Marvin --- Marvin was the guy that trained me. He did
14 an excellent job. And he truly went out of his way to
15 show me everything. Now, when we got on the section,
16 it was different. They just pretty much told me to go
17 bolt because I told them I had a little bit of
18 experience.

19 Q. And that was enough?

20 A. That was enough.

21 Q. Okay. So you said that the floor was busting up
22 --- or you said it was bumpy?

23 A. Bumpy, very bumpy, very ---.

24 Q. Why was it bumpy?

25 A. Unless the miner men just didn't know how to cut,

1 and we had really good miner men, ---. And I do
2 remember on several occasions that the --- when I
3 would operate a scoop, that the floor was busted up.

4 Q. Okay. Did you have a methane detector?

5 A. No, never.

6 Q. Who had a methane detector on your section?

7 A. Half the time the bolt men never had a methane
8 detector.

9 Q. Okay. Who did then?

10 A. Brandon, he was the section boss. I guess he did
11 all of that.

12 Q. Who did the methane check before the bolter went
13 into a place?

14 A. I never seen them do that. I never one time seen
15 them test for methane. I didn't even know we were
16 supposed to do that when I first started bolting.

17 Q. Okay. Did you ever see anybody do a 20-minute gas
18 check?

19 A. Never.

20 Q. Did you have a probe on the section?

21 A. On the bolter, yes, they did. As a matter of
22 fact, I think they got a violation one time for not
23 having one. I wasn't --- I didn't bolt a lot, okay,
24 only probably a handful of times or a dozen times.
25 But any time that we'd go bolt, we never checked for

1 nothing. Like I said, I didn't even know that we had
2 to.

3 Q. Did you ever hear of anybody finding any methane
4 on your section?

5 A. No, never heard of it.

6 Q. Did you ever pull up to the miner to get a load in
7 your buggy and see the methane monitor on the back of
8 the miner?

9 A. That's what kind of threw me for a loop, whenever
10 I heard about the explosion. I never thought this was
11 a gassy mines at all. I mean, when I'd run a buggy,
12 it was always .5 or lower. I mean, sometimes it would
13 get up to .8, but hardly ever when I pulled up to the
14 miner that the gas level was high. I never seen the
15 miner shut off for gas reasons or nothing like that.

16 Q. What about other areas of the mine, did you ever
17 hear anybody talk about ---?

18 A. Yeah, I heard people talk about behind the seals.

19 Q. Behind the seals?

20 A. That's all I ever heard talked about as far as
21 gas. And I did hear men talk about that it wasn't a
22 very gassy mines. But there has been a time or two
23 that gas has built up in the mines. But as far as
24 everyday ongoing, running coal, you know, type gas, I
25 never heard that about it.

1 ATTORNEY BAXTER:

2 What did you hear about the time or two
3 when gas had built up?

4 A I heard one time that the --- I can't remember
5 exactly what it was. I just remember a guy saying
6 that one time that the gas had built up to like six
7 percent and they had to shut down or had to pull the
8 men out or something. And that was a very, very brief
9 conversation. But I do remember very clear an older
10 guy working there talking about how the gas behind the
11 seals was like 15 percent, 13 percent, and it scared
12 the snot out of me because I thought, all they need is
13 one leak in that or something, you know.

14 ATTORNEY BAXTER:

15 Do you remember who either of those two
16 guys were that you talked with?

17 A. Marvin was the guy that ---?

18 BY MR. STEFFEY:

19 Q. Marvin?

20 A. Great guy. I mean, he was a great guy. He was
21 just a bolt man. What was his last name. I went to
22 school with his son. I can't think of his last name
23 off hand, but it will come to me. But he said
24 that --- I think it was Marvin. I'd hate to put that
25 on the record because I'm not a hundred percent sure

1 that it was Marvin, but I do remember clearly talking
2 to somebody about the gas line.

3 Q. What about at the longwall, did anybody ever
4 mention methane at the longwall?

5 A. I wasn't involved in that a whole lot.

6 Q. Did you ever hear anybody talk about the longwall?

7 A. Well, one day we had took --- got some structure
8 together and took and stored it somewhere for the
9 longwall. That was about as far as I heard about the
10 longwall.

11 Q. When you got some structure in storage somewhere
12 for the longwall, were you by yourself?

13 A. No. I was with a crew of men.

14 Q. Did somebody have a methane spotter there with
15 them?

16 A. No. That was something I didn't see. Even I
17 didn't see the men down there. I'll be honest with
18 you, I was scared the whole time I worked at that
19 mines from the conditions of the men. It seemed like
20 the men were so lackadaisical. The upper management
21 was so worried about coal, coal, coal, that safety was
22 not an issue to men no more, and it really bothered me
23 a lot. And I'd go home and tell me wife that I was
24 nervous about it.

25 Q. Did you ever work anywhere by yourself without a

1 spotter?

2 A. Yeah. Yeah.

3 Q. Were you aware that ---?

4 A. I never had a spotter, ever had a spotter assigned
5 to me, if that tells you anything.

6 Q. Are you aware that no person should be working by
7 themselves ---

8 A. Never heard that in my life.

9 Q. --- or any group of individuals working without
10 someone there having a spotter?

11 A. Never heard that one time. That's the first time
12 I ever heard that.

13 Q. Did you ever ask for a spotter?

14 A. No, I didn't.

15 Q. Did you ever hear anyone else ask for a spotter?

16 A. No, never heard nobody ask for a spotter.

17 Q. Do you know if your section or any other section
18 in this mine ever mined through a gas well, known or
19 unknown?

20 A. No.

21 Q. Did the mine ever --- do you know if a miner ever
22 encountered any problems with unknown gas wells?

23 A. No.

24 Q. What about the Lower Eagle seam below the Eagle
25 seam that you guys were working in, did anybody ever

1 discuss that?

2 A. No. I never heard much about it. I think there
3 was one time I heard something about that there was an
4 old mines underneath this, but it was maybe a pillar
5 mines that they pillared out and it had fallen in.
6 I'm not sure exactly why I get that thought in my
7 mind, but something of that nature pops into my mind,
8 speaking about that.

9 Q. Did anyone ever talk about any methane outbursts
10 from the floor anywhere in the mine? Did you ever
11 hear of that conversation?

12 A. Talk about pop-offs they call ---.

13 Q. Could have been a pop-off. I'm not sure what
14 terminology you guys used for it.

15 A. No. No. I can't remember nothing of that nature.
16 We never had a problem with gas. That's why I
17 couldn't understand the explosion.

18 Q. What about water?

19 A. There at the end we was --- we had a little bit of
20 water. I mean, we pulled the feeder up one day, I
21 couldn't believe it. I wondered why in the world why
22 we couldn't have just stayed off a break. We pulled
23 the feeder up and set it right in front of them. And
24 I was the center buggy man. A massive waterhole. And
25 I mean, it was this deep. And every time I'd get in

1 and out of my buggy, I'd have to go through that mess.
2 Every time I'd go back to dump, I'd have to go through
3 that massive hole of water.

4 Q. Did water get in the cab of your buggy?

5 A. Yeah, several times. Several times I had to work
6 wet.

7 ATTORNEY BAXTER:

8 And when you say it was this deep, you
9 were gesturing how ---?

10 A. Excuse me?

11 ATTORNEY BAXTER:

12 You were gesturing how deep it was. Can
13 you ---?

14 A. Yes. It was at least probably 18 inches. It was
15 up --- it was right to my buggy deck. And if you come
16 through there fast, you know, it would splash and do
17 that and would come in my buggy deck.

18 BY MR. STEFFEY:

19 Q. Did you have to walk through it?

20 A. Yeah, I had to walk through it. I had to pull
21 curtain through it, hang curtain.

22 Q. What about your buggy cable?

23 A. My buggy cables --- well, my buggy was hankered on
24 the left-hand side, looking at the feeder. It was ---
25 and I run mainly to the right side. So mostly my

1 buggy cable was pulled up against this rib. You know
2 what I mean?

3 Q. Uh-huh (yes).

4 A. And there was times that it had to be in that
5 waterhole, had to be.

6 Q. What kind of condition was your buggy cable in?

7 A. Always kept a good check on my buggy cable. Well,
8 there was times that my buggy cable was awful, but we
9 --- like I was starting to tell you, we was 60 inches
10 when we first started, and we started --- we got into
11 a little van, and we had to cut like 18 inches of
12 rock. Well, they got this bright idea we'd get on top
13 of it. We had Super 10s down there. And that was
14 when they come down there and (d) ordered them and
15 shut the doggone section down for loose bolts. There
16 was over a hundred loose bolts down there on our
17 section. The men didn't even know about it. You guys
18 might be a little familiar with that. But they come
19 down there and you could spin the bolts. There was
20 bolts ripped out because they was running Super 10s
21 down there. And I mean, you couldn't even get your
22 buggy through there. You'd go through there and it
23 would scrape off the top.

24 Q. Now, this was on your working section?

25 A. Yeah. This is Number Three working section that

1 we're talking about.

2 Q. Anybody ever list those bolts in the pre-shift
3 examination?

4 A. Yeah. We would tell them.

5 Q. You would tell them?

6 A. Yeah.

7 Q. But what about the pre-shift examiner, did anyone
8 that was --- did anyone ever discuss the hazards found
9 in the pre-shift book?

10 A. Well, pre-shift --- my duties was just to check my
11 buggy.

12 Q. Now, there's a pre-shift examiner that's supposed
13 to examine that section three hours prior to the
14 start ---.

