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Wilson.**

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**CLIFTON D. STOVER**

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1           MR. KOERBER: My name is Barry Koerber.  
2 I'm the assistant attorney general, and I am  
3 assigned to represent the Office of Miners' Health,  
4 Safety & Training, and I'm also assigned as a  
5 member of the Office of Miners' Health Safety &  
6 Training Accident Investigation Team.

7           Today is April 27th, 2011.

8           We have other members of the accident  
9 investigation teams seated at the table as  
10 interviewers. And beginning at my left, I would  
11 ask that we go down the table and everybody  
12 identify themselves and who they're with.

13          MR. TUCKER: Bill Tucker, West Virginia  
14 Office of Miners' Health, Safety & Training.

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

18          MR. SHERER: Erick Sherer, with MSHA.

19          MR. MCGINLEY: Pat McGinley, with the  
20 Governor's Independent Investigation Panel.

21          MR. KOERBER: And we have three people in  
22 the back. I would ask that they identify  
23 themselves and who they're with.

24          MR. VANCE: Jerry Vance, with MSHA.

1 MR. WILSON: Bob Wilson, with MSHA

2 MR. PAGE: Norman Page, with MSHA.

3 MR. KOERBER: Sir, we also have a court  
4 reporter here today, and she is with the court  
5 reporter firm Johnny Jackson & Associates, and I  
6 have their business card here.

7 For her benefit, please speak loudly,  
8 clearly, say "yes" and "no," not "uh-huh,"  
9 "uh-uh."

10 And as Erik has mentioned earlier, we're  
11 going to have to identify, if we get to the map,  
12 specifics as opposed to just pointing.

13 Johnny Jackson & Associates is operating  
14 under a three-day turnaround as far as putting to  
15 paper what is typed here today.

16 So today being Wednesday, three business  
17 days from today would put us through Monday evening  
18 of next week.

19 So come Tuesday morning of next week,  
20 which I believe is May the 3rd, but next Tuesday  
21 morning, if you desire, and this is not a  
22 requirement but this is your option if you desire,  
23 I'm going to give you Johnny Jackson's business  
24 card which contains the phone number and the

1 address of Johnny Jackson's office in Charleston,  
2 West Virginia, if you desire to review your  
3 transcript, you will be given the opportunity to do  
4 so after next Tuesday -- after next Monday night,  
5 come Tuesday morning, that's when you can begin.

6 You don't have to call that day, but we  
7 would ask that within a couple weeks after next  
8 Tuesday, if you desire to review your transcript,  
9 you call and set up an appointment.

10 What will happen is, people sometimes  
11 choose to review their transcript just to make sure  
12 that the court reporter didn't make any errors as  
13 far as typing things up today.

14 If you desire to do that, you can call  
15 Johnny Jackson's, schedule an appointment. You  
16 will have to go to their office. They'll put you  
17 in a conference room you have privacy. You'll be  
18 given an errata sheet, which is a separate piece of  
19 paper, where you can note the errors that she may  
20 have made.

21 You will not be permitted to take a  
22 transcript home with you, but you can do that at  
23 the conference room at Johnny Jackson's. So I'm  
24 going to give you that here momentarily.

1           Also would like to just mention to you  
2 that if for any reason whatsoever you want to take  
3 a break, just say you want to take a break and  
4 we'll take a 5-, 10-, 15-minute break, whatever you  
5 need, we ask that you not discuss what is discussed  
6 here today outside this room with anybody but your  
7 personal representative, if you have one.

8           And the reason we're asking that is just  
9 to protect the integrity of the investigation.

10          I'm going to turn it over to Matt  
11 momentarily. He may have something he would like  
12 to add at this point in time.

13          MR. BABBINGTON: Mr. Stover, I just want  
14 to thank you for coming in and talking with us  
15 today.

16          As you know, government investigators and  
17 specialists have decided to investigate the  
18 conditions and events, circumstances surrounding  
19 the fatalities that occurred at UBB on April 5th.

20          I want to note, you know, in addition to  
21 everything that Barry has said, that any statements  
22 given by miner witnesses to MSHA are considered to  
23 be an exercise of statutory rights and protected  
24 activity under Section 105(c) of the Mine Act.

1           If you believe any discharge  
2 discrimination or other adverse action is taken  
3 against you as a result of your cooperation with  
4 this investigation, you're encouraged to  
5 immediately contact MSHA and file a complaint under  
6 Section 105(c) of the act.

7           MR. KOERBER: At this point in time, I  
8 would ask the court reporter to administer the  
9 oath.

10           CLIFTON D. STOVER, DEPONENT, SWORN

11           MR. KOERBER: Sir, would you please state  
12 your full name for the record and spell your last  
13 name.

14           THE WITNESS: Clifton Dale Stover,  
15 S-t-o-v-e-r.

16           MR. KOERBER: And would you please state  
17 your address and telephone number?

18           THE WITNESS: [REDACTED]  
19 [REDACTED]

20  
21           MR. KOERBER: Are you expecting a personal  
22 representative or an attorney to be with you here  
23 today?

24           THE WITNESS: No.



1 MR. KOERBER: As of April the 5th, 2010,  
2 where were you employed?

3 THE WITNESS: At the Performance Coal.

4 MR. KOERBER: As of April 5th, 2010, what  
5 was your job title?

6 THE WITNESS: I was rock dusting at the  
7 time.

8 MR. KOERBER: And as a rock duster, did  
9 you perform any type of statutorily required  
10 examinations, such as fire bossing or pre-shifts,  
11 on-shifts or electrical examinations or weekly  
12 examinations?

13 THE WITNESS: No.

14 MR. KOERBER: Sir, I'm also going to give  
15 you a card for Mr. Bill Tucker.

16 Mr. Bill Tucker is the lead accident  
17 investigator for the Office of Miners' Health,  
18 Safety & Training.

19 In the event after this interview is over,  
20 if you think of something that you believe would be  
21 helpful to finding out the cause of what happened  
22 on April the 5th and you would like to share that  
23 with the State's team, Mr. Tucker is the gentleman  
24 to contact, and here is his contact information.

1 I'm going to give you that along with the Johnny  
2 Jackson & Associates business card.

3 I'm also going to give you a memorandum,  
4 and this memorandum contains the address to the  
5 West Virginia Board of Appeals. The Board of  
6 Appeals is the administrative tribunal that is  
7 statutorily empowered to hear cases involving coal  
8 miner discrimination.

9 West Virginia Code Section 22A-1-22  
10 protects coal miners from being discriminated  
11 against for participating in interviews such as  
12 this.

13 In the event you find yourself being  
14 discriminated against because of your participation  
15 here today, this is the agency that you file the  
16 complaint with, and this is the address where you  
17 mail it.

18 The complaint does not have to be anything  
19 elaborate. It can be a handwritten letter  
20 explaining what happened.

21 I would caution you, though, however, sir,  
22 that under the statute, you only have 30 days from  
23 the day of the discriminatory event to file your  
24 complaint. Okay?

1 I'm going to give you these items now.

2 And with that, I'm going to ask Erik to  
3 begin the questions.

4 EXAMINATION

5 BY MR. SHERER:

6 Q. First of all, I want to thank you again  
7 for coming down here, Mr. Stover. We've  
8 interviewed a lot of people who worked in the mine,  
9 and we've got a lot of information and we're still  
10 running down a few things, and that's why we wanted  
11 to talk to you. We're still piecing together  
12 certain things and every little bit helps us.

13 You mentioned that you were working at  
14 Upper Big Branch on, I think, the midnight shift  
15 prior to the explosion; is that correct?

16 A. Yes, sir.

17 Q. What was your job that night?

18 A. I was a rock dusting that night. I just  
19 had rock dusted the longwall belt, the panel that  
20 they was on.

21 Q. Okay. Did that involve the track duster?

22 A. I had a track duster that I pulled behind  
23 the motor, and we stretched the hose out through  
24 the breaks, crosscuts, and we dusted every break on

1 the longwall belt.

2 Q. Okay. And that's the orange track duster,  
3 as it has been referred to?

4 A. What was that, sir?

5 Q. Was that an orange track duster?

6 A. It was orange.

7 Q. Okay. Thank you.

8 Did you have a helper that worked with  
9 you?

10 A. Yes.

11 Q. Who was that, please?

12 A. Dustin -- maybe Richardson was his last  
13 name.

14 Q. Okay. Thank you.

15 Was he another UBB employee?

16 A. He was a red hat. He was a contractor.

17 Q. Okay. Do you know what contractor he  
18 worked with?

19 A. David Stanley.

20 Q. Okay. Thank you.

21 So about what time did you start the shift  
22 that night?

23 A. We started at 11 o'clock.

24 Q. Okay. Can you just take me through what

1 you did? How did you load your dust up, and what  
2 times roughly did you get in the mine, things like  
3 that?

4 A. We approximately started loading around  
5 11:30 probably.

6 We had a big silo duster outside that had  
7 a hose to it that we hooked up, and you had a  
8 little blower motor that turned on that fills your  
9 pods up on them.

10 Probably by the time that we got up to the  
11 longwall it was probably, I don't know, 12:30  
12 maybe, 12:45, somewhere in there.

13 Then when we got up there, we had a hose  
14 that we stretched out in the crosscuts or the  
15 breaks, whatever you want to call it.

16 We stretched through there and we dusted  
17 every break. We dusted the top, bottom, ribs, we  
18 dusted all of it.

19 Q. Okay. Good.

20 A. Of course we couldn't make it all the way  
21 to the longwall because they had the mule train and  
22 stuff there that you couldn't -- you was about four  
23 to five breaks away from actually where the face  
24 was.

1 Q. I know you couldn't go up on the track  
2 past the mule train. Did you take your hoses up  
3 and try to dust around the mule train?

4 A. Yes. We always blowed it around that.

5 Q. Do you remember which direction the air  
6 was going right up there around the mule train?  
7 Was it going toward the longwall or coming back  
8 toward you?

9 A. The air was blowing outby.

10 Q. Outby. Okay. Was it a lot of air or a  
11 little air, do you remember? Was it blowing the  
12 dust back on you?

13 A. They had quite a bit of air. More than  
14 normal.

15 Q. And it was coming back toward you?

16 A. Blowing outby.

17 Q. Okay. Now when you're dragging those  
18 hoses, did you have -- I know some mines will have  
19 a block knocked out of each stopping and maybe a  
20 little door or cover over that.

21 Did you have something like that, or how  
22 did you get the hoses into the belt entry, or was  
23 that common with the track?

24 A. Well, some of them we had a little hole

1     knocked in where you could stick it through the  
2     bottom or pull through.

3             Then, of course, you had the man doors  
4     every five breaks that you could stretch it through  
5     there.

6             Q.    Okay.  Did those hoses give you any  
7     problems?  Did they clog up or anything like that?

8             A.    Yes, sir, they did.  You would have to  
9     unstop them.

10            Q.    Did you spend a lot of time working on  
11    those clogged hoses?

12            A.    Sometimes if you get dust in, if it was  
13    damp you did, then other times, sometimes you  
14    didn't have no problems.

15            Q.    How many loads of dust did you put on that  
16    belt that night?

17            A.    We put on three loads that night.

18            Q.    Three loads.  And how much dust did that  
19    machine hold, do you recall?

20            A.    I estimated probably each pod would maybe  
21    hold 2,000 pounds.  Maybe.

22            Q.    Did you also dust the track as you went up  
23    or came back out?

24            A.    We didn't that particular night.  We

1 didn't dust the track because they wanted the belt  
2 dusted.

3 If they wanted the track dusted, then we  
4 would switch over to what we called the flinger  
5 duster, and it would just blow it, you know, just  
6 on the track and the bottom and the ribs.

7 Q. So you put three loads of dust on the belt  
8 that night.

9 Do you recall if there were any belt  
10 checks along there where they would use curtains?  
11 Sometimes people build partial stoppings with an  
12 opening for the belt to restrict the air flow?

13 A. There was one check, I can't remember what  
14 break it was, but there was one that was build,  
15 like, out of block. I do remember that, but I  
16 don't know what break it was.

17 Q. When you got near that, was there a lot of  
18 air being sucked through there? Do you recall how  
19 that dust was moving around there?

20 A. I don't recall about that, sir.

21 Q. Okay. Did you notice anything unusual  
22 along there that night?

23 A. I noticed it was a lot hotter than it used  
24 to be right there. The temperature, I mean, it



1 was, I mean, you could just walk and start  
2 sweating.

3 Q. Oh, geez. Was it hot outside?

4 A. I don't remember for definite, but I don't  
5 think it was. Because the rest of the mines was,  
6 you know, pretty much the right temperature.

7 But I do know when we got up there to the  
8 mouth of the longwall, I told my buddy, I said, It  
9 is extremely hot up here tonight.

10 Q. Was it a damp hot, or was it just a lack  
11 of air movement, or do you recall?

12 A. No. They had plenty of air. It was just  
13 a muggy, muggy hot.

14 Q. Okay. Did you get all the way up past the  
15 mule train for any reason?

16 A. I didn't get all the way past the mule  
17 train. We stretched our hose as far as we could,  
18 and then we just bolted around it. But I didn't go  
19 any farther than that. I didn't go up on the face  
20 on the wall.

21 Q. And as you were blowing up around the mule  
22 train, the air was still coming at you?

23 A. The air was blowing outby. It was blowing  
24 in our face.

1 Q. Now let's step back from that last shift  
2 you worked up there. When did you start working on  
3 that rock duster, do you recall?

4 A. I was dusting approximately two weeks,  
5 they put me on it. Because everything had got  
6 behind and they was getting violations and --  
7 approximately two weeks before the explosion took  
8 place.

9 Q. Okay. In that two-week period of time,  
10 did you run it every shift?

11 A. Yes, I run it every -- on night shift. I  
12 did it every night.

13 Q. Okay. And that was the what I call the  
14 hoot owl shift, or was it the --

15 A. Yes, sir.

16 Q. Okay. Was there any other crew that was  
17 running that rock duster maybe on the evening  
18 shift?

19 A. As far as I knowed, I was the only person  
20 that was doing it.

21 Q. Okay. Did the duster -- was it  
22 operational every time you wanted to use it?

23 A. No. I would have to work on it  
24 sometimes. If they throwed the belts off of the

1 pulleys, we would have to put the belts back on,  
2 stuff like that.

3 Q. Was that a relatively quick fix or did the  
4 it take a while?

5 A. It didn't take maybe five minutes at the  
6 most.

7 Q. Okay.

8 A. But if the duster was not took good care  
9 of. I mean, I would have to grease it and do this,  
10 do that, but it was not -- unless you tell them  
11 something was wrong, they would not do nothing to  
12 it.

