

APPEARANCES**OFFICE OF MINERS' HEALTH, SAFETY &
TRAINING****Barry L. Koerber, Assistant Attorney
General****1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425****OFFICE OF MINERS' HEALTH, SAFETY &
TRAINING****Bill Tucker
1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425****U.S. DEPARTMENT OF LABOR****Office of the Regional Solicitor
Matthew Babbington, Esquire
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209
(202) 693-9389****U.S. DEPARTMENT OF LABOR****Mine Safety and Health Administration
Dean Cripps
302 W. Main
Benton, IL 62812
(618) 439-4355****U.S. DEPARTMENT OF LABOR****Mine Safety and Health Administration
Jasey Maggard
3837 South U.S. Highway 25 E
Barbourville, KY 40906
(606) 546-5123****GOVERNOR'S INDEPENDENT INVESTIGATION PANEL****James Beck**


**Also Present: Leland Hess**

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

EXAMINATION INDEX

MICHAEL RICHARDS

BY MR. MAGGARD	11
BY MR. TUCKER	28
BY MR. KOERBER	37
BY MR. BECK	41
BY MR. CRIPPS	46
BY MR. BECK	53
BY MR. MAGGARD	54
BY MR. TUCKER	59
BY MR. CRIPPS	59
BY MR. MAGGARD	64

EXHIBIT INDEX

Exhibit		Page
1	Subpoena	8
2	Affidavit of Service	9

1 MR. KOERBER: My name is Barry Koerber.
2 I'm an Assistant Attorney General, and I'm assigned
3 to represent the West Virginia Office of Miners'
4 Health, Safety and Training, and I'm a member of
5 the West Virginia Office of Miners' Health, Safety
6 and Training Accident Investigation Team.

7 Today is March 9th, 2011.

8 Beginning at my left, I'm going to ask the
9 members of the team to -- teams to identify
10 themselves and who they're with.

11 MR. TUCKER: Bill Tucker, with West
12 Virginia Office of Miners' Health, Safety and
13 Training.

14 MR. BABBINGTON: Matt Babbington, I'm an
15 attorney with the U.S. Department of Labor.

16 MR. CRIPPS: Dean Cripps, with MSHA.

17 MR. MAGGARD: Jasey Maggard, with MSHA

18 MR. BECK: Jim Beck, with the Governor's
19 Independent Team.

20 MR. KOERBER: And there's one person in
21 the back. I would ask that he identify himself and
22 who he's with.

23 MR. HESS: I'm Leland Hess, with MSHA.

24 MR. KOERBER: Mr. Richards, the court

1 reporter firm, a court reporter firm known as
2 Johnny Jackson & Associates. That's a firm that's
3 in Charleston, West Virginia.

4 For her benefit, I'm going to please ask
5 you not to go "uh-huh," "uh-uh," and not to nod
6 your head yes and no. But if the answer is a
7 yes/no-type answer, to please state the words "yes"
8 or "no" for her benefit.

9 I'm going to also ask you to please allow
10 the question to be asked before you begin to
11 answer, and I'm going to ask the interviewers to
12 please allow you to finish your answer before they
13 begin the next question, so we don't have people
14 talking over each other, which is very difficult
15 for the court reporter as well.

16 Johnny Jackson & Associates is working
17 under a three-day turnaround, as far as taking the
18 words that are spoken here today and typing it onto
19 paper.

20 So this being Wednesday, three business
21 days from today takes us through Monday.

22 So beginning on Tuesday morning of next
23 week, if you desire, and this is your option, it's
24 not a requirement, it's an option that you can

1 elect to do if you so choose. Beginning Tuesday of
2 next week, the transcript will be ready for
3 review.

4 And if you desire to review it, and you're
5 not going to have to make that decision today, if
6 you desire to review your transcript, I'm going to
7 give you their business card and you can call
8 Johnny Jackson & Associates at the phone number
9 here on the card and schedule an appointment where
10 you would go to Johnny Jackson & Associates court
11 reporter firm in Charleston, and the address also
12 on this card.

13 They will put you in a conference room
14 where you or your personal representative -- where
15 you and/or your personal representative could
16 review the transcript, and on a separate document
17 called an errata sheet, make any corrections to
18 anything you find that she typed. That is your
19 option.

20 If you do choose to do that, what I would
21 ask is, although you can't call until next Tuesday,
22 because that's when it will be ready, try to do it
23 in the next two or three weeks thereafter, as
24 opposed to waiting six months and asking to review

1 your transcript. But that's your option entirely.

2 The other thing I would like to add is, if
3 for any reason whatsoever you want to take a break,
4 just say you want to take a break and we'll take a
5 break.

6 Also, I would ask that you not discuss
7 your interview with other people outside this
8 room. And the reason we ask that is to protect the
9 integrity of the investigation.

10 I believe Matt may want to add something
11 at this moment, and I would ask that he do so.

12 MR. BABBINGTON: Mr. Richards, thanks for
13 coming in.

14 I just want to note that I provided
15 Mr. Richards with a letter from MSHA's chief tax
16 investigator, Norman Page.

17 That letter describes kind of the
18 background and protocols of this interview. It
19 also provides contact information for Mr. Page in
20 case you would like to provide any information down
21 the road.

22 MR. KOERBER: I would ask the court
23 reporter to administer the oath.

24 MICHAEL RICHARDS, DEPONENT, SWORN

1 MR. KOERBER: Sir, would you please state
2 your full name, for the record and spell your last.

3 THE WITNESS: Michael Richards,
4 R-i-c-h-a-r-d-s.

5 MR. KOERBER: And would you please state
6 your address and your telephone number?

7 THE WITNESS: Physical address [REDACTED]

8 [REDACTED]
9 MR. KOERBER: What city would Henry Street
10 be in?

11 THE WITNESS: Oh, [REDACTED].

12 MR. KOERBER: Sir, are you expecting to
13 have an attorney here with you today or some other
14 personal representative?

15 THE WITNESS: No.

16 MR. KOERBER: And sir, are you appearing
17 here today as the result of receiving a subpoena?

18 THE WITNESS: Yes.

19 MR. KOERBER: And I showed you this before
20 the interview began. This is a copy of that
21 subpoena that I'm going to ask be marked as
22 M. Richards 1.

23 (Exhibit No. 1 marked for
24 identification.)

1 MR. KOERBER: And this is a copy of the
2 affidavit that I showed you earlier as well,
3 showing that you were served on the 5th day of
4 March at the Henry Street address.

5 I'm going to ask that that be marked
6 M. Richards 2.

7 (Exhibit No. 2 marked for
8 identification.)

9 MR. KOERBER: Sir, as of April 5th, 2010,
10 where were you employed?

11 THE WITNESS: Performance Coal, Upper Big
12 Branch.

13 MR. KOERBER: What was your job title?

14 THE WITNESS: Miner operator.

15 MR. KOERBER: And what section?

16 THE WITNESS: Barrier section.

17 MR. KOERBER: I'm also going to give you
18 -- I'm going to give you the Johnny Jackson
19 business card, which I spoke of earlier.

