

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

WEST VIRGINIA
MINE SAFETY AND HEALTH ADMINISTRATION

IN THE MATTER OF:

**THE INVESTIGATION OF THE
APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE.**

The interview of THOMAS GARY YOUNG, taken upon oral examination, before Jenny Marmol, Court Reporter and Notary Public in and for the State of West Virginia, Wednesday, April 27th, 2011, at the Mine Academy, 1301 Airport Road, Beaver, West Virginia.

**JOHNNY JACKSON & ASSOCIATES, INC.
606 Virginia Street, East
Charleston, WV 25301**

(304) 346-8340

APPEARANCES**OFFICE OF MINERS' HEALTH, SAFETY &
TRAINING**

**Barry L. Koerber, Assistant Attorney
General
1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425**

**OFFICE OF MINERS' HEALTH, SAFETY &
TRAINING**

**Bill Tucker
1615 Washington Street, East
Charleston, WV 25311
(304) 558-1425**

U.S. DEPARTMENT OF LABOR

**Office of the Regional Solicitor
Matthew Babbington, Esquire
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209
(202) 693-9389**

U.S. DEPARTMENT OF LABOR

**Mine Safety and Health Administration
Erik Sherer, P.E.
1100 Wilson Boulevard, Room 2413
Arlington, VA 22209
(202) 693-9523**

GOVERNOR'S INDEPENDENT INVESTIGATION PANEL

**J. Davitt McAteer, Esquire
316 Washington Avenue
Wheeling, WV 26003
(304) 243-2513**

**Also Present: Jerry Vance, Norman Page and Bob
Wilson, Jasey Maggard, Tim Watkins, Alvin Brown,
John Godsey, Steaven Caudill.**

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

EXAMINATION INDEX

THOMAS GARY YOUNG

BY MR. SHERER	11
BY MR. TUCKER	52
BY MR. MCATEER	67
BY MR. BABBINGTON	82
BY MR. SHERER	89
BY MR. TUCKER	104
BY MR. MCATEER	105

EXHIBIT INDEX

Exhibit	Page
1 Notebook	47

1 MR. KOERBER: My name is Barry Koerber.
2 I'm an assistant attorney general. I'm assigned to
3 represent the West Virginia Office of Miners'
4 Health, Safety & Training, and I have been selected
5 to be a member of the State UBB Accident
6 Investigation Team.

7 We have other members of the other
8 investigative teams present here at the table.
9 They'll be doing the questioning.

10 Beginning at my left, I'm going to ask
11 those individuals to identify themselves and who
12 they're with.

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

16 MR. BABBINGTON: Matt Babbington, I'm an
17 attorney with the U.S. Department of labor,
18 representing MSHA.

19 MR. SHERER: Erik Sherer, with MSHA.

20 MR. MCATEER: And I'm Davitt McAteer, and
21 I'm with the Governor's Independent Investigation.

22 MR. KOERBER: And we have several people
23 in the back. I would ask, beginning here at my
24 right at the lower table and going to the left, for

1 the people to identify themselves and who they're
2 with.

3 MR. PAGE: Norman Page, MSHA.

4 MR. VANCE: Jerry Vance, MSHA.

5 MR. CAUDILL: Steaven Caudill, MSHA.

6 MR. BROWN: Alvin Brown, MSHA.

7 MR. MAGGARD: Jasey Maggard, MSHA.

8 MR. WATKINS: Tim Watkins, MSHA

9 MR. WILSON: Bob Wilson, with MSHA.

10 MR. GODSEY: John Godsey, MSHA.

11 MR. KOERBER: And we also have a court
12 reporter here today. She'll be transcribing that
13 which is said here today.

14 She's with a court reporter firm known as
15 Johnny Jackson & Associates.

16 That firm is located in Charleston, West
17 Virginia. Under the contract that they're
18 operating under, they're working under a three-day
19 turnaround as to putting on paper the words that
20 are typed here today.

21 So this being Wednesday, three business
22 days from today takes us through Monday. So come
23 Tuesday of next week, the transcript will be on
24 paper.

1 If you choose, and this is your choice,
2 not a requirement, but if you choose, you would
3 have the option, come Tuesday, or for a couple or
4 three weeks thereafter, if you would like to review
5 your transcript, and with an errata sheet make any
6 corrections that you feel that she made when she
7 was typing up the transcript, you can do so.

8 If you desire to do so, anytime beginning
9 Tuesday or for the next couple three, four weeks
10 thereafter, I mean, you don't have to call on
11 Tuesday, but try to do it within a month, if you
12 would, please.

13 Call the number on this business card, the
14 address of the agency is on this business card.
15 They will set up a time that's mutually convenient
16 for you, where you'll go to their office, they'll
17 put you in a conference room where you're in
18 private, give you a copy of the transcript and an
19 errata sheet, and you'll have all the time you want
20 to review it.

21 Now, you will not be able to take your
22 transcript home with you. You can't take a copy
23 with you. You have to do it there.

24 I'm going to give you this here in a

1 moment when I get through with what I want to talk
2 about.

3 You're appearing here today voluntarily;
4 correct?

5 THE WITNESS: Yes.

6 MR. KOERBER: As was mentioned to you
7 earlier, you can take a break at any time, just say
8 you want to take a break, we'll take a break.

9 If you want to terminate the interview,
10 you can terminate the interview at any time, just
11 say you want to terminate the interview. Okay?

12 THE WITNESS: Okay.

13 MR. KOERBER: I ask that you not discuss,
14 outside of this room, that which we talk about
15 here, and that's for the purpose of trying to
16 protect the integrity of the investigation that's
17 ongoing as we speak.

18 THE WITNESS: I understand.

19 MR. KOERBER: I'm going to turn it over to
20 Matt. He may have something he would like to add
21 at this moment.

22 MR. BABBINGTON: Mr. Young, thank you for
23 coming and talking with us.

24 Government investigators and specialists

1 have been assigned to investigate the conditions,
2 events and circumstances surrounding the fatalities
3 that occurred at UBB on April 5th, 2010.

4 Before we get started, I also want to
5 mention that any statements given by miner
6 witnesses to MSHA are considered to be an exercise
7 of statutory rights and protected activity under
8 Section 105(c) of the Mine Act.

9 And if you believe any discharge or
10 discrimination or any other adverse action is taken
11 against you as a result of your cooperation with
12 this investigation, you're encouraged to
13 immediately contact MSHA and file a complaint under
14 Section 105(c).

15 MR. KOERBER: At this time I would ask the
16 court reporter to administer the oath.

17 THOMAS GARY YOUNG, DEPONENT, SWORN

18 MR. KOERBER: Sir, for the record, would
19 you please state your full name and spell your
20 last?

21 THE WITNESS: Thomas Gary Young,
22 Y-o-u-n-g.

23 MR. KOERBER: Would you please state your
24 address and your telephone number?

1 A. ██████████
2 ██████████

3 MR. KOERBER: And are you expecting an
4 attorney or some other personal representative to
5 be with you here today?

6 THE WITNESS: No.

7 MR. KOERBER: I'm going to give you the
8 Johnny Jackson business card, as I mentioned
9 earlier. I'm also going to give you two more
10 things.

11 I'm going to give you the business card
12 for Mr. William Tucker. Bill Tucker is the lead
13 accident investigator for the Office of Miners'
14 Health, Safety & Training.

15 If something would occur to you after you
16 leave here today that you think would be important
17 for trying to find out what caused the explosion on
18 April 5th, 2010, please contact Mr. Bill Tucker and
19 the contact information is on this card.

20 I'm also going to give you a memorandum.
21 And the memorandum contains the address of the West
22 Virginia Board of Appeals.

23 The West Virginia Board of Appeals is the
24 administrative tribunal that hears discrimination

1 cases involving coal miners.

2 West Virginia Code Section 22A-1-22
3 protects coal miners from being discriminated
4 against for participating in interviews such as
5 this.

6 So if you find that you have been
7 discriminated against because you appeared here
8 today and talked to the accident investigation
9 teams, this is the agency where you file your
10 complaint.

11 Your complaint does not have to be
12 anything elaborate. It can be a handwritten letter
13 just stating what happened. Okay? It doesn't have
14 to be anything special.

15 I do want to caution you, however, that
16 under the statute, you only have 30 days from the
17 day of the day of the discriminatory action to file
18 your complaint with the Board of Appeals. Okay?

19 So let me give you these things. These
20 are to take home with you.

21 And with that I'm going to turn the
22 interview over to Erik and we'll begin.

23

24

EXAMINATION

1
2 BY MR. SHERER:

3 Q. Again, I want to thank you for coming in
4 here, Mr. Young. We've interviewed a lot of
5 people. We've spent a lot of time underground.
6 We've done a lot of work at UBB trying to find out
7 what caused the accident and how we can prevent
8 it.

9 You're just as important as the first
10 person we interviewed, probably more so, and we've
11 been following different leads out and then trying
12 to, you know -- and interviewing people.

13 And anything you can tell us that will
14 help us figure out what went on at Upper Big Branch
15 and what contributed to the accident is greatly
16 appreciated.