13 Q. Okay. Was that an old piece of equipment?

14 A. It was fairly old.

15 Q. Do you know if it had been rebuilt  
16 recently before the explosion?

17 A. The whole time that I had been there, I  
18 didn't know that it had been rebuilt.

19 Q. And how long had you been at UBB?

20 A. I have been there since July the 2nd of  
21 '08.

22 Q. What did you do at UBB prior to working  
23 with the duster?

24 A. I did outby work. We set cribs, timbers,

1 jacks, stuff like that.

2 Q. Okay. Was there any specific part of the  
3 mine you worked in outby, or did you just work  
4 where you needed to?

5 A. Just wherever was needed. I helped set  
6 belt heads, just outby, different stuff.

7 Q. Sure. Did you ever get an opportunity to  
8 go down on the tailgate side of the longwall?

9 A. I was down there one time helping set  
10 props.

11 Q. Okay. About how long before the explosion  
12 was that?

13 A. That was probably, probably a month.

14 Q. Okay. Do you recall what the conditions  
15 were like down there?

16 A. They was horrible. Horrible.

17 Q. What makes you say "horrible"?

18 A. The top was bad. I mean, it was -- it was  
19 bad.

20 Q. Okay. That kind of makes sense if you  
21 were setting props.

22 A. Cribs was mashed. I mean, everything was  
23 mashing out.

24 Q. Taking a lot of weight?

1           A.    Yes.

2           Q.    Much floor hooved down through there?

3           A.    The bottom was hooved, yes, sir.

4           Q.    Do you recall what the rock dust was like  
5 down there?

6           A.    There wasn't much rock dust down there.

7           Q.    Do you know if anybody regularly put rock  
8 dust down there while the longwall was in there  
9 operating?

10          A.    No, sir.  I never did -- never did dust  
11 down in there.  Because the track ended and you  
12 would have to walk, and they never did require me  
13 to go down there and rock dust.

14          Q.    So if you did rock dust, you would have to  
15 -- probably have to tote it by hand?

16          A.    Carried it by hand.  But it was very  
17 little rock dust on the tailgate.

18          Q.    Sure.  Thank you.

19                Did you ever hear of the wheels falling  
20 off of that track duster?

21          A.    Yes.

22          Q.    What did you hear?

23          A.    I heard -- it wasn't me.  It didn't happen  
24 to me.  I heard that the wheels fell off when they

1       wrecked it underground, and they had to get a scoop  
2       and everything to put it back on track.

3           Q.     That could be a lot of work if it had dust  
4       in it?

5           A.     That's just hearsay. I mean, I don't  
6       know.

7           Q.     Sure. Now when you're going to go in  
8       there and rock dust, did you have any  
9       restrictions? Like, I know some mines they try to  
10      keep the dust off of people in there on the  
11      sections and -- did you have to work around things  
12      like that?

13          A.     On night shift it wasn't, you know, it  
14      wasn't too bad because you didn't have as many guys  
15      working. But they told me to rock dust it. If  
16      they don't like it, they would get out of it.

17          Q.     Okay. Good.

18                   Who told you where to go and where to  
19      dust?

20          A.     Gary May.

21          Q.     Do you know how he figured out where to do  
22      that?

23          A.     I have no idea. I just came in every  
24      night and we have a board, and he would take one of

1     them dry erasers, markers, and put on there where  
2     we needed to dust.

3             And the next day, we would write a note  
4     telling him if we didn't get finished everything,  
5     then we'd tell them, well, we done this, done that.

6             Q.    When you had to go someplace to dust, what  
7     was it like?  Were you just kind of winding it up  
8     or was the dust getting gray?  Did you have any  
9     float coal dust?

10            A.    It would -- sometimes it would be gray.  
11     It would be wet.  And then other times it would be  
12     black.

13            Q.    Okay.  Mr. Stover, we've got a notebook  
14     that we got from the company that we would like to  
15     enter into the testimony.

16                    I'm going to give you a copy and everyone  
17     else a copy.  And I'll let Matt handle the exhibit  
18     part of it.

19            A.    Sir, this Gary Young, he had quit.

20            Q.    Oh, okay.

21            A.    He worked about a week with me and then he  
22     quit.  Then Dustin, I think it's Richardson was his  
23     last name, he's the one that was with me.

24                    MR. BABBINGTON:  Around what date did Gary

1 Young quit?

2 THE WITNESS: He quit probably  
3 approximately, I don't know, probably maybe two  
4 weeks before the explosion, something like that. A  
5 week or so maybe.

6 MR. BABBINGTON: For this notebook, we'll  
7 go ahead and mark this as Stover Exhibit 1.

8 (Exhibit No. 1 marked for  
9 identification.)

10 BY MR. SHERER:

11 Q. Did you start this notebook?

12 A. No, sir. Gary May did.

13 Q. Oh, okay. Did he ask you to keep it up?

14 A. We would write it on a piece of paper and  
15 we would give it to him. I guess this is what he  
16 had wrote down on it.

17 Q. Okay.

18 A. Or he might have just made a copy of it,  
19 because this looks like that Gary's writing. Right  
20 here is my writing right here. 3/24, that's my  
21 writing.

22 MR. MCGINLEY: That's on the date 3/24?

23 THE WITNESS: Yeah, 3/22 and 3/24, that's  
24 my handwriting, sir. I signed my name to it, too,



1 after I did it.

2 Q. So the Gary that's this -- like on 3/20,  
3 you think that would be Gary May?

4 A. That is probably Gary Young's writing.

5 Q. Okay.

6 A. It looks like Gary May just made a copy of  
7 it is what it looks like.

8 Q. Okay.

9 A. And 3/25 and 3/26 is my writing, too.

10 Q. Okay.

11 A. Then 4/5 is where I showed dusted the  
12 longwall belt, which would have been 4/5 for me  
13 because I went in on a -- it was 4/4 actually  
14 because I went in on a -- that night, which would  
15 have been 4/5 for my shift.

16 Q. Sure.

17 Now, that was Easter weekend, as I  
18 recall. We understand that the mine was shut down,  
19 I think, on Sunday prior to that midnight shift.

20 The previous entry in there was 4/1. Did  
21 you have, what, three days off?

22 A. It should have been Good Friday we had  
23 off. It would be Friday, Saturday and Sunday.

24 Q. Okay. Do you recall anything unusual

1 about the mine, and I mean from the minute you got  
2 on the ride going in? I guess you went in on the  
3 motor with the duster, do you remember anything  
4 that stands out?

5 It might be something that maybe it  
6 smelled different?

7 A. The 4/1 or 4/5?

8 Q. 4/5.

9 A. I noticed that night that there was more  
10 air than normal in the mines. I did notice that,  
11 like some stoppings or something blowed out.

12 Q. Okay.

13 A. I did notice that.

14 Q. Any particular place that you recall that?

15 A. When we got up next -- 78 break on --  
16 before we get to the longwall, 78 break.

17 Q. So there was more air on the track entry  
18 as you were going up through there?

19 A. Yes, sir. Because when we got up to 78  
20 break, you had a double door, a double door, then a  
21 double door and a double door. There was a  
22 tremendous amount of air.

23 Q. But once you got through all those doors,  
24 it got hot on you?

1           A.    It got hot.  I mean, there was air, but  
2 when we got up to what they call the mother drive,  
3 which the headgate that they was on, I mean, it was  
4 extremely hot.  Extremely hot.

5           Q.    Had you ever noticed anything like that  
6 before in there?

7           A.    No, sir, I hadn't.

8           Q.    Okay.  Do you have any idea why there was  
9 more air in that area?

10          A.    I don't know, sir.

11          Q.    Okay.  Did anybody mention anything?  That  
12 they changed the air over the weekend or anything  
13 like that?

14          A.    We hadn't changed it that weekend, but we  
15 had changed it previously.  We had, you know, built  
16 different stoppings, knock stoppings out, you know,  
17 done some ventilation work.

18          Q.    Where was that, that you were changing  
19 those stoppings out?

20          A.    We was doing -- up here around headgate  
21 22, which would be the next panel.  We was changing  
22 it around in here, you know, because they said they  
23 didn't have enough air and stuff so we changed them  
24 around.

1 Q. Okay. And that's also where they were  
2 installing another mother drive, wasn't it?

3 A. Yes, sir, which headgate 22, the mother  
4 drive was going to be right here.

5 Q. Okay. And you're pointing to the mouth of  
6 headgate 22?

7 A. Right. We'd done had the head and stuff  
8 set for it.

9 Q. Did you actually work on that  
10 construction?

11 A. Yes, sir.

12 Q. So Mr. May started this notebook and --  
13 did he review this or did he keep it or how did  
14 that work?

15 A. We would turn it into him in the morning  
16 when we came out and -- I don't -- he must have  
17 kept a copy and put it in his folder or something.

18 Q. Okay. Just looking through here, it looks  
19 like you would go for a shift or two dusting, and  
20 then you would have a period of time where there  
21 wasn't an entry. Do you recall what that was?

22 A. Sometimes if we didn't dust, we would have  
23 to sometimes help make belt splices and stuff, or  
24 just different things.

1 Q. Okay.

2 A. See, right here on 2/10, Everything broke  
3 malfunctioned, worked on hoses and duster. I mean,  
4 they did not keep the duster up at all. I mean, we  
5 had to work on them and everything.

6 Q. Okay.

7 MR. BABINGTON: Can I jump in real  
8 quick?

9 MR. SHERER: Sure.

10 MR. BABINGTON: Looking at that same  
11 page, you know, we have an entry for 2/9, 2/10,  
12 2/11, and then there's a gap, you know, there's --  
13 well, there's not a gap in the paper, but there is  
14 -- the next date there is 2/18. What does that  
15 mean to you that there's a gap between 2/11 and  
16 2/18?

17 THE WITNESS: Well, they could have had  
18 us -- I don't know for definite, but we could have  
19 been shoveling belt or help move belt, just -- I  
20 don't remember, you know, what we was doing at that  
21 time, but it could have been different things.

22 Or the duster could have been messed up  
23 because the compressor went down on it and they had  
24 to get it rebuilt at one time. So I don't know if

1 that was it or what went on that period of time.

2 MR. BABBINGTON: Is there any chance that  
3 you would have dusted on those days and an entry --  
4 or just maybe would have made no entry about it?

5 THE WITNESS: There could have been.  
6 There could have been.

7 BY MR. SHERER:

8 Q. Do you recall -- we understand there was  
9 another gentleman that worked on this duster and  
10 then he might have gotten fired. Do you recall  
11 that?

12 A. Yeah, a black guy.

13 Q. Did you go to work on this duster pretty  
14 soon after they fired this gentleman?

15 A. I don't know if it was pretty soon after  
16 that, but I was the one that started dusting after  
17 he got fired.

18 Q. Okay.

19 A. I don't know if it was right after, but it  
20 was shortly after.

21 Q. Okay. What sort of instructions were you  
22 given? You mentioned that the places you needed to  
23 dust was written on a board.

24 Did you have any input into that and say,

1 you know, we noticed this area needed some dust or  
2 something like that?

3 A. If Gary would put on the board, go dust 3  
4 belt. Well, after I dusted 3 belt, I'd say, well,  
5 the track needs dusted, you know. I'd come out  
6 that morning and I'd say, well, the track needs  
7 dusted. Then when I come in that night, he may  
8 have us dusting a track, you know, where we told  
9 him it need dusted.

10 Q. Okay. Did you ever have an opportunity to  
11 get out of the belt and the track entry and do any  
12 dusting, say, on an intake or return?

13 A. I never did dust the intake or return.  
14 All I did was dust the belts and the track. That's  
15 all I was ever told to do.

16 Q. Sure. Do you know who would have dusted  
17 that intake or return?

18 A. As far as I know, I never knowed it got  
19 dusted.

20 Q. Okay. Did you ever have any reason to go  
21 over there?

22 A. We walked the intake out. Like every  
23 three months, we'd walk out.

24 Q. Oh, okay. What did the rock dust look

1 like when you got over in those alternate entries?

2 A. It didn't look bad, but it needed dusted.  
3 I mean, it wasn't horribly, terribly black.

4 Q. Okay. Did you ever notice one of the  
5 times when you had to walk out that somebody had  
6 been in there dusting?

7 A. I never did notice there was fresh dust in  
8 there. It did not look fresh.

9 Q. There's a few entries of no ride. What  
10 would that signify in this note?

11 A. We only had two motors. At one time I had  
12 two motors that had the Anderson plug on it that  
13 you could plug up to use a duster. Well, one of  
14 them tore up, then we was down to one motor.

15 Okay. The longwall would take the motors  
16 that they wanted, and they always wanted that  
17 motor.

18 They would take that motor, and then you  
19 didn't have nothing to dust with. You would have  
20 to go hand dust or find something else to do.

21 Q. Okay. So that -- when the motor was down  
22 you just say no ride?

23 A. Right.

24 Q. Okay. Thank you.



1           A.    And, I mean, all they had to do was buy  
2 the Anderson plugs and put on every motor, and you  
3 could have used the duster on every motor that they  
4 had.

5           Q.    Did you ever suggest that to anybody?

6           A.    Yes, I did.

7           Q.    Was that an expensive thing to do?

8           A.    I'm sure it wasn't much to buy, you know,  
9 it was a plug. I mean, I'm sure it didn't cost a  
10 lot of money.

11           MR. BABBINGTON: I'm sorry. Who did you  
12 make that suggestion to?

13           THE WITNESS: I told Gary May.

14           MR. BABBINGTON: Did he have any response  
15 to that.

16           THE WITNESS: He never did say yea or  
17 nay. He just acted like he didn't hear me.

18           Q.    The entry you made on March the 24th, you  
19 list no help. So you just didn't have a helper  
20 that night? Is that a fair statement?

21           A.    Yes, sir. I was by myself.

22           Q.    When you were by yourself, did you go  
23 ahead and run that duster?

24           A.    I know I'm not supposed to be by myself,

1 but yes, I did. I did not try to dust the  
2 crosscuts. I would dust the track if I was by  
3 myself.

4 Q. Okay. If you had to figure out how many  
5 breaks you would normally dust during the night,  
6 about how many do you think you would do?

7 A. In a night's time?

8 Q. Uh-huh.

9 A. As long as it took to go in and out there,  
10 you might be lucky to get 20 breaks because it was  
11 a long ride.

12 Q. Was there any other place to get rock dust  
13 to these mines? I know some mines will have, like,  
14 a bore hole or something like that where you don't  
15 have to go all the way out of the mine.

16 A. No, sir, we had to go outside. Other than  
17 the bulk dust and the bag dust we had underground,  
18 you had to go outside to fill the big duster up.