20 I'm also going to give you Bill Tucker's
21 business card. This is Bill Tucker to my left. He
22 is the lead investigator for the Office of Miners'
23 Health, Safety and Training.

24 If something would occur to you after you

1 leave today that you feel would be helpful to the
2 investigation, please contact Mr. Tucker at the
3 contact information on the card.

4 I'm also going to give you a memorandum
5 that contains the address to the West Virginia
6 Board of Appeals.

7 The West Virginia Board of Appeals is the
8 administrative agency charged with hearing cases
9 involving coal miner discrimination.

10 West Virginia Code 22A-1-22 provides
11 protections to coal miners from being discriminated
12 against for participating in interviews such as
13 this.

14 If you find that you have been
15 discriminated against because you participated in
16 this interview, this is the entity that you would
17 file your complaint with.

18 The complaint does not have to be anything
19 elaborate. It can simply be a handwritten letter
20 explaining what happened to you. But this is where
21 you would mail it.

22 Now, I would caution you that under the
23 22A -- the Code Section 22A-1-22, you only have 30
24 days from the day that the discriminatory action

1 occurs against you to file your compliant. Okay?

2 THE WITNESS: All right.

3 MR. KOERBER: So I'm going to give this to
4 you.

5 And with that, I'm going to ask that the
6 interview begin.

7 EXAMINATION

8 BY MR. MAGGARD:

9 Q. Do you prefer to be called Mike or
10 Michael?

11 A. Either one. I mean, usually Michael is
12 what they call me.

13 Q. Michael, I'll start off. Tell me how long
14 you had worked at Upper Big Branch mine.

15 A. About the middle of January 2010 is when I
16 started down there.

17 Q. Okay. And was that your -- had you worked
18 at another mine for Massey, or was this your first
19 job with Massey?

20 A. Worked for Parker Peerless. It was Mar
21 Fork.

22 Q. How long did you -- just tell me a little
23 bit about your mining experience, how long you
24 worked for Massey, how long you had worked -- just

1 your whole mining career, how long you've worked
2 and all that?

3 A. I think I started off 2006 for Massey as a
4 red hat. Worked for them a little over a year.

5 I went to Speed Mining in Charleston.
6 Worked for them, I think about right at two years
7 and went back to Massey.

8 And went back to Parker Peerless. It was
9 under Mar Fork.

10 And January of 2010, they transferred us
11 down there so they could start the barrier section.

12 Q. Okay. So you would have started back at
13 Parker Peerless, would that have been 2009?

14 A. 2008.

15 Q. 2008?

16 A. Yeah.

17 Q. And you went to UBB January the 10th?

18 A. About the middle of January. I'm not for
19 sure what --

20 Q. Of January 2010? I'm sorry.

21 A. Yeah.

22 Q. And when you started at UBB, what was your
23 -- was your job title a continuous miner operator?

24 A. Yes.

1 Q. And from January -- when did this barrier
2 section start? Was that in January, or was it
3 later on?

4 A. I'm going to say it actually started
5 running coal, maybe the end of February, somewhere
6 around through there.

7 Q. Okay. And who was the -- can you remember
8 the members of your crew and what your crew was
9 called?

10 A. Well, I don't believe we had -- the crew
11 didn't have no name. Let's see. You had myself,
12 Ricky Brown, Kevin Lambert, Brandon Davis was the
13 section boss, George Holtzapfel was the
14 electrician, James Lukas was the left miner
15 operator, Travis Holten, he was our scoop.

16 The other left bolt man, I'm not for sure
17 what his name -- he come down there. I never
18 worked for him before.

19 We had a Randy -- Randy Campbell was my
20 right shuttle car, and we had a Ricky Campbell that
21 was center shuttle car.

22 Q. Where are you currently working?

23 A. UBB.

24 Q. Are you part of Massey's investigation

1 team?

2 A. No.

3 Q. What are you currently doing at UBB?

4 A. Outby bossing.

5 Q. Okay. Have you had any opportunities to
6 travel with any of the State or MSHA's
7 investigation team up inby of the barrier section
8 or inby Ellis portal?

9 A. One time been up there, and that was to
10 rock dust roadway so they could take stuff up.
11 That was it.

12 Q. Okay. Do you work day shift or evening
13 shift?

14 A. Evening shift.

15 Q. Okay. When you first come to UBB, what
16 was your first day at work? Was it moving
17 equipment? What was it?

18 A. It was moving some equipment up there,
19 trying to get it in place and getting belt line put
20 back in, just more or less getting it ready to
21 start up.

22 Q. On your first day, did you receive any
23 kind of training on that day?

24 A. I can't remember. Don't recall doing

1 anything. I mean, other than them giving a little
2 speech about what their plans are up there.

3 Q. After you had worked there for a certain
4 amount of time, did you receive any kind of
5 training?

6 A. Not that I can recall.

7 Q. During your first day underground, can you
8 remember who all was with you from the crew? Was
9 it a full crew of men or part of a crew?

10 A. The crew that I said and Gary May, the
11 superintendent, and Rick, I think his last name is
12 Foster, I think, he was the mine foreman.

13 Q. Tell me about this barrier section you
14 said probably started at the end of February. Was
15 that when overcasts were started, or was that when
16 you actually started production?

17 A. I'm going to say it's probably right about
18 when we started production.

19 Q. Were you involved with cutting overcasts
20 out in the barrier?

21 A. Yeah.

22 Q. When did you cut the overcast? Was that,
23 like, on a day shift or evening shift?

24 A. It was day shift.

1 Q. Okay. And how was the ventilation done in
2 that area where you were cutting off, do you
3 recall?

4 A. No. Pretty much the way it's sitting
5 right now.

6 Q. Okay. So like in the track entry, let's
7 say going up the north mains, I guess you had had
8 an overcast there, or maybe a couple in that area,
9 I can't remember, but you had to cut out before you
10 started that panel?

11 A. I think there was two of them over the
12 track.

13 Q. Okay. And so was there people working
14 inby when you were cutting overcasts or outby or
15 around the track traveling that way?

16 A. Not inby I know of. I don't know if
17 anybody was out. We done it on the -- what they
18 call their employee appreciation day. They had us
19 work where everybody else was off.

20 Q. When is employee appreciation day?

21 A. It just passed. I don't know if it's the
22 first -- what is it, Good Friday or the holiday
23 just -- we had ours on President's Day.

24 But I think it's supposed to be the week

1 before then. That weekend you get Monday off.

2 Q. Tell me about that panel. Was you all
3 having any difficulties with roof control or rib
4 problems or anything of that nature?

5 A. Ribs. They was smashing out pretty good.

6 Q. Why do you think they were smashing out
7 pretty good?

8 A. You're driving in between two longwall
9 panels not being pillared out.

10 Q. Did anybody ever express any concern about
11 that?

12 A. Yeah, every one of us on there wondered
13 why they ever got permits to do that.

14 Q. Was there ever any questions or concerns
15 mentioned to any of the mine management about that?

16 A. I'm not for sure if our section boss ever
17 mentioned it to them or not.

18 Q. So you've probably made -- a lot of you
19 guys, correct me if I'm wrong, talked to the
20 section foreman about -- there was concerns about
21 the ribs in that area?