17 We understand that you worked at UBB prior
18 to explosion; is that correct?

19 A. Yes.

20 Q. What was your job description up there?

21 A. I run a motor and a duster. I guess
22 everybody calls me the duster.

23 Q. Okay. Did you have a specific shift that
24 you worked on?

1 A. At the end, I was on hoot owl.

2 Q. Okay.

3 A. But I worked, I mean, there was some weeks
4 I worked all three shifts in the same week.

5 Q. Sure. You're a better man than I am.

6 A. It was tough.

7 Q. I imagine.

8 Now this motor that you ran, we understand
9 there was a track mounted duster that went along
10 with that?

11 A. Yes, sir. It was a pod duster. It had
12 two pods.

13 Q. Okay. Did you have any certification
14 papers? A foreman ...

15 A. No. No, just my black hat.

16 Q. Okay. And you were a contractor with
17 Mountain --

18 A. Mountaineer Labor Solutions.

19 Q. Mountaineer Labor.

20 When did you first start working at Upper
21 Big Branch? Just roughly?

22 A. Let's see, I think around the -- seems
23 like maybe around January of that year 2010.

24 Q. 2010?

1 A. I'm not positive. Maybe a little bit
2 before that.

3 Q. That's close enough.

4 Have you worked at any other Massey
5 operation prior to that?

6 A. No. Actually it -- I know it was before
7 January. I don't remember the exact date, but I
8 think I had been there about six months.

9 Q. Okay. Six months.

10 Were you working there prior to
11 Thanksgiving?

12 A. It was right around then.

13 Q. Okay. That's good enough. When did you
14 first start working in the coal mines?

15 A. 2006. I went to school for a while at
16 Appalachian Training Group for a few months for
17 coal miner training, lots of things, ventilation
18 maps and stuff like that.

19 Q. Sure.

20 A. Then I started at Harris No. 1, I believe,
21 in I think around February 2006, something like
22 that. It's been a while.

23 Q. About when did you get your West Virginia
24 black hat?

1 A. It was in 2006. Right around the middle
2 of the year, I guess.

3 Q. Okay. Sure.

4 A. June/July, something like that.

5 Q. Now Harris, as I understand it, is a mine
6 in the same seam that Upper Big Branch is in, but
7 it's farther to the west and south, I guess?

8 A. Right. Yeah, that's the way I understood
9 it, too. It was the same.

10 Q. Okay.

11 A. It used to be owned by Peabody, I believe,
12 Upper Big Branch did.

13 Q. Okay. What was the last shift you worked
14 prior to the explosion, do you recall?

15 A. You mean the dates, or the shift I was
16 working?

17 Q. Either one.

18 A. I was on the hoot owl on the midnight
19 shift. It was roughly a week before it happened.

20 Q. Okay.

21 A. I was having some issues there with some
22 things going on, so I wasn't there.

23 Q. Okay. Take some time off?

24 A. Well, I was supposed to have had a meeting

1 with that superintendent, which I never did receive
2 a call. And then the next I heard they laid us off
3 anyway. So I was already -- had another job lined
4 up anyway, so, I mean ...

5 Q. That's good.

6 A. That was a place there everybody was
7 trying to get out of, it seemed like.

8 COURT REPORTER: I'm sorry. I'm having a
9 hard time understanding you. Would you speak up a
10 little bit?

11 THE WITNESS: Sure. Sorry.

12 Q. So you worked up to about a week prior to
13 the explosion. Could you just take me through what
14 your normal shift consisted of? When did you
15 start? What did you do first? Just take me
16 through it.

17 A. The shift started at about 11 o'clock, 10
18 or 11 o'clock at night. And I'd come in. I would
19 usually have to stand there and wait for usually
20 hours. Longwall had to get their stuff put on
21 cars, and they had to be underground and out of the
22 way before I could go do what I had to do.

23 So then I would load the duster. I would
24 have to get a motor, get the duster, take it up to

1 silo, load it up, call for a track, and then make
2 my way to wherever they had me going that night to,
3 you know, either run a flinger duster on the track
4 or, you know, drag the hoses over and dust the
5 belt, just wherever they wanted me to be that
6 night.

7 Q. Sure.

8 Okay. Now, how would you know where to
9 go?

10 A. They would just tell me.

11 Q. Okay. Who did you work for?

12 A. Generally it was wrote on the board --

13 Q. Okay.

14 A. -- when I'd get there.

15 Q. Like a white board or something?

16 A. Yeah, we would have notes.

17 Q. Did you know who would write that up
18 there?

19 A. Usually it was a Gary May. He was the
20 super.

21 Q. Okay.

22 A. To my understanding, that was usually who
23 wrote it. I mean, I didn't see it wrote, so ...

24 Q. Okay.

1 A. But, I mean, he'd always say he left a
2 note here or there, you know. He was the person
3 that I dealt with all the time.

4 Q. Okay. So he was your supervisor?

5 A. Yeah. He was pretty much my boss. I
6 mean, he was the only person I would ever ...

7 Q. Sure.

8 A. I spoke to the other superintendent one
9 other time on the phone, and he said I didn't work
10 for him. He didn't have anything to say to me. I
11 need to talk to Gary May, which he wasn't there
12 anyway. So it was a confusing place to work.

13 Q. We've heard that before, sir.

14 So you get into the mine, you look up on
15 the white board, figure out where you're going to
16 go.

17 Did the instructions on that white board,
18 they told you where to go? Did they tell you how
19 many loads of dust to apply or anything like that?

20 A. No, no. No, it would just say -- I mean,
21 I just had a place, you know, and then I know to
22 dust. Which I would never have time to dust more
23 than just the two pods I had anyway, if I even had
24 that much time.

1 Q. Okay. Now, do you know about how much
2 each one of those pods held?

3 A. I really couldn't. I don't really
4 remember.

5 Q. Okay. Sure.

6 A. I mean, they were small pods. I mean, I
7 could dust -- I could run it for probably an hour.

8 Q. Just on average, about how many crosscuts
9 could you dust with a full load?

10 A. Well, it was depending on where it was
11 at. Some of it was lower, some of it was worse,
12 some of it was higher, you know, it just depends on
13 where it was.

14 Q. Oh, okay. Sure.

15 Now, did you always dust --

16 A. Usually about ten, I would say, if I
17 remember right.

18 Q. Okay. About ten loads.

19 Did you dust the -- you mentioned using
20 the flinger duster on the track and pulling the
21 hoses on the belt.

22 Did you always dust both of those
23 together, or would you just dust, say, the belt one
24 time and the track another? How did that work?

1 A. Sometimes it would be just one and
2 sometimes there was both sometimes.

3 A lot of times, like, if I went and dusted
4 with the hose, you know, if I got to -- if I
5 finished what part that I had to dust or I was
6 running out of time, then I would turn the flinger
7 duster on and run it on my way out, just to use,
8 you know, what I had and dust what I could dust.

9 Q. You mentioned you had to wait on the
10 longwall crews to get in, and then you had to do
11 several things to get ready to take your dust unit
12 into the mine?

13 A. Uh-huh.

14 Q. About how long did that take from the
15 start of your shift before you actually entered,
16 just on average?

17 A. Usually around 2 o'clock in the morning,
18 three or four hours, I would say, about every day.

19 And then, now, I would have to be back off
20 the track before it was time for day shift to start
21 in, too, so ...

22 Q. Was there any restrictions on where you
23 could dust or, you know, trying to keep dust from
24 going onto the areas where people were working?

1 Was there anything like that in effect?

2 A. I mean, if somebody was there, you know,
3 obviously you couldn't dust them out.

4 Q. Okay. Sure.

5 A. But other than that, the restrictions was
6 get off the track before day shift starts in.

7 Q. Okay. Sure.

8 A. We had a lot of pretty major problems over
9 that, you know, me being on the track and them
10 starting in.

11 Q. About when did you have to start out of
12 the mine to get out of the way of the day shift?

13 A. Again, if my memory serves me correct, it
14 was about 5 o'clock.

15 Q. So you had about a three-hour window to --

16 A. Didn't have much time. And it seemed like
17 it took around an hour and a half to two hours to
18 get to work, I had to go.

19 Now, once again, that depends on -- I'm
20 going by, you know, where all this happened. I was
21 a long ways from here. It took me a long time to
22 get there, and that didn't leave me much time to be
23 there.

24 Q. Sure.

1 A. Now if I was at the other side, you know,
2 it didn't take me no time to get to where I was
3 going.

4 Q. I see. The side that they call the south
5 side?

6 A. Right.

7 Q. About how often would you dust in the
8 northern part of the mine where the explosion
9 occurred versus in the southern part?

10 A. At the start, I was at the southern part
11 most of the days. And then there at the end, I was
12 over there every day.

13 Q. When you say "at the start," was that back
14 in around Thanksgiving?

15 A. I think I had been running the duster for
16 about two months when everything happened. Before
17 that, I mean, I did a little bit of everything over
18 there. I run a buggy some. I pinned tops. I did
19 some labor on day shift building stoppings and
20 stuff, so ...

21 Q. Okay.

22 COURT REPORTER: I'm sorry. I did not
23 hear you. You run the buggy. Do you bend tops?

24 THE WITNESS: Pin, run the bolter.

1 And then did some labor work on day shifts
2 building stoppings and overcasts.

3 Q. So you started the dusting about two
4 months prior to the explosion. Was there any
5 particular incident that caused you to change? Did
6 you bid on that job? How did that work?