15 A. I don't remember about that.

16 Q. Did anybody ever go over that --- did anybody ever
17 go over the hazards that were found ---

18 A. Everybody knew about that stuff.

19 Q. --- in that book with your crew?

20 A. Everybody knew about that stuff. Everybody knew
21 about it. And that was one point when I was really
22 starting to get scared, and I told my wife, I said,
23 can you believe we've been down here working for two
24 to three weeks and there's been bolts loose, bolts
25 ripped out, and we've been working underneath this

1 unsupported top, is pretty much all it is, for two to
2 three weeks.

3 Q. How was the roof on the section?

4 A. It was --- thank God it was a good sandstone roof.

5 Q. Good sandstone roof?

6 A. Yes.

7 Q. Let's go back to this water just for a second
8 here.

9 A. Okay.

10 Q. This water that was right in front of the feeder,
11 where did that water come from? Did it come out of
12 the floor or the top or ---?

13 A. I wondered and asked several times of where it
14 came from, and nobody really knew. Everybody would
15 just have their analogy, well, it probably came from
16 the ground. Now, we did --- our miners that we run
17 that, we ran them in water for a long time. And that
18 was a lot of our water problems, was because they
19 wouldn't fix the doggone waterlines on the miner.

20 Q. Now, did you tell upper management when you were
21 running the buggy through the water, you know, it was
22 getting in your cab and you had to walk through it?

23 A. I told them several times.

24 Q. What did they say?

25 A. Man, it was just all about let's get it done. Who

1 cares? Let's not whine about the water. It was just
2 that type of thing. I can't remember exactly what was
3 said about that. And I wasn't the type of person ---
4 I didn't complain much at work. I pretty much took it
5 home with me. I didn't complain much. It seemed like
6 with this boss, if you got on his bad side it was just
7 hell to pay.

8 Q. Now, who was this boss?

9 A. Brandon Bowling was his name.

10 Q. And what did he do? Was he a section boss?

11 A. He was a section boss. And I do got to give this
12 up to Brandon. He was a good boss. He was big on
13 ventilation and stuff. We never run coal or nothing
14 without the proper ventilation and stuff like that.

15 Q. Did you ever hear of any problems with excessive
16 water anywhere else in the mine?

17 A. I don't think so. I don't think so. No, I
18 didn't.

19 Q. Any problems associated with the roof that you
20 knew of?

21 A. No, just other than them roof bolts and stuff, you
22 know, and the ribs was falling out real bad. One time
23 we had --- the whole rib, there was a middle man I was
24 telling you about. It was in the rib and it fell
25 completely out. And you know it took him --- it

1 probably was a week before they even put up hazard
2 stuff around it. And one time they didn't even do it
3 until MSHA come in and made them do it.

4 Q. What size bolts did you put up?

5 A. We put up four-foot bolts. I forget the size of
6 them. They were three-quarter, four-foot bolts. Four
7 or five foot. I don't remember exactly. Like I said,
8 I didn't put up a whole, whole lot of bolts.

9 Q. Okay. On the working section, who took the
10 methane check prior to cutting coal? Did you ever see
11 that done?

12 A. No, I never seen it done. I was always at my
13 buggy, doing my specs on my buggy.

14 Q. All right. Now, was the continuous miner equipped
15 with a methane sensor?

16 A. Yeah.

17 Q. Okay. You mentioned that you saw it would pick up
18 methane up to about .8 percent.

19 A. Yeah.

20 Q. How deep of a cut could you take on that section?

21 A. We were supposed to take ten-foot cuts.

22 Q. Ten foot?

23 A. Ten-foot cuts.

24 Q. How deep did you take?

25 A. I seen them put them 40 foot.

1 Q. Did you ever see the methane monitor in the
2 malfunction mode?

3 A. No, I didn't.

4 Q. Have you ever seen or heard of anybody bridging
5 out or otherwise disabling a methane monitor?

6 A. No, I never heard of that.

7 OFF RECORD DISCUSSION

8 A. Are you guys going to talk about dust pumps and
9 that?

10 BY MR. STEFFEY:

11 Q. Yes, we are.

12 MR. STEFFEY:

13 I think prior to actually going into the
14 dust pumps and the condition --- and the things that
15 went on on your section, Terry, do you got any
16 follow-up questions?

17 MR. FARLEY:

18 Sure.

19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Mark, you were talking about three-quarter-inch,
22 four-foot bolts on the Three section.

23 A. Uh-huh (yes).

24 Q. Now, were these resin grounded bolts?

25 A. Uh-huh (yes). Yes. That's the ones that you take

1 and put the stuff up in, tram your bolt in and it
2 sticks.

3 Q. Glue ---?

4 A. Yes. Yes, sir. Yes, sir. And I'm not --- don't
5 --- I'm not a hundred percent sure on these bolts. I
6 didn't put up a whole lot of bolts. I wasn't real
7 familiar with them. So just for the record, you know,
8 I'm not real familiar about these bolts.

9 Q. Okay. Now, you got hurt on March 31st, 2009?

10 A. Yes, sir.

11 Q. Now, when did you actually start at UBB in 2008?

12 A. I don't recall. I think it was September or
13 October.

14 Q. Okay.

15 A. I'm not sure exactly when it was, ---

16 Q. Okay.

17 A. --- but it was I want to say October.

18 Q. Okay. So Three section was the only section that
19 you worked on?

20 A. As far as running coal, yes.

21 Q. Okay. Now, did you ever see anything other than a
22 four-foot resin bolt installed on Three section?

23 A. Never.

24 Q. Okay. You referred to a story of a gas buildup of
25 up to six percent based on a conversation you told us

1 about. Do you know where that was, when that was?

2 A. It was --- I don't know when. And I wasn't ---

3 the mine was so big, man, I really didn't know a whole

4 lot about the mines. But I remember this was my

5 section here, and there was some doors somewhere, and

6 it went around and it would bring you back over into

7 the midsection, where all the --- where they was

8 putting the longwall and stuff. And it seems like, to

9 me, that when we were talking about that, it was

10 somewhere on the south side. I don't remember exactly

11 where, but it was somewhere ---. A guy had worked

12 there for nine, ten years and said that they had that

13 trouble one time.

14 Q. Okay. Now, you indicated, too, that the floor was

15 bumpy ---

16 A. Yes.

17 Q. --- on the Three section?

18 A. Yes.

19 Q. Are you familiar with floor hooving or heaving?

20 A. Not really.

21 Q. Is it possible ---?

22 A. I've heard them talk about all the time. I heard

23 them talking about the miner men and the people that

24 --- talking about how the floor was hooving. I heard

25 them talk about that a lot.

1 Q. Okay. Also, you indicated that the area to and
2 from the Three section as you walk the intake was very
3 dusty.

4 A. That went all the way up to the face.

5 Q. Okay. Now, was this dust problem that you
6 described, was it worse in the wintertime as opposed
7 to the summertime?

8 A. I don't really recall, but --- if you guys just
9 knew how bad it was ---.

10 Q. Did you have considerable velocity of air coming
11 in at that point?

12 A. Oh, yeah.

13 Q. Do you recall what the boss might have measured on
14 his intake airway?

15 A. I'd say there's more than enough air coming up
16 there.

17 Q. Okay.

18 A. And that's why I couldn't figure out why it was
19 always so dusty up there, because we had a lot of air.
20 We had plenty of air.

21 Q. Okay. Now, you mentioned some loose roof bolts on
22 Section Three. Was that actually cited by MSHA or the
23 state?

24 A. MSHA. They shut us down. They (d) ordered us
25 right there.

1 Q. Okay. Now, why were the bolts loose? Did it have
2 to do with a problem with installation or something
3 else?

4 A. Well, a lot of them --- the miner men --- the bolt
5 men would put them up and wouldn't tram them and
6 tighten them up. Some of them was just --- and a lot
7 of them was because of the buggies would hit them.

8 Q. Okay. And these were all resin, grounded ---

9 A. Yes, sir.

10 Q. --- rod bolts?

11 A. Yes, sir.

12 Q. Okay. Is it possible that the roof bolter
13 operator didn't properly ---?

14 A. That's what I'm saying. Yes. Yes. Several ---
15 many of them was for that reason. So that right there
16 goes to show me someone wasn't checking the bolts.

17 RE-EXAMINATION

18 BY MR. STEFFEY:

19 Q. Did you ever see anybody check these bolts with a
20 torque wrench?

21 A. No, I've never seen them ever check the bolts with
22 a torque wrench.

23 Q. All right.

24 A. Now, I knew you was supposed to do that.

25 Q. Okay. We talked about the methane and dust

1 control plan earlier. What were you telling me about
2 the training you received?

3 A. I didn't receive any training.

4 Q. Okay. On a section ---.

5 A. There was one time that we had to leave the
6 section early and walk the intake out to go over our
7 --- to show us where the lifeline was.

8 Q. Now, how many times did you walk the intake out?

9 A. Well, we had to walk --- when we first started
10 working down there, we had --- that's what I was
11 telling you about the dust was so bad. We had to walk
12 that intake out for about three weeks up to the
13 mantrip.

14 Q. But after the section got going, how many times
15 did you walk it?

16 A. We still walked it to the mantrip.

17 Q. Okay. Were there any drills or anything that they
18 made you guys do, walking the intake escapeway coming
19 out of the mine?