22 A. Yes.

23 Q. Okay. Tell me a little bit about the
24 ventilation. Did you have split ventilation up

1 there?

2 A. Well, when we first started we had it.
3 And then about a week or so before the explosion,
4 they cut us down to just one intake, one return.
5 We had to walk miners, because they was having
6 problems on the upper end getting air or something,
7 so they took some of our air away.

8 Q. How did they take the air away from your
9 section?

10 A. I know they blocked off one of the returns
11 that was coming down from, I guess, up toward Ellis
12 coming down through there.

13 I know that I run the right side, and they
14 built a bunch of new stoppings on the right side to
15 change the air.

16 Q. On your section, which side was intake,
17 which side was return?

18 A. Starting off right side was intake and
19 return, and then you had a return on the left side.

20 Q. So did you drop off the right side as a
21 return or the left side?

22 A. The right side, dropped the return.

23 Q. What about rock dusting up there? Do you
24 -- was there a lot of rock dust in that barrier

1 section?

2 A. To me, what I can recall, I mean, they
3 rock dusted it, but according to everybody else, it
4 wasn't.

5 Q. How did they rock dust?

6 A. With the scoop, Fairchild scoop. It's
7 called a slinger duster.

8 Q. Was there a lot of -- was it a damp
9 section or dry?

10 A. Barrier section was dry. I know the right
11 side was. Like I said, I didn't go to the left
12 side much, but I know the right side was dry.

13 Q. About how many cuts a day would you all
14 make on that section?

15 A. I'm wanting to say 150, 200 foot maybe.
16 We was on 20-foot cut plans.

17 Q. Tell me about a normal day, what you would
18 have to do when you came to the barrier section.

19 How would you start your day, and tell me
20 a little bit about it?

21 A. I just check my miner, clean any sprays,
22 set bits, like that, just more or less make sure
23 the miner was in pretty good shape.

24 Q. Let me ask you. Do you have any miner

1 certifications?

2 A. I just recently got my foreman and my EMT
3 card.

4 Q. Okay. When did you get that?

5 A. The foreman, the 1st of January.

6 Q. When you check your miner and you're
7 checking bits and sprays, do you always do that at
8 the beginning of the shift or sometimes later on in
9 the shift?

10 A. I always checked it at the beginning of
11 the shift before I ever started cutting.

12 Q. Okay. And was you having any problems
13 with sprays getting clogged on the miner?

14 A. No.

15 Q. But from time to time, would you have to
16 take one out and clean it, or what would you have
17 to do?

18 A. Yes. Occasionally, I mean, take one out,
19 clean it, replace it, put a new one in if something
20 gets stopped up, or I'd take it out and just clean
21 it out and put it back in.

22 Q. How do you clean the spray out.

23 A. I had a little piece of wire I would just
24 slide in there and poke around on it.

1 Q. What kind of sprays did the miner have,
2 what type?

3 A. Oh, gosh, I don't remember of it. It was
4 just the round one, just squirted out the water.
5 It wasn't them newer ones that kind of goes out at
6 an angle. I'm not sure what they called them.

7 Q. Were they, like, a comb-type spray or do
8 you know?

9 A. No, they was flat. Just was a hole right
10 in the middle of it.

11 Q. How much pressure would you have on that
12 section?

13 A. I can't remember. It was way up there.

14 Q. Who would normally check pressure on the
15 miner?

16 A. Our electrician.

17 Q. How often would he be able to do that?

18 A. Usually he checked it at the beginning of
19 the shift. I know mine he did. Whenever I was
20 changing bits or whatever, checking sprays, he
21 would always come up there at the gates and check
22 it.

23 Q. Did he always get an opportunity to do
24 that, or was there some days he couldn't?

1 A. My recall, about 90 percent, at least 90
2 percent of the time I know he was up there. I
3 mean, I'm sure if he come up there and there was a
4 piece of equipment down, right away he didn't go
5 over and do it.

6 Q. What about the cutting? Was the cutting
7 hard there or not too bad?

8 A. It was soft.

9 Q. Soft?

10 A. Yeah.

11 Q. Okay. As far as methane goes, had you
12 ever detected any methane on that section?

13 A. Now on the right side, I never did. The
14 guys on the left side said they would, but, like I
15 said, I never picked up nothing over there.

16 Q. Had you ever heard what they picked up on
17 the left side?

18 A. Well, from the buggy guys, like, .5
19 percent.

20 Q. You said .5?

21 A. Yeah, about .5 percent.

22 Q. How many guys on your crew had methane
23 detectors?

24 A. Miner operators and the roof bolt

1 operators. At least one of them.

2 Q. What type of methane detector did you
3 have?

4 A. Oh, I can't remember. It's the silver
5 one. It's got the two big displays in it.

6 Q. Okay. Would it have a red-looking
7 display?

8 A. Yeah.

9 Q. Okay. So would it have been a CSE 102?

10 A. I think it was the 102.

11 Q. What about the other miner operator, what
12 type would he have?

13 A. Same style.

14 Q. What kind of -- who else did you say had
15 detectors?

16 A. Bolter operators, roof bolt.

17 Q. What kind would they have?

18 A. They had the same kind, but just one with
19 a little display on it.

20 Q. Your electrician, did he have one or
21 anybody else have one?

22 A. The section boss. I don't believe the
23 electrician had one.

24 Q. How did you get your detectors calibrated?

1 A. Outside, they calibrated them.

2 Q. Who would have done that normally?

3 A. I'm thinking the mine foreman,
4 superintendents on the day shift done it.

5 Q. I know we talked about ribs. Touched on
6 rock dust a little bit.

7 Was you having any other problems on the
8 barrier -- having any problems at all on the
9 barrier section?

10 A. Not that I can remember. Just like I
11 said, a lot of the ribs.

12 Q. Did the section foreman, did he have to
13 stay up there on the barrier all day, or did he
14 have other duties he performed outby or other
15 places?

16 A. Ours, usually on the section, we was
17 running coal he was always up there, or at least at
18 the feeder.

19 Q. What kind of detector did he have?

20 A. Solaris.

21 Q. Solaris?

22 A. Uh-huh.

23 Q. Okay. As far as equipment problems, had
24 you any kind of electrical problems on equipment at

1 any time?

2 A. Not that I recall.

3 Q. Had you ever had any problems with methane
4 monitors on equipment?

5 A. Yeah.

6 Q. Okay. Could you explain what kind of
7 problems you ran into?

8 A. I mean, just that one day when we was
9 cutting our overcast, it went down.

10 Q. Okay. And how did it go down, do you
11 know?

12 A. No, it just quit working. I shut the
13 miner down.

14 Q. And when was it repaired?

15 A. I think a day or two later.

16 Q. Okay. Did you just have one miner up
17 there on the section at that time --

18 A. Yes.

19 Q. -- when you was cutting overcasts?

20 Would that miner have been the right side
21 miner at the -- later on was it the same miner --
22 was it continued to be used on that section? Was
23 it the right side or the left side?