19 Q. And were there any of those bulk dust  
20 silos at Ellis portal, or did you always have to go  
21 back to UBB?

22 A. We was always on the UBB side.

23 Q. Okay. So they had -- what's that, about  
24 three four miles down there?

1           A.    Every bit of it.

2           Q.    About how long did it take you to go back  
3 and get another load?

4           A.    From the longwall, it would take  
5 approximately 45 minutes to an hour.  It depends on  
6 how fast you drove.

7           Q.    Sure.

8           MR. MCGINLEY:  I'm sorry.  Was that to get  
9 there or get there and get back?

10          THE WITNESS:  That was just one trip, like  
11 from the longwall outside.

12          MR. MCGINLEY:  Outby.

13          THE WITNESS:  Yes, sir.

14          Q.    Then it would take you another 45 minutes  
15 to get back in?

16          A.    Approximately 45 minutes to an hour.  If  
17 they would have put something on the Ellis side,  
18 that would have cut probably 30 minutes out of the  
19 ride.

20          Q.    Just roughly, where did you do most of the  
21 dusting?  Was it up on the northern side where the  
22 explosion occurred, or did you have to go down on  
23 the southern side?

24          A.    The south side, I wasn't there.  We didn't

1 go out there hardly any.

2 Q. Okay.

3 A. It was mostly on the north side.

4 Q. Okay. Did you ever put any rock dust up  
5 around this Glory Hole area?

6 A. Yes, sir, I did. Up here on headgate 22,  
7 I dusted that and dusted the section. The Glory  
8 Hole right here, I never did dust, what you say,  
9 the Glory Hole itself.

10 Q. Okay. But, again, you're sticking to the  
11 track and the belt entries?

12 A. Yes, sir.

13 Q. Now how far down headgate 22 could you  
14 get?

15 A. See, they was driving headgate 22, one  
16 section was, and you could go to the section within  
17 three or four breaks.

18 Q. Okay. The track was down that far?

19 A. Yes, sir. They had it, like, three or  
20 four breaks of the face.

21 Q. Did you ever go down to where they were  
22 driving this new tailgate?

23 A. I was on that tailgate. See, they had to  
24 -- which would have been the tailgate of this. It

1 was getting so bad in there, we was setting sand  
2 jacks and timbers and stuff.

3           You could go walk down with a sand jack,  
4 and before you come back out, you may have to dig  
5 your way back out. That's how bad it was getting.

6           So they decided to pull the cork on that  
7 and drive a new tailgate up. I mean, it was so bad  
8 there, them props, called them prop setters, it was  
9 busting them out and everything.

10           We had pumps and stuff in there. We had,  
11 I mean, all kinds of stuff, timbers, props,  
12 anything you name we had to sit in there.

13           But like I say, you may carry -- for 20  
14 breaks you may carry a sand jack down, by the time  
15 you would walk back out to get another one, you  
16 would have to dig a rock out of your way to get  
17 back out. That's how bad it was getting.

18           Q. That is bad. We know there was a section  
19 started there, not probably a couple months prior  
20 to the explosion.

21           A. Barrier section?

22           Q. Yeah. No, not the barrier section, they  
23 were actually driving another parallel set of what  
24 would be tailgate entries here.

1           Did you ever dust down this connector and  
2 into that new section?

3           A.   Not the barrier section.

4           Q.   Yeah. This was just up off of the  
5 existing headgate of the current longwall panel?

6           A.   Okay. They was driving the tailgate up,  
7 right?

8           Q.   Uh-huh.

9           A.   Okay. Yes, I did dust there.

10          Q.   Okay. Was there any problem getting the  
11 motor down through there?

12          A.   I didn't have no problem.

13          Q.   Okay. Thank you.

14                    Did you go in through the 22 headgate  
15 area, or did you come back up from the headgate or  
16 the longwall, do you recall?

17          A.   I went in this way.

18          Q.   Okay.

19          A.   They had put a new switch in this way, and  
20 this is the way they was going in at that time I  
21 went in.

22          Q.   And you're indicating that you went in  
23 through the mouth of the 22 headgate section?

24          A.   Yes, sir.

1 Q. Okay. Thank you.

2 MR. BABBINGTON: And also that you would  
3 take that route in order to go down the crossover  
4 to the tailgate 22 section as well?

5 THE WITNESS: Right.

6 Q. Do you recall when is the last time you  
7 were in there doing any dusting prior to the  
8 explosion?

9 A. What, in this area?

10 Q. Uh-huh.

11 A. I don't recall. It was a long time.

12 Q. Okay.

13 MR. BABBINGTON: Just to clarify again,  
14 that's that 22 crossover area?

15 THE WITNESS: Right.

16 Q. You mentioned -- you brought some things  
17 up about the plugs and maybe areas that you needed  
18 to dust to Mr. May's attention.

19 Did you ever talk about that sort of thing  
20 or the problems with the duster with anybody else?

21 A. No.

22 Q. Do you think you had adequate time to dust  
23 this mine, adequate resources?

24 A. I don't think we had enough time to get

1 everything, you know, up to where it should have  
2 been dusted before the explosion happened, because,  
3 I mean, it had been neglected for a long time.

4 Q. If you could have done something  
5 different, run the duster more shifts or gotten a  
6 new duster or something like that, what would you  
7 have done if you were running this mine prior to  
8 this explosion?

9 A. I think they should have had two crews  
10 dusting. Instead of one crew, they should have had  
11 two dusting.

12 Q. Do you know if they ever did that at this  
13 mine?

14 A. I don't recall the whole time that I was  
15 there they had two crews dusting.

16 Q. Just this one crew?

17 A. Right.

18 Q. And that one crew also had to do other  
19 things, like you were saying, work on belt moves --

20 A. Yes, sir.

21 Q. -- things like that?

22 A. If it was needed.

23 Q. Yeah. Sure.

24 Just on average, about how much time did



1 you spend dusting versus doing other work?

2 A. We dusted probably more than we did the  
3 other stuff. I mean, there would be times, you  
4 know, you wouldn't dust. Then other times you'd  
5 dust. It just depends what was needed.

6 Q. Okay. Did you ever have a problem getting  
7 enough rock dust?

8 A. No, we always had enough rock dust.

9 Q. Any other problems besides the just  
10 general maintenance problems with the equipment?

11 A. No.

12 MR. SHERER: Okay. I appreciate talking  
13 to you. I'm going to turn it over to Mr. Tucker.

14 EXAMINATION

15 BY MR. TUCKER:

16 Q. I'll probably be bouncing around a little  
17 bit, just trying to clear some things up in my  
18 mind, but a couple of things, just some basic  
19 information there.

20 As far as miner certifications, do you  
21 have any certifications other than your miner's  
22 certificate, your black hat?

23 A. No, I don't, other than EMT.

24 Q. You're an EMT?

1           A.    Yes, sir.

2           Q.    Okay.  How much total mining experience do  
3 you have?

4           A.    Three years.

5           Q.    Three?

6           A.    Three years.

7           Q.    Where are you currently working?

8           A.    I'm working right now at Parker Peerless.

9           Q.    On a regular week, how often would you say  
10 that -- you said your job duty, your title was rock  
11 duster.  On a typical week, how many shifts out of  
12 that week would you actually be rock dusting?

13          A.    Some weeks three, some weeks five.  It  
14 just varied.

15          Q.    Okay.  Did you have any issues with the  
16 equipment doors or the track doors going in and out  
17 of the mines?

18          A.    Yes.

19          Q.    What type of issues did you have?

20          A.    Up at what they call at 78 break, there  
21 was more air went through them air lock doors than  
22 they stopped.  They leaked under it, over it,  
23 around it.  They might as well not even had none.

24          Q.    Okay.  And you mentioned earlier that it

1       seemed like that Sunday night, on April the 5th,  
2       there was more air at those doors?

3           A.    There was more air from when we got past  
4       them doors to the longwall.  There was -- I mean,  
5       it seemed like it was more air, and it was  
6       extremely hotter.

7           Q.    When was the last time you was in that  
8       area prior to April 5th?

9           A.    Probably the shift before that, because we  
10      stayed up that way a lot, rock dusting.

11          Q.    So that would have been your Thursday  
12      shift prior to April?

13          A.    Yes.

14          Q.    You said that was your last shift there  
15      because you had Friday off?

16          A.    Yes, sir.

17          Q.    And from that time to April 5th, you  
18      noticed a significant difference?

19          A.    Yes, sir.

20          Q.    Is that what you're saying?

21          A.    A significant difference.

22          Q.    That being said, the weekend in between  
23      the time you were there last, would that make you  
24      think there was some type of air change that caused

1 that difference?

2 A. I would have thought, you know, there  
3 might have been, but far as I know there was nobody  
4 working but the fire bosses. Because everybody  
5 else was off.

6 Q. Okay. But in your mind, you noticed  
7 enough difference, you noticed a substantial  
8 difference from the time you was there Thursday  
9 until you were back --

10 A. Yes, sir.

11 Q. -- on Sunday night?

12 Okay. You talked about when you dusted up  
13 on 22 headgate. Do you recall about what time  
14 frame that was when you was there last?

15 A. When I was there before the explosion?

16 Q. Yes.

17 A. Prior to explosion? The last load that we  
18 probably emptied that morning was around, I'm  
19 saying around 6 o'clock, 7 o'clock in there,  
20 somewhere in there.

21 Q. That was on the longwall; right?

22 A. Right.

23 Q. Okay.

24 A. On the longwall.

1 Q. I was talking about 22 headgate. I'm  
2 bouncing around a lot on you.

3 A. You're talking about -- no, it would have  
4 been the next panel, headgate 22.

5 Q. Yeah. The miner section all the way up?

6 A. I don't know what time frame it would be,  
7 Bill. It would have been anywhere from after we  
8 got loaded around -- from anywhere from 1 o'clock  
9 to 5 or 6 o'clock that morning.

10 Q. Okay. I'm still not coming across clear  
11 to you. I know I'm confusing.

12 Okay. I'll go back just to April the 5th,  
13 that midnight shift. You mentioned you had three  
14 loads?

15 A. Yes, sir.

16 Q. Dumped three loads?

17 A. Dumped three loads on the longwall belt.

18 Q. Now when you say "three loads," is that  
19 three trips in and out of the mine?

20 A. Three trips in and out.

21 Q. Okay. Now Erik talked about, on 22  
22 headgate, this section right here, about you  
23 dusting there. Do you recall about when it was  
24 that you were up there actually dusting with the

1 machine?

2 A. I don't know for definite. I mean, I  
3 don't remember just, you know, the dates.

4 Q. Well, I was just thinking, like, prior to  
5 the explosion. Would it have been a week, a month  
6 or what?

7 A. It might have --

8 Q. And if you don't know -- if you can't  
9 remember, you can't remember.

10 A. I can't remember.

11 Q. Okay. As far as, say when a miner section  
12 pulled out of an area, would they ever have you go  
13 back in, say after they pulled the equipment out,  
14 go back in and just give it a good coat and a dust?

15 A. I never did.

16 Q. Okay. So typically your dusting was in  
17 just active workings where you just bounce around  
18 from here to there?

19 A. Right. The running belts and active  
20 track, yes.

21 Q. That's basically where you rock dusted?

22 A. That's where I rock dusted.

23 Q. And as far as you know, you mentioned  
24 there was -- to the best of your knowledge, there

1 was no other crew that ever went in these old  
2 returns and applied additional rock dust?

3 A. Not that I know of.

4 Q. So this connector to the mouth of the  
5 longwall panel down in this area, do you recall  
6 applying any -- or rock dusting down in there last  
7 time you was down in there?

8 A. See, this panel they was on now, this was  
9 an old panel.

10 Q. Yeah, the old panel. That's at the --  
11 here is going to be the pull out for the longwall.

12 A. Okay.

13 Q. So they -- this old panel, there's nothing  
14 in there now as far as mining?

15 A. No, I never did. That's old works. The  
16 panel is years ago. No, I never did rock dust  
17 there.

18 Q. Well, that particular panel wasn't that  
19 far?

20 MR. BABBINGTON: This was the current  
21 panel. That's what this is. So this was room and  
22 pillared.

23 MR. SHERER: That was pulled prior to them  
24 setting up the wall. So it would have been

1 probably sometime in 2009.

2 A. See, the longwall was in Logan's Fork  
3 before it came back here. I never did rock dust  
4 here.

5 Q. Okay. Have you been back to the mine  
6 since April the 5th?

7 A. Other than to get my stuff out of the  
8 locker, I've never been in the mines since then.

9 Q. You mentioned on April the 5th that you  
10 dusted on the belt on the current longwall and the  
11 air was going outby on the belt?

12 A. Going outby.

13 Q. Do you have any idea of when, prior to  
14 that, when was the last time you were on the  
15 longwall?

16 A. It would have been approximately a week,  
17 I'd say, since I been up there, and I hauled some  
18 supplies up there.

19 Q. Did you do anything at that point that you  
20 noticed which way the air was going on the belt?

21 A. I didn't recall because I wasn't dusting.  
22 When I was dusting, I noted that it was hitting us  
23 in our face. I did remember that. But when I  
24 hauled the supplies, I didn't really pay attention.



1 Q. Okay. Do you have any idea of, when you  
2 talk about it feeling muggy and just a big  
3 difference in the temperature when you got up, now  
4 was that at the mother drive when you first noticed  
5 that?

6 A. It was the panel that they was on right  
7 here. It was before we got to the mother drive.  
8 It was inby 78 break, the air lock doors of 78  
9 break, there was two doors and two doors.

10 Q. Okay. And that would back here, 78 break?

11 A. Right here is doors, doors. I noticed  
12 just inby here it started getting real, real hot.

13 Q. After you actually came through those  
14 doors?

15 A. Yes.

16 Q. Okay. Did you -- once you got up on the  
17 longwall or from the mother drive up there, did you  
18 smell anything different that night?

19 A. I didn't really pay attention, because  
20 around a mule train and stuff, you smell oil and  
21 it's hot there anyway.

22 Q. Okay. What about eyes burning? Anything  
23 like that, that you recall?

24 A. Not that I recall.

1           Q.    You all were talking about on the tailgate  
2 when you carried props up and set, and you was  
3 talking about how bad it was.

4           A.    Right.

5           Q.    Do you recall how long ago that was?

6           A.    Prior to the explosion?

7           Q.    Prior, yeah.

8           A.    It was approximately -- I'd say two months  
9 maybe, somewhere in that time frame.

10          Q.    Do you have any idea by looking at the map  
11 there about how far you went?

12                    This is where the face is currently  
13 located, the longwall face, and then, of course,  
14 this is all back toward Bandytown. Do you have any  
15 idea of what area you may have been in?

16          A.    I don't remember. He was carrying about  
17 10 or 15 breaks. From where they was at right  
18 here, we was carrying them about 10 or 15 breaks.