20 A. Yeah. There was one time that we had to do that.
21 We had to leave the section early and walk the intake
22 out.

23 Q. Do you remember approximately when that was?

24 A. No, I don't. I really don't.

25 Q. Okay. Did you hot seat with the other crew that

1 worked on the section?

2 A. You know, they started making us hot seat a little
3 bit, yes.

4 Q. Okay. When you hot seated with that crew, how was
5 information exchanged concerning the pre-shift for the
6 next crew coming in? Did anybody ---?

7 A. I just --- I would hear the bolt men talking and
8 the miner men talking.

9 Q. What about the boss? Where would they talk at?
10 Would they talk when they arrived on the section?

11 A. Yeah, they would talk.

12 Q. What about the section bosses, would they discuss
13 anything?

14 A. Yeah, they would. They would discuss stuff.

15 Q. Now, when you weren't hot seating, when was this
16 information exchanged?

17 A. I don't know. I was a buggy man. If I had a
18 problem with the buggy, I'd just go tell the
19 electrician, and I really didn't talk that much with
20 the other crew coming in.

21 Q. Okay. So you loaded out coal on the buggy and
22 took it back to the feeder, loaded it into the
23 feeder ---

24 A. That's right.

25 Q. --- for transport out of the mine?

1 A. That's right.

2 Q. When you'd pull up to the miner, did you ever see
3 them take a cut without a curtain?

4 A. Yeah.

5 Q. How often?

6 A. Every time.

7 Q. Every time?

8 A. Yes.

9 Q. Did they run ---?

10 A. I got to get this right. Brandon was real big on
11 having curtain in the entry when we was cutting, but
12 the miner men would roll the curtain up.

13 Q. The miner men would roll the curtain up?

14 A. Yeah.

15 Q. Did you use exhausting or blowing face
16 ventilation?

17 A. What do you mean now?

18 Q. Okay. Blowing face ventilation, your air would be
19 behind the curtain and blow up into the face.

20 Exhausting, your air is on the wide side of the entry,
21 it goes up and then comes behind the curtain.

22 A. That's what we did, yes.

23 Q. That's what you did?

24 A. Yes.

25 Q. So you exhausted?

1 A. Uh-huh (yes).

2 Q. Did you run your scrubber?

3 A. Not all the time.

4 Q. Not all the time?

5 A. Not all the time.

6 Q. Did your plan allow you to run your scrubber?

7 A. I think --- I don't think we were --- I think that
8 was one of the issues that we had, that we wasn't
9 supposed to run our scrubber maybe. I remember
10 hearing them talking about it. But like I said, it
11 wasn't really --- I guess now that I look back, it did
12 concern me, but it just wasn't something that I was
13 affiliated with, so I didn't talk about it much.

14 Q. What did the company tell you about running a
15 scrubber?

16 A. I remember hearing --- and this is --- I don't
17 remember any conversations at all about it, but we
18 weren't supposed to run our scrubber.

19 Q. Okay. But did you run your scrubber?

20 A. There were several times that we did, and there
21 were several times that we didn't.

22 Q. Did you run a scrubber when the inspector was on
23 the section?

24 A. Yeah.

25 Q. When the inspector was there?

1 A. It was either we ran it or we didn't run it. Do
2 you know what I mean? I can't remember exactly.

3 Q. Okay. All right.

4 A. I wouldn't be much help on that because I don't
5 remember exactly.

6 Q. Okay. But you did see them take a cut without a
7 curtain? Did I understand you correctly?

8 A. Oh, yeah.

9 Q. What about water on the miner? Did they have
10 water on the miner when they cut coal?

11 A. Yeah, they did have water on it, but they --- we
12 had one miner man that was real big on his water. You
13 know, he wanted to make sure he had all the water.
14 Then we had another miner man that just whatever.

15 Q. Did you ever see anybody check the pressure on
16 those water sprays?

17 A. Not much, no. Any time there was anything done
18 with that, I was there because I was the buggy man,
19 and we'd go help the miner man.

20 Q. So who did the on-shift dust parameter check on
21 the miner?

22 A. I don't even know what that is.

23 Q. Okay. You mentioned you ran a roof bolter?

24 A. Uh-huh (yes).

25 Q. Did you ever clean out the dust box?

1 A. Yeah. Yes.

2 Q. What kind of training did you receive on cleaning
3 out that box?

4 A. Nothing, just --- I was having some trouble with
5 maybe suction or something, and he was like, well,
6 let's look at your dust box and open it. He's like,
7 well, your dust box is full. Just clean it out.

8 Q. Did you ever take the filter out?

9 A. No.

10 Q. Ever look behind the filter?

11 A. No, I never did.

12 Q. Did you ever see anybody take a filter out of one?

13 A. No, never did.

14 Q. Now, did you have the tray in the dust box or did
15 you have bags?

16 A. Bags.

17 Q. You had bags.

18 A. Well, we had two different bolters. It seems like
19 one of them had a bag and one of --- the one I was
20 working on had a tray, it seems like.

21 Q. Okay. You mentioned earlier dust pumps. What
22 about when you were running dust on a section. MSHA
23 would come up there. Obviously, you --- as a buggy
24 man, you would have a dust pump on you. Now, when
25 MSHA --- when the company ran dust, it was just the

1 miner man.

2 A. I seen --- go ahead. I'm sorry.

3 Q. What was you going to tell me there?

4 A. I was going to say, when we ran dust pumps, only
5 one buggy man most of the time would run it.

6 Q. Was that when the company ran dust or ---?

7 A. Yeah, when the company ran ---.

8 Q. What about when MSHA ran dust?

9 A. When MSHA wanted to run dust, we'd run one miner
10 and usually one buggy man.

11 Q. Was your air on the section that you were on sweep
12 or split ventilation?

13 A. When we first started down there I think it was
14 the sweep.

15 Q. Uh-huh (yes).

16 A. And then we finally got it --- sweep, you can only
17 run one miner, okay, and they always ran two anyway.
18 But anyway, then they fixed it to where it was split
19 air.

20 Q. Did you ever have to bolt downwind of the miner?

21 A. Oh, yeah.

22 Q. Did you ever wear dust ---?

23 A. No, I didn't have to. But the men, I heard the
24 men talk about it all the time.

25 Q. So the men --- so the bolters would have to bolt

1 downwind while the miner was running?

2 A. I believe he does.

3 Q. Now, what about when MSHA ran dust, did they bolt
4 downwind on that day?

5 A. I don't know. I really don't. I don't know.

6 It's hard for me to remember. Because MSHA didn't run
7 dust a whole, whole lot when I was up there, and I
8 never could figure out why. But now I know why.

9 Q. When the company ran dust, dust pump on the miner
10 man and it was supposed to go with that miner man, ---

11 A. That's right.

12 Q. --- and you ran one miner at a time, ran one
13 buggy, ---

14 A. That's right.

15 Q. --- that's what you said; correct?

16 A. And that's something that pissed me off so bad.

17 And I knew as soon as I open my mouth, this is what
18 they do, run a dust pump. Any other day we're running
19 two miners. When dust pumps come on, we run one
20 miner, and most of the time it was one buggy man.

21 They didn't care less about coal that day. But we
22 didn't have the dust pumps on, and man, it was two
23 miners, all buggy men. It was so dusty down there, it
24 was awful. I thought, man, something ain't right with
25 this. And I think there was --- I mean, I would hear

1 the boss tell the miner man, stay back out of the
2 entry. Don't go up in there where the dust is. Stay
3 back.

4 Q. How about on the days that he didn't have a pump
5 on?

6 A. Oh, man, he'd sump that miner up 30 feet.

7 Q. Have you ever seen them when they ran dust hanging
8 the dust pump in the intake ---

9 A. I didn't see it, but I heard it.

10 Q. --- rather than wear it on the miner man?

11 A. I heard about that. I heard that when we first
12 started down there, some of the miner men was hanging
13 their dust pumps up.

14 MR. FARLEY:

15 Did you hear who told them to do that?

16 A. It would have to be upper management. It would
17 have to be. There's --- I mean, people that work
18 there aren't just going to think of something like
19 that themselves, you know. Because we had a concern
20 about the dust. The dust was awful.

21 BY MR. STEFFEY:

22 Q. Now, you mentioned earlier that you seen them take
23 a cut of coal with the curtain rolled up?

24 A. Yeah.

25 Q. Why would they roll the curtain up?

1 A. Just to keep it out of the way.

2 Q. Keep it out of the way?

3 A. Keep it out of the way.

4 Q. Wouldn't it be out of the way anyway

5 exhausting ---? Where did you change that with on

6 your shuttle car? Where was the change-point?

7 A. Really, it just depended on what entry we was in.

8 Just the closest to the miner, wherever we could get

9 to.

10 Q. Wherever you could get closest. So if you could,

11 you would change out directly behind the miner?

12 A. Yeah. You know how to do it?

13 Q. You can do that, but you know, you're supposed to

14 also cut with curtain.

15 A. Yeah. That's right.

16 Q. If that curtain is going to be in the way, then

17 you can't change out there.

18 A. That's right.

19 Q. So did they roll the curtain up to do that?

20 A. Yeah. No. No, no. You're talking about that

21 return curtain?

22 Q. Yeah, return curtain.

23 A. No. No, no, no. I never seen that.

24 Q. So they just rolled it up just to get it out of

25 the way?

1 A. Yeah. And this --- I'm talking about the face
2 curtain.

3 Q. Yeah, that's right. That's what we're talking
4 about is the line curtain.

5 A. Line curtain.

6 Q. That's right. All right. Now, you mentioned you
7 had plenty of air on the section. Did you ever hear
8 of any ventilation problems anywhere in the mine with
9 low air?