24 A. Yes, it was the right side. It was mine.

1 Q. That was yours?

2 A. Uh-huh.

3 Q. Okay. And it was down for a couple of
4 days. Was the section down for a couple of days?

5 A. Well, the miner wasn't down. I mean, of
6 course, y'all have heard. They bridged it.

7 Q. Have you ever heard of them bridging stuff
8 on other sections at this mine?

9 A. Not until after the explosion you heard a
10 lot of people. I mean, you read their comments.
11 But prior to that, no.

12 Q. How many shifts do you have to run with
13 the methane monitor bypass?

14 A. I'm going to say at least, they finished
15 out day shift and evening shift.

16 Q. How quick did it take them to get the
17 monitor bypassed to where you could run?

18 A. 25, 30 minutes.

19 Q. Who was knowledgeable as far as being able
20 to get the miner to run on your section?

21 A. Well, the electrician acted like he didn't
22 know how to do it, and then the superintendent
23 found a way to -- somebody else to talk him through
24 how to do it.

1 Q. Who was that superintendent?

2 A. Gary May.

3 Q. Okay. And we're saying that was probably
4 toward the -- do you remember what day that was on
5 in February?

6 A. I'm wanting -- like I said, it was
7 employee appreciation day. That weekend. So it
8 would have been the week before President's Day,
9 that weekend.

10 Q. So it was on a weekend?

11 A. Yeah, it was on a weekend. Usually you
12 get a three-day weekend.

13 Q. Okay. Had you ever had any inspectors up
14 on that section that found any kind of ventilation
15 problems when you were there?

16 A. I don't recall of any ventilation
17 problems.

18 Q. Okay. Did you already run into something
19 unsafe, you had to shut down production on that
20 section?

21 A. Not that I recall.

22 MR. MAGGARD: Okay. I think I'll take a
23 break, I appreciate it, and let these guys ask a
24 few questions.

EXAMINATION

1
2 BY MR. TUCKER:

3 Q. Just a follow-up a little bit about the
4 methane monitor. Who was the electrician?

5 A. George Holtzapfel.

6 Q. And did you say that Gary May was the
7 superintendent, he's the one that talked -- is that
8 who you said talked George through how to bridge it
9 out?

10 A. Yeah.

11 Q. Or bypass it? Okay.

12 MR. KOERBER: Was there a telephone call
13 made to somebody else?

14 THE WITNESS: Yes. He called outside to
15 -- I'm not for sure. I can't swear to it. I mean,
16 I've heard that there's a guy they called
17 "Doughnut" was supposed to have been outside, and
18 then there's another head of electrician chief on
19 the Ellis side that was outside.

20 One of them was supposed to -- told Gary
21 May what wires he needed to do, and then Gary May
22 come back and translated it.

23 MR. KOERBER: But you don't know who was
24 on the other side of that phone?

1 THE WITNESS: I can't remember who he was.

2 BY MR. TUCKER:

3 Q. Okay. So Gary went to the mine phone,
4 called outside, somebody walked him through it,
5 then he came back and walked the electrician
6 through it; is that correct?

7 A. Yes.

8 Q. When you come back in, when was your next
9 shift after that?

10 A. It would have been Tuesday.

11 Q. Okay. And what day of the week was that
12 on?

13 A. It should have been Saturday.

14 Q. Saturday?

15 A. Yeah.

16 Q. So when you came back in on Tuesday, was
17 the methane monitor working properly?

18 A. To my knowledge, it was supposed to have
19 been fixed. I mean, we didn't run it that day, so
20 I don't know if it actually was. I don't even
21 recall anybody firing it up, turning the power on
22 at that.

23 Q. Okay. All right. Had you ever worked on
24 any of the other miner sections, other than barrier

1 section?

2 A. Not at UBB.

3 Q. Okay. you never had to fill in for
4 somebody?

5 A. No.

6 Q. Did you all hot seat?

7 A. No.

8 Q. Now you mentioned on your miner, on the
9 right side, you never picked up any methane, as far
10 as seeing it show up on the methane monitor on the
11 miner; is that correct?

12 A. Yes. Like I said, I never picked nothing
13 up over there on the right side.

14 Q. Does that include with a hand held?

15 A. Yes.

16 Q. Did you always have a hand held detector?

17 A. I think it was maybe a month after we was
18 down there they got us some. They was
19 short-handed, said they didn't have them.

20 Q. So you came there in January --

21 A. Uh-huh.

22 Q. -- of 2010?

23 A. I'm pretty sure it's the end of January,
24 or it could have been, like, the 1st of February.

1 I won't be a hundred percent sure it was the end.
2 I mean, I know it was the first part of the year.

3 Q. When you first came there, what was your
4 job duties? Was you operating a continuous miner
5 right off the bat?

6 A. No. They was short a bolt man, so me and
7 another guy was going back through there and doing
8 a lot of spot bolting.

9 Q. So you was bolting outby?

10 A. Yeah, right on the section, just the
11 previous entries that was already there, we was
12 just going back and spot bolting them where rock
13 fell out and everything.

14 Q. Okay. When you were actually mining coal,
15 were there times that you needed a hand held
16 methane monitor and did not get one?

17 A. I'm going to say by the time we was up and
18 running, ready to run coal, by then we had them.
19 It was just the time period we was outby, cutting
20 overcast and cleaning up what gob that was there,
21 we didn't have them.

22 Q. Okay. So do you recall -- you mentioned
23 when you were cutting overcasts, and that's when
24 the methane monitor was bridged out.

1 Do you recall if you had a hand held on
2 that shift, when your monitor was actually bridged
3 out?

4 A. No, we didn't have none.

5 Q. Did not have one?

6 A. No.

7 Q. Do you know if anybody with you had one?

8 A. The only person I know of at that time
9 that had one was Brandon. He was our section boss,
10 but Gary May had him outby doing just odds and
11 ends.

12 Q. While you were cutting the overcast?

13 A. Yeah.

14 Q. How did you find out about the explosion
15 on April the 5th?

16 A. We was outside getting ready to -- waiting
17 on the other crew to come out to get ready and
18 somebody come down and told us not to check in, get
19 ready, but they thought they had a rock fall
20 because the fan reversed.

21 And they couldn't get ahold of nobody, so
22 nobody could get dressed, just stay out in the
23 bathhouse and wait on them.

24 Q. Do you recall who that was that told you

1 that?

2 A. I can't say. I wouldn't know who it was.

3 Q. So you were over on the UBB side?

4 A. Yes.

5 Q. What time did you get to work that day?

6 A. I got there about 15 to 3:00.

7 Q. Then once you got there, did you go in the
8 bathhouse and put on your work clothes?

9 A. Yes.

10 Q. Is there a mine phone in there?

11 A. Yes.

12 Q. Did you ever hear any conversations from
13 underground to the surface over the mine phone?

14 A. No.

15 Q. So did you hear anything go on with the
16 fan?

17 A. Just what we was told, that it was
18 reversed, and they thought there was a fall.

19 Q. Where were you actually at? Was you still
20 inside the --

21 A. Bathhouse.

22 Q. The bathhouse? You had never stepped to
23 the outside?

24 A. No.

1 Q. So you didn't hear the fan make any
2 commotion yourself?

3 A. No. I mean, if it was the fan it would
4 have probably been on the Ellis side. It wouldn't
5 have been on our side.

6 I mean, not that I would think. I mean,
7 them fans over there was a lot closer than what
8 ours was.

9 Q. So after they came and told you that, can
10 you tell us what happened from that point on?

11 A. Pretty much everybody just stood around
12 and waited, and nobody really said nothing until
13 they noticed a helicopter landing in the parking
14 lot, then they knew something else was wrong
15 besides the fall, and they couldn't get no
16 communication.