19          Q.    Inby the face?

20          A.    Yes.

21          Q.    On back toward Bandytown?

22          A.    Correct.

23          Q.    Do you recall what entry you set those --

24          A.    I don't recall.

1 Q. When you're going -- you're on the track a  
2 lot going in and out getting dust and things, did  
3 you ever have an occurrence where, like, you're  
4 going underground and they would be moving  
5 equipment, and you would come up on the equipment  
6 mover?

7 A. Nope.

8 Q. Okay. So if they -- did they sometimes  
9 move equipment on the track on the midnight shift  
10 that you can remember?

11 A. They moved equipment.

12 Q. Okay. Do you help on equipment moves?

13 A. I have helped.

14 Q. Have helped. Okay. Do you know if they  
15 usually post that or --

16 A. They would post it on the board.

17 Q. -- have a light that they would turn on or  
18 something?

19 A. They would post it on the board, and they  
20 would usually have a paper they would put on  
21 boards. And then they had a light, too, hanging at  
22 the drift mouth that said "move in progress." It  
23 would be flashing.

24 Q. Which drift mouth are you talking about?

1           A.    Over on UBB side.

2           Q.    UBB side?

3           A.    Yes.

4           Q.    Did you go in and out the Ellis portal  
5 very often?

6           A.    I have been in and out of it, but not a  
7 lot.

8           Q.    Do you recall if they had a light over  
9 there?

10          A.    I don't recall.

11          Q.    Up in the eight-nine north area, have you  
12 ever -- did you ever go up in here and do any rock  
13 dusting?

14          A.    I have never been up in there.  Farthest  
15 I've been was right here at headgate 22.  I've been  
16 approximately four or five breaks inby right here,  
17 because we had a scoop charger and stuff sitting  
18 right in here.

19          Q.    Okay.  And do you know what they used that  
20 scoop for?

21          A.    Just outby work when setting this mother  
22 drive and stuff.

23          Q.    Yeah, and you mentioned you had helped,  
24 helped with that.

1                   What about the condition of the track  
2 doors there at the mouth of 22?

3           A.    They was in good shape because we just had  
4 installed them and they was fairly new.

5           Q.    Were there any other doors that you  
6 thought was in bad shape, any other sets of doors,  
7 other than the ones at 78?

8           A.    There was a set soon as you went in the  
9 drift mouth on UBB side. They replaced one set,  
10 and then the other set was in bad shape. It had  
11 been bent up and it was leaking a lot of air.

12          Q.    Was you ever instructed, while you were  
13 rock dusting, to leave a set of doors open?

14          A.    I have never been instructed at UBB, but  
15 at Parker, which is, don't go with that, I have  
16 there.

17          Q.    All right. Did any of the doors -- were  
18 they all manual, other than the ones they had on  
19 UBB side, or was any of them automatic?

20          A.    No, the ones on the UBB side, that was the  
21 only automatic doors other than the south side.  
22 The rest of them you had to open by hand.

23                   The ones up next to 78, they used to be  
24 manually, but the motors or something burnt up on

1 them and they would never fix it.

2 Q. Which way did those doors swing when you  
3 opened them?

4 A. The ones up -- which ones are you  
5 referring to?

6 Q. Inby 78?

7 A. 78?

8 Q. Back here. The ones you was talking about  
9 had a lot of pressure on them.

10 A. Let's see if I remember correctly, the  
11 ones at 78, I think -- I think they swung inby.  
12 They opened inby.

13 Q. So you had to push them open?

14 A. Right.

15 Q. What about the ones at the mouth of 22  
16 headgate section?

17 A. Headgate 22 you had to open them outby.

18 Q. Had to pull them to you?

19 A. Pull them to me.

20 Q. So you mentioned that you didn't get to  
21 dust all the way up past the mule train, but did  
22 you walk on up through there?

23 A. Not the night --

24 Q. Sunday night?

1           A.    No, I didn't.

2                   MR. TUCKER:   Okay.  That's all I have for  
3 right now.  I appreciate it.

4                                   EXAMINATION

5 BY MR. BABBINGTON:

6           Q.    I'm going to jump around just a little  
7 bit, then I want to get back to this notebook.

8                   You mentioned that you said they never  
9 maintained the duster.  Who do you think should  
10 have been responsible for maintaining the duster?

11           A.    I think an electrician should have been,  
12 but I ended up doing the work to it and whatever we  
13 needed done to it, unless it was electrical and I  
14 wouldn't fool with it.

15           Q.    Did you receive any training about  
16 maintaining the duster?

17           A.    No, I just -- it was a hazard training,  
18 showed me what this was and that was, and that was  
19 it.

20           Q.    You mentioned that Gary May instructed --  
21 directed your dusting activities?

22           A.    Yes.

23           Q.    Did anyone else ever direct your work?

24           A.    No.

1 Q. Did May ever travel with you when you did  
2 your dusting?

3 A. No.

4 Q. Okay. Coming back to the book, if you  
5 could turn to the page that starts off with 3/18.

6 Now on the 3/20 entry it says, Longwall  
7 belt and mother drive and it says Gary. Is that  
8 referring to Gary Young or Gary May?

9 A. Yeah, that's Gary Young.

10 Q. That's Gary Young?

11 A. Yes. I assume it is.

12 Q. Okay. And then I see, you know, you've  
13 marked the 3/22 entry that says, They shoveled the  
14 six north head. And it also has your name there?

15 A. Yes, sir.

16 Q. Jumping down to 3/24, we talked before  
17 about, you know, your comment of "no help." The  
18 rest of that I can't completely read your  
19 handwriting.

20 Starting with went to 78 and the rest of  
21 that line, can you see what that says?

22 A. Went to 78 and picked up Alvis. He was  
23 sick and took outside.

24 COURT REPORTER: Can you slow down? Went



1 to 78?

2 A. 78 break and picked up Alvis. He was  
3 sick, and I took him outside.

4 Then I finished hand-dusting four north  
5 belt from seven break to Ellis switch. Shoveled  
6 four head and hand dusted and five head and hand  
7 dusted.

8 Q. Okay. Now I want to jump back to 3/23.  
9 I'm going to go kind of step by step through this.

10 Now, first of all, it says Gary there?

11 A. That's Gary Young.

12 Q. That's Gary Young?

13 A. Yes. 3/20 might be Gary May's writing.

14 Q. Okay.

15 A. Because 3/23, that's Gary Young's  
16 writing. 3/20 might be Gary May's handwriting.

17 Q. Okay. Now it says, on 3/23, the first  
18 line it says, No ride, no help, no spotter.

19 A. Right.

20 Q. What does that mean?

21 A. We had no motor that night because the  
22 longwall had took the one we needed.

23 Q. And "no help," would that mean that, like  
24 you said before, there would have been only one

1 person trying to dust or --

2 A. I don't know why he put "no help," because  
3 I should have been there.

4 Q. What about the statement "no spotter"?

5 A. No spotter. We had no spotter, no  
6 Solaris.

7 Q. Did you typically have a spotter with you?

8 A. No, we did not.

9 Q. Did you have one assigned to you?

10 A. I finally got one assigned to us.

11 Q. When was that?

12 A. Probably, I'd say a month maybe before the  
13 explosion, maybe.

14 Q. All right. The next statement is, I'll  
15 call you today. Do you know what that's referring  
16 to?

17 A. I don't know.

18 Q. Do you remember receiving a phone call  
19 from Gary Young or Gary May around that date?

20 A. No.

21 Q. The next statement says, I'm set up to  
22 fail here. What does that mean that you?

23 A. I don't know.

24 Q. Do you recall ever hearing Gary Young or

1 Gary May say that to you?

2 A. No. Gary Young. He always complained  
3 about his job there. He worked at Harris and got  
4 fired, and he talked about how bad a place that was  
5 to work, so I don't know if that's what he's  
6 referring to or what.

7 Q. There's also some scratched out marks  
8 underneath that. Do you have any idea what that  
9 might be?

10 A. I don't have a clue.

11 Q. One last thing. You know, we talked about  
12 you dusting the longwall belt on your last shift  
13 before the accident?

14 A. Uh-huh.

15 Q. With this pink highlighter, do you mind,  
16 you know, I understand it's been a while, but  
17 approximating, you know, which entry, which  
18 crosscuts you rock dusted on that night?

19 A. I dusted wherever the belt entry is. It  
20 should be in, what, No. 4?

21 MR. SHERER: The belt is going to be right  
22 here.

23 A. Okay. I dusted from the head of the  
24 longwall to wherever the mule train is.

1           MR. SHERER: The mule train is going to be  
2 somewhere right in here.

3           A. Okay. So right in here is approximately  
4 the mouth of it.

5           MR. SHERER: Here is the mother drive  
6 itself right here.

7           A. Okay. Well, I dusted -- it would be the  
8 mouth of the longwall. So that would be somewhere  
9 right in here; right?

10          MR. BABBINGTON: Then, if you could,  
11 highlight just the entire --

12          A. Then right here is the mule train  
13 somewhere -- right here is the mule train; right?

14          MR. SHERER: Uh-huh.

15          A. So we would just go right in here. Just  
16 go like that?

17          Q. Sure. Now you said you dusted that entry  
18 with the belt there?

19          A. Yeah, we dusted this whole belt entry  
20 right here.

21          Q. Okay. And then I think you also said you  
22 dusted each crosscut going up?

23          A. Right.

24          Q. Okay. And there was --



## EXAMINATION

1  
2 BY MR. MCGINLEY:

3 Q. Bear with me, because I was trying to take  
4 notes and I may have missed a few things. I just  
5 want a little bit of clarification.

6 When did you start working on the rock  
7 dusting crew at UBB?

8 A. I had been on it just a couple of weeks.

9 Q. So with regard to the notebook, the  
10 entries here that you've identified, you put your  
11 name next to them, would they indicate when you  
12 started?

13 I think 3/22/10 is the first time your  
14 name appears. Would that be about when you started  
15 on the rock dusting crew?

16 A. I started probably a little bit before  
17 that.

18 Q. Okay.

19 A. Because this Gary, Gary Young, he was  
20 dusting right before I started helping him, and he  
21 was with a red hat and then the red hat quit or  
22 something.

23 Q. Do you have any idea how long Gary had  
24 been working on the rock dust crew?

1           A.    He had been there approximately, I'd say,  
2 maybe a month, maybe.

3           Q.    After Nathaniel Jeter left, he's the  
4 African-American fellow that had been working  
5 there?

6           A.    Yes, approximately. I'd say  
7 approximately, he was there.

8                    Them two worked together for a little bit,  
9 and then when the black guy got fired -- then they  
10 took this Gary, and he was helping him do other  
11 things, and then the black got fired, and then they  
12 put Gary back on dusting.

13          Q.    I see. So the writing in Exhibit 1, the  
14 notebook that begins on February 9th, 2010, some of  
15 that is not either Gary Young's or your writing; is  
16 that correct?

17          A.    That might be Gary Young's writing. I'm  
18 not for sure whose writing it is. I know it's -- I  
19 don't think it's Gary May's.

20          Q.    Okay. Is there any of the writing in here  
21 -- you mentioned that in one place it might be Gary  
22 May's writing. Do you think there's any of it that  
23 is his?

24          A.    Gary May's writing might be on 3/20. That

1 looks like his writing.

2 Q. Okay. So is it fair to say that the first  
3 time you wrote in this spiral notebook, some pages  
4 of which are marked as Exhibit 1, first time you  
5 wrote in it is on this 3/22/10 date?

6 A. Yes, sir. That's my writing. And I  
7 always sign my name to something when I write it.

8 Q. That makes sense.

9 So when was the first time you learned  
10 that there was a spiral notebook that notes were  
11 being taken about rock dusting at UBB?

12 A. This is the first time that I know.  
13 Today.

14 Q. Did somebody give it to you, or when did  
15 you first find out that people had been writing  
16 down information about rock dusting going back here  
17 to early February of 2010?

18 A. This is the first time that I knowed there  
19 was a notebook being kept. I know whatever we did  
20 the next morning, we would write it on a piece of  
21 paper and give it to Gary May.

22 If he was not there, if he was in a  
23 meeting or something, he had a drawer that we would  
24 put it in.



1 Q. Okay. But at some point somebody told  
2 you, you write in this book. Because you started  
3 writing in it on the 22nd of March 2010; is that  
4 right?

5 A. Right.

6 Q. So who told you to start writing in the  
7 book, if you remember?

8 A. The guy I was with, Gary Young, I know  
9 that he would give, you know, or write in the book  
10 whatever he was doing. I knowed he was taking care  
11 of that. And the days that he wasn't here, you  
12 know, wasn't with me, then I did it.

13 But I didn't know that they was keeping  
14 this, you know, which is nothing to hide, you know.

15 Q. Sure. Where was this spiral notebook kept  
16 where you could get it and write in it?

17 A. It was in Gary May's desk drawer.

18 Q. So when you first looked at it, you saw  
19 that there was somebody had been writing in it  
20 before?

21 A. Yes, sir.

22 Q. And that's different than you wrote notes  
23 and put in his drawer; is that right?

24 A. Right. See, we also -- we would write

1 down what we got done, and we would write down what  
2 we didn't finish on another paper, and then we  
3 would leave that in his drawer.

4 Q. Does any of this writing in Exhibit 1,  
5 does it reflect those notes that you left for Gary  
6 May where it said, We didn't get finished, or was  
7 it a lot more than that that's just not written  
8 down?

9 A. I don't recall, sir.

10 Q. Okay.

11 A. It's been a long time.

12 Q. Sure. You're doing really well  
13 considering how long it's been. I appreciate  
14 that.

15 So Gary May obviously was looking at this  
16 book over a period of time?

17 A. Yes, sir.

18 Q. Did Gary May ever ask you about anything  
19 that you had written in the book or anything that  
20 was in the book?

21 A. He would ask you something if he didn't  
22 understand, you know. Just like -- just like on  
23 3/24 he asked me the same thing, you know, why I  
24 did this. I said, Well, they met me off of the

1 section with a guy that was sick, and then I took  
2 him outside. He asked me, Well, what went on  
3 there.

4 Q. Okay. So did Gary May tell you -- when  
5 you started writing in this spiral notebook, did he  
6 tell you what you should write?

7 A. No, he didn't tell us what we should  
8 write.

9 Q. You didn't have any conversation with him,  
10 you just sort of picked up where Gary Young left  
11 off?

12 A. Yes, sir.

13 Q. What's written in Exhibit 1, though, is  
14 not a complete record of what you and Gary Young  
15 had written up because you had other sheets of  
16 paper that, after every shift, you'd give to Gary  
17 May or put in his desk drawer?

18 A. Yes.

19 Q. Was Gary May ever present when you would  
20 start your shift, the hoot owl shift?

21 A. No, sir.

22 Q. Did you have contact with him in the  
23 morning when you left?

24 A. Yes. Unless he was in a meeting or he had

1 done went underground, I'd see him in that morning.