10 A. Yeah. I heard that the other side was --- they
11 couldn't get air to down there.

12 Q. Okay. Who said that?

13 A. Just the men talking amongst each other. You
14 know, I'd overhear conversations and stuff and ---.

15 Q. What else did you do?

16 A. I recall coming in, sitting down and was getting
17 ready to leave, and the guys behind me was talking,
18 man, we couldn't get any air down here today on our
19 section. It seemed like no matter what we did, we
20 didn't have any air. That was pretty much about it,
21 talking about how they couldn't get any air down
22 there.

23 Q. So you did hear that the other side had some
24 problems with the air?

25 A. Yes. But all this was connected, though; right?

1 I mean, ---.

2 Q. Yeah. It's all one mine.

3 A. Yeah.

4 Q. What about air reversals? Have you ever been in
5 the mine when there was an air reversal?

6 A. I don't know anything about that. No, I can't say
7 I have.

8 Q. Did you ever hear of any air reversals?

9 A. No, I can't say I have.

10 Q. Okay.

11 A. Can't say I have.

12 Q. Have you ever been underground when there was a
13 ventilation change being made?

14 A. What do you mean by that?

15 Q. Say the company is changing the airflow within the
16 mine, how the air flows, and you've got men in there
17 working, have you ever been underground when they were
18 making any changes?

19 A. Just on our section, when we were going from sweep
20 air to split air.

21 Q. Okay. So you went from sweep air to split air and
22 the crew was on the section?

23 A. Well, yeah. We had to build stoppings down the
24 beltline to make that.

25 SHORT BREAK TAKEN

1 BY MR. STEFFEY:

2 Q. Let's see here, Mark. I just got a few follow-up
3 questions here. Let's go back to those loose roof
4 bolt plates.

5 A. Uh-huh (yes).

6 Q. Now, you mentioned earlier that they were loose,
7 they were broke off, ---

8 A. Uh-huh (yes).

9 Q. --- you know, and you had a citation issued over
10 it. What was management's reaction when they were
11 told about the loose roof bolt plates? You mentioned
12 everybody knew about them.

13 A. Well, everybody knew about them, but they didn't
14 know the extent. From my acknowledgment, there was
15 over a hundred. Now, that's just what I heard. I
16 don't know exactly how many there were. I remember
17 everybody wondering why they wouldn't just shut the
18 section down and tighten them up and get this right.
19 But I think the way that they were handling that was
20 dayshift would get a few, evening shift would get a
21 few until they got all done.

22 Q. That way it didn't interrupt production?

23 A. Exactly. They did not want it to come in between
24 production.

25 Q. Okay.

1 A. I mean, in fact, there was --- at one point I was
2 running the side shuttle car, and you'd go up this
3 hill, and your buggy top would literally scrape all
4 the way down to the --- I mean, as far as you
5 could --- until you come up to the top of the hill.
6 And it would hit your canopy. It would make a crazy
7 noise. And I told the boss about it, and he said,
8 well, we'll be out of this cut in a minute. Just hang
9 in there.

10 Q. Okay. What about outside? What was the reaction
11 outside once the citation was issued? Did you ever
12 hear anything?

13 A. No, just --- I wasn't the type of guy that got
14 involved with upper management. I just talked to the
15 men pretty much. And as far as hearing it outside, I
16 just heard the men talking about it.

17 Q. Okay. Let's talk about the dust pumps. You
18 mentioned something earlier about men would go in and
19 not have their dust pumps on on dust pump day.

20 A. That's right.

21 Q. Why don't you explain that a little more?

22 A. The way that they would do it is any time that we
23 would have a dust pump day --- and I never knew who
24 was doing it, MSHA or company. I never knew. Any
25 time that we would have that, normally on a typical

1 day we ran two miners, three buggies. Any time we ran
2 dust pumps, we ran one miner and one buggy ---

3 Q. Okay.

4 A. --- to dust with. And I'm not a hundred percent
5 sure about this, but I think I recall hearing one of
6 the men saying that one of the bosses asked somebody
7 they need a dust pump in the intake, and I think they
8 did.

9 Q. Okay. We'll just go back and talk about the check
10 curtains and the line curtains. Now, check curtains,
11 those are your curtains from your box around your
12 feeder area?

13 A. Right.

14 Q. Now, they would roll those up --- would they roll
15 those up?

16 A. No. It was just the line curtain.

17 Q. Okay. Just the line curtain. Did you use check
18 curtains around the feeder area or fly pad?

19 A. It really just depend --- it depended on where the
20 feeder was setting. Most of the time they would have
21 a check curtain. But if the feeder was placed right
22 where they --- we had our fly pads, we would use fly
23 pads.

24 Q. Okay. How many production shifts ran each day on
25 the Number Three section?

1 A. Two shifts.

2 Q. Two shifts?

3 A. Uh-huh (yes).

4 Q. How many maintenance shifts did you have?

5 A. One shift.

6 Q. One shift?

7 A. Yes.

8 Q. Ever run coal on a maintenance shift?

9 A. No, not that I'm aware of. I know they bolted a
10 lot.

11 Q. Okay. Your airflow in your entries, how many
12 returns did you have?

13 A. One.

14 Q. One return?

15 A. I think.

16 Q. Now, did you have split air or sweep air?

17 A. We had split air.

18 Q. Okay.

19 A. Yeah, we had two returns, one on each side. Yes,
20 that's right.

21 Q. What entry did your intake come up?

22 A. Four.

23 Q. Four?

24 A. That's the belt entry. It was in the belt entry.

25 I don't remember what intake it was. If it wasn't

1 the belt entry, it was the one that was three.

2 Q. Okay. Was the intake and the belt air course
3 separate?

4 A. I remember them talking about how important it was
5 to keep a curtain in between the belt entry and the
6 intake entry, like if there wasn't a stopping built.
7 So as far as that question goes, I don't really
8 understand what you're asking.

9 Q. Okay. Your airflow between your belt air course
10 and your intake, those are supposed to be maintained
11 separate.

12 A. Uh-huh (yes).

13 Q. If you'll look at your map here, you'll see the
14 intake coming up and your belt air course blowing out.
15 Immediately outby your feeder you should have had a
16 stopping with a regulator in it.

17 A. Yeah.

18 Q. That's what supplies air into that belt air
19 course. But this belt air course right here was
20 supposed to be separate from this intake and you're
21 supposed to separate it with a Harvey ventilation
22 control, which means it should be a stopping.

23 A. Wait a minute. This way?

24 Q. Uh-huh (yes).

25 A. This way, across this way?

1 Q. No, no. Right here.

2 A. Yeah. Well, sometimes ---.

3 Q. Driving in the direction.

4 A. Sometimes --- like if they didn't get that
5 stopping built right there, we would just hang
6 curtain.

7 Q. Just hang the curtain.

8 A. Yeah, just hang curtain and still run.

9 Q. And still run?

10 A. Yes.

11 Q. Now, what happened when you hung curtain and still
12 run and an inspector came up there?

13 A. I don't remember. I don't recall that happening.

14 Q. You don't recall that happening?

15 A. No.

16 Q. Okay.

17 A. But I know they was a big stickler, let us know
18 when the man comes.

19 Q. What about behind the feeder, did you have curtain
20 hanging there?

21 A. Yeah, we did have a curtain.

22 Q. So you had your backup curtains?

23 A. Yes.

24 Q. Okay.

25 A. And Brandon was a big curtain guy. He was all

1 about --- now, the second shift guys, they got shut
2 down completely because they had one inch of a curtain
3 in it. But Brandon, now he was a stickler on the
4 curtain.

5 Q. Okay. You mentioned that on your section your
6 ventilation was always adequate?

7 A. Yes, always.

8 Q. You always had enough ---?

9 A. Except for the line curtain, we'd roll the line
10 curtain up when we was in ---.

11 Q. All right. You had two continuous miners?

12 A. Yes.

13 Q. Now, when you had sweep air, let's just clarify
14 this here, did you ever run both of them at the same
15 time with sweep air?

16 A. Yeah. Yeah, because --- yeah. It was wrong. And
17 I always said, we're outlawing, ain't we.

18 Q. Okay. But now when you ran split air, you also
19 ran bolt miners?

20 A. We did, unless we was running dust pumps.

21 Q. Okay.

22 A. When we was running dust pumps, we wouldn't run
23 two miners.

24 Q. Okay. When you were running with sweep air, when
25 you were loading the cleanup car, ---

1 A. Okay.

2 Q. --- what was going on at the other miner?

3 A. They would be mining coal.

4 Q. Okay.

5 A. They'd already have ---.

6 Q. Did you run the middle buggy?

7 A. Yeah, I run the middle buggy.

8 Q. Okay. So if they were cutting on the right-hand
9 side and the right side buggy man was loading a
10 cleanup car, where were you?

11 A. I was pulling the other miner.

12 Q. Okay.

13 A. Unless both of them was down, then I would just go
14 help one or the other.

15 Q. Okay. How many shuttle cars did you have on your
16 section?

17 A. We had three.

18 Q. You had three. How many shuttle car operators?

19 A. Three.

20 Q. Three?

21 A. Yeah.

22 Q. Okay.

23 A. And that was one of the issues that I had with
24 that. I don't --- do you guys know what an off
25 standard buggy is? This buggy that I got hurt on was

1 the most unsafe thing. I don't know --- we told them
2 over and over and over that the brakes was messed up
3 on this buggy, and they never fixed them and they
4 still made us run this buggy. Every one of the men
5 felt so unsafe running this buggy because it was off
6 standard. You pull up to the miner, you can't see the
7 miner man.