17 Then that's when some woman came down and
18 told us what was going on, needed all the EMTs to
19 load up and go over to the other side. Pretty much
20 that's about it.

21 We went -- Me and Jack Martin went to the
22 other side. For them other, I don't know what else
23 they said.

24 Q. Who came in on the helicopter?

1 A. Oh, I think there was a bunch of them.
2 Let's see. Chris Blanchard. That one woman, I
3 think head of safety. I can't remember her name.
4 And there was two or three other people on there.

5 Q. Those are the only ones you recognized?

6 A. Yeah. Like I said, really, most of them I
7 never really seen.

8 Q. Did you actually see them get off the
9 helicopter?

10 A. Yeah.

11 Q. So then you went to -- since you was EMT,
12 you went to the Ellis portal?

13 A. Yes.

14 Q. What happened once you got there?

15 A. Once I got there, like I said, there was
16 already a bunch of ambulance. There was one
17 crew -- they called him [REDACTED] I can't remember
18 what sectioned he worked. They had him outside
19 laying on the ground.

20 Q. Did you assist with any of those guys?

21 A. We started to, but then they told us that
22 it was a waste of time, that the EMTs that were
23 already there with Jan-Care and stuff, said done
24 pronounced them dead, said there was nothing for us

1 to do. Just to hang out in case there was more to
2 come out.

3 Q. Do you recall anybody going underground
4 then after that, or what's your recollection what
5 happened from that point on?

6 A. I didn't see nobody else going
7 underground. Just listening on the mine phone that
8 there was a couple of people that went
9 underground.

10 I guess they went up to -- from my
11 understanding made it to Ellis head, 5 head.

12 Q. What did you do for the rest -- how long
13 did you stay there?

14 A. Until 1 o'clock that night. And that's
15 when mine rescue said it was getting bad and they
16 pulled everybody back out. They told us we could
17 go on home.

18 Q. So you stayed until they gave the order
19 for the mine rescue teams to come out of the mines?

20 A. Yes.

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

22 MR. KOERBER: Let me ask a couple of
23 clarifying questions real quick here, please.

24

EXAMINATION

1
2 BY MR. KOERBER:

3 Q. The bridging out of the methane monitor,
4 that was Massey appreciation day; correct?

5 A. Yes.

6 Q. Are you aware of any other instances of
7 bridging out the methane other than Massey
8 appreciation day?

9 A. No.

10 Q. And it was the methane monitor on the
11 continuous miner?

12 A. Yes.

13 Q. Who was operating the continuous miner?

14 A. That day, James Lucas.

15 Q. Where were you at?

16 A. Sitting on the other side. I was bolting
17 top that day. They was short a bolt man. He was
18 an older gentleman that was supposed to be putting
19 in six-foot structure. He's got more experience
20 than I did, so I told Gary May to let him run the
21 miner and I would go on the bolt machine that day.

22 Q. And the miner was cutting an overcast.

23 A. Yes.

24 Q. And when the methane monitor ceased

1 functioning and shut the miner down, was it under
2 any type of unsupported top?

3 A. Not the methane monitor, no. The head
4 was, but -- the head part of it, yeah.

5 Q. The head of the continuous miner was
6 under --

7 A. Yeah.

8 Q. -- unsupported top?

9 And did anybody go to find a new methane
10 monitor?

11 A. They said they didn't have none.

12 Q. Okay. Did they go look or did they call
13 somebody, or how did they know they didn't have
14 one?

15 A. I think when Gary May called outside they
16 said they didn't have one.

17 Q. Is that when Gary May on that phone call
18 was receiving the instructions on how to bridge it?

19 A. No. He come back and told George that
20 they didn't have one, asked him if he knew how to
21 bridge one out.

22 George told him no, which, I mean, he
23 knows how to do it, but he said he didn't really
24 want to do it so he told him no.

1 Q. When Gary May would go to make the phone
2 calls, was the phone in sight or out of sight when
3 he called?

4 A. In sight.

5 Q. In sight?

6 A. Yeah, it was right directly behind the
7 miner a half a break.

8 Q. Did Gary May ever leave your sight after
9 the methane monitor failed to work and shut the
10 miner down before it got bridged out?

11 A. No, not that I can recall. He was just
12 back and forth, straight shot.

13 Q. Who all of bosses was there when it was
14 being bridged out?

15 A. Gary May.

16 Q. Didn't you say there was a foreman of
17 Brandon Davis?

18 A. Yeah.

19 Q. Where was he at?

20 A. Outby.

21 Q. He wasn't anywhere near the mine?

22 A. No. He wasn't up there when it was going
23 on. Gary May sent him to do some other stuff, and
24 Gary May said that he was going to stay up there.

1 It was a day that everybody else was of,
2 and he was going to make sure the job got done,
3 there wasn't no screwing off up there, have to
4 prolong it and come back Tuesday and have to
5 continue cutting on it.

6 Q. And then when it got bridged out, it went
7 back to cutting the overcast?

8 A. Yes.

9 Q. And I think you had said it cut the rest
10 of that shift and evening shift?

11 A. Yes.

12 Q. Before it got repaired?

13 A. Yeah.

14 Q. And the evening shift, what would it have
15 been cutting in the evening shift?

16 A. Finishing up the overcast, and then the
17 next overcast inby for the intake.

18 Q. Do you recall them saying they did not
19 have a replacement methane monitor or they didn't
20 have a replacement calibration thing?

21 A. Monitor.

22 MR. KOERBER: I apologize. Thank you.

23 MR. BECK: That's all right.

24

EXAMINATION

1
2 **BY MR. BECK:**

3 Q. Michael, you said everyone on the crew was
4 concerned about the ribs in particular?

5 A. Yes.

6 Q. Did anybody from the crew talk to anybody
7 in management about the condition?

8 A. Not that I'm aware of. If they did, I
9 didn't know it.

10 Q. So you didn't talk to nobody either; is
11 that right?

12 A. No.

13 Q. You said something to the fact that they
14 were going to tell you what the plans were, I
15 guess, for the barrier section?

16 A. Can you repeat that?

17 Q. You had mentioned something to the fact
18 that they, and I took it management was going to
19 tell you what the plans were for the barrier
20 section, tell the crew what their plans were for
21 that area?

22 A. You mean on the first day we come down
23 Ellis?

24 Q. Yeah.

1 A. Yeah.

2 Q. What did they tell you?

3 A. Their goal was, I think it was 3,500 foot,
4 that they would like to try to get it to do the
5 longwall to the left, and the right done been
6 pillared out. And there was a longwall pillared
7 out 3,500 foot in front of us.