2 Q. Was there a particular time where you  
3 expected to go see if you could find him in the  
4 morning, or did you just sort of run into him --  
5 you put the notes in his desk, I guess?

6 A. Well, if he was there anyway, if he was  
7 talking to somebody, we would put them in the desk,  
8 you know, instead of waiting. But most of the time  
9 he would be in his office.

10 There would be -- occasionally he would be  
11 underground if an inspector would show up early,  
12 you know, he would go in with them.

13 Q. With regard to the rock dusting in  
14 general, what kind of training did you have  
15 including, you know, your initial red hat and  
16 experience miner training?

17 What did you learn about rock dusting in  
18 terms of when something needed rock dusted, if you  
19 had any?

20 A. I wasn't really told, but, you know, I  
21 would look and see if, you know, if it's black  
22 looking, then rock dust it.

23 Q. Okay. Or at least it should be rock  
24 dusted?

1           A.    Yes.

2           Q.    But whether there were places at UBB that  
3 needed to be rock dusted or not, you just did what  
4 you were told to do on your shift?

5           A.    Yes, sir. Then I would mention Gary, you  
6 know, Well, this is black looking, this needs  
7 dusted. Then the next night, he may have it on the  
8 list, you know, to do it, or I may go ahead and do  
9 it the next night, you know.

10           If a track needed dusted, then I would  
11 dust it. Even though it wasn't sometimes on the  
12 list, I would go ahead and do a little more.

13           But most of the time we worked off of  
14 whatever he had wrote down for us.

15           Q.    And that would be on the board?

16           A.    Yeah, he had have it on the board, you  
17 know, for each person, or each crew what to do on  
18 one of them dry erase boards and that would be on  
19 the board.

20           Q.    Was that in his office?

21           A.    Yes, sir.

22           Q.    And did you all sort of write that down as  
23 you went in for the shift or could you just  
24 remember?

1           A.    If we had two or three things, I would  
2 write it down on a piece of paper, or if it was  
3 just one thing then I wouldn't -- we wouldn't write  
4 it down.

5           Q.    Was there a special board, an individual  
6 board just for the rock dusters?

7           A.    No.  It would just be a board like that  
8 and it would have one section that may say, Move  
9 belt; two section that may say, Get move ready;  
10 then it will have the rock dust crew, then it would  
11 have dust this, dust that, whatever.

12          Q.    Would it also, for the rock dust crew,  
13 would it give you assignments other than rock  
14 dusting?  Instead of rock dusting, go help with  
15 building cribs or stoppings?

16          A.    Sometimes.  Or if they was having problems  
17 somewhere else, they may call outside and tell us  
18 we need help here.  Most of the time the boss -- it  
19 would be a boss that would holler at us, you know.

20          Q.    They would come find you and say, we need  
21 you to stop the rock dusting and help --

22          A.    Right.  Or they would holler outside on  
23 the mine phone or two-way and say, Don't even fill  
24 the duster up, we need help up here.

1 Q. Did that happen fairly frequently? Not  
2 all the time, but --

3 A. Not frequently. Sometimes it would happen  
4 or they would get low on supplies on a section and  
5 we would have to haul bolts, stuff like that up.

6 Q. So what would you do with the -- you would  
7 have to take the motor out and bring the supplies  
8 in?

9 A. Yes.

10 Q. Detach the duster?

11 A. Yeah. If we had the duster hooked up, we  
12 kept it on the south side, like two or three breaks  
13 underground, we had a spur there. We would spur it  
14 up there.

15 Q. Did you ever use a duster other than the  
16 orange one?

17 A. We used a little -- I've used a little  
18 flinger duster, pull behind the scoop.

19 Q. So is it accurate to say that with regard  
20 to training that you had with regard to rock  
21 dusting and determining when it was adequate and  
22 met MSHA standards, the only mechanism, the only  
23 way you could tell adequacy was just to eyeball it,  
24 to look at it?

1           A.   Well, the guy I was working with, he  
2 wasn't accurately doing it. And I didn't know no  
3 better because I had never did it. And then the  
4 fire boss told us one day, he said, That ain't  
5 enough dust.

6           So now when I rock dust, which I'm not at  
7 that mines, so if I rock dust where I'm at now, I  
8 put it before you step and it poofs.

9           But I didn't know it at the time, you  
10 know, we would just do it and get out of there.  
11 But the fire boss told us, he said, That ain't  
12 enough dust.

13          Q.   When you say the "fire boss," was that at  
14 UBB or Parker Peerless?

15          A.   At UBB.

16          Q.   At what point would that have happened  
17 after you started doing rock dusting?

18          A.   Approximately a week maybe.

19          Q.   So you were really only doing the rock  
20 dusting for approximately two weeks?

21          A.   Approximately.

22          Q.   -- or a week? Nobody had even explained  
23 to you --

24          A.   Approximately a couple weeks. Maybe just



1 a little bit longer.

2 Q. Right. But when you began for a period of  
3 time, you hadn't really been told what was adequate  
4 rock dusting and what wasn't?

5 A. I didn't know what was adequate. I mean,  
6 not for definite. Then the fire boss told me and I  
7 finally started putting it to where it looked like  
8 it snowed in there.

9 Q. Do you remember who the fire boss was?

10 A. John Bickford.

11 Q. Did he point out a particular place where  
12 you were in the mine?

13 A. No, he didn't point it out, he was just --

14 Q. Oh, he was just looking?

15 A. He was just talking to me one day. And he  
16 said, You need to start putting more dust down. I  
17 said, Well, I didn't know. I said, The guy that I  
18 was with, I thought that was, you know, I thought  
19 that was sufficient. He said, No, that's not  
20 enough.

21 Q. So Gary Young, who had been rock dusting  
22 since Nate Jeter had left, thought that what you  
23 were doing was sufficient. I mean, you were just  
24 doing what he apparently had been doing the whole

1 time he had been on the rock dusting?

2 A. Apparently that's what he had been doing  
3 because he didn't want to do his job. But I didn't  
4 know no better to start with, and then, you know, I  
5 found -- John Bickford told me, he said, You need  
6 more dust.

7 Q. Was Gary still working with you when  
8 Bickford told you that?

9 A. Yes, he was.

10 Q. Did you talk to him about it and say, you  
11 know, Bickford told us this wasn't adequate?

12 A. I told him, but his words that come out of  
13 his mouth I won't repeat, so he didn't care.

14 Q. He said something like, well, whatever?

15 A. No, he didn't say "whatever."

16 Q. When he was working, did he start doing  
17 what Bickford had indicated should be done by  
18 applying more rock dust?

19 A. No, he didn't. I told him that I would  
20 start dusting. I told him just to work the levers,  
21 let me do the dusting. That's what we started  
22 doing.

23 Q. That would have been about a week before  
24 the explosion?



1 as, in your view, as using the track duster?

2 A. No, it is not.

3 Q. Can you actually put any real rock dust on  
4 the roof? Would you even try to do that?

5 A. We would try but hand dusting like that, I  
6 mean it's -- it does okay, but it's not as good as  
7 when you blow it with a big hose and stuff like  
8 that.

9 Q. So when you were hand dusting, or you saw  
10 others hand dusting, because apparently it was done  
11 on the sections, how would that rock dust look  
12 compared to what you realize was necessary when  
13 Bickford had pulled you aside and mentioned that?

14 I mean, was it --

15 A. When you hand dust, I mean, it's kind of,  
16 I mean, it helps when -- it's kind of a waste of  
17 time, too. I mean, it helps some, but it's -- just  
18 like when you shovel a head and stuff, you've got  
19 to hand dust after you get done shoveling.

20 Q. Right.

21 A. I mean it helps some if you really put it  
22 on, but it's nothing in comparison to the big  
23 duster with a hose.

24 Q. So at least after Bickford talked to you,

1 when you had to do hand dusting, you knew you  
2 weren't doing it as well as Bickford thought it  
3 should be done?

4 A. Yes.

5 Q. Did you encounter any water problems at  
6 UBB?

7 A. Water?

8 Q. Yeah, the water roofing out at anyplace  
9 where you worked or you had to wade through a lot  
10 of water?

11 A. No, we didn't encounter a whole lot. I  
12 mean, up there where headgate 22 was, the mother  
13 drive, they had dug a hole right there, a miner man  
14 messed up, and then there was a big water hole  
15 there.

16 And then the tailgate of the longwall  
17 panel that they was on, there was a lot of water  
18 there.

19 But, I mean, it wasn't, you know,  
20 sometimes it would be waist deep and other times it  
21 would be knee deep. I mean, it just depended.

22 Q. Maybe you were asked this. Did you ever  
23 get all the way down to the Bandytown fan?

24 A. No, I never did go that far.

1 Q. You've been working as a miner for about  
2 three years at this point; is that correct?

3 A. Yes.

4 Q. What did you do before you started?

5 A. I worked in a machine shop in Princeton.

6 Q. And did you come in and start working with  
7 Massey as a contractor, or is it --

8 A. I was hired straight in as employee.

9 Q. Did you know anybody?

10 A. Jason Gautier.

11 COURT REPORTER: Jason who?

12 A. Gautier.

13 MR. SHERER: It's G-a-u-t-i-e-r

14 A. I knowed him and they got me hired  
15 straight in, which he don't work for Massey  
16 anymore.

17 Q. What did he do?

18 A. He was a boss at Logan's Fork.

19 Q. So when you first came, started working  
20 for Massey, where did you work?

21 A. I started at UBB. I was there for one  
22 week, and then I went to Logan's Fork.

23 Q. When they moved the longwall?

24 A. I was -- the longwall was there, and I

1 went down to Logan's Fork. And when the longwall  
2 moved back to UBB, I come back with the longwall.

3 Q. Okay. Moving to the last shift that you  
4 worked when you started on the evening of April  
5 4th, 2010, you talked about how the air was  
6 different. You said the air was blowing outby.

7 Is that the same way it was blowing  
8 previous times you were there?

9 A. As far as I can remember, I think it was.  
10 I'm not for sure. But I do know when we was  
11 dusting it was blowing in our face. I do know  
12 that.

13 Q. You would notice that?

14 A. Yes.

15 Q. How long were the hoses that you -- on the  
16 track duster?

17 A. I had a hundred foot hose on it.

18 Q. How long, when they were operating  
19 properly, how far would they shoot the dust?

20 A. It would blow it approximately 40 foot,  
21 somewhere in that range?

22 Q. That would be sort of the effective range,  
23 or was it a little less than that?

24 A. That's probably the effective range,

1 because it put it -- if it was working properly, it  
2 would put it out good.

3 Q. We've heard from some folks that previous  
4 rock dust crews had complained about the rock  
5 duster, that it was breaking down all the time and  
6 it was -- basically things that you're saying, and  
7 that there was a purchase order put in for, you  
8 know, improvements and then that never happened.

9 Anybody ever talk to you about it?

10 A. I haven't been associated with it, but  
11 I've heard several people talk about it, that they  
12 wouldn't buy stuff for it. Filters, the air  
13 filters for it, you'd have to beat them out and  
14 reuse them.

15 Q. How often would you have to change the  
16 filter?

17 A. The filter needed changed probably at  
18 least once a week. I mean, approximately two times  
19 a week, I'd take it out and, you know, blow the air  
20 out of it with the air hose or beat it out and use  
21 the same filter.

22 Q. Did they have any filters in stock or did  
23 they just continuously do that, or at some point  
24 did they --



1           A.   Sometimes they would get filters for it,  
2 but they would only order one or two. And as much  
3 dust as it would suck in there, I mean, they  
4 wouldn't last no time. They needed changed at  
5 least once a week.

6           Q.   So whenever you filled the pods on the  
7 track duster, did you always fill them from the  
8 bulk container?

9           A.   Yes, sir. We had, like, a big silo that  
10 we filled it up with.

11          Q.   What would happen if it was raining, you  
12 know, when you had to fill up the silo? Was it  
13 covered?

14          A.   No, it wouldn't bother it. The silo was  
15 like a big -- it looked like one of those big grain  
16 tanks on a farm.

17          Q.   It would go right back into the --

18          A.   Yeah. It came down, and you had a big  
19 hose that you -- coupling onto your pods. I mean,  
20 the rain wouldn't bother it.

21          Q.   Humidity wouldn't affect that?

22          A.   No. I mean, sometimes, though, when  
23 they'd come to fill it up, it may be a little damp,  
24 the dust that they bring, or it could draw moisture

1 in the tank. But the rain wouldn't rain in it, or  
2 it wouldn't affect when it was raining.

3 Q. When you were using the track duster those  
4 few weeks before the explosion, how often would the  
5 hoses get clogged?

6 A. Sometimes you might go a couple days, and  
7 then other times you might be working half of the  
8 night trying to get it unclogged.

9 Q. What do you do, beat it?

10 A. Yeah, beat it. Sometimes I carry an extra  
11 hose with me and put a new hose on it. But you  
12 beat it and shake it and get it out.

13 Q. So you knew that was an ongoing problem  
14 because you brought extra hose to the location?

15 A. Right.

16 Q. That must have been frustrating?

17 A. Yes.

18 Q. So the only person that gave you  
19 instructions on, you and Gary Young, on what to  
20 rock dust was Gary May?

21 A. Yes.

22 Q. When you said on the night of April 4th or  
23 early morning April 5th when you got past 78 break,  
24 you said you told your buddy it was extremely hot.

1 Who was your buddy? Was that Gary?

2 A. Dustin Richardson.

3 Q. Oh, that was Dustin?

4 A. I think his last name was Richardson. His  
5 first name was Dustin. He was a red hat. He was a  
6 contractor.

7 Q. Did you, because it was so hot, I mean,  
8 did you have to take off a coat, or was it so hot  
9 that you -- we've heard that people had to really  
10 -- on that shift it was --

11 A. I usually -- I don't recall if I took it  
12 off or not. I usually wear the hooded sweatshirt,  
13 zip-up one. I don't know if I took it off. I  
14 can't remember. But I know it was extremely hot.

15 Q. So were you -- I think you said something  
16 like this, you immediately started sweating because  
17 it was --

18 A. It's just like you was out and in the sun,  
19 just muggy and started sweating.

20 Q. You had been up in that area at UBB where  
21 it was so hot on April 4th/5th, previously; right?

22 A. Yes.

23 Q. Going back to from the time you came back  
24 to UBB from Logan's Fork; is that correct?

1           A.    Yes, sir.

2           Q.    Did you ever feel heat like that in that  
3    area?

4           A.    That is the hottest I can ever remember  
5    being in that mines.

6           Q.    Have you ever been in a -- now you've  
7    worked in a couple of mines.  Have you ever  
8    experienced the air being as hot as that night of  
9    April 4th/April 5th?