7 A. I was working day shift. That was my
8 second different shift that week.

9 And Gary May came in, I believe I was
10 building a -- starting a -- I was on one side
11 building a overcast.

12 And he asked me, he said, Gary, you run
13 the motor, don't you? Because for the first while
14 I was on the motor supplying and stuff.

15 So I said, Yeah. And he asked me could I
16 run that duster. I said, Sure. He said, On the
17 hoot owl. I said, Yeah. He said, All right.
18 Start tonight.

19 Q. We understand there was another gentlemen
20 that got fired about that time. Do you know
21 anything about that? That run the duster?

22 A. I heard rumors. Didn't really know him
23 that well. I don't remember his name. But, yeah,
24 I had heard about that.

1 Q. Okay.

2 A. That's why I ended up with the job.

3 Because I had his helper at first, and I
4 then I ended up with a new helper. It was all a
5 big mess.

6 Q. How was it a mess?

7 A. Well, the helper that the guy before me
8 had, he was a red hat. His name was Dustin
9 something or another. They gave him to me because
10 he pretty much -- he knew the mines better than I
11 did, you know.

12 Q. Sure.

13 A. I hadn't been everywhere yet. So I hadn't
14 even been to the other side ever.

15 So he was with me for a little while, and
16 then they took him, I think, and he went to working
17 somewhere else in the mine.

18 And they gave me another guy who was a
19 black hat, I can't remember his name. And there at
20 the end, I guess the mess would be, you know, that
21 sometimes my helper would show and sometimes he
22 wouldn't, you know. I wouldn't have a motor,
23 wouldn't have a ride. I mean, it was just always
24 something.

1 Q. We understand that people got moved around
2 quite a bit at this mine. Is that fair to say
3 that?

4 A. I would think that that would be fair to
5 say, yeah.

6 Q. Did you feel confused because of all that
7 movement? Did you know who to go to, what to do?

8 A. As far as supervisors, yeah, there was a
9 lot of confusion with that. Not knowing who to
10 talk to, you know.

11 But, I mean, for the most part, I just
12 dealt with Gary May. He was pretty much the only
13 boss I had.

14 Q. Okay.

15 A. And he wasn't even there when I was
16 there. So if I had any problems, yeah, I would
17 call over and try to talk to Everett, but, like I
18 said, that ended up not working out.

19 Q. So Gary May primarily communicated with
20 you on that white board?

21 A. Yeah, and I would talk to him in the
22 mornings.

23 Q. Oh, okay.

24 A. When I would come out in the morning, you

1 know, he was there for day shift.

2 Q. Okay.

3 A. So we would talk about what I did, and
4 he would tell me what needed done, and we would
5 communicate then. Then I would give him my notes
6 or whatever, and then that would be that.

7 And then when I'd come in that evening, I
8 guess he would probably confer with Everett, or
9 whoever else, and they would decide where I needed
10 to dust and they would write it on the board.

11 Q. Okay. Sure.

12 A. If it was different from, you know, what
13 he had told me that morning.

14 Q. Sure. Let's say you went in an area to
15 dust and it was just totally black. Did that ever
16 happen to you?

17 A. Yeah.

18 Q. Would you communicate that back to
19 Mr. May?

20 A. Oh, yeah. I mean, I would always tell him
21 everything. If I had problems with the duster or
22 if, you know, something down bad on dust, you know,
23 I mean, I try to keep up with things the best I
24 could. I'm pretty safety cautious myself.

1 Q. That's good. What sort of shape was that
2 duster in? Was it a new piece of equipment?

3 A. No. No, it was -- it wasn't in good shape
4 at all there for the first while. I mean, every
5 night the hoses would stop up. I mean, it was down
6 for a long time.

7 And I used to work on that stuff before,
8 so I told him what it needed, you know, and how to
9 fix it.

10 So they got it put in the shop. It seemed
11 like it was in the shop the best part of two weeks
12 getting screens changed and things like that.

13 Q. Did they have another duster you used
14 while that one was being repaired?

15 A. My hands.

16 Q. Okay. I've done that.

17 A. Bags. So that was about it. And then
18 after they fixed it, the screens and stuff got
19 changed, it was running a lot better, but then
20 there were still constantly problems with the
21 lines. So it had a lot of stop ups and things. It
22 just wasn't a very good piece of equipment.

23 Q. I understand the compressors gave you a
24 lot of problems on those units. Did that one have

1 a good compressor on it?

2 A. It would kick on and off. They had a
3 little system there for a while that had a wedge
4 and some tape to hold the button in on it to keep
5 it on.

6 Q. Now was that a permissible wedge?

7 A. I mean, you know, I wouldn't imagine. I
8 mean, there was a -- what it is, is a button, you
9 know, just like a little brass button that you hold
10 in, that you pushed in.

11 I guess there was something wrong with the
12 switch, so it had a little wedge just to -- and it
13 had tape around it and the wedge would hold that
14 button in, and then when you turned it off or moved
15 the wedge to turn it off.

16 Which that, to me, that had something to
17 do with it. It would get hot and shut off was what
18 it was. They didn't want it to shut it off so the
19 wedge was there to keep it running. You could hold
20 the button and keep it running after it got hot.

21 Q. Did you watch -- did you have a gauge to
22 watch to turn it off or just had to know when to
23 pull the wedge?

24 A. I mean, you just turned it off when you

1 was done using it.

2 Q. Oh, okay. Okay.

3 Now did that thing have a pop-off valve so
4 when the pressure got hot enough it --

5 A. Like pressure relief valves?

6 Q. Uh-huh.

7 A. Yeah, it had pressure relief valves in it.

8 Q. Good.

9 Okay. Let's talk about the conditions of
10 the rock dust in the mine. You said that you would
11 get directions of where to go and you would apply
12 rock dust to the belt entry and/or the track
13 entry.

14 Did you ever put rock dust in any other
15 entries, intakes, returns, neutrals?

16 A. I mean, not that I recall. I mean, I may
17 have, but I don't remember.

18 Q. Sure. Just mainly go along the track and
19 the belt?

20 A. Yeah, I mean, I would say that the crews
21 took care of that on the section. I didn't go on
22 sections and dust them.

23 Q. Sure. Okay. Did you do anything else
24 besides dusting while you were in that job? Did

1 you have to help people, say, on a belt move or
2 something like that?

3 A. I mean, there would be times I would run
4 parts in and out or something or, you know, run a
5 car in with some supplies on it, you know, that
6 happened sometimes. I would have to do something
7 like run some block in or something, so, I mean,
8 that happened sometimes.

9 Q. Just on average, how many shifts would you
10 apply dust per week?

11 A. Sometimes all six. I work six days a
12 week. But then other times, one maybe. Sometimes
13 two, three. I mean, it was just -- it depended on
14 did I have a motor when I got there, did my helper
15 show up, was the duster down, did they have dust.
16 I mean, it just depended on the situation, what I
17 did that week.

18 My job was to dust, but it just didn't
19 always happen. Sometimes, you know, if my helper
20 didn't show up, I was supposed to take bags and
21 load them on a trip or something and take it in and
22 hand dust, but then I wouldn't even have a trip
23 either.

24 Q. That's tough.

1 A. So, I mean, one time I caught a ride in
2 and I hand threw two pallets of dust and walked
3 back out. So, I mean, it really just depended on,
4 I guess, what was going on that day and then what I
5 had to work with.

6 Q. Sure. Now you mentioned sometimes you
7 just didn't have dust. So they would run out of
8 rock dust? How did that work?

9 A. Well, it just did. I mean, sometimes, you
10 know, we didn't have sand. I remember one time we
11 didn't have sand for the motor at least a week.

12 And they had problems with that silo, too,
13 with the dust. So we worked on it one time for
14 about three days.

15 I changed the screen and stuff on the silo
16 and did some work with the compressor and stuff out
17 there. That's what you loaded your pod duster
18 with.

19 So I guess that would what I mean if they
20 had dust or not. Obviously we had to run the dust
21 out of the silo to work on it. So, then, you
22 know ...

23 Q. If things weren't working with the silo or
24 possibly you just ran out of dust, you used it all

1 up, who would you talk to to get parts or get it
2 fixed or get more dust ordered in there?

3 A. The only person I ever communicated any of
4 that stuff was with Gary May.

5 Q. Okay. Was he pretty responsive as far as
6 getting what you needed?

7 A. Most of the time. I mean, you know, it
8 might take some, but he usually did, you know.

9 If I told him something was broke, he
10 would work on fixing it, I mean. But then I think
11 the way that went, he would tell probably the shop
12 foreman or somebody, whoever was in charge of
13 fixing things, what needed fixed.

14 And then, like I said, that duster was
15 down for a long time. I don't remember how long it
16 was, but it was at least a good solid week. Maybe
17 longer, two weeks. Waiting on parts to fix it.

18 Q. Let's say you came in one night and you're
19 getting ready to go and you didn't have something
20 or something was broke, you really couldn't tell
21 Gary May until the next morning, could you?

22 A. No. I would just either have to fix it or
23 try to talk with somebody on the other side, which
24 didn't usually work.