8 Q. Uh-huh (yes).

9 A. And I thought, how in the world could this be
10 safe?

11 Q. Did you report this to anybody?

12 A. Well, yeah. I told our electrician every day, you
13 know, the brakes are down on this buggy. And we
14 always hassled our section boss about it, when are we
15 going to get a new buggy? This buggy is awful.

16 Q. What did the electrician tell you when you told
17 him?

18 A. Well, there ain't nothing I can do about it. I
19 already did all I can do on it.

20 Q. What did the section boss say when you told him?

21 A. One time he said, just run the damn buggy, Mark.
22 That's what he told me.

23 Q. Who was this?

24 A. That was Brandon.

25 Q. Brandon?

1 A. Bowling.

2 Q. And you said this buggy was off standard, so when
3 you would pull up you couldn't see the miner man?

4 A. Honest, no. There was times it was so --- when we
5 had this --- it was so low, you know, you couldn't ---
6 there was no space to see in the ---.

7 Q. Okay. Now, which side was the --- if you were
8 looking inby on your section, which side was your cab
9 on?

10 A. On the off side. Miner man is off side.

11 Q. Okay. Now, with split air coming up --- let's say
12 we have like right here on this area where they're
13 driving ---.

14 A. Coming up here.

15 Q. Yeah.

16 A. Coming up there on Three entry.

17 Q. All right. If I'm cutting in Number Seven entry,
18 what side is the miner man standing on?

19 A. The right side.

20 Q. Right side?

21 A. Yeah.

22 Q. Okay.

23 A. Looking at the ---.

24 Q. So he's standing on the curtain side?

25 A. Yes, curtain side.

1 Q. Okay. And what side is your cab on?

2 A. On the left side.

3 Q. On the left side. Okay. On the left side of the
4 section, ---.

5 A. Well, this was --- this was only on one side of
6 the section. It was on this side of the section.

7 Q. All right. That's what I was getting at. All
8 right. Now, when you pulled up, was your cab ever in
9 the dust?

10 A. Yeah.

11 Q. Okay.

12 A. That's why they only wanted one buggy man, because
13 it was so dusty when you pulled up there. And I think
14 I might have said that we were on a 10-foot cut plan.
15 I think they did change that to a 20-foot cut plan. I
16 want to get that right. I think.

17 Q. Okay. Because you also mentioned earlier you had
18 seen them take an extended cut.

19 A. Oh, yeah. Yeah. You couldn't run --- that was
20 the only way you could run coal, they'd say.

21 Q. How long was the probe on your section?

22 A. I don't know.

23 Q. Let's talk about --- one more little quick
24 question here. Now, you mentioned your ventilation
25 was adequate at all times. Did I understand that?

1 A. Yes, you did.

2 Q. Okay. Let's talk about inspectors. When an
3 inspector would arrive on the property, typically what
4 would happen?

5 A. Well, I would be underground most of the time, but
6 people would get nervous. And I know they would want
7 to find out where he was going so they could call down
8 and let them know that the inspector was coming.

9 Q. Did anybody ever call your section and tell you
10 guys ---

11 A. Oh, yeah.

12 Q. --- an inspector was coming?

13 A. Oh, yeah.

14 Q. Did you ever take that call?

15 A. Yeah.

16 Q. Who called and told you?

17 A. The --- what do they call him? The guy that takes
18 all --- oh, help me out here. The guy that --- they
19 have a name for him. If you're traveling in and out,
20 you got to call and tell him you're ---.

21 Q. Dispatcher?

22 A. There you go, dispatcher.

23 Q. So the dispatcher would call and tell you. Would
24 he call when he saw the inspector or did somebody call
25 him and tell him the inspector was on the property?

1 Did you ever hear about that?

2 A. Well, I would be underground. I wouldn't really
3 know. But I did --- I do remember several times,
4 being a buggy man, that I would hear him hollering.
5 I'd go take the phone call and they'd say, we was just
6 going to let you all know the inspector is on his way
7 down there.

8 Q. What happened after that?

9 A. There would be times that we would stop what we
10 were doing.

11 Q. Why would you stop what you were doing?

12 A. To get things right.

13 Q. To get things right?

14 A. Yes.

15 Q. So it wasn't right before?

16 A. Well, I mean, at times, you know, there would ---
17 there would be several times that we would have to let
18 the curtain down --- the line curtain down, you know,
19 and stuff like that or ---. I remember one time there
20 was a stopping that needed to be built. They moved
21 belt and they didn't get a chance to build a stopping.

22 Q. So you had a curtain up in place of that stopping
23 at that time?

24 A. Right. And we were running coal and we had to
25 stop to build that stopping.

1 Q. Who directed you to stop and build that stopping?

2 A. The section boss.

3 Q. So the section boss was aware of this?

4 A. Yeah.

5 Q. And who was the section boss again?

6 A. Brandon Bowling.

7 Q. Brandon Bowling. Okay. So if the inspector were
8 there, you guys would stop, I guess tidy up?

9 A. Yeah. That's a good word for it.

10 Q. The inspector would arrive on the section. Then
11 what would happen?

12 A. We would just go on working. I mean, really, the
13 inspector didn't have much with us. I just know that
14 when an inspector would come down there or be on his
15 way, our section boss smothered out big time.

16 Q. Did you ever --- was you ever surprised by an
17 inspector? Did they ever come up on a section and
18 catch you all ---?

19 A. No. But I did hear about they did on the second
20 shift, and they caught them with every entry no
21 curtain. You all don't probably know about that,
22 but ---.

23 Q. Are you aware that the Mine Act expressly forbids
24 prior notification of an inspector traveling to the
25 section?

1 A. Is that right? No, I didn't know that.

2 Q. Do you think Mr. Bowling was aware of this?

3 A. Well, yeah. He's the section boss. Yeah. He
4 knew all that.

5 Q. Do you think the dispatcher was aware of this?

6 A. Well, yeah.

7 Q. What's the dispatcher's name; do you remember?

8 A. Well, he wasn't there anymore. The only thing I
9 know who --- I called him Big Guy. He was a real big
10 guy. I never knew his name. It was a big mines. A
11 lot of people worked there.

12 Q. Oh, yeah. Absolutely. All right. So the
13 inspector comes up to the section. Did he ever talk
14 to your crew?

15 A. Yeah, he did several times.

16 Q. What did he talk about?

17 A. Talked about safety and how important it was. And
18 matter of fact, I remember several times the inspector
19 stopping production and bringing the whole crew
20 together.

21 Q. So you'd have a safety talk?

22 A. Yeah, safety talks, especially after we had the
23 issue with the bolts and after we had the issue with
24 the (d) order on the ventilation.

25 Q. Were you ever cautioned about what you say to

1 inspectors?

2 A. Yeah. My boss told me not to even speak. He told
3 the buggy man and the bolter man, when an inspector
4 comes, let me do the talking. That was his exact
5 words.

6 Q. Why would he say that?

7 A. I guess maybe he thought we would say something
8 that would hurt him or ---. And I was bad for
9 talking. I was --- you know what I mean? And he told
10 me, he said, don't talk when they come up here. I
11 said, all right.

12 Q. Did he ever --- what ---- did you ever hear
13 anybody outside say anything about speaking to
14 inspectors, any mine foreman or the superintendent?

15 A. I just didn't talk to them much. Just didn't talk
16 to them. Now, when Homer was down there ---.

17 Q. Homer?

18 A. I don't know his last name. He wouldn't be super
19 down there anymore, but he was a great man. I thought
20 the world of him.

21 Q. What about complaints? Do you know of any
22 complaints filed against this mine for safety reasons
23 on the Massey hotline ---

24 A. No.

25 Q. --- or at MSHA?

1 A. No. But I know we complained all the time about
2 that buggy and the dust. We complained all the time
3 about the dust and that buggy.

4 Q. Are you aware Massey had a hotline to call in
5 complaints?

6 A. No, I never heard of it.

7 Q. Are you aware MSHA has a hotline to call in
8 complaints?

9 A. No. I've often wondered in my mind if there was
10 somebody I could contact because I was scared where
11 the dust was and stuff. But no, I never knew that.

12 Q. What was mine management's attitude towards
13 calling in complaints? Did they ever talk about that?

14 A. No. I would be scared to let them know. If I
15 would call in a complaint, I wouldn't let them know.
16 They would have treated me awful. I know they would
17 have.

18 Q. What was mine management's attitude toward
19 inspectors?

20 A. Couldn't stand them.

21 Q. Why is that?

22 A. Well, just, I guess, because they'd slow down
23 their production.

24 Q. Were miners subjected to retaliation and threats
25 for reporting safety issues or other concerns?

1 A. Man, I wished I could remember. The way that this
2 section boss was is --- no, I can't remember. I
3 remember the section boss saying one time to watch
4 your Ps and Qs, to watch what you say, because this
5 mines can go on without you, and it's going to go on
6 without you, and they'll get rid of your butt quick.
7 And we were talking about safety and talking about
8 some of the stuff and talking about inspectors. And I
9 was like the person --- I just spoke up. And if I was
10 concerned, I would. And he said, Mark, he said, you
11 watch what you say, he said, because they can get rid
12 of you for any reason. And it made me nervous.