10          A.    No.

11          Q.    Not even close?

12          A.    No.

13          Q.    So it was really something that was  
14    remarkable?

15          A.    Something was wrong that night.

16          Q.    It's been a year since that time but  
17    that's something you would --

18          A.    I remember that.

19          Q.    It's fresh in your mind?

20          A.    Yes.

21          Q.    When you were asked questions about  
22    Exhibit 1 and the entries in there, the February  
23    entries you really wouldn't have known anything  
24    about, is that true?

1 I mean, most everything in the Exhibit 1,  
2 the spiral binder notebook pages, up until at least  
3 around mid-March, you really didn't have any first-  
4 hand information?

5 A. No, I wouldn't have any.

6 Q. Did you ever look at what was written in  
7 this book after you first saw it? Did you ever  
8 look back and see what had been written there?

9 A. No, I never did. The only thing I  
10 probably would have paid attention to when I wrote  
11 what I wrote is probably the same page right here.

12 Q. Okay. On the hoot owl shift on the April  
13 4th/5th, 2010, I think you said you used three  
14 loads of rock dust?

15 A. Yes.

16 Q. And that meant you had to -- you loaded up  
17 before you came in?

18 A. Yes.

19 Q. And then you had to go back twice?

20 A. Yes.

21 Q. On the third load, did you empty it of  
22 that load?

23 A. Yes. I did notice that longwall belt was  
24 so black that it looked like it had never been

1     dusted.  It was solid black.

2           Q.  And had you noticed that before at all  
3 when you were -- I mean in those short few weeks  
4 when you were on the rock dust crew?

5           A.  I hadn't really paid attention, I mean,  
6 but that night it was real black.

7           Q.  Basically when you were working there, not  
8 on the dust crew, you're just doing your job,  
9 you're not figuring out other people are taking  
10 care of things like rock dusting; is that correct?

11          A.  Yes.

12          Q.  When you saw it was so black you obviously  
13 committed yourself to go take care of that.  Were  
14 you surprised or did that shock you or was that  
15 just not unusual?

16          A.  It kind of surprised me a little bit  
17 because it was so black, but I just put it on  
18 heavy.

19          Q.  And did Gary May tell you to do that?  Was  
20 that on the board, or did you just see it and say,  
21 well, we have got to get this done?

22          A.  No.  It was on the board to dust longwall  
23 belt.

24          Q.  You don't know how long it had been so

1 black in that area?

2 A. I don't know.

3 Q. Earlier when you were asked questions, you  
4 pointed to the map we have here, Stover Exhibit 2,  
5 and indicated where you put those three loads of  
6 rock dust. Could you indicate that, take one of  
7 these markers here?

8 A. It's right here.

9 Q. Did you already do that?

10 A. Yeah.

11 Q. Did I miss that? Okay.

12 Maybe we can have you put the date there.

13 A. So it would be 4/5 for me; right?

14 Q. Yeah, essentially.

15 MR. BABBINGTON: Just to note, the witness  
16 is dating the pink area he marked before indicating  
17 what he rock dusted on the early morning of April  
18 5th with the same pink highlighter.

19 THE WITNESS: So what was that again?

20 MR. BABBINGTON: You're good. I was just  
21 stating it for the record.

22 THE WITNESS: Okay.

23 Q. So you did the track and belt?

24 A. No, sir, we just done the belt.

1 Q. Just the belt?

2 A. Yes, sir.

3 MR. BABBINGTON: I believe you said you  
4 also did the crosscuts off the belt?

5 A. Yes. The belt -- see, when they tell us  
6 to do the belt, we go in each crosscut, we'll go to  
7 the belt line and we'll dust the belt line, then  
8 we'll work our way back out. We'll dust the  
9 crosscut, top, bottom, ribs, on the way back out to  
10 the track.

11 Q. Okay. So the crosscuts that you did were  
12 along the --

13 A. Belt line.

14 Q. -- pink line --

15 A. Yes, sir.

16 Q. -- that you've drawn here where you put --  
17 next to where you put 4/5/10 COS?

18 A. Yes. It's towards the belt line. The  
19 crosscuts would be towards the belt line.

20 Q. Okay.

21 A. Plus the belt.

22 Q. And just to clarify, the tailgate one  
23 north area, I think you said you had been there?

24 A. I had been in behind here setting, help



1 setting props and stuff on this tailgate right  
2 here.

3 Q. But do you ever rock dust over there?

4 A. No, never did rock dust there.

5 MR. BABBINGTON: And also to clarify, you  
6 said you did not rock dust the track entry on the  
7 early morning of April the 5th?

8 THE WITNESS: Right. I did not.

9 Q. Just the belt?

10 A. Just the belt.

11 MR. BABBINGTON: Pat, it's been almost two  
12 hours. Do you want to take a five-minute break?

13 MR. MCGINLEY: Sure. Yeah, that's good.

14 (Break.)

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. Just have a couple more questions,  
18 Clifton.

19 I talked to you some about the equipment  
20 doors or track doors. Had you ever come in and out  
21 of the mines and found those doors to be left open?

22 A. Yes, I have.

23 Q. Ballpark figure, do you recall the last  
24 time that that happened?

1           A.    April the 5th, going in, the doors were  
2 left open at 78 break.

3           MR. MCGINLEY:   Both doors?

4           THE WITNESS:   Yes, both doors.

5           Q.    At 78 break?

6           A.    78 break.   Which was -- got double doors,  
7 and double doors.

8           Q.    Was all four --

9           A.    All four doors were left open.

10          MR. KOERBER:   Were you the first person  
11 that went through there, or were there people that  
12 had went in before you that evening?

13          THE WITNESS:   I don't know if the fire  
14 boss had left them open or somebody off the section  
15 had come outby or something.   I don't know.

16          MR. BABBINGTON:   You weren't, like, in a  
17 caravan of mantrips going in?

18          THE WITNESS:   No.

19          BY MR. TUCKER:

20          Q.    So you mentioned that a lot of times you  
21 would start in about 11:30.   Do you recall on April  
22 5th about what time you start in the mines?

23          A.    I would say around 11:45, 12 o'clock,  
24 somewhere in that range.

1 Q. Okay.

2 A. Maybe 12:15, somewhere in there.

3 Q. Okay. So when y'all came upon the doors,  
4 they were open?

5 A. Yes, sir.

6 Q. And when y'all you went through them, did  
7 y'all close them?

8 A. Yes, sir, I closed them back.

9 Q. You made two more trips in and out the  
10 mines that night; is that correct?

11 A. Correct.

12 Q. Did you find them left open on any of your  
13 other trips?

14 A. No, they was not left open any more.

15 Q. Okay. Are there any other instances that  
16 you recall where the -- you found the doors left  
17 open?

18 A. The doors was left open several times.

19 Q. Which doors?

20 A. The 78 break, the ones that was left open  
21 the night before the explosion.

22 Q. Several times you found those particular  
23 doors just inby 78 break --

24 A. Yes.

1 Q. -- left open?

2 Do you want to mark those on the map?

3 Would you mind doing that?

4 MR. BABBINGTON: I'll give you the green  
5 highlighter.

6 A. Let's see, 78 break. Somewhere right in  
7 here; right?

8 MR. SHERER: Here's 84, 75, 76.

9 A. Right here. It should be right here.

10 MR. SHERER: Yeah. There's two doors here  
11 and two doors here.

12 Q. Just like a little note here "doors found  
13 open." And that was on your first trip in on April  
14 5th?

15 A. First trip.

16 Q. Okay. Are there any other doors or any  
17 other instances that you can recall where the  
18 doors, you found them open?

19 A. That was usually -- the only doors that I  
20 have ever found left open was right here.

21 Q. Okay.

22 A. I don't know if they knowed they was  
23 having problems or something that night and left  
24 them open for a reason. I don't know.

1 Q. Okay. About how long does it take you to  
2 empty a load of dust?

3 A. To empty a load, it takes approximately,  
4 I'd say an hour.

5 Q. Okay. Did you ever work on the pump crew  
6 in behind the longwall?

7 A. I never did work on a pump crew.

8 Q. I don't think we asked you, how did you  
9 find out about the explosion?

10 A. There was ambulances that went down the  
11 road one right after the other, right after the  
12 other. And then I think I got a phone call.

13 No, I didn't get a phone call. I called  
14 the mines to make sure everything was okay. And  
15 they said, No, we just had a horrible explosion. I  
16 called the mines.

17 Q. Do you recall who you talked to?

18 A. I don't remember who answered the phone.

19 Q. Do you recall about what time it was that  
20 you called?

21 A. I called around 3:30, 3:40, somewhere in  
22 there. Because I knowed something had happened bad  
23 when that many ambulances went down the road.

24 MR. TUCKER: Okay. That's all I have for

1 now. Thank you.

2 EXAMINATION

3 BY MR. BABBINGTON:

4 Q. Going back to something you just said.  
5 You said it took you about an hour to load up the  
6 track dusters; correct?

7 A. No, it didn't take an hour to load.

8 Q. Okay. Sorry. How long did it take?

9 A. It would take probably 10 or 15 minutes to  
10 load it.

11 Q. Okay. And then it would take you 45  
12 minutes to an hour to travel out from where you  
13 were out back to the loader?

14 A. Yes, yes. If we was going up to, you  
15 know, up here to headgate 22, or if we was going  
16 over here to the panel, they was on that, it would  
17 take about 45 minutes to an hour to get there.

18 Q. It's just kind of like a hypothetical  
19 talking about, you know, that early morning four or  
20 five. So you would get in, you would load up your  
21 duster, and then you would travel to this section?

22 A. Yes.

23 Q. And you said you got three loads, so that  
24 means that you traveled to and from the loader

1 three different times?

2 A. Yes.

3 Q. So that's, I mean, to and from, to and  
4 from, to and from, you're talking about almost six  
5 hours during your shift of driving back and fourth  
6 between the loader of the section where you're rock  
7 dusting?

8 A. Yes.

9 Q. Turning to the Exhibit 1 notebook very  
10 quickly, on the entry marked 3/29, there's a name  
11 there that looks like it says Dustin?

12 A. That's Dustin. That was the red hat with  
13 me.

14 Q. That's Dustin Richardson?

15 A. Yes, sir. I think his last name was  
16 Richardson.

17 Q. Okay. Right. Right. I understand.

18 And when, roughly, did he start working  
19 with you?

20 A. Approximately a week prior to the  
21 explosion.

22 Q. I just want to turn to kind of more  
23 general follow-ups. Did you ever participate in  
24 any ventilation changes underground?

1           A. I have helped knock stoppings and rebuilt  
2 stoppings.

3           Q. Do you recall when that was?

4           A. I don't know the dates.

5           Q. Do you have a rough estimate? Was it in  
6 2010?

7           A. Yes, it was. It was somewhere, probably  
8 I'm wanting to say probably around February of  
9 2010.

10          Q. So that would have been before you started  
11 rock dusting?

12          A. Yes.

13          Q. Okay. In what area do you remember  
14 knocking those stoppings?

15          A. Right around this Glory Hole right in here  
16 somewhere. We knocked the stoppings because they  
17 said they wasn't getting enough air, and we built  
18 and changed ventilation around.

19          Q. Do you recall who directed you to knock  
20 those stoppings?

21          A. We was directed that morning. We had a  
22 mine map of which ones to knock and which ones to  
23 rebuild back.

24          Q. And who was that who directed you?



1           A.    I think it was Everett Hager.  But he had  
2 a map of what we was going to do and that's what we  
3 had to do.

4           Q.    Okay.

5           MR. TUCKER:  Do you recall what day of the  
6 week that was, I mean, as far as was that on a  
7 weekend or through the week?

8           THE WITNESS:  It was on a weekend.

9           MR. TUCKER:  Was they producing coal?

10          THE WITNESS:  We wasn't producing coal  
11 because I think it was on a Sunday when we was  
12 doing this.

13          MR. TUCKER:  Then, as far as you know, the  
14 longwall wasn't running?

15          THE WITNESS:  Not that I know of.  I don't  
16 think anybody was running.  I may be wrong, but I  
17 don't think anybody was running at the time.

18          BY MR. BABBINGTON:

19          Q.    Do you recall if that was Super Bowl  
20 Sunday?

21          A.    I don't recall.  I don't know for  
22 definite.

23          MR. SHERER:  One other question, if I  
24 might.  Was there somebody in there working,

1 directing you? Was Everett in there with you?

2 THE WITNESS: No, he wasn't in there.

3 MR. SHERER: Was there another foreman?

4 THE WITNESS: Marvin Perdue.

5 MR. SHERER: Okay.

6 BY MR. BABBINGTON:

7 Q. We talked about you normally dusted, I  
8 guess, the belt and track entries?

9 A. Uh-huh.

10 Q. Did you ever travel into the neutral  
11 entries of the sections that you visited?

12 A. I never dusted a neutral entries at UBB.

13 Q. But did you travel in the neutral entries?

14 A. We've walked it before, been over in there  
15 and you're looking for stuff, you know, for parts  
16 that was left behind.

17 Q. Would you do that as part of your rock  
18 dusting duties or part of those other kind of  
19 general maintenance duties?

20 A. Just general maintenance duties.

21 Q. Okay. And you know, I guess going, like,  
22 section by section, did you ever go in the neutral  
23 entries on headgate 22, or near the mother drive  
24 belt?

1           A.    I've been in neutral entries.

2           Q.    Do you recall what the rock dust looked  
3 like in those areas?

4           A.    I don't recall.

5           Q.    Do you remember what the rock dust looked  
6 like in any of the neutral entries that you visited  
7 in this part?

8           A.    Some of the neutral entries I've been in  
9 needed rock dusting.

10          Q.    Do you recall what sections those were?

11          A.    Basically all of them.

12          Q.    So every time you visited a neutral entry,  
13 you thought this area --

14          A.    It need dusted, yes.  Each -- south side  
15 is the same way.

16                COURT REPORTER:  Did you say "south  
17 side"?

18                THE WITNESS:  South side.

19          Q.    Did you ever tell that to Gary May that  
20 you thought those entries needed to be dusted?

21          A.    No, I didn't.  Never mentioned it to him.

22          Q.    And you never yourself dusted those  
23 entries?

24          A.    No, I did not.

1 Q. Do you know that anyone else was assigned  
2 to dust those entries?

3 A. Not that I know of.

4 Q. And you never saw anybody dusting those  
5 entries?

6 A. No.

7 Q. I think you said that basically you were  
8 the only rock dusting crew at UBB?

9 A. Yes. I was only -- as far as I know we  
10 were the only ones that dusted.

11 Q. And that's just on your shift, or that's  
12 the entire day?

13 A. The entire day.

14 Q. So there wasn't any rock dust crew that  
15 was specifically assigned to the south side?

16 A. No.

17 Q. So you were responsible the entire --

18 A. I did it, too, when we had to do it, which  
19 we didn't do it hardly ever over there.

20 Q. I think you said you focused the majority  
21 of the time when you were rock dusting on the other  
22 side of the mine?