1 Because usually what -- see, what Everett
2 or that guy -- I never even met that guy in person,
3 just over the mine phone or whatever, but usually
4 what he wanted was different from what Gary May
5 wanted, so I got stuck in the middle of it, and I
6 just think he didn't really like me.

7 So most generally, I mean, there was a
8 whole lot of times, buddy, I went home. I just got
9 in the car and left. I mean, there was nobody
10 telling me what to do, you know?

11 Q. Uh-huh.

12 A. I mean, I would just get in the car and
13 leave.

14 Q. Sure. Can't blame you there.

15 A. I mean, I didn't have a boss. I was to
16 wait outside until I got -- until, you know, they
17 got the longwall cars and stuff going in, roll car,
18 all that stuff had to go in before me, and then, I
19 mean, if I -- there wasn't nobody there.

20 So, I mean, if I had a problem, I didn't
21 have anybody to talk to. I could either sit down
22 outside, I guess, until he got there the next day
23 and tell him about it or leave.

24 So there for the first little bit, I sat

1 there and waited on him to get there, and then I
2 would tell him what was going on. And then after
3 that, I just started leaving.

4 Q. Sure. Now, were there any other crews
5 that applied rock dust in this mine the way you
6 guys did, like, say on the day shift or the evening
7 shift?

8 A. Not I'm aware of. I mean, I can remember
9 one time that Gary had told me that this other guy
10 on the day shift pulled the duster. I remember
11 that happening once. That's all.

12 Q. What was the condition of the rock dust in
13 here? Was it generally in good shape or did it --
14 were you always just trying to keep it from turning
15 black? How did that work?

16 A. Pretty much. I mean, generally wherever
17 they sent me to, like a red hat could look at it
18 and tell that it was necessary.

19 Q. So it was pretty dark?

20 A. A lot of times it was. Not always.
21 Sometimes they would send me places, you know, to
22 dust and it would still be white, you know.

23 Some of the times, I said I left most of
24 the times, but I some of the times I would go with

1 the belt crew.

2 Q. Sure.

3 A. And go on a belt move, if I didn't have
4 stuff.

5 Q. Now, do you feel like you had the support
6 and resources you needed to keep this mine dusted?

7 A. Not the support, I wouldn't imagine. I
8 didn't feel like I had time to do it. I mean, it
9 was my understanding that it was all D ordered over
10 there on dust, it was a long time, and, I mean, I
11 just didn't have the time to do it.

12 Q. Did you feel under a lot of pressure?

13 A. Yeah. Yeah. There at the end I did. I
14 mean, there was something going on there all the
15 time. Ventilation or backwards doors or something,
16 fans.

17 Q. If you could have run this mine for a day,
18 how would you fix the rock dusting?

19 A. I would probably shut everything down, let
20 everybody rock dust it, I would imagine.

21 Q. Sure.

22 A. I mean, I had a lot of problems with the
23 day shift boss over there and me being off the
24 track.

1 I mean, we almost come to a fight and that
2 was -- I'm sure they have got that down there
3 somewhere. I mean, I had to go to the
4 superintendent and stuff that next morning.

5 It was actually a collision on the track
6 where they hit my duster, and then we got into it
7 pretty bad, and then I told the superintendent what
8 I thought about that and everything. And that's
9 when it was told to me, you know, you're to be off
10 the track before they start in.

11 Q. And "they" were the longwall crew?

12 A. It seems like that was the headgate --

13 Q. Okay.

14 A. I'm not sure. I didn't really know a lot
15 of them that was there.

16 Q. Just the production crew?

17 A. Yeah.

18 Q. Did the production crews always get the
19 priority on the track?

20 A. Oh, yeah.

21 Q. Why was that?

22 A. I guess because they're paying the bills.

23 Q. They're paying the bills?

24 A. I mean, you know how coal miners are.

1 Q. Sure.

2 A. I mean, they had to get where they was
3 going and have what they needed.

4 Q. Well, from where I'm sitting right now, I
5 would say you were probably as important, if not
6 more important?

7 A. I would say I was more, just for safety
8 purposes.

9 Q. Sure.

10 A. I mean, you know, I know about that
11 stuff. I know it was down and it needed dusted,
12 and, I mean, I just didn't have time to do it.

13 I mean, they would fuss about it every
14 day, but what do you want me to do.

15 Q. And you primarily fussed to Gary May about
16 it?

17 A. Yeah.

18 Q. Did you fuss to anybody else about it?

19 A. I mean, not really. He's really the only
20 person I talked to.

21 Q. Okay.

22 A. I mean, I was pretty much a loner, man.
23 It was me and whatever helper I had, and I would
24 talk to him. If not, I would -- if I didn't do

1 that, I would go with Jaybird, and he was another
2 boss, and I would help on a belt move.

3 Q. Okay. Sure.

4 A. If he was already gone and then I had
5 problems, I would go home. There was nothing else
6 for me to do.

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

9 A. Not a lot.

10 Q. You ever put any dust down there?

11 A. You know, I really can't -- I couldn't
12 swear it either way.

13 Q. Okay.

14 A. I mean, I dusted about anything I could
15 get to on the track at one point or another. I
16 mean, I was all over the mine. I went everywhere.
17 I would say I was blowing probably every piece of
18 track in it at one point or another.

19 Q. Sure.

20 A. But I would go to different places all the
21 time.

22 Q. Do you recall what the rock dust was like
23 down on the tailgate side when you would pour down
24 there?

1 A. I really don't. I mean, it seems like
2 that was the part that I was going back and forth
3 to there at the end, dusting.

4 I thought that that was part of it that
5 was under order to be dusted, but, I mean, I never
6 had time. I mean, that was a long ways for me,
7 buddy, to get over there.

8 Q. When you went in there, how far could you
9 go? Could you go up to where you could hear or see
10 the longwall equipment?

11 A. Yeah. Yeah, a few times I did. I mean,
12 that wasn't a daily thing, though. But, I mean,
13 yeah, there was times I would get that far.

14 Q. Now was that the side that had the belt on
15 it?

16 A. What do you mean?

17 Q. When you went in, you know, there's a
18 headgate side and a tailgate side.

19 A. Right.

20 Q. We were talking about the tailgate, do you
21 recall if there was like a belt, a mule train down
22 there?

23 A. Yeah, I believe so. It seems like it,
24 because there was only so far I could go on the

1 track, and then it seemed like I would have to let
2 the air blow it down through there.

3 Once again, I mean, that's -- I couldn't
4 swear to it.

5 Q. It's been a long time.

6 A. Yeah, it has been a while.

7 Q. Let me ask you about doors. We understand
8 there was a lot of doors in this mine?

9 A. A lot of doors in that mine.

10 Q. You ever come up and found those doors
11 open?

12 A. Yeah.

13 Q. How common was that?

14 A. How come?

15 Q. How common was it? Was it every now and
16 then, once a week?

17 A. I would say every now and then. There
18 were certain doors it seemed like that was pretty
19 common that you would find some open.

20 It seemed like there was, like, nine doors
21 in a row somewhere that there was some in the
22 middle. Usually one of them was open or
23 something.

24 But, I mean, they had a lot of trouble

1 with the doors and the ventilation and stuff in
2 there.

3 Shoot, I remember one time they told us --
4 they pulled us out and said the doors was
5 backwards. I mean, you know, I wasn't in there to
6 swear to it, but that's what they told us.

7 That's why we was out. They had to turn
8 the doors around or something, change ventilation.

9 That was in recent days before the
10 explosion.

11 It seemed like it was constantly something
12 with a fan or ventilation was wrong.

13 Q. Who was in charge of ventilation of this
14 mine, do you know?

15 A. I would imagine the superintendent.

16 Q. So it would have been Gary May?

17 A. Well, on that side I would say Everett
18 probably. I mean, you know, I wasn't in any kind
19 of management position or anything.

20 But, I mean, if I had to guess, I would
21 imagine the superintendent would be in charge of
22 your ventilation, them and, you know, probably
23 section bosses and stuff.

24 Q. Now, did you ever have to stay out of the

1 mine for any sort of ventilation change, or did
2 they pull you back out of the mine for a
3 ventilation change?

4 A. Yeah. Yeah, that happened few times.

5 Q. Now you mentioned that you didn't get up
6 on the sections. How far would you dust up to the
7 sections?

8 A. Usually as far as I could get on a track.
9 That would be about it. I mean, the section crews,
10 I guess, would take care of whatever dust they
11 had.

12 My dusting job basically was from the
13 track. You know, I run the pod duster on the
14 track. I would dust the track. I would drag the
15 hoses over in the breaks, spray the belt. I mean,
16 I didn't -- didn't go on the sections and dust.

17 Q. Okay. But you would take it up as far as
18 the track went on the section?

19 A. Usually, yeah.

20 Q. Did they keep the track advanced with the
21 sections, or did they let it get behind?

22 A. It seemed like it stayed up pretty close,
23 fairly close, because, you know, your rides was on
24 the tracks, so it was usually pretty close. I

1 pulled a lot of track out of that mine.

2 Q. Let's talk about training a bit.

3 When you first started working at UBB,
4 what sort of training did you receive?

5 A. From them?

6 Q. Yeah, uh-huh.

7 A. I went to that, I think they call it MIT,
8 Massey-something training. It was like a day-long
9 class. I went to that, and it was basically just
10 like a retraining class, I guess, is what it seemed
11 like to me, just like safety and some videos and
12 stuff like that.