13 MR. STEFFEY:

14 Terry?

15 MR. FARLEY:

16 I don't think I have anything else.

17 MR. STEFFEY:

18 Nothing else right now?

19 BY MR. STEFFEY:

20 Q. Let's talk about rock dusting. How often was your
21 section rock dusted?

22 A. And I don't --- I think I remember one or two
23 times of it being rock dusted.

24 Q. Okay.

25 A. I mean, as far as shut down early, rock dust the

1 section, it just didn't happen.

2 Q. What do you mean?

3 A. We would go up, throw a --- after a cut or
4 something, you know, throw a little bit of dust on it
5 and go.

6 Q. What about the belts in the track entries, how
7 were they rock dusted?

8 A. They weren't very dusted for one, but we'd just,
9 again, throw it in there. Throw it in.

10 Q. I mean, did they have any rock dust crews for the
11 belt and track entries?

12 A. No. They had a maintenance crew on hoot owl that
13 would do that, but it wasn't very often they would.

14 Q. Okay. You said earlier that someone in management
15 stated --- we were talking about they would take an
16 extended cut occasionally, ---

17 A. Uh-huh (yes).

18 Q. --- that you need an extended cut. That's the
19 only way to run coal. Who said that?

20 A. That was Brandon Bowling. Let me tell you
21 something. We took 30 to 40 cut --- foot cuts only on
22 second shift. We didn't do it on first shift.

23 Q. Why was that?

24 A. Because that's when all the people were there.

25 Q. All the people?

1 A. Well, the main guys at the mines and main --- the
2 inspectors was mostly there on dayshift. And you know
3 the difference. Second shift was just a lot more laid
4 back. There's not many people come down and stuff.

5 Q. So did you ever hear anybody outside say that,
6 foreman, superintendent, anybody like that?

7 A. No. I just didn't talk to them much.

8 Q. Talk to them much.

9 A. No. Now, Gary, Gary May, he was the mine foreman.
10 He'd come down on our section every once in a while.
11 He was a pretty good guy as far as by the books, you
12 know. I think a lot of these cuts we were taking was
13 being hid by Brandon.

14 Q. Now, you mentioned ---.

15 A. And he's now the mine foreman at Marsh Fork, by
16 the way.

17 Q. Oh, is he?

18 A. Yes.

19 Q. And Marsh Fork is ---?

20 A. That's Elk run, I believe, down there.

21 Q. Okay.

22 A. Past UBB.

23 Q. Okay. I know where that's at. I don't know if we
24 talked about this or not. Did Massey lawyers speak to
25 you at any point?

1 A. Uh-uh (no).

2 Q. They've not asked to speak with you, not called
3 you or anything?

4 A. Uh-uh (no). No. To be honest with you, whenever
5 I got hurt I had thought about contacting a lawyer
6 because we had preached and preached to the
7 electricians and the section boss about this buggy and
8 it would never get fixed, and we always had to run it,
9 and I ended up getting hurt on it really bad. And I
10 thought about consulting a lawyer. And in fact, I
11 called one and sat down with one. But I was so scared
12 to go on with it because I was afraid I would have to
13 go back to work for this company.

14 Q. What about after the accident, did any of their
15 lawyers contact you about the accident?

16 A. No.

17 Q. Nobody ---? Okay. All right.

18 A. And that was one of my concerns coming in here,
19 was --- because you never know, I might have to go
20 back to work for Massey.

21 Q. You can ask for a confidential statement if you'd
22 like. If you'd like for your name to be held
23 confidential --- I think Derek's gone over that once.
24 I think we'd be happy to go over that with you again.

25 ATTORNEY BAXTER:

1 That's right.

2 BY MR. STEFFEY:

3 Q. Have you ever been withdrawn from the mine due to
4 an unsafe condition?

5 A. No.

6 Q. Have you ever had an upcoming work shift delayed
7 or cancelled due to an unsafe condition?

8 A. No. I remember one time the fans went off, and I
9 was so scared. They wouldn't let us go outside.

10 Q. How long were you underground with the fans off?

11 A. Probably at least 20 minutes, at least. And I was
12 really scared because that's just how I was, man.

13 People would be like, shut up. I'm like, man, with
14 these fans being off, we need to go. And the boss was
15 like, well, as soon as we get out there, we're going
16 to come back on, and we're just going to have to come
17 back in.

18 Q. And who was this boss?

19 A. Brandon.

20 Q. When did this happen?

21 A. Man, I don't remember. And I always told my wife
22 that I wished I'd documented things, but I never did.
23 It was down there on Three section.

24 Q. Okay. Did you have any concerns about the
25 ventilation prior to the explosion?

1 A. Yes. I was very concerned about the dust.

2 Q. About the dust?

3 A. Very, very concerned.

4 Q. Okay. Elaborate for me.

5 A. Just as much dust as --- where we were mining coal
6 that we were exposed to. And I was concerned,
7 concerned about it, not about Black Lung or nothing of
8 that nature, just because I knew that there was a
9 certain mixture in the air from dust that that could
10 happen. I never was scared of roof collapses or
11 nothing like that. For some reason I was always a
12 nervous wreck about an explosion at that mines, and it
13 was because the dust was so bad.

14 Q. What about dust along the belts, did you ever see
15 --- were the belts rock dusted or were they black?

16 A. It was awful. It was never --- when I worked at
17 the union mines down in UBB, man, those beltlines was
18 beautiful with rock dust.

19 Q. Now, where did you work at a union mines at?

20 A. Down at Pineville, down at Double Bonus.

21 Q. Okay. So let's talk more about these beltlines.

22 Now, the beltlines, you said they were rough?

23 A. Uh-huh (yes), as far as dusting.

24 Q. As far as dusting.

25 A. Yes.

1 Q. Did you see a lot of float dust along the
2 beltlines?

3 A. Yeah, a lot of float dust. And I --- I mean, I
4 noticed it, I said you know that there was a lot of
5 float dust. Yes, I did.

6 Q. How did they rock dust the belts?

7 A. Just hand.

8 Q. Just hand?

9 A. Yeah. But we never did. We never did that. The
10 section never did nothing like that.

11 Q. Would you characterize this as being a true
12 statement, saying --- let me just ask this as a
13 question.

14 A. Okay.

15 Q. Was there a lot of pressure at this mine to run
16 coal?

17 A. Gosh, that's all it was. I stayed a nervous
18 wreck. They threatened us with our job every week as
19 production. That section boss would tell us, they're
20 getting ready to fire every one of us down here
21 because we ain't running coal. I was a nervous wreck.
22 And I had three kids. And I stayed nervous about
23 losing my job. I busted my butt every day.

24 Q. What else did they --- what about vacations?

25 A. When they had a vacation, I had to work. But I'd

1 only been there about four or five months, so I guess
2 I had to earn it. But men complained about working on
3 their vacation.

4 Q. What about the other men that had been there
5 longer, did they have to work on their vacation?

6 A. They took volunteers.

7 Q. They took volunteers?

8 A. Yeah. But there was one or two days that I think
9 everybody was required to work.

10 Q. Okay. So there was one or two days where they
11 volunteered everybody?

12 A. Yes. Yes.

13 Q. All right. This pressure to run coal, where did
14 it come from?

15 A. It comes from outside. It came from our boss.
16 And then the men wanted to run coal. We wanted to.
17 We loved it. We enjoyed it. We didn't want to look
18 bad. We had a good coal crew.

19 Q. Did anybody take any shortcuts to run coal?

20 A. Well, the big cuts. And that would happen every
21 --- we worked on what you call a swing shift, worked
22 two weeks day, two weeks evening. And our section
23 boss couldn't wait until second shift come.

24 Q. And why was that?

25 A. Because we could take good cuts. He thought in

1 his mind that we could take good cuts.

2 Q. How do you think this made your crew look?

3 A. It made him look better because we would run
4 better coal. It was less moving of the miner. And
5 we'd run a whole lot better --- it was obvious.
6 Dayshift come around, we run 75 foot a day, and then
7 we get on second shift and we run 240, 250, 300.

8 Q. Was there any type of bonus system in place or
9 reward system in place for safety?

10 A. I think there was. No. You know what? No. Now,
11 they did --- they always talked about people getting
12 hurt. They didn't want it to happen. But they never
13 took the necessary precautions to prevent it. But
14 they would talk about it, you know.

15 Q. This safety program, did they ever go over how
16 that worked?

17 A. I didn't know nothing about it.

18 Q. Okay.

19 A. And I worked there long enough. I should have
20 known.

21 Q. What about production bonuses?

22 A. Never got any production bonuses. I think --- I
23 think that we could have, but we just didn't run much
24 coal.

25 Q. Okay. Let's go back and talk about your methane

1 and dust control plans. Now, when a supplement map
2 was submitted to MSHA, did you ever know about any
3 supplement maps being submitted?

4 A. Never.

5 Q. Did anyone ever go over those maps with you?

6 A. No. The only time I ever looked at a map was the
7 first day.

8 Q. Did you ever see a map posted on a board with a
9 letter attached to it that's been submitted?

10 A. No. But like I said, I never went upstairs to
11 the --- up there. I came in --- it was never posted
12 where all the men was in the changing room.

13 Q. What was posted where the men were?

14 A. There would just be signs hanging up about safety.
15 No record of anything like safety, how many men had
16 been hurt. Nothing like that was ever posted. It was
17 just posters, you know, like you guys would give them.