23 A. Yes.

24 Q. And you portal in from UBB?

1           A.    Yes.

2           Q.    Not from Ellis?

3           A.    Portal in from UBB.

4           Q.    Is that where the loader was situated?

5           A.    Yes.   That's where we kept the motors and  
6 all the supplies and the rock -- the silo before we  
7 filled it up was on that side.

8           Q.    I think you said you initially came to UBB  
9 in, what was that, summer 2008?

10          A.    Yes.

11          Q.    Do you recall what training you received  
12 when you arrived at UBB initially?

13          A.    I went down to Mar Fork prior to that.  
14 They give me a safety, went through orientation,  
15 they sent me through the smoke trailer and all that  
16 stuff.

17          Q.    Do you remember who gave you that  
18 training?

19          A.    Jackie Stover.   And I got to UBB and was  
20 supposed to give me a mine tour and they -- end up  
21 nine hours of work, the mine tour did.

22          Q.    So they ended up assigning you duties  
23 before they gave you a mine tour, or that they kind  
24 of said that they were giving you a mine tour as

1 they assigned you all this work?

2 A. Yeah. When I was going through my  
3 training, you know, my safety training and stuff,  
4 they said they was going to give me a mine tour,  
5 but ended up working nine hours.

6 Q. Did you ever travel the escapeways?

7 A. Just to walk them out.

8 Q. Was that that first day that you worked?

9 A. No, the first day I did not.

10 Q. Do you recall when you traveled those  
11 escapeways?

12 A. It was approximately three months, but I  
13 didn't travel it at UBB. When we went to Logan's  
14 Fork --

15 Q. So you --

16 A. Then I walked it out there. And then when  
17 we come back to UBB it was like we was there two  
18 weeks and then we walked the escapeway out the  
19 intake.

20 Q. Okay. So when you were first at UBB, you  
21 didn't travel the escapeway?

22 A. No.

23 Q. You did travel it three months after you  
24 got to Logan's Fork?

1           A.    Yeah, approximately.  When we got to  
2 Logan's Fork three months we had to walk the intake  
3 out.

4           Q.    Okay.  And then when you returned to UBB,  
5 it was about two weeks after?

6           A.    Probably.

7           Q.    Do you remember, besides the escapeway  
8 traveling, any other site specific training that  
9 you received at either the first time you came to  
10 UBB or when you returned to UBB?

11          A.    No.

12          Q.    Now you've mentioned, besides the rock  
13 dusting duties you had, you know, I referred to  
14 them, I think, as general maintenance duties?

15          A.    Yes.

16          Q.    Did Gary May assign those to you?

17          A.    Sometimes he would, but before I went to  
18 the rock dust crew I worked on day shift and I  
19 worked outby, and I was on Ellis side then.  And  
20 Everett Hager would give a list of what to do that  
21 day.

22                    But then Gary May sometimes, when I went  
23 to night shift, he would assign, you know,  
24 something to do if jacks need set here, timbers

1 need set or cribs needs built.

2 Q. Okay. So after you joined the rock dust  
3 crew, any non-rock dust duties, you still received  
4 those just from Gary May?

5 A. No, not just from Gary May.

6 Q. Okay. Who else did you receive those  
7 from?

8 A. If a boss needed help, he would holler at  
9 us.

10 Q. So you were kind of almost generally on  
11 call for the other bosses?

12 A. It wasn't really on call, but if they was  
13 having trouble with a belt move or anything and  
14 they needed help, they would give me a holler.

15 Q. Do you recall some of the names of the  
16 people who would holler for you?

17 A. Lacy Cox. We helped him a couple times  
18 making belt splices.

19 Q. Now if you did that and you didn't end up  
20 getting the rock dusting for that night, is that  
21 something that you would report to Gary May?

22 A. Yes. I would leave on there -- or tell  
23 him, if I saw him, that, you know, if I didn't do  
24 no dusting, then I would tell him, well, we helped



1 this or helped that.

2 Q. Okay. And this should be my last one.

3 Were you ever assigned a task or a job  
4 where you felt either uncomfortable being assigned  
5 that or you felt uncomfortable doing the job?

6 A. Yes. When we was on the tailgate, I felt  
7 very uncomfortable in there.

8 Q. Is that the tailgate of the current  
9 longwall?

10 A. Yes.

11 Q. Why did you feel uncomfortable?

12 A. Because it was bad. The top was bad.  
13 Bad. The roof it was, you know, was bad.

14 Q. And that, I think you said you were  
15 installing jacks?

16 A. Yeah. Setting jacks and props and cribs.

17 Q. And I think you also said the rock dust of  
18 that area was nothing --

19 A. It was none.

20 COURT REPORTER: It was what?

21 THE WITNESS: There was no rock dust, and  
22 the bottom was hooving.

23 MR. BABBINGTON: Thank you, Mr. Stover.

24

## EXAMINATION

1  
2 BY MR. SHERER:

3 Q. Just a few questions to follow up that,  
4 Mr. Stover.

5 You said you felt uncomfortable down on  
6 that tailgate. In the training you've received has  
7 anybody ever discussed miners' rights?

8 A. I've been given a book by an inspector for  
9 miners' rights.

10 Q. Have you received any other training on  
11 miners' rights?

12 A. No, sir.

13 Q. Are you aware of the 1-800 number?

14 A. The hotline number? Yes, I am.

15 Q. Okay. Thank you.

16 You mentioned occasionally you would go on  
17 the south side of the mine and do dusting. What  
18 sort of shape was the rock dust in down there?

19 A. The south side stayed in better shape, as  
20 far as dust-wise.

21 Q. Okay. Now you mentioned that the doors  
22 inby 78 break were open when you came in on the  
23 night prior to the explosion.

24 When you closed those doors, did you

1 notice any change in the air? You said there was  
2 more air down there when you got through those  
3 doors, and then it was hot when you got up on the  
4 head of the longwall.

5 What effect did having those doors open do  
6 to that air, do you know?

7 A. I don't know. The only thing I -- just  
8 letting it come down the track harder.

9 But other than changing it or making the  
10 temperature different, I didn't notice any change.

11 Q. Now, when you went back out a couple times  
12 that night, when you said there was more air when  
13 you got through the doors, did you notice that same  
14 increase quantity of air down there?

15 A. Yes. Every time I felt the difference in  
16 the air plus the temperature.

17 Q. So that was something beside the doors?

18 A. Yes.

19 Q. Or in addition to?

20 A. (Witness nods.)

21 Q. Now, you mentioned that when you got up on  
22 that longwall belt it was black?

23 A. Yes, sir.

24 Q. Did you relay that to Gary May, that when

1 you got there it was black?

2 A. No, I just -- didn't relay it to him, I  
3 just dusted it.

4 Q. Okay. So you took care of the problem?

5 A. Yes, I did.

6 MR. SHERER: Thank you.

7 EXAMINATION

8 BY MR. MCGINLEY:

9 Q. Mr. Stover, just some clarification  
10 follow-up. You were asked about the neutral  
11 entries needing dusting, and you said they all  
12 needed dusting, south side as well.

13 Do you remember those questions a few  
14 minutes ago?

15 A. Yes. The south side neutral needed  
16 dusted, but as far as the belt line and then the  
17 track on the south side, it looked -- every time  
18 we would go over there it would look good.

19 Q. But when you're talking about the neutral  
20 entries needing dusting, did you mean just in the  
21 time you were rock dusting or in your experience in  
22 traveling the mine from the time you got back to  
23 UBB?

24 A. From the time I got back I experienced it.

1 Q. That would have been in the summer of  
2 2009?

3 A. Right.

4 Q. So that was -- the neutral entries needing  
5 rock dusting was just a factor in the whole time  
6 you were there from summer of 2009 until the  
7 explosion?

8 A. Yes.

9 Q. You were on the rock dust crew  
10 approximately two weeks, give or take, maybe a  
11 little more than that, in March and April of 2010.

12 Did you ever rock dust in the same place  
13 twice? I mean, did you ever return to a place that  
14 you had rock dusted previously during that period  
15 that you were working on that crew?

16 A. Yes.

17 Q. Where would you have returned to?

18 A. I dusted a track from the drift mouth up  
19 to Ellis switch several times.

20 Q. Okay. Was there any other place where you  
21 had gone back and re-dusted a place you had dusted  
22 before during that time period?

23 A. This headgate 22, this section belt here.

24 Q. And how many times do you think you did

1 that?

2 A. I probably did it approximately two times.

3 Q. And so the -- any other dusting you did  
4 over that period, you only did once, other than  
5 those places?

6 A. Approximately.

7 Q. And some of that dusting was done by hand?

8 A. Yes, it was.

9 Q. Were there days when you were on the rock  
10 dust crew during that fairly short period that the  
11 only way you could dust was by hand?

12 A. Yes, because sometimes we wouldn't have a  
13 motor.

14 Q. So where would you get the dust to dust by  
15 hand?

16 A. We would take a mantrip and we would put  
17 it in the seats on the mantrip.

18 Q. How many bags of dust could you get in  
19 there?

20 A. We would usually load up 30 to 40 bags,  
21 put in the seats on the mantrip.

22 Q. And would you come back out, or would that  
23 be it for that --

24 A. No, we would come back out, like, and make

1 another trip.

2 Q. Would you make more than two trips when  
3 you were hand dusting?

4 A. No, approximately two trips.

5 Q. On the night of the 4th, April 4th/April  
6 5th, 2010, you used three loads of dust on the  
7 track duster, the pod duster. Was that common or  
8 was that unusual you were able to get so many  
9 passes.

10 A. That's about average.

11 Q. So generally speaking, you would go in  
12 with the full pods, empty that, and then go outby  
13 and get more two more times?

14 A. Yes, sir.

15 Q. I noticed in the Exhibit 1, for example,  
16 on 3/30/10, you say, Ran out of dust, and then on  
17 3/31/10, Ran out of dust. What is that?

18 I don't know if that's your handwriting.  
19 Do you know what that means?

20 A. I don't know if that's referring to we  
21 emptied the pods or if we emptied the duster  
22 outside, the silo dust.

23 Q. Did that happen sometimes?

24 A. No. If -- yeah, sometimes it would

1 happen. But I could tell Gary May or Greg Clay,  
2 either one of them, that we're out of dust, and  
3 that night when we come in, it would be full.

4 Like I say, 3/30 and 3/31, I don't know if  
5 that's referring to if we emptied a duster or if we  
6 ran out to fill up.

7 Q. Is that your handwriting?

8 A. No, sir, it's not.

9 Q. It must be -- it looks like Dustin's on  
10 3/21.

11 A. Yeah, my handwriting is at 3/22, 3/24,  
12 3/26, and 3/25.

13 Q. Right. Okay. On 3/26, you wrote at the  
14 end of that few lines of notes there you said,  
15 Filled up duster. Do you have any idea what that  
16 meant?

17 A. I filled it up for the next trip when we  
18 brought it outside.

19 Q. More often than not when you arrived to  
20 work, during that short period you were on the dust  
21 crew, did you have to fill it up or was it full?

22 A. No, it was never filled. If I left it  
23 empty, when I came back in, it would be empty.

24 Q. So that's an indication, at least during



1 that period, nobody else was using the track  
2 duster?

3 A. Yes.

4 Q. I looked at Exhibit 1, that same entry,  
5 3/26/10, that was a Friday. I just took a look at  
6 the calendar. And then the next notation is  
7 3/29/2010, which was a Monday. There's nothing in  
8 between there.

9 So is it fair to say that during that, the  
10 two-day period over the weekend, Saturday and  
11 Sunday, there was no rock dusting performed, at  
12 least with the track duster?

13 A. I'd say not, sir.

14 Q. And your shift, when you were working the  
15 dust crew, you formerly had been working outby  
16 doing maintenance and so forth?

17 A. Uh-huh.

18 Q. That was a day shift. You switched to the  
19 hoot owl when you were assigned to rock dusting;  
20 right?

21 A. Yes, sir.

22 Q. Did you always work Monday through Friday  
23 -- or always -- that short period of time, or did  
24 you ever do rock dusting on the weekend.

1           A.    I never did rock dusting on the weekend  
2 unless we had to work a Saturday, then there would  
3 be a Friday night, which would be our Saturday on  
4 the owl shift.

5           Q.    So then would you work the Sunday night,  
6 the owl shift Sunday night?

7           A.    Sunday night would be Monday on the owl  
8 shift.

9           Q.    So there would be no rock dusting between  
10 when you finished early Saturday morning and when  
11 you got there for the owl shift on Sunday night?

12          A.    Yes.  And if we was off Saturday, there  
13 would be no dusting from Friday morning to Sunday  
14 night.

15          Q.    When you say "off," does that mean the  
16 whole mine was down or could there have been a  
17 production crew on?

18          A.    The coal crews had it scheduled where some  
19 of them would work one weekend and then some of  
20 them would be off and then this had a different  
21 schedule.

22          Q.    So the swing?

23          A.    Yes.

24          Q.    Generally, did the longwall on the

1 sections work on Saturday producing coal?

2 A. Yes, sir.

3 Q. And were there times on Sunday when those  
4 sections would also work some Sundays?

5 A. Yes, some Sundays.

6 Q. So you would be -- if you came back on the  
7 hoot owl shift on Sunday night, you would be sort  
8 of playing catch up, because there was at least a  
9 day or day and a half of no machine dusting?

10 A. Yes, sir.

11 Q. Just a couple more questions. The night  
12 of April 4th hoot owl shift, going into April 5th,  
13 you said it was hot when you got through the doors  
14 at 78 break -- and maybe you've already been asked  
15 this, I just want to clarify.

16 Then you went out twice to fill up the  
17 track duster and came back in. Was it hot that  
18 whole time when you got back in?

19 A. Yes, it was hot the whole time. That  
20 morning when I left to go outside, it was still  
21 hot.

22 Q. When you got through those doors at 78  
23 break, did it cool off then?

24 A. No.

1 Q. It was even hot as you went --

2 A. It was hot from here all the way to the  
3 longwall belt.

4 Q. Okay. But what about outby?

5 A. Outby, it was about normal temperature.

6 Q. So you noticed a different --

7 A. Yes, it was --

8 Q. Different temperature than when you --

9 A. It was like having the air conditioner on  
10 and walking into a heater.

11 Q. Did you have a mine tour the first time  
12 you went to work at UBB? I think you said you were  
13 only there for a different week?