8 They had -- I forget, I think it was three
9 or four-hundred foot block between the longwall.
10 They wanted to try to get as much as it could,
11 finish it up and pull out.

12 And I think they was going inby the
13 90-some break and another panel they wanted to try
14 to get.

15 Q. And that coal was there because they were
16 unable to longwall mine it?

17 A. Yeah.

18 Q. And I think it was between panel 16 and
19 17, somewhere in that area. But do you know why
20 they couldn't mine that?

21 A. Said conditions got bad.

22 Q. Conditions got bad. The barrier section
23 was a 7-entry section; right?

24 A. Yes.

1 Q. Once it got drove up to the point where
2 they wanted to drive it to, were they planning on
3 pillaring, too?

4 A. I asked them, they said they wasn't. They
5 was just going to leave the blocks there and just
6 pull the equipment back out.

7 Q. Did you ever have any visitors on your
8 section from upper management, like Blanchard or
9 Jason Whitehead?

10 A. Yeah, both of them.

11 Q. What did they do when they were on the
12 section?

13 A. They come up one day when we was starting
14 it. They come up and actually helped to put up
15 some overcasts and stuff, trying to help speed it
16 up to get it in the coal.

17 Q. So they were wanting to make sure it got
18 in the coal right away?

19 A. Yeah. Because everybody made the call
20 it's the first time they ever seen them work.

21 Q. So we had the president and the vice
22 president of Performance Coal Company helping to
23 build overcasts?

24 A. Yeah.

1 Q. Okay. And if the miner, once it went down
2 with that methane monitor, and it wasn't operated,
3 was the track going to be blocked?

4 A. The head might have been kind of in the
5 way for a mantrip to get back.

6 Q. That's what I meant.

7 A. Yeah, it probably would have stopped
8 somebody from going through.

9 Q. So that was the reason why Gary May would
10 want to get that job done and out of there, so
11 there wasn't a delay for the next shift or the next
12 production day?

13 A. No. I mean, my opinion, he just got a
14 bridge up to keep working to get it done. Like I
15 said, there was nobody inby who --

16 Q. I meant just so the track wasn't blocked.
17 That's why ...

18 A. Yeah, that's why they wanted to do it that
19 day. Because if nobody was inby, if something
20 happened, tracks wouldn't be blocked.

21 To my knowledge, there was nobody inby.
22 Like I said, a lot of people portalled on Ellis, I
23 mean, there could have been people there, but just
24 to our knowledge, there was nobody else on the UBB

1 side gone in.

2 Q. When Blanchard and Whitehead were on the
3 section, did they mention anything about the ribs?

4 A. No. Like I said, the actual section
5 wasn't started yet.

6 Q. You mentioned something about the fans on
7 the Ellis side. How many fans are there on the
8 Ellis side?

9 A. I'm thinking they got one or two over
10 there.

11 Q. Okay.

12 A. Like I said, prior to this, I've never
13 been up on that side.

14 Q. And you mentioned when you would clean
15 sprays, sometimes you would use a wire?

16 A. Yeah.

17 Q. Okay. Can a nail be stuck in a spray?

18 A. Probably if you hid it.

19 Q. Have you ever heard of anyone putting a
20 nail in a spray --

21 A. No.

22 Q. -- to plug it up or unplug it?

23 A. No.

24 Q. When the sprays get plugged up on a miner,

1 have you ever, or do you know of anyone, that took
2 the sprays out to get water flowing through the
3 head?

4 A. Yeah, I've done it. If it clogged up --
5 once you take it off and turn it on just to make
6 sure it wasn't clogged on the inside or anything,
7 just kind of flush it out.

8 Q. Do you know of any times when the spray
9 wouldn't be put back in, but then continue to
10 operate the miner?

11 A. No. I mean, I never done it because you
12 wouldn't have no pressure in it.

13 Q. Did you know anybody that worked on
14 headgate 22 section?

15 A. If that was Head's crew, I'm not for sure
16 which section -- I mean, that's the only crew, the
17 one that was outside that day when we got there,
18 that's the only people I knew up there.

19 And, I mean, just knew them because they
20 was still portalling from UBB side.

21 MR. BECK: That's all I have.

22 EXAMINATION

23 BY MR. CRIPPS:

24 Q. I have got a couple questions here.

1 Follow-up on the spray issue, what type of
2 a spray, was it a stable lock spray or was it a
3 screw-in type spray?

4 A. Screw in.

5 Q. So it was threaded?

6 A. Yes.

7 Q. You had to have a tool to take it out?

8 A. Yes.

9 Q. What kind of tool did you use?

10 A. I had a -- just a socket that I could sit
11 in there and do it.

12 Q. Okay. And all the sprays on the miner
13 were the same?

14 A. Yes.

15 Q. Okay. You said when you was cutting the
16 overcast Gary May come up there and sent Brandon
17 elsewhere?

18 A. Yes.

19 Q. Did he not have confidence in Brandon, you
20 think, or why did he do that?

21 A. He made the comment he would just make
22 sure his job got done. Nobody was screwing off.
23 That it had to be done this weekend when nobody was
24 there.

1 Q. So by that, did you take it to mean that
2 he felt Brandon let you guys screw off?

3 A. Well, I mean, I guess he was just making
4 sure it was done.

5 Brandon was easygoing, so I don't if he
6 known that with Brandon the short period he was
7 there, but he just wanted to make sure the job got
8 done.

9 Q. On your production shift when Brandon was
10 your boss, did he ever give you any indications
11 that Gary May or anybody else in management would
12 reprimand him or give him a hard way to go if he
13 didn't get his production or the unit was down?

14 A. I've never heard him say anything like
15 that. I can't say that they did or, I mean, that
16 they didn't.

17 Q. Did you guys normally get your required
18 production?

19 A. Yeah. I mean, like I said, 150 to -- I
20 don't know what their set limit they was wanting,
21 but, I mean, like I said, I mean, we'd get it cut,
22 and by the time you got that backed out, the ribs
23 would bust out and you would have to go back and
24 clean it up.

1 So, I mean, it was a lot of work just to
2 get in there just to bolt it. Because you would
3 get the miner all the over here on the other side
4 and then have to take it all they way back and
5 clean it up because the bolt machine couldn't get
6 in there. So, I mean ...

7 Q. When you was on the section first
8 starting, I understand you was using split
9 ventilation?

10 A. Yes.

11 Q. Do you know which entry the intake was?

12 A. Power center. That would have been 5, I
13 think.

14 Q. Okay. And then was 1 and 7 returns?

15 A. Yes.

16 Q. Okay. After they made the air change, was
17 the right side entry the intake then?

18 A. Yeah, No. 5 would have stayed the intake.

19 Q. No. 5 stayed the intake?

20 A. Yes, and 1 was the return.

21 Q. Okay. And so when you was using the split
22 ventilation, did you run both miners
23 simultaneously?

24 A. Yes.

1 Q. Okay. What about after the ventilation
2 change?

3 A. No.

4 Q. Do you ever know of them running at the
5 same time?

6 A. Yes.

7 Q. How often would that happen?

8 A. Just depending on how far you was and
9 toward the end of the shift, how far behind you
10 was.

11 Q. So if you had some breakdowns during the
12 shift and needed to get the footage, both machines
13 would operate at the same time?