13 Q. Was that the first day you were there?

14 A. What do you mean?

15 Q. When you first went to work at UBB, was
16 that the first day that you worked there?

17 A. Yeah.

18 Q. Okay.

19 A. Yeah, you had to -- it was my
20 understanding you had to do that to get the card to
21 get on the property.

22 Q. Oh, okay. Now after you did that, what
23 did you do?

24 A. Went to work.

1 Q. Okay. Did they take you in the mine and
2 show you escapeways and things like that prior to
3 going to work?

4 A. A map.

5 Q. Showed you a map?

6 A. Yeah.

7 Q. Did you ever -- did you go to -- where did
8 you go to start working?

9 A. At UBB you mean?

10 Q. Yeah, uh-huh.

11 A. Let's see, when I first started -- when I
12 first started, I believe I was on a motor supply
13 and taking in track and pulling out track.

14 Q. Okay. Did you go in there by yourself, or
15 did you go with a crew?

16 A. Another guy. There was usually two of us
17 on a motor.

18 Q. Okay. So they didn't take you to, say, a
19 production section, the longwall, anything like
20 that, they just told you to go somewhere and start
21 working?

22 A. Yes.

23 Q. What about retraining? Did you get your
24 annual retraining?

1 A. Actually, yeah, I did. That was in the --
2 I don't remember what month that was, but I hadn't
3 been there real long and I had got the retraining.

4 Q. Okay. Good.

5 And then --

6 A. I had one right before I went, and then I
7 had one not long after I was there.

8 Q. Okay. Do you recall the last time you had
9 to walk out an escapeway prior to the explosion?

10 A. No, sir. No, not right off. I can't
11 remember.

12 Q. Did you ever do that?

13 A. I think once.

14 Q. Once?

15 A. I believe we walked out once.

16 Q. Do you recall about when you did that?

17 A. I really don't.

18 Q. Okay. What about your SCRs? Do you have
19 to practice donning them and do all that sort of
20 stuff?

21 A. At the retraining session you mean?

22 Q. Uh-huh.

23 A. Yeah.

24 Q. Did you do it any besides that

1 retraining?

2 A. I don't think so.

3 Q. Okay. Did you use that little cartridge
4 to breathe through when you did that SCSR training?

5 A. What do you mean? At the retraining?
6 Like the little -- that little bitty hickey?

7 Q. Yeah.

8 A. Yeah.

9 Q. Okay.

10 A. Yeah, we did one of those. Went through,
11 like, a tractor trailer with the lights off, you
12 know, little obstacles and stuff like that.

13 Q. Was there smoke in there?

14 A. I can't remember. It seems like they had
15 a blow up thing maybe that might have had smoke in
16 it. It seemed like there was two different things
17 we went through.

18 Q. Oh, okay.

19 A. Go through one side and come out the
20 other.

21 Q. Okay. Sure. Let me ask you, just in
22 general, the last time or two you worked in this
23 mine, did you notice anything unusual?

24 A. As far as?

1 Q. Anything. Something that looked
2 different, the ventilation, did it -- did you
3 notice anything that smelled odd, like kerosene or
4 propane or something?

5 A. I mean, not right off that I could say. I
6 mean, you know, there was times that we've noticed
7 stuff with the air, you know, right around the time
8 when all that stuff was happening. I mean, we knew
9 that.

10 Q. What problems would you notice with air?

11 A. It just wouldn't seem right. Sometimes it
12 seemed like there wasn't any. I don't really
13 remember exact conversations with who or -- I mean,
14 just there at the end, before everything happened,
15 it just seemed like there was just constantly
16 something with the ventilation, I mean, backwards
17 or fans was blowed up or something.

18 I mean it was always something.
19 Constant. The last few weeks, just seemed like it
20 was every day or every other day something was
21 going on.

22 Q. Were you shocked or surprised when this
23 thing blew up?

24 A. No.

1 Q. Where were you at when you first heard
2 about the explosion?

3 A. In the shower.

4 Q. Okay. That's probably a good place to
5 be.

6 How did you find out about it?

7 A. A phone call.

8 Q. Okay. We're sorry about the folks you
9 work with up there.

10 A. I appreciate it.

11 Q. None of us want to be here. We got to do
12 it, but all of us need to do a better job of
13 preventing these things.

14 Let me ask you about a notebook that we
15 found. Let me show you. We're going to enter this
16 into the transcript as an exhibit. You have got a
17 copy right here, in fact.

18 MR. BABBINGTON: We're going to mark this
19 as Young Exhibit 1.

20 (Exhibit No. 1 marked for
21 identification.)

22 Q. Have you seen this notebook before?

23 A. It's mine.

24 Q. Good. Tell us about this notebook.

1 A. Communications between me and Gary May.
2 He had -- this notebook was in the drawer of his
3 desk, and I would go in and write in it.

4 Q. Okay. So we see some days you say you
5 dusted here or there, some days you wrote down
6 everything was broke or malfunctioned and worked on
7 the hose and duster.

8 So you just wrote down kind of what the
9 conditions were and what you did?

10 A. Well, I mean, I'm sure you can tell a lot
11 by the way that I wrote, the aggravation, where
12 I've got here the duster was down again, I mean,
13 you see how I worded that.

14 I mean, I would tell him anything that I
15 seen, you know, like, I knew a lot about that
16 stuff, so I told him what was wrong with it and
17 what he needed with that.

18 Q. Just looking at this over a two-month
19 period of time, based on this notebook, you dusted
20 17 shifts, 17 times out of probably 40 or so -- 45
21 days that you could have. Does that sound about
22 right?

23 A. There's probably times, too, that -- there
24 was probably times that I didn't write anything,

1 too.

2 Q. Okay. And we notice some days you would
3 say things like "no ride." What would that mean?

4 A. Didn't have any ride. Didn't have any
5 motor. Didn't have any -- like I would come out,
6 if I would tell Gary May, I would be like, Look,
7 man, I didn't have a helper or I didn't have no
8 motor or something, he would say, Dust, dust,
9 dust. That's what he would always say.

10 Q. What does that mean?

11 A. I mean, I got along with the guy, you
12 know, we talked and stuff. He would just say,
13 Dust, you know, one way or another. Get a bag of
14 dust, dust something, you know.

15 And if I put "no ride," then that meant I
16 didn't have no ride. I wasn't going to pick up a
17 bag of dust and walk four hours in a coal mine and
18 sprinkle it on my way out. I mean, that's probably
19 what that meant.

20 Q. Okay.

21 MR. BABBINGTON: Sorry. Just to piggyback
22 on that. So "no ride," you mean like there wasn't
23 a mantrip for you to take in?

24 THE WITNESS: Right. That happened a lot.

1 Q. We notice -- look on March the 23rd.
2 Would you explain that one to us, please?

3 A. Well, I didn't have a ride. I didn't have
4 a -- I didn't have any help. I would not get on a
5 motor and take it anywhere without a brakeman,
6 somebody else on a motor with me. You know, you
7 can't do that, so I wouldn't do that.

8 So that day my helper didn't show up
9 again, and there was no ride for me to take a
10 duster. I didn't have a spotter or anything. I
11 left. I wrote, "I'm set up to fail here."

12 Q. What did you mean by that?

13 A. I meant like they wanted me to do a job
14 and didn't give me anything to do it with.

15 Q. Okay.

16 A. They don't want to give me help, you don't
17 want to give me the tools that I need to do it, I
18 mean, I'm set up to fail.

19 Q. We notice there's a line under that. It
20 looks like somebody wrote something and scratched
21 it out. Do you recall doing that?

22 A. Not right off, but, I mean, it's hard to
23 say. I can look at it and tell and actually
24 remember the day that I was angry. So it's hard to

1 tell. I may have put something there and then
2 decided not to do that.

3 Q. Okay. Sure. I've been there before.

4 A. I mean, I would get pretty angry when that
5 stuff would happen. I mean, I take pride in my
6 work. And especially something like that, I mean,
7 that's an important job. It has to be done. It's
8 got to be done right. And, you know, people's life
9 depended on that.

10 And if I couldn't do it, then, you know,
11 number 1, it didn't get done, and, number 2, I was
12 going to hear something about it because it didn't
13 get done.

14 Q. We notice that that's the last entry
15 that's got your name on it. Is that about the time
16 that you left Upper Big Branch?

17 A. Probably. It seems like I might have
18 worked a day or two past that, but I wouldn't swear
19 to it.

20 Q. Okay.

21 A. I would say that's close to right around
22 the time. It was like a week or so. It wasn't
23 long.

24 Q. Now, we understand there were several

1 people laid off about that same time. Do you
2 recall that?

3 A. Yeah, that's what I was told, that I was
4 one of them.

5 Q. Okay. Let me ask your opinion. You did
6 -- you said you did some outby work and you helped
7 with the belts and you did the dusting.

8 Do you feel like they had enough people to
9 do it prior to that layoff?

10 A. No. I mean, if they did, they wouldn't
11 have been in trouble over dust.

12 MR. SHERER: Sure. Okay. Thank you.

13 That's all the questions I've got for
14 right now. I'll turn it over to Mr. Tucker.

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. I'll be bouncing a round a little bit, so
18 bear with me.