14 A. No, I did not.

15 Q. So the first time you ever were shown, you  
16 know, the tour that new miners are supposed to get,  
17 just so you know the different sections of the  
18 mine, was two weeks after you --

19 A. No, I didn't have a mine tour.

20 Q. Oh, so you never had a mine tour?

21 A. Never had a mine tour.

22 Q. They said they were going to give you that  
23 when you came back with the Logan's Fork crew, but  
24 it never happened?

1           A.    When I first started the first day at UBB,  
2 we was building overcasts.  I worked nine hours.  
3 Then we went to Logan's Fork and was there, and  
4 then we came back and I never was given a mine tour  
5 at UBB.

6                     Logan's Fork, first day, I was given a  
7 mine tour.

8           Q.    That's the way it's supposed to be.

9           A.    I was give a mine tour.  It took about two  
10 to three hours.  Then I come outside and they said  
11 go home.

12           Q.    Did you have a mentor?  There was this  
13 system that Massey was supposed to --

14           A.    Yes, I had a mentor that was a red hat.  
15 His name was John Cox.

16           Q.    You were mentoring John Cox, or he was  
17 mentoring you?

18           A.    No, he was mentoring me.

19           Q.    Okay.  So when was he supposed to be your  
20 mentor, what point in your employment?

21           A.    When I went to Logan's Fork, I was  
22 assigned to him.

23           Q.    Okay.  And he obviously saw that you got a  
24 mine tour?

1           A.    Yes.

2           Q.    And --

3           A.    When I went to Logan's Fork, the  
4    electrician gave me the mine tour.  Delbert Bailey.

5           Q.    When you want back to UBB, did you have a  
6    mentor?

7           A.    John Cox was my mentor until I got my  
8    black hat.

9           Q.    When did you get your black hat, when you  
10   were at Logan's Fork or back at UBB?

11          A.    At Logan's Fork.

12          Q.    Were you ever assigned to mentor anyone?

13          A.    Dustin, the one that was -- Dustin  
14   Richardson, I think is his name.

15          Q.    Did anybody ever explain to you what  
16   you're supposed to do as a mentor?

17          A.    No.

18          Q.    We've seen some documents about mentoring,  
19   and there's a whole bunch of things that mentors  
20   are supposed to do.  Did anybody ever go through  
21   that with you?

22          A.    They never did tell me what I was supposed  
23   to do.  I was never showed what I was supposed to,  
24   you know, show him or -- I just tried to show him

1 what I was learned.

2 Q. I've asked this question a couple times  
3 before, but do you know what S-1 and P-2 mean?

4 A. Yes. Safety first, production second,  
5 maintenance third.

6 Q. And do you know anything else about S-1?

7 A. Not a lot.

8 Q. Did you ever see an S-1 manual?

9 A. We've got a manual at the mine office.

10 Q. Did you ever look at it?

11 A. I've never looked at it.

12 Q. So with regard to S-1, if I ask you to  
13 tell me something other than safety first, could  
14 you tell me anything?

15 A. No. I don't know any of it. I mean, they  
16 tell it to us, but that's all I know.

17 Q. They don't emphasize anything other than  
18 safety first?

19 A. They emphasize safety first.

20 Q. So they talk about safety first?

21 A. They talk about safety first. It don't  
22 always happen that way.

23 Q. I have one other question. It's been a  
24 while ago now. We've been here a few hours.

1           At some point you were pointing at the  
2 map, Exhibit 2, I think it was the area of outby  
3 headgate 1 north, and you said we never did rock  
4 dust here; is that right?

5           A.    This area right here.

6           Q.    Can you draw -- use a marker and ...

7           MR. BABBINGTON: Use a blue highlighter  
8 for this.

9           Do you want him to just circle the entire  
10 area?

11          MR. MCGINLEY: Yes.

12          MR. BABBINGTON: The witness wrote "never  
13 did rock dust this area" and then put his initials,  
14 and that's all with the blue highlighter.

15          Q.    Did you ever have occasion to walk through  
16 any of those entries or to look at whether they  
17 showed any evidence of rock dusting?

18          A.    I never was in this area right here.

19          Q.    Nobody ever mentioned that, that might be  
20 an area to rock dust?

21          A.    No, they never did mention.

22          Q.    So is it fair to say that in summary, the  
23 focus of any rock dusting was done was on the track  
24 and belt entries?



1           A.    Yes.   And the crosscuts on the belt entry.

2           Q.    In the -- did you ever walk in the  
3 exhaust?

4           A.    The return?

5           Q.    Yeah, return.

6           A.    Yes.

7           Q.    And what did that look like?

8           A.    It was black.

9           Q.    Did you have occasion over the course of  
10 the time you were at UBB from when they returned  
11 from Logan's Fork in the summer of 2009 until the  
12 time of the explosion, did every time you looked at  
13 the returns that they were black essentially?

14          A.    Just in certain areas.

15          Q.    I guess you were only in certain areas?

16          A.    Yes.

17          Q.    So just generally speaking, where did you  
18 see returns that were black?

19          A.    Up here.  If you was up here next to the  
20 longwall and stuff, if you had to go to the  
21 bathroom or something, they'd go where -- certain  
22 areas was black and other areas it looked okay.  I  
23 guess it just depends on where you was at.

24          Q.    How do you account for that?  I mean, what

1 do you think, just because the ventilation was  
2 carrying coal dust to some areas and wasn't as much  
3 to others, or do you think somebody had actually  
4 rock dusted there?

5 A. I don't know if somebody had actually rock  
6 dusted or it was just the way the air was blowing.

7 MR. MCGINLEY: That's all the questions I  
8 have. Thanks.

9 EXAMINATION

10 BY MR. TUCKER:

11 Q. Real quick thing. When you talk about  
12 setting the prop setters inby the longwall face?

13 A. Yes.

14 Q. How did you all get those up there?

15 A. Carried them.

16 Q. Do you recall where you parked your  
17 mantrip at?

18 A. I don't remember how far -- we would have  
19 to carry them probably 10 to 15 breaks. So the  
20 track would end, I don't know, it was -- can't  
21 remember exactly where we parked at, but we would  
22 have to carry them 10 or 15 breaks.

23 Q. Say when you come past the switch there at  
24 78, coming on up the tailgate entry, would you ride

1 all the way up to the end of the track?

2 A. Yeah, we would ride up to the end of the  
3 track. From the 78 break the track went probably,  
4 I don't know, 10 or 12 breaks.

5 Q. Okay. All right.

6 A. Then we would have to carry them probably  
7 another 10 to 15 breaks.

8 Q. Okay. What did you think of the rock dust  
9 in the outby of 78 back toward the Ellis switch?

10 A. It looked good. The track did. The  
11 belts, you know, we would have to dust the belts  
12 that needed dusted.

13 Q. The track, and that's what you see the  
14 most as you're going in and out --

15 A. Yes.

16 Q. -- that looked decent?

17 A. (Witness nods.)

18 Q. Then the belts, you would periodically  
19 have to rock dust them?

20 A. Yes.

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

22 Thank you.

23

24

## EXAMINATION

1  
2 BY MR. BABBINGTON:

3 Q. On those, we're talking about that outby  
4 78, outside of the belt track entries, did you get  
5 a chance to see any of the other entries.

6 A. Yes, I seen the neutral up towards 78  
7 break. I would see the neutral, you know, I would  
8 look at the neutral when I would be out dusting the  
9 belt and stuff.

10 Q. And we're talking about outby 78?

11 A. Yes.

12 Q. And what did those entries look like?

13 A. The neutral needed dusted.

14 Q. Okay. And did you ever dust those?

15 A. No.

## EXAMINATION

16  
17 BY MR. SHERER:

18 Q. One more quick question, Mr. Stover.

19 When you first started working at UBB, you  
20 were there for a week and then you went to Mar  
21 Fork, and then you came back to UBB. When did you  
22 first have SCSR training?

23 A. I had it prior to starting with Massey,  
24 the day of my orientation. I had it with my

1 safety.

2 Q. And then have you had any retraining with  
3 SCSR?

4 A. Yes, sir. We go over them probably once a  
5 month. We have to don them and everything.

6 Q. One last question. Excuse me.

7 We understand that there was a layoff of  
8 mainly contractors several weeks prior to the  
9 explosion.

10 A. Yes.

11 Q. Do you recall that?

12 A. Yes, I do.

13 Q. Did that have any impact on the operation  
14 of the mine?

15 A. I think it did because we were short-  
16 handed then.

17 Q. Are you aware of any impact that had on,  
18 like, rock dusting or ventilation, any of the  
19 critical things that may have contributed to an  
20 explosion?

21 A. I don't know for definite if it did, but  
22 I would say that it had impact on stuff. It didn't  
23 have impact on the rock dusting.

24 Q. One more question just to follow up with

1 that. What do you think happened with this  
2 explosion?

3 A. I think the bottom hooved and methane or  
4 they've hit an active gas well.

5 MR. SHERER: Thank you.

6 EXAMINATION

7 BY MR. MCGINLEY:

8 Q. You were asked a couple minutes ago,  
9 Mr. Stover, about the neutral entries, and you said  
10 they needed dusting. How do you know that? How  
11 did you draw that conclusion? They were black?

12 A. After I started dusting I could tell just  
13 looking, you know, they was black. They wasn't  
14 solid black, but they was pretty black. I could  
15 tell by looking.

16 Q. Much different than they looked if you had  
17 done the kind of dusting that the foreman had  
18 mentioned to you a week into your work?

19 A. Yes.

20 EXAMINATION

21 BY MR. TUCKER:

22 Q. One quick question there, Clifton. I've  
23 said that a couple other times, but I mean it this  
24 time.

1           The doors you talked about seeing open on  
2 April the 5th there at 78, I understand you worked  
3 a day shift for a while. Did you work evening  
4 shift any?

5           A. Yes, I did work evening shift.

6           Q. On those other two shifts, did you  
7 encounter any doors being left open?

8           A. Yes, I did.

9           Q. Do you recall which doors?

10          A. The same doors. Right here at 78 break.

11          Q. So it sounds like it's fairly common to,  
12 regardless of what shift you were on, to find those  
13 doors left open?

14          A. Yes.

15          MR. TUCKER: Okay. Thank you.

16          MR. KOERBER: Mr. Stover, is there  
17 anything that comes to your mind that you thought  
18 might be important that for some reason a question  
19 has not elicited that information from you?

20                 Can you think of anything else that might  
21 be important as to trying to find out what the  
22 cause was of this explosion?

23          THE WITNESS: I figured you all would ask  
24 me, but right here at the Glory Hole, a lot of

1 times you would pick up methane on your spotter. A  
2 lot of times. You could be riding on a mantrip or  
3 a motor and it would go off.

4 MR. KOERBER: At what levels?

5 THE WITNESS: Sometimes 3 to 4 percent.

6 MR. KOERBER: How long before April 5th,  
7 2010, were you picking up those 3 to 4 percents.

8 THE WITNESS: Pick it up, like, two weeks  
9 before, the week before.

10 MR. TUCKER: Did you have a detector with  
11 you on April the 5th?

12 THE WITNESS: Yes.

13 MR. TUCKER: Did you happen to pick up  
14 anything that you can remember?

15 THE WITNESS: It went off one time, but I  
16 looked at it and it didn't show nothing. I don't  
17 know what happened. Because I had it in my pocket  
18 and I got it out and it didn't show anything, but  
19 it beeped. That was up here on the long -- but it  
20 didn't show nothing at that time.

21 MR. TUCKER: Okay. Is there any other  
22 places that you picked up methane?

23 THE WITNESS: That's the only place right  
24 there, at the Glory Hole, which would be right here



1 at the mouth of headgate 22 and the Glory Hole is  
2 right here.

3 MR. KOERBER: Anything else you can think  
4 of that you thought might be important that has not  
5 been brought out during today's interview.

6 THE WITNESS: I can't think of anything  
7 else.

8 MR. KOERBER: Go ahead.

9 EXAMINATION

10 BY MR. MCGINLEY:

11 Q. I just had a follow-up on this spotter.

12 One of the notes said that, in the Exhibit  
13 1, the spiral notebook, a page that said that one  
14 day you didn't have a spotter.

15 Was that unusual or why would that  
16 happen? Did somebody take the one that was  
17 assigned to you all?

18 A. Sometimes you would have your name put on  
19 it, but if you would leave it at the mine office  
20 and put it on charge, not necessarily when you come  
21 in you would have one. Even though it had your  
22 name, whatever one was there they would take.

23 But if you was with a group of foreman or  
24 crew leader, he always had one when you was with

1 him.

2 Q. So when you were working that period of  
3 time on the dust crew, were there several days when  
4 there just wasn't a spotter available to you?

5 A. Yes. Several times I didn't have one.

6 Q. Did you feel uncomfortable going in  
7 without that, or did that just seem to be what  
8 others, you know, people just went in without it?

9 A. It -- I thought -- it worried me a little  
10 bit, but I went ahead and went in.

11 MR. MCGINLEY: Thank you.

12 EXAMINATION

13 BY MR. SHERER:

14 Q. I've got one more question.

15 We asked you before did you smell anything  
16 unusual that last night you were in there.

17 Have you ever smelled anything, like old  
18 kerosene or propane or something like that?

19 A. I have smelt, but not that particular  
20 night, but I have smelt -- smelt like, you know, a  
21 kerosene or a diesel smell.

22 Q. Where was that at?

23 A. It was around the Glory Hole right here.

24 I didn't know if that's just something to

1 be worried about, or if it might have been some  
2 fumes blowing outby. But this particular 4th, the  
3 night before, I didn't notice anything difference  
4 in smell.

5 Q. Sure. Thank you.

6 When you noticed your detector going off,  
7 was that around the same time or place where you  
8 would smell that diesel-like smell?

9 A. Yes, right here. You could ride by  
10 sometimes on the mantrip or a motor going up here  
11 to headgate 22 and go by the Glory Hole, and  
12 that's, right here, that smell.

13 Q. Thank you.

14 A. But the Glory Hole is, what it was,  
15 Logan's Fork, it had a big old chute that dropped  
16 down. They dropped coal down to the Glory Hole.

17 Q. Okay.

18 MR. KOERBER: If there's anything you  
19 would like to clarify, anything you would like to  
20 say, any statement you would like to make, the  
21 floor is yours.

22 THE WITNESS: I don't have anything to  
23 say, sir.

24 MR. KOERBER: On behalf of the Office of

1 Miners' Health, Safety & Training, and the other  
2 two accident investigation teams, I would like to  
3 thank you for coming here today.

4 And with that, we'll go off the record.

5 (Interview concluded.)  
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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 CLIFTON D. STOVER 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, that  
10 the same were accurately transcribed out in full  
11 and true record of the testimony given by said  
12 witness.

13 I further certify that I am neither attorney  
14 or counsel for, nor related to or employed by, any  
15 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 2nd day of  
23 May 2011.

24 -----  
Jenny Taylor  
Notary Public