14 A. Yes.

15 Q. Okay. And was Brandon there when that was
16 going on?

17 A. Yes.

18 Q. Do you recall if Gary May or any other
19 members of management was there?

20 A. No, not that I recall, they wasn't up
21 there.

22 Q. Okay. Did Brandon usually give you
23 direction to do that?

24 A. Yeah.

1 Q. Okay. How do you feel about that?

2 A. I, well, like I said, really never thought
3 nothing about it, I mean, until all this has
4 happened. And, like I said, it's kind of made you
5 think of what you used to do and think before you
6 do something now.

7 Q. You operated the right side machine?

8 A. Yes.

9 Q. So you was on the intake side of the unit;
10 correct?

11 A. Yes

12 Q. And the other operator was on the return
13 side; correct?

14 A. Yes.

15 Q. So it would have been the other miner
16 operator would actually have been operating in the
17 dust created by your machine; correct?

18 A. Yes.

19 Q. Okay. Did you ever report any, besides
20 the ribs, any other safety issues or hazards to any
21 management at UBB?

22 A. No.

23 Q. Did you feel like you could report hazards
24 to management without any fear of your job or any

1 other repercussions?

2 A. I don't know. I felt like somebody would
3 give you a hard time if you went in there and said
4 something that needed to be done to slow down
5 production or something like that.

6 Just from what I talked to Gary May a
7 little time, just took it that's the way he was.

8 Q. But you, yourself, never reported any?

9 A. No, not to him, no.

10 Q. Did you know of anybody else that did?

11 A. No. I mean, just hearsay. I mean, that's
12 about all. I mean, actually talking to him, no.
13 Just hearsay. People would talk to him and they
14 would tell him other stuff.

15 Q. Okay. You said the day of the accident a
16 woman came down to the bathhouse and asked for the
17 EMTs to go Ellis portal?

18 A. Yes.

19 Q. Do you recall who that was?

20 A. I can't remember if it was -- what was her
21 name -- Chandler or Chamberlin.

22 Q. Chamberlin?

23 A. I think that's who it was.

24 Q. Okay. And is she also the same woman that

1 got off the helicopter?

2 A. Yes.

3 Q. Okay. Do you know if Chris Adkins was on
4 that helicopter?

5 A. Somebody made the comment he was. I know
6 he was there, but I don't know if he got off the
7 helicopter.

8 Q. But you seen him at the UBB portal?

9 A. Yeah.

10 MR. CRIPPS: Okay. That's all I got.

11 EXAMINATION

12 BY MR. BECK:

13 Q. I got one more.

14 You were on a 20-foot cut plan; is that
15 right?

16 A. Yes.

17 Q. Were cuts ever taken deeper than 20 feet?

18 A. Maybe at 25. That's about it.

19 MR. BECK: That's all I have.

20 MR. KOERBER: Let's take a little quick
21 break.

22 (Break.)

23 MR. MAGGARD: I guess I have got a few
24 more questions, Mike.

EXAMINATION

1
2 BY MR. MAGGARD:

3 Q. The right side miner that you operated,
4 was it equipped with a methane monitor to override
5 the function?

6 A. No.

7 Q. Okay. When the -- how did they -- can you
8 recall how they got into the -- where did they
9 bypass the methane monitor at?

10 A. At the monitor.

11 Q. Okay. So what would that entail?

12 A. I take it he just pulled the miner out --
13 I mean, the methane monitor out there.

14 Q. Are you talking about the display?

15 A. Display, yeah.

16 Q. Display cover, he took that off?

17 A. Yeah.

18 Q. And then what did he do, just tie the
19 wires together, or put a jumper on it?

20 A. I didn't watch him actually do that part,
21 so I don't know what -- I mean, me, that's what he
22 told me, because we rode to work together.

23 Q. Do you recall that they didn't have a
24 methane monitor that they could use on the machine

1 at that time?

2 A. That's what Gary told George.

3 Q. Okay.

4 A. They didn't have one outside.

5 Q. Okay. So after it was bypassed, they
6 continued to cut the overcast after the monitor was
7 bypassed?

8 A. Yes.

9 Q. Okay. Did you have to do any dates, times
10 and initials on a section?

11 A. No.

12 Q. Okay. Who done dates, times and initials?

13 A. Brandon, section boss.

14 Q. Okay. After you come on the section and
15 you -- did anybody check dust control parameters on
16 bolt machines and stuff like that?

17 A. Not while we was down there, no.

18 Q. So nobody would have been doing dates,
19 times and initials for dust parameter checks?

20 A. Shouldn't have been. I mean, like I said,
21 I don't recall anybody checking them.

22 Q. Okay. How thick was the rock dust on the
23 section?

24 A. To be honest with you, I couldn't tell

1 you.

2 Q. Was it a thin layer?

3 A. It could have been thin. I mean, like I
4 said, I just know it was covered. Like I said, I
5 really never paid any attention. Being that while
6 back, I couldn't tell you if it was an inch or ...

7 Q. Do you remember who repaired the methane
8 monitor after the two shifts that it -- that day
9 that it worked?

10 A. No.

11 Q. Did your crew have a -- did that section
12 have a third shift?

13 A. Yeah.

14 Q. And if that was -- this was a Saturday; is
15 that correct?

16 A. Yes.

17 Q. Would they have had a Sunday night third
18 shift that possibly could have prepared it?

19 A. Yeah, it's possible they could have. I
20 mean, they would have come in Monday night.

21 Q. Monday night. Monday was a holiday;
22 right?

23 A. Yes.

24 Q. So Monday night they would have had a

1 third shift that possibly could have repaired the
2 monitor?

3 A. Yes.

4 Q. And do you remember seeing the old monitor
5 laying up on the section on Tuesday when you were
6 running?

7 A. No.

8 Q. Did anybody tell you that the methane
9 monitor was fixed now that day?

10 A. Not that I recall. Like I said, Tuesday
11 we never run it.

12 Q. Oh, you never run on Tuesday?

13 A. Not when we come in. We didn't run it on
14 there. It was, like I said, doing a lot of bolting
15 and cleaning.

16 Q. When was the next time you ran or used the
17 miner?

18 A. It might have been a day or two.

19 Q. Now, this ventilation change that was done
20 up on the -- where the return was swapped around,
21 it was something they did up at Ellis switch, is
22 that what you said?

23 A. From what I understand, they done
24 something there to force more air up by Ellis inby

1 for the sections up there.

2 Q. When did they do that? Was you all
3 working that day that that was done?

4 A. No. We was on evening shift. Whoever
5 done it, done it on day shift. When we come in,
6 Brandon told us they changed it. We could no
7 longer run both miners.