19 You mentioned Jaybird, the name Jaybird.
20 Who is that?

21 A. I think his name was Jason, but I wouldn't
22 swear to that either. I called him Jaybird.

23 Q. Okay.

24 A. He was just a move crew boss on the hoot

1 owl, and I got along with him pretty good.

2 So, you know, if I didn't have stuff to
3 work with, then I would ask him if he wanted me to
4 come with him, and I would go with him and help.

5 Q. You also mentioned about the red hat
6 Dustin that helped you for a while. Do you happen
7 recall his last name?

8 A. No, sir, not right off. I almost do.
9 Like I know it, but I can't think of it right away.

10 Q. Well, if you think of it later just blurt
11 it out?

12 A. Okay. Because I knew -- actually knew his
13 parents. I just can't remember. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16

17 I can't remember.

18 Q. Okay. That's all right.

19 A. I just don't remember. I may remember.
20 If I do, I'll holler it to you.

21 Q. When was the last time you was up on the
22 longwall headgate dusting, do you recall --

23 A. I could probably look at this and tell.

24 Q. -- on the headgate side of the longwall

1 where the -- you know, where we're talking --
2 coming up from the mother drive?

3 A. I'm not sure. I'm not sure, but I can
4 probably look in here and tell in this book.

5 Q. Okay.

6 A. You said from the mother drive? That's
7 what you're talking about?

8 Q. Yeah, on the headgate side of the
9 longwall. You know, you would come up --

10 A. I dusted the longwall belt and the mother
11 drive on the 18th and the 20th from 78 break, from
12 the mother drive up to 78 break. It seems like
13 that was where the fork was in the track, if I
14 remember right.

15 Q. Do you recall the last time you was up on
16 the longwall section where the mule train and all
17 of that's at?

18 A. I really don't.

19 Q. Okay.

20 A. Just not sure. I mean, I probably wrote
21 it on here.

22 Q. And I know it's been quite a while?

23 A. Yeah. A little better than a year.

24 Q. Yeah. To the best of your recollection,

1 as far as the overall dusting, you mentioned that
2 some of it looked really bad and black.

3 Do you happen to recall any areas in
4 general that you thought that the dusting really
5 was inadequate, just by the naked eye looking at
6 it, that was more black than others?

7 A. I mean, everything on that side over there
8 on the north, I mean -- from my understanding, I
9 mean, I couldn't swear to it because obviously I
10 wasn't there 24 hours a day, but my understanding
11 is I was the only person that was dusting. So I
12 didn't get it all.

13 Q. To the best of your knowledge, there was
14 one rock dust crew and it was you?

15 A. Yeah.

16 Q. On the midnight shift?

17 A. Yeah.

18 Q. You mentioned you dusted with pod
19 dusters. Was there one or two pod dusters?

20 A. Just one, but it had two pods on it.

21 Q. So if that one particular duster went
22 down, you were down?

23 A. Right.

24 Q. Okay. Had that, the duster you was using

1 there at the last, is that the same duster you had
2 been using for quite a while?

3 A. Yes, sir, that was the only one.

4 Q. Only one you had ever used the whole time
5 you were dusting?

6 A. Yes, sir.

7 Q. Did you carry a gas detector with you, a
8 Solaris or anything?

9 A. Yeah. I mean, somebody had one that was
10 with me. If I didn't have one, then my helper had
11 one. I mean, I wouldn't have went without it. I
12 mean, that's what you can see in my notes here when
13 I left that day, no ride, no help, no spotter.

14 Q. Right. And that made me wonder if you had
15 ever picked up any methane with your detector?

16 A. No. No, I had -- not myself, I hadn't.

17 Q. Anybody with you that comes to mind?

18 A. Not while I was dusting, no.

19 Q. Did you have a -- you mentioned sometimes
20 you wouldn't have a motor. Was there a particular
21 motor that you needed to use when you -- to pull
22 your duster?

23 A. Not exactly just one, but there were
24 certain ones. I couldn't use any of them, just any

1 of them. It had to have a certain pigtail to run
2 the duster.

3 Q. Do you recall what kind of shape, or did
4 you have any problem with the batteries on your
5 motor?

6 A. Usually I would change the batteries at
7 the start of each shift.

8 Q. Did you ever notice them smoking or
9 anything like that, smell anything coming from
10 them?

11 A. Well, I mean, they stunk in the shop. I
12 mean, but all that stuff stinks, you know.

13 Q. As far as when you was underground
14 operating it?

15 A. Not that I can recall, but, I mean, I
16 wouldn't say it didn't happen, but not that I
17 remember.

18 Q. Okay.

19 A. I mean, if it stunk I would have took it
20 outside. I can tell you that.

21 Q. You mentioned something about the doors
22 being backwards. Was you referring to track doors
23 or man doors?

24 A. They just said the doors. I would assume

1 that that meant the man doors, but I'm not really
2 sure. Somebody else said something about the track
3 doors, too.

4 But see, I wasn't a part of that, so I
5 really couldn't swear either way. I mean, that was
6 just, you know, how people talk. I mean, it was
7 rumors. Everybody had a different story.

8 Q. Okay. As far as the track doors and flip
9 doors that, I know you dealt with them a lot
10 running the motor on the track, so, I mean, what
11 kind of shape did they maintain those doors in, in
12 your opinion?

13 A. Well, they'd get beat up a lot, but, I
14 mean, that's most places you go, you know, doors
15 take a beating. But, I mean, I don't really know
16 what your -- what do you mean? Like did they work
17 all the time?

18 Q. Did they have significant leakage around
19 them? Was they bent up? Sometimes maybe get
20 damage and be a while before you get them replaced?

21 A. Yeah, I mean, there would be damage that
22 sometimes would take a while. But generally, you
23 know, if you hit a door or if you tore something
24 up, you was going to stay and fix it.

1 COURT REPORTER: You were going to what?

2 THE WITNESS: Stay and fix it, you know,
3 it had to be fixed.

4 Q. You mentioned that you did find doors open
5 occasionally on your way in or out of the mines?

6 A. Yeah, I mean, not a lot, you know, it
7 happened. There was a stretch of doors over on the
8 north side, I can't remember exactly where they
9 were, but it seemed like there was, like, nine in a
10 row or something. There were a lot of doors.

11 Then there was a series that you would go
12 through that was just right together, you know,
13 just a bunch of doors right there, and sometimes
14 one of the ones in the middle or something would be
15 open.

16 I mean, they were so close together it
17 seemed like it didn't really have -- you know, most
18 doors will have pressure, that kind of holds them
19 closed one way or another, and there really was
20 none there. Just kind of dead air there, so ...

21 Q. Are you familiar with what they call 78
22 break?

23 A. Yeah.

24 Q. Were the doors up in that area that you're

1 talking about, the air --

2 A. Yeah, that was the area where you had a
3 lot of doors. It was right over there. It seemed
4 like 78 break was a split, if I remember right.

5 Q. We can show you on the map there if it
6 would help you any.

7 MR. SHERER: 78 break is right here.

8 THE WITNESS: I knew it was a split.

9 MR. SHERER: North Glory mains split off.
10 You have got two doors here, two doors here. This
11 would be after you turn off the North Glory mains
12 going in on the longwall headgate. It looks like
13 there's four doors right in a row here.

14 A. Yeah, that was probably the ones that I
15 seen open the most, I would say. I mean, it wasn't
16 constant, you know, but, I mean, people would leave
17 it open sometimes or they would fling open.

18 I'm pretty sure this is where it was that
19 it seemed like there just wasn't much air there,
20 you know. Most doors got pressure on them and they
21 would close. Sometimes there just wasn't none. It
22 would just kind of be there.

23 Q. Sure. Just to clear that up in my mind a
24 little bit, were there times that you found a set

1 of doors open, either coming into the mines or
2 going out of the mines occasionally?

3 A. Yes.

4 Q. Okay. You made a comment about there was
5 an issue about being sure to be out of the mines
6 prior to the day shift and that somebody had run
7 into your duster. Do you recall about when that
8 happened prior to the explosion?

9 A. Not long before. I bet it's in here, the
10 date. I don't remember the date, but it was that
11 morning.

12 It took us forever to get in. We had to
13 get all the way over there. I was running a
14 flinger duster. It was not far from outside of the
15 other portal.

16 I can almost remember it seemed like maybe
17 12 breaks or something from outside. That's just
18 off the top of my head I think that for some
19 reason. It wasn't far on up.

20 Q. When you say "the other portal," are you
21 talking about Ellis portal?

22 A. Yes.

23 Q. So that's where somebody ran into you at?

24 A. Yeah, not far from there. We was late

1 getting going. I got over there. I started the
2 flinger duster. I started on a track. Probably
3 hadn't run three or four minutes, and then I got
4 slammed hard, and it was that boss.

5 He was cussing and hollering, Turn that,
6 you know, Turn that duster off. And I said, It is
7 off, you broke it. Because when he hit me, it went
8 off. It was done.

9 Q. So he was coming out of the mines when he
10 ran into you?

11 A. No, he was coming in.

12 Q. He was coming in the mines and ran into
13 you?

14 A. Yeah. So he was mad because I was still
15 on the track, you know, and they were coming in.

16 Well, I mean, he went to hollering that
17 he had been running in that dust for ever so many
18 minutes or something, you know. I was arguing with
19 him, no, you ain't that far from outside. You are
20 not going to tell me that.