18 Q. Okay. Did you ever see Chris Blanchard or Jason
19 Whitehead on your section?

20 A. He --- Chris Blanchard come down there one day,
21 and I wasn't there that day. And they said that Chris
22 Blanchard talked with them men like pure garbage. And
23 I said, there's a reason why I wasn't there because I
24 know I'd run my mouth. But as --- I don't know what
25 was said. I know he had just tore into them because

1 they wasn't running no coal down there on that
2 section.

3 Q. Is that why he was on the section?

4 A. I think so, yes. He come down there to see why
5 there wasn't no coal being ran.

6 Q. Nobody ever mentioned what he said or ---?

7 A. No. They was just talking about him cussing,
8 cussing him, talking about how he can't figure out why
9 this place ain't running no coal. They got everything
10 in the world to do it. And he's going to replace
11 every one of them when he finds the right people.
12 This one guy said that he made a comment that every
13 coal miner down here ain't worth \$30 an hour, just
14 awful talking to them.

15 Q. What about Jason Whitehead, ---

16 A. No.

17 Q. --- did you ever see him?

18 A. No, never seen him.

19 Q. Did you ever see Chris Blanchard outside?

20 A. Never seen him outside, no. Wouldn't know if I
21 seen him. So I might have seen him.

22 Q. Did you ever hear of him going anywhere else in
23 the mine?

24 A. One other time I heard that he had shown up down
25 on the --- on one of the sections. Them boys that got

1 killed, on their section. Boone and all of them was
2 talking about it.

3 Q. What did they say about it?

4 A. Just talking about how big of a dick he was, how
5 arrogant and awful he spoke to the men.

6 Q. What was the men's thoughts on this Chris
7 Blanchard?

8 A. Couldn't stand him. Could not stand him. Said
9 this guy didn't know nothing about mining coal.

10 Q. So what was Chris Blanchard's background?

11 A. Don't really know much about him. I don't think
12 he --- I think he was just pretty much a college
13 graduate. I don't think he spent much time in the
14 coal mines. I'm not sure. Just going by what the men
15 would say. They would talk about how he did not know
16 what he was doing. He had no clue. And it's obvious
17 if you got a coal crew of men working on the section
18 in 60 inches of coal, when they drop it to 40 with
19 super --- the big --- you know, he just wasn't very
20 smart about it.

21 Q. Anybody ever go over the P2 standards for Massey
22 with you?

23 A. I think I've heard it one time, and that was in
24 orientation.

25 Q. How many inches of coal did you have on that

1 section? How many inches were you guys ---?

2 A. Well, we started --- when we started we was
3 anywhere between 55 and 65. And we drove probably ---
4 don't quote me on this. I don't know exactly. It was
5 --- I'll just use months. We drove probably two
6 months, and we wasn't running because that middle van
7 was about 18 inches thick. And a lot of our dust
8 comes from that. But they made us get on top of it,
9 you know what I mean, and just get in the coal seam.
10 And that's whenever the superintendent was starting to
11 rip out all the bolts and stuff.

12 Q. What type of miners did you have?

13 A. We had 14/15. Wait. No. 12/12. I don't
14 remember. I think it was a 12/12. And then when we
15 got down, they did bring a little 14 down there.

16 Q. Are you aware that Massey has a policy concerning
17 cut, height and equipment specifications?

18 A. No.

19 Q. Did you ever see any --- did you ever see anything
20 posted on the outside of the mine signed by Chris
21 Blanchard authorizing that a policy be violated, that
22 a Massey policy be ---

23 A. No.

24 Q. --- rescinded?

25 A. They did have a board right outside that they

1 would post stuff, and it would --- it had a file ---
2 it had all the accidents that happened in there. But
3 no, I never seen nothing ---.

4 Q. You never saw anything posted?

5 A. Uh-uh (no).

6 Q. What about Chris Adkins and Don Blankenship, did
7 you ever see them at the mine?

8 A. No.

9 Q. Okay. Did you ever see anybody else from upper
10 management?

11 A. I saw Jamie. He was the vice-president.

12 Q. Jamie?

13 A. Ferguson.

14 Q. Did he ever come to your section?

15 A. Yeah.

16 Q. How did he act?

17 A. He was a very nice guy. He wanted things done
18 right.

19 Q. What did he talk to you guys about?

20 A. Running coal mainly, just production. I can't
21 think. I don't think I ever seen Jamie do nothing
22 wrong.

23 Q. What was his attitude on production versus safety?

24 A. Didn't talk to Jamie a whole lot, but he was --- I
25 didn't hear him talk about safety any, but I always

1 heard him talk about production.

2 Q. What was the attitude at this mine about
3 production versus safety?

4 A. Well, you'd hear people talk about that safety was
5 number one, but nothing was never done as far as
6 getting stuff done to make it number one. It was just
7 like it was just all talk.

8 Q. The longwall mine shows a three-year gap in
9 longwall production, the mine maps.

10 A. Uh-huh (yes).

11 Q. Did you ever hear of why?

12 A. Uh-uh (no).

13 Q. Various sections of the longwall panels were
14 skipped, according to the maps.

15 A. Uh-huh (yes).

16 Q. Did anybody ever mention why?

17 A. No.

18 Q. Did you ever hear if the longwall mine hit any gas
19 wells?

20 A. Uh-uh (no).

21 Q. Okay.

22 ATTORNEY BAXTER:

23 Is that a no?

24 A. No.

25 BY MR. STEFFEY:

1 Q. You have to speak in order for her ---.

2 A. Yeah.

3 Q. Are you aware of any concerns or problems with the
4 headgate entries inby the current longwall or other
5 longwall faces?

6 A. No.

7 Q. Are you aware of any excessive water on the
8 longwall?

9 A. No.

10 Q. Excessive methane?

11 A. No.

12 Q. Are you aware of any problems on the Headgate 22
13 section or the Tailgate 22 section?

14 A. No.

15 Q. Do you know if this longwall had ever experienced
16 any methane feeders from the floor or the face?

17 A. No.

18 Q. Okay. Have you ever been in the Eight North area
19 of the mine?

20 A. If I was there, I wouldn't know it by Eight North.

21 Q. Far upper end.

22 A. Is that where what they called the Glory Hole?

23 Q. Now, there is another section called the Glory
24 Hole just outby that point. Have you ever been there?

25 A. Yes. Yes. I helped set a head up by that way.

1 Q. You helped set a head up by there. We've got a
2 map. Let's go to another map. Actually, I think it
3 might be here on the Bandytown map. All right. This
4 area right up here around this gas well is the Eight
5 North area. This is the ---.

6 A. Okay.

7 Q. Okay. Now, you mentioned that you had been here
8 and you were doing what now?

9 A. Well, I thought maybe that was where we were
10 setting that head at one day, but I'm not a hundred
11 percent sure.

12 Q. Okay.

13 A. Now, the only other time I would be up there,
14 there was a belt head that had gobbled out.

15 Q. Okay.

16 A. And we went up in there and shoveled that belt
17 head.

18 Q. And when was this?

19 A. This was --- this was before the Number Three
20 working section started.

21 Q. Okay.

22 A. So it's somewhere in between October and when that
23 work --- when that started.

24 Q. Was the longwall running at that time?

25 A. No. No. I was gone out of there when the

1 longwall started.

2 Q. Were they driving these entries for the longwall?

3 A. Yeah. There was three entries that they were
4 driving, yes.

5 Q. Back here at Break 78, you will see two sets of
6 equipment doors here where the intake crosses the
7 track. Do you remember if these equipment doors were
8 in when you went to the Glory Hole?

9 A. Yeah, they were.

10 Q. Okay.

11 A. If they're the same ones I'm thinking about, they
12 were.

13 Q. Is this where --- and are you thinking of an area
14 where the intake crossed the track?

15 A. Yes. Yes.

16 Q. All right. What do you remember about these
17 doors? Can you tell me anything about those?

18 A. Man, I don't remember if we had to open them doors
19 by hand or if they were electric. It seems like they
20 were electric.

21 Q. Okay.

22 A. But as far as --- I don't remember much about it.

23 Q. Don't remember what type of condition they were
24 in?

25 A. Well, I always thought the doors were in awful

1 condition. All the doors in that mines I always
2 thought was in awful condition.

3 Q. Did you ever find those doors open?

4 A. Yeah. No, no, no. These doors, no. I'm talking
5 about the mine --- I never found those doors open.

6 Q. When you opened the doors to travel through them,
7 did you notice anything about the air? Did the air do
8 anything?

9 A. No. I can't recall nothing happening.

10 Q. Okay. Let's talk about the day of the accident.
11 Where were you at the time of the accident?

12 A. On April 5th?

13 Q. Uh-huh (yes).

14 A. I was at home.

15 Q. How did you find out about the accident?

16 A. I saw it on TV.

17 Q. On TV?

18 A. Yes.

19 Q. What were your thoughts?

20 A. My very first thought was that dust has caught up
21 with them. That was my very first thought. And after
22 that I started thinking about all the men that I knew
23 and wondering who was in on it, that type of thing.

24 Q. Did you know any of the men that were ---?

25 A. Oh, yeah. I knew several, several, several of

1 them. Worked with them.