8 Q. Did he say who changed it?

9 A. No.

10 Q. Did you all ever receive any violations up
11 on the barrier section for bad ribs?

12 A. Not that I recall. I mean, if they did,
13 nobody said nothing about it.

14 Q. Okay. Did you all have to start mining
15 before the overcasts were built?

16 A. No. We had to wait to get the overcast,
17 get the belt line and stuff in.

18 Q. Okay. Did you ever hear of any other
19 concerns from any of the other section men talking
20 to you about problems they were having?

21 A. No.

22 MR. MAGGARD: That's all I got.
23
24

EXAMINATION

1
2 BY MR. TUCKER:

3 Q. Just one quick question.

4 Back to the monitor, when they went in and
5 worked on that display, I think you mentioned
6 earlier just the ripper head was under unsupported
7 top?

8 A. (Witness nods.)

9 Q. So did they have to do anything when they
10 went and worked on the monitor, did they have to
11 set any temporary supports, or were they good as
12 far as supports?

13 A. They was good. Like I said, where they
14 just -- they was cutting that ripper head wide and
15 where they started it at, so, I mean, the back end
16 of the miner was still under bolts, just the front
17 part of it.

EXAMINATION

18
19 BY MR. CRIPPS:

20 Q. I want to get back to the ventilation on
21 the section.

22 Prior to the ventilation change when you
23 was using the split ventilation, was you required
24 to use curtains when you was cutting?

1 A. Yeah.

2 Q. Which side of the entry where you was
3 cutting would the curtain be on?

4 A. Right side.

5 Q. So was that an exhausting ventilation
6 system?

7 A. Yeah.

8 Q. After you did away with the split
9 ventilation and went to just the single
10 ventilation, did you have to change the side of the
11 entry that the curtain was located on?

12 A. No.

13 Q. Okay. So it stayed on the right side?

14 A. Yeah.

15 Q. When you was operating the continuous
16 miner, where would you normally stand, on which
17 side of the entry would you be located?

18 A. Right side.

19 Q. So would you be -- which side of the
20 curtain would you be standing on?

21 A. The outside of it, away from the rib.
22 We would be standing in between it and the rib.

23 Q. More towards the center of the entry?

24 A. Yeah.

1 Q. So when you was using the split
2 ventilation, you would actually have been on the
3 intake side of the curtain; is that correct?

4 A. Yes.

5 Q. After you did away with the split
6 ventilation and you said you left the curtain on
7 the right side of the entry?

8 A. Yeah.

9 Q. Where did you stand when you was operating
10 the miner?

11 A. Still in the middle of the entry. The
12 ribs, like I said, they blew out so bad that -- I
13 was usually right there beside the shuttle car.

14 Q. Okay. So where did you hang the curtain
15 normally?

16 A. Right side.

17 Q. Which bolt did you hang it off of?

18 A. Next to the last row.

19 Q. Would you hang it to the bolt closest to
20 the rib?

21 A. Yeah.

22 Q. Okay. So how far from the rib was the
23 curtain?

24 A. It might have been three foot, something

1 like that. Four foot at the most.

2 Q. Okay. So, then, you're probably standing
3 four to five feet away from the rib?

4 A. Yeah.

5 Q. Out into the entry?

6 A. Yeah. Well, I would say more five to six,
7 like I said, I'm pretty -- usually standing right
8 in the middle of the entry there once the shuttle
9 car pulled up in there.

10 Q. Was it pretty tight for you when the car
11 was pulling up in there?

12 A. Yeah.

13 Q. Where did you go when the car was pulling
14 up in there?

15 A. I would step back over next to the curtain
16 beside the -- right there at the edge of the boom
17 of the miner.

18 Q. Okay. Which side of the machine did the
19 trailing cable end?

20 A. If you was looking at the back of it, the
21 right side.

22 Q. So you operated the machine from the same
23 side that the cable was entered?

24 A. Yes.

1 Q. Have you ever operated the machine on the
2 opposite side from which the cable entered?

3 A. No.

4 Q. Do you know if anybody ever done that at
5 UBB?

6 A. To my knowledge, I didn't know they had
7 anything like that down there.

8 Q. From your experience as a miner operator,
9 is that practical to do that?

10 A. Stand on the opposite side?

11 Q. Yes.

12 A. No, I don't know why they would. I mean,
13 then you would be standing in the dust all the
14 time. To me, it would be harder to run it like
15 that.

16 Q. Okay. But as far as the -- if you're
17 standing on the right side that you're -- towards
18 the center of the entry from the curtain, does that
19 present any problems of you being hit by the car
20 when it pulls in there?

21 A. No, I wouldn't stand there when he was
22 pulling in. After he got under the boom, then I
23 would step over there whenever I would start
24 loading.

1 MR. CRIPPS: Okay. That's all I've got.

2 EXAMINATION

3 BY MR. MAGGARD:

4 Q. Have you ever ran a miner that's equipped
5 with methane monitor override?

6 A. Uh-uh.

7 Q. Do you know what it is?

8 MR. BABBINGTON: I'm sorry. Is that a
9 no?

10 THE WITNESS: Oh, I'm sorry. No.

11 Q. Do you know how they operate?

12 A. Well, I guess, what, it's been about five
13 months now. Massey sent us a bunch of stickers in
14 the mail that tells you how to do it, if it's
15 equipped to do it, how to override it.

16 Q. What do you know -- what will work on the
17 machine when you do a methane monitor override?

18 A. Just the tram. From what I'm getting,
19 what the sticker and the paper that come with it,
20 it says, just capable of trammng it out of the
21 way, moving it.

22 Q. Can you tram it forwards and backwards?

23 A. I'm not for sure about that.

24 Q. Okay. Do you know when -- you said you

1 was working the evening shift when they made a vent
2 change on the day shift. Do you remember what day
3 that was?

4 A. Oh, no, I have no idea. I'm guessing
5 about a week before all this happened.

6 Q. Okay.

7 MR. TUCKER: Can I ask something along
8 those lines, Jasey?

9 Do you remember if it was, like, through
10 the week, or when you came back from a day off or
11 when that took place?

12 THE WITNESS: I'm wanting to say it was
13 during the week, wanting to say during the week
14 when it was done.

15 MR. TUCKER: Okay. If that be the case,
16 then you would have left, say, on a Monday or
17 Tuesday or whatever, ventilation was one way, you
18 came back in on the next day in the middle of the
19 and it's been changed?

20 THE WITNESS: Yes.

21 MR. TUCKER: Okay.

22 MR. MAGGARD: I'm good.

23 MR. KOERBER: Okay. Mr. Richards, at this
24 time, if you have anything you would like to add,

1 anything you would like to clarify, anything you
2 would like to say, the floor is yours.

3 THE WITNESS: No, I don't have nothing
4 that I can think of.

5 MR. KOERBER: With that in mind, I thank
6 you for coming, and on behalf of all three teams, I
7 thank you for coming, and we'll go off the record.

8 (Interview concluded.)
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of MICHAEL RICHARDS was duly taken by me
6 and before me at the time and place specified in
7 the caption hereof.

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

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

20 My commission expires the 6th day of March
21 2019.

22 Given under my hand and seal this 13th day of
23 March 2011.

24 -----
Jenny Taylor
Notary Public