21 So, I mean, it was a fight. It was really
22 bad. It was bad situation I had.

23 Q. Well, I mean, when you was moving along
24 the track, you all had a dispatcher there; right?

1 A. Right.

2 Q. So would you tell him, I mean, he knowed
3 you was going out Ellis?

4 A. Yeah. I mean, we kept up with him.

5 Q. So do you think the -- could you hear on
6 your radio where they gave anybody else the road to
7 come in?

8 A. I couldn't have heard anything with that
9 duster running --

10 Q. With the duster running -- I didn't mean
11 to interrupt you. With the duster running, you
12 probably couldn't have heard?

13 A. No.

14 Q. So that sounds like a break down in
15 communication to -- I mean, dispatcher is
16 controlling traffic on the tracks, so ...

17 A. Maybe. I mean, I can't say. I don't
18 really know what happened there.

19 Q. All right.

20 A. I know the guy wanted to come in and get
21 to where he was going, so he went, you know. I
22 don't know if he talked to dispatch, if dispatch
23 said where I was. I mean, I don't really know.

24 All I know is he came in and he hit me,

1 and we got into it bad, and I went outside. And
2 when I went out, then I told Gary May all about it,
3 what had just happened. I mean, I was hot. It was
4 a bad situation.

5 So then after that, you know, it was --
6 the next day we talked about it again, you know,
7 obviously everybody was calmer, and he said, Be off
8 the track before they start in. That was the
9 thing.

10 See, at this point when that happened, I
11 hadn't been told yet to be off by a certain time,
12 you know. I was told this is where you go to
13 dust. I went over there and started dusting. I
14 don't really remember what time it was. It was
15 probably 5:00, 5:30 in the morning, I'm just
16 guessing, you know, because it would have took me
17 at least that long to get back to the other side
18 before my shift was over.

19 So they come in and he was hollering that
20 I dusted him out and hit the duster, and that's
21 pretty much how it went. After that, that's when
22 it was said, you know, be off by a certain time.

23 Q. Okay. Just real quick, you mentioned that
24 you had worked a little bit on the section, running

1 the buggy and --

2 A. Yes.

3 Q. What section did you work on?

4 A. I think it was 3 right, if I remember
5 right. That was right when I started, and then
6 that didn't last long. It seemed like it was
7 somebody else's turn to have that job or
8 something.

9 I remember when I started, I run a buggy
10 for a minute, and then somebody else was supposed
11 to have got that job or something. So I guess
12 somebody got mad somewhere.

13 So then I went somewhere else, and then I
14 went to pinning top, but that was another guy was
15 waiting on that job, so then that was another
16 problem. So then I end up on the motor for a
17 while, and then that was on evening shift for a
18 long time.

19 And then I went to day shift with a boss
20 named Rick, I think was his name, and we did just
21 like overcasts and stoppings, just whatever labor
22 work, and that was just for, like, two days.

23 And the second day, that's when Gary May
24 came in asked me to run the duster, and I started

1 it that night on the hoot owl. So he let me leave,
2 like, an hour or two early that day, and I came
3 back out that night.

4 Q. Do you recall what section you roof bolted
5 on?

6 A. No.

7 Q. Do you recall if you had any methane
8 issues when you was on sections?

9 A. I didn't or I would remember, but I didn't
10 do that much. I mean, I think I bolted, like,
11 maybe just a few different shifts, and they weren't
12 even in a row.

13 Q. Okay.

14 A. I mean, I pretty much went whenever they
15 needed me until I got on the motor with the duster,
16 and then I pretty much stayed on that unless I went
17 and moved a belt, which just happened maybe five or
18 six times probably.

19 Q. Did you happen to ever work on the pump
20 crew in behind the longwall?

21 A. No, I don't think so.

22 COURT REPORTER: The what crew?

23 MR. TUCKER: Pumping crew.

24 A. Not that I recall.

1 MR. TUCKER: That's all I have for now. I
2 appreciate you.

3 EXAMINATION

4 BY MR. MCATEER:

5 Q. Gary, I'm going to ask you a few
6 questions.

7 Where did the notebook come from?

8 A. What do you mean?

9 Q. You've looked at this notebook and you
10 said this was your notebook, and this was a note
11 you kept your notes in. Did you bring it or did
12 Gary May give it to you?

13 A. No, it was there. They had already been
14 using it before.

15 Q. All right.

16 A. And they kept it in an upper desk drawer
17 in his office.

18 Q. And when you said "had been using it
19 before," were they using it for dusting references?

20 A. I think so. It seems like that was the
21 notebook they had been using, or he may have got --
22 I don't really remember.

23 I believe they had already been using it,
24 and then he said here's this notebook, you know, we

1 communicated through the notebook and the white
2 wall. And then sometimes in the morning we would
3 talk, you know, if I was there and he got there.

4 Q. What color was the duster?

5 A. Orange. I'm pretty sure it was orange.

6 Q. How long would it take you to fill it up
7 at the silo?

8 A. When I first started, about three hours,
9 two to three hours. After I fixed it, I could fill
10 it up in about 20 minutes.

11 Q. What did you have to do to fix it?

12 A. The vents and stuff was bad on it.

13 Q. Was it new?

14 A. The duster?

15 Q. Uh-huh.

16 A. No, it was old.

17 Q. And if you would open the notebook just
18 for a minute to the second page.

19 That's actually the first page on the --
20 first page in. I'm sorry. First page on this
21 page.

22 That's you there, the first one?

23 A. Yes.

24 Q. And what's the second name on there?

1 A. Clifton Stover.

2 Q. Who is that?

3 A. He was the helper that they gave me after
4 they took Dustin somewhere else.

5 Q. Would Dustin's last name be Richardson?

6 A. Yes.

7 Q. There you go. And Dustin's -- that would
8 make his [REDACTED]

9 A. [REDACTED]

10 Q. Yeah.

11 A. Yeah, I'm pretty sure that was his [REDACTED]

12 Q. So Stover comes to work with you at some
13 point?

14 A. Yes.

15 Q. Do you remember when that was?

16 A. No. No, I don't remember right off.

17 Q. Okay.

18 A. It was just in the last couple weeks,
19 though, I can tell you that. It didn't last long.
20 That last couple weeks of there.

21 Q. If you turn to Page 3 of the notebook, the
22 date there is 2/9/10?

23 A. Yes.

24 Q. Is that your handwriting?

1 A. Yes, sir.

2 Q. Is this the first entry that you see?

3 A. In this?

4 Q. Uh-huh.

5 A. Yes.

6 Q. And do you recall whether that's the first
7 entry that you made?

8 A. No, sir, I don't know.

9 Q. Okay. You said you knew something about
10 dusters and how to repair them. Where did you
11 learn that?

12 A. I used to work for Dowell Schlumberger.

13 Q. Okay.

14 A. And I worked in the chemical plant back
15 there. I would load cement trucks and stuff. It
16 was pressurized pods. I mean, it was the same as
17 what was on there.

18 Q. Okay.

19 A. So that's where I learned.

20 Q. So you had some familiarity with the pods?

21 A. Yeah, I understood how it worked.

22 Q. Would you guess that this 2/9 is about the
23 time you started at dusting?

24 A. Probably considering I see just below

1 there where I told him what all was wrong with it.

2 Q. So the 2/18 you're referring to where you
3 describe the problems with the duster?

4 A. Yes, sir.

5 Q. You suggested, during your earlier
6 testimony, you suggested that the duster was in the
7 shop for two weeks.

8 If you look over the notes, can you guess
9 when that might have been?

10 I was just trying to see if it coordinated
11 with your saying it?

12 A. I would say probably right after I made
13 that note.

14 Q. Okay.

15 A. I believe that I might have been dusting
16 for a little bit before we started using this
17 notebook.

18 Q. Okay. Okay.

19 A. Because --

20 Q. A couple of days?

21 A. When I'm looking at this notebook, I kind
22 of remember more. I mean, seeing what I wrote, I
23 can kind of remember those days.

24 Q. Uh-huh. And do you know that -- you

1 said -- you testified you weren't sure who the
2 individual was who left before you, who was a
3 duster before you? Do you have any recollection of
4 the guy who was there before you?

5 A. His name?

6 Q. Uh-huh.

7 A. No, sir.

8 Q. Was he an African-American, do you know?

9 A. Yes, sir.

10 Q. Do you know why he left?

11 A. I mean, rumors. I don't know.

12 Q. Did Dustin explain where they had been
13 dusting or talk about what they had done before?

14 A. A little bit, yeah. He was with the guy.

15 Q. He was with the previous duster?

16 A. Yes, sir.

17 Q. He was a red hat?

18 A. Yes.

19 Q. Would he carry a spotter?

20 A. No.

21 Q. So who would have the spotter?

22 A. I did.

23 Q. Where did you get it?

24 A. From inside.

1 Q. Was it calibrated?

2 A. Yeah. I mean, it should have been. I
3 would have checked it.

4 Q. You presume it would be if they gave it to
5 you?

6 A. Right.

7 Q. But you wouldn't calibrate it or wouldn't
8 have any --

9 A. It seems like I did one once. I mean, I
10 didn't do it myself. It seems like I had somebody
11 do one once.

12 Q. Okay. You said you went to places where
13 they were under orders to be dusted?

14 A. That's what I was told.

15 Q. Who would have mentioned that to you?

16 A. I think Gary May told me a few times they
17 had orders, and it would say on the board that
18 there was orders.

19 Q. That there was orders and you had to go
20 dust those sections?

21 A. Yeah. Because there was a few times I
22 remember where I had dusting that needed done that
23 I had to finish from the night before, but then
24 they would send me somewhere else because they had

1 orders on that.