2 Q. Were they safe workers?

3 A. Yeah.

4 Q. Do you know of any problems that were associated
5 with this stick system ventilating that they used?

6 Have you ever heard anything?

7 A. No.

8 Q. Do you know of any problems with the tracking
9 system at the mine?

10 A. You know, we had a lot of trouble with our track
11 going down to our section. It ---.

12 Q. The tracking system that, you know, ---

13 A. Oh, no.

14 Q. --- tracks where the men are located.

15 A. No.

16 Q. But you were saying you had a problem with the
17 track?

18 A. Yeah.

19 Q. What was that?

20 A. Just we would derail all the time.

21 Q. Okay.

22 A. Every time we'd go to leave --- and you know me, I
23 was always in a hurry to get home. Somehow we'd
24 derail. And we told them about this track several
25 times, and it never was fixed.

1 Q. Did you have a jack and a bar on the ---?

2 A. Sometimes.

3 Q. Sometimes?

4 A. Sometimes. There was one time we didn't have
5 nothing to work with on the ride, had to wait for the
6 men to bring something.

7 Q. On the day of the accident, now you said you were
8 at home, and you gave me your thoughts on that, ---

9 A. Yeah.

10 Q. --- that the dust had caught up with them. What
11 other thoughts did you have? Did you speak with
12 anybody working there?

13 A. No. I had tried to get a hold of another guy that
14 I worked with, Richard. And I think he would probably
15 be a good guy for you guys to interview.

16 Q. Richard?

17 A. Oh, what was his last name? I'll think of that,
18 too, and give it to you.

19 Q. Okay.

20 A. But I just thought about calling and making sure
21 --- because we were riding buddies, to make sure that
22 he wasn't in on it and stuff.

23 Q. These bonus programs, these safety programs that
24 they had at this place, at this mine, everybody
25 benefit equally from it, hourly and salary or a salary

1 bonus?

2 A. Don't know. I wasn't --- the whole time I was
3 there I never got no safety bonus.

4 Q. Okay.

5 A. Because I remember asking, they had a thing posted
6 outside that we haven't had an injury since this day.
7 It had been a while. And I thought, well, I thought
8 we got safety bonuses. And they said, we're supposed
9 to. But nobody --- we were talking about it, but
10 nobody had got any.

11 Q. Okay. Did you ever ask for anything, any piece of
12 safety equipment or ever hear of anybody asking for
13 something?

14 A. Yeah. One time I asked for safety glasses, and
15 they were out. And gloves, they were out.

16 Q. Did they ever get them in?

17 A. Yeah, they got them in. They were really usually
18 pretty good about keeping that stuff in, but a lot of
19 times there you'd go to get something and they
20 wouldn't have it.

21 Q. Did you ever hear of anybody being refused of
22 getting something?

23 A. No.

24 Q. Did you know Josh Napper?

25 A. Know.

1 Q. And did you hear about the letter that he wrote to
2 his family just prior to the explosion?

3 A. No, I did not.

4 Q. Do you feel that Upper Big Branch was a safe mine?

5 A. No, I don't think it was a safe mines at all.

6 MR. STEFFEY:

7 Terry, you got anything?

8 MR. FARLEY:

9 Yeah.

10 RE-EXAMINATION

11 BY MR. FARLEY:

12 Q. During the time you worked at UBB, which was from
13 sometime in the fall of 2008 until March 31st, 2009,
14 did you ever walk any of the conveyor belts from one
15 end to the other?

16 A. No.

17 MR. FARLEY:

18 That's all I have.

19 RE-EXAMINATION

20 BY MR. STEFFEY:

21 Q. Did the track and the belt --- were they in the
22 same entry?

23 A. At some of the places on --- not on my working
24 section side, but on the other side, yeah, they were.

25 Q. Okay. On your side over there, so you had the

1 belt in one entry and the track in the other?

2 A. Yes.

3 Q. Okay. Do you know how the belts were examined or
4 how they were shoveled or how the belts were
5 maintained? Did you ever see anybody up there looking
6 at them?

7 A. No.

8 Q. What about the belt heads?

9 A. It seems like one night there was a bunch of smoke
10 coming from one of the belt heads, and it was ---.
11 I'm trying to remember. It's been a while. It seems
12 like we were on production one night and we kept
13 smelling something awful. That's what it was, awful.
14 And we --- and I had just took off walking up the
15 beltlines, and there was a roller, and man, it was
16 pretty much almost on fire. And I had went and told
17 the section boss about it, and he said that we wasn't
18 going to turn the belts off to go up there. Get a
19 hammer and beat it out, that we couldn't turn the
20 belts off. I mean, it was hot, too. I mean, you know
21 how the bearings get wore out and, you know, --- I
22 mean, it was bad.

23 Q. What made you go down the belts?

24 A. I had kept smelling something.

25 Q. Anybody call the section and say the CO system was

1 going off or anything like that?

2 A. No. No.

3 Q. Have you ever been underground when the CO system
4 went into alert or alarm mode?

5 A. No.

6 Q. Did anybody ever train you on the AMS system?

7 A. No. Don't even know what that is. What is that?

8 Q. That's your atmospheric monitoring system. That
9 monitors the carbon monoxide.

10 A. First I've ever heard of it.

11 Q. Okay. Do you got anything else you'd like to add?

12 A. No, not that I can think of. I'd really like to
13 be able to help save another man's life, if there's
14 anything that I can say. I'm not ashamed to hide my
15 name. I'm not ashamed to say nothing in front of
16 anybody and tell them what I've just told you guys.
17 But I really, really, truly believe with all my heart
18 that that was a very unsafe place to work for me. I
19 really do.

20 Q. Okay. Have you ever been on the section when
21 there was a citation issued?

22 A. I think I probably have, but I mean, it never was
23 in front of me. There was one time that my buddy I
24 rode with, Richard, was down there and we was running
25 coal, and MSHA come in and he didn't have a tag on his

1 belt and they sent him outside.

2 Q. Okay. What about, you know, you ever been on a
3 section or know somebody that was on a section when it
4 was shut down due to a safety incident?

5 A. No, other than roof bolts.

6 Q. Okay. What was management's comments then to the
7 inspector? Did they argue or what was ---?

8 A. Brandon was the type of guy, he didn't --- he kept
9 the inspector away from his men. Anything that was
10 done, he just pretty much done in silence, I guess,
11 because I didn't hear much of it.

12 Q. Okay.

13 MR. STEFFEY:

14 That's about all I have.

15 ATTORNEY BAXTER:

16 On behalf of MSHA and the Office of
17 Miners' Health, Safety and Training, I want to thank
18 you for appearing and answering questions today. Your
19 cooperation is very important to the investigation as
20 we work to determine the cause of the accident. We
21 request that you not discuss your testimony with any
22 persona side from your personal representative. After
23 questioning other witnesses, we may call you if we
24 have any follow-up questions that we feel we need to
25 ask you. If at any time you have additional

1 information regarding the accident that you would like
2 to provide to us, please contact us at the contact
3 information that was previously provided to you.

4 Any statements given by miner witnesses

5 to MSHA are considered to be an exercise of statutory
6 rights and protected activity under Section 105(c) of
7 the Mine Act. If you believe any discharge,
8 discrimination or other adverse action is taken
9 against you as a result of your cooperation with this
10 investigation, you are encouraged to immediately
11 contact MSHA and file a complaint under Section 105(c)
12 of the Act. Remedies under the Mine Act include back
13 wages and immediate temporary reinstatement to your
14 most recent position with the company, pending a
15 complete investigation of your complaint. In order to
16 file such a complaint, you should contact the MSHA
17 District 4 office. For more information concerning
18 your rights as a miner under the Mine Act, please
19 visit MSHA's website at www.msha.gov.

20 If you wish, you may now go back over any
21 answer you've given during this interview and you may
22 also make any statement that you would like to make at
23 this time.

24 A. There was one thing that I would like to ask.

25 When we first started working down there and we were

1 having all that trouble with the dust and we were all
2 wearing dust pumps, and I recall hearing somebody
3 hanging their dust pump in the intake, at that point
4 in time they --- MSHA come in and called the whole
5 group, section, together and questioned us all about
6 on the dust pumps. So I didn't know if you guys were
7 aware with that or not or --- but ---.

8 MR. STEFFEY:

9 No, I wasn't aware of that.

10 A. Yeah.

11 MR. STEFFEY:

12 What came out of the questioning?

13 A. Well, they just had asked us pretty much --- a lot
14 of the stuff I didn't know how to answer or didn't
15 answer, but I was scared to answer honestly to these
16 people. And I don't remember very much about it. I
17 know I was only in there for about five minutes, but
18 they were asking us about the dust and stuff. And I'm
19 not sure if they were cited for hanging their dust
20 pumps in the intake, but I think what had caused that
21 meeting was they had give us all dust pumps and we all
22 come out and they didn't detect any dust. You know
23 what I mean? They got a little fishy about it, and
24 they questioned all of us. So that's something that
25 you all might want to ---.

1 MR. STEFFEY:

2 They came in and followed up after MSHA
3 had run dust?

4 A. MSHA.

5 MR. STEFFEY:

6 Now, was the inspector on the section
7 while MSHA was running dust?

8 A. No. I don't recall. I recall one time that MSHA
9 coming down there, and I don't know if it was before
10 we went underground or while we was down there, one
11 time the MSHA was there with us.

12 MR. STEFFEY:

13 Okay.

14 A. But I don't remember that much about that time. I
15 think was like the first time that we run dust. But
16 that's something that you might want to check into.
17 That's all I've got, guys. Anything I can do to help
18 I'm willing to do.

19 ATTORNEY BAXTER:

20 Again, I want to thank you for your
21 cooperation in this matter.

22 A. Thank you.

23 * * * * *

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

25 * * * * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Cynthia Piro Simpson