2 Q. Okay. I'm interested in the modification
3 to the duster, the wedge and tape. What kind of
4 tape was it?

5 A. Just like black type.

6 Q. Black tape?

7 A. Uh-huh.

8 Q. So the function of the wedge was to keep
9 the brass button inserted in to keep it compressed
10 down?

11 A. Yes.

12 Q. So that the motor wouldn't kick off?

13 A. Right.

14 Q. Would that cause the motor to overheat?

15 A. Yeah, it would get pretty hot. It would
16 run. But, see, there for a while, you know, when I
17 started, that was they did it. I just went with
18 whatever they did, you know.

19 But then I noticed that it would run. You
20 could just push the button, it would continue to
21 run until it got hot, then it would turn off.

22 Q. Right.

23 A. But you could hold that button in and it
24 would run with it hot.

1 Q. Why do you think they would have the
2 button come out if it was hot?

3 A. What do you mean?

4 Q. What was the function of the button
5 stopping the motor? Why I would the button want to
6 stop the motor?

7 A. I would say so it didn't get too hot.

8 Q. And did anybody give you instructions on
9 how to dust, how much dust to put down?

10 A. No.

11 Q. How did you know how much dust to put
12 down?

13 A. Just to put it on thick.

14 Q. Put it on thick? Okay.

15 A. Yeah. I mean, just dust.

16 Q. Was there any time that Mr. May or anybody
17 else talked to you about what function the rock
18 dust was to do? Why were you putting it down?

19 A. I don't understand your question.

20 Q. Why were you rock dusting?

21 A. Because it has to be done, I mean, to keep
22 the dust down and stuff.

23 Q. Okay. To keep the coal dust down?

24 A. And the fire, I mean, it's, you know. The

1 reasons that you --

2 Q. For safety?

3 A. Yeah.

4 Q. But there was never any -- you never got
5 an explanation that you can recall?

6 A. I mean, not that I recall, but, I mean, we
7 talked and stuff quite a bit, so, I mean, it's
8 to -- I mean, I don't know.

9 Q. Okay. So how would you visually -- how
10 would you test whether the dust was enough or not?

11 A. Just by looking at it.

12 Q. Eyeball?

13 A. Yeah.

14 Q. Okay. If you would explain to me, I think
15 I got it right, I understand what you were saying,
16 that you dusted a longwall, the belts and -- I'm
17 sorry. Along the track and then along the belt.

18 Could you try to describe to me where you
19 were dusting during the period of time from
20 February through March the 23rd, just generally
21 speaking?

22 A. I mean, I was everywhere.

23 Q. Okay. So you would go up toward the
24 longwall?

1 A. Yeah, I might be up towards the longwall
2 one night and all the way on the other side the
3 next day. I mean ...

4 Q. And how soon would you repeat that pattern
5 and go back?

6 A. It would just depend on what I had to do
7 and what was down. I mean, you know, like I said,
8 in the latter days, it seemed like I was over
9 towards the longwall every day, you know. But then
10 in days before that, I was on the other side, it
11 seemed like, every day.

12 Q. Did you keep up with the dust, were you
13 able to -- or did it overwhelm you, the coal dust?

14 A. I mean, it was pretty overwhelming. Hold
15 on. Did you say "coal dust"?

16 Q. The coal dust, yeah.

17 A. I mean, I would keep up the best I could.

18 Q. Okay. And then there came a time after
19 the 23rd, and I just use that as a reference
20 because of your note, that I don't see any more
21 notes with your name on it?

22 A. That was probably it.

23 Q. Do you remember whether the incident with
24 the fellow hitting you, hitting your rock duster,

1 occurred before that or after that, after the 23rd?

2 A. Oh, it was before that.

3 Q. Okay.

4 A. Yeah, it was before that. I would say
5 that would have been the day that there would be no
6 note here because I talked with Gary May when I got
7 in there.

8 Q. So that would have been back earlier in
9 March.

10 A. Yeah.

11 Q. Okay. If you've -- if it took you X
12 number of minutes to fill up the duster, if there
13 came a day when you had the duster outside when you
14 arrived, describe for me how you would get from the
15 silo, fill it up and then get to the mine, and how
16 long that would take and get to the area of return?

17 A. Can you repeat that one more time?

18 Q. You've talked about the shortage of time.
19 I understand that.

20 A. Right.

21 Q. And I'm just trying to, in my mind,
22 understand what the sequence of events were. You
23 fill the pods up?

24 A. Right.

1 Q. Then you take the motor and the duster
2 into a section?

3 A. Right.

4 Q. How long would that take?

5 A. Well, it depends on where I was going.

6 Q. Okay. But give me an average.

7 A. Well, by the time -- so you mean how long
8 did it take me to fill it up and then get to where
9 I was going.

10 Q. Exactly right.

11 A. That could have been anywhere from, you
12 know, a couple hours to five hours.

13 Q. Okay. So by the time you fill it up and
14 got in there, how much time did you have left to
15 dust?

16 A. Maybe an hour or two, usually. I mean,
17 you look at -- most times it seemed like I started
18 in between 2 and 3 o'clock in the morning. It was
19 a long ride over there.

20 And then, you know, I would have to be
21 back out before day shift come in in the morning,
22 so, I mean, you do the math.

23 Q. What time would that be when you had to be
24 back out?

1 A. It seems like about 6:00.

2 Q. So you would have to leave?

3 A. It seemed like I had to be off the track
4 over there somewhere between 5:00 and 6:00. I
5 can't remember exact time, but it seemed like it
6 was between 5:00 and 6:00 I would have to be off.
7 So that means sometimes you just didn't have any
8 time left at all.

9 Q. So if you're lucky you would get an hour
10 and a half to do it.

11 A. Yes, sir. If that's where I was going.
12 If I was going all the way to the other side, yes.

13 I mean, I would tell them, you know, they
14 had all this dusting to do over there. It seemed
15 like to me that they would have done it from the
16 other side.

17 Q. Right.

18 A. I mean, you had me traveling a long ways
19 to get over there. And, you know, I had never been
20 to that other portal outside before, but I was told
21 that they had a duster over there.

22 Q. Okay.

23 A. I don't know the truth in that, but I
24 remember hearing that. Because, I mean, I used to

1 complain all the time. I mean, he would say
2 something about me not getting something done, I'm
3 like, well, man, you know, it takes me hours to get
4 there and then I ain't got no time left. And then
5 I have got to be back out.

6 So, I mean, complain to somebody else. I
7 mean, that's what I would always say.

8 Q. And when you got laid off, did they give
9 you a lay-off slip?

10 A. No.

11 Q. Did they contact the contractor?

12 A. Yeah.

13 Q. Did that person give you a slip?

14 A. I can't recall, but I don't think. Like I
15 already had another job lined up. I had been
16 trying to get in this other job for a while anyway.

17 Q. Right.

18 A. So, I mean, I wanted out of there. I
19 hated it there. I mean, that place was just
20 something waiting to happen.

21 MR. MCATEER: No other questions.

22 MR. BABBINGTON: It's been about an hour
23 and a half, so let's take a short break.

24 (Break.)

EXAMINATION

1
2 BY MR. BABBINGTON:

3 Q. I'll try to be quick here, Mr. Young.

4 You made the comment about the second
5 helper. I think we identified him as Clifton
6 Stover. You made the comment he wouldn't show up.

7 A. I mean, I didn't mean like he never came
8 to work or nothing like that, but, I mean, there
9 was times if he missed work or something, then I
10 didn't have a helper.

11 Q. There's one, you know, on -- we keep
12 coming back to this March 23rd entry. It says "no
13 help."

14 Would there have been other times where
15 you had no help, and you wouldn't have noted it in
16 the book?

17 A. Yeah. In the transition there from the
18 time that Dustin went to wherever they sent him to
19 work and I got this other guy, that was a little
20 bit of time there where there was times I didn't
21 have any help.

22 I had a different red hat for a few days.
23 I can't remember his name at all. He was a younger
24 kid. Probably 18, 19 years old.

1 Q. So that was --

2 A. He was on the ride with me the day that we
3 had the accident.

4 Q. So that was -- you had that red hat
5 between the time you had Dustin and Stover?

6 A. Probably a few different people. I had
7 that red hat for probably a week or so, and then
8 Clifton came along.

9 Q. What was the longest you went without
10 having a helper?

11 A. A couple days, I would say. I mean, in a
12 span.

13 Q. After you left on or around March 23rd,
14 you said that you were trying to schedule an
15 interview with the superintendent. Was that going
16 to be with Gary May?

17 A. Yeah, it was when I told him, you know, I
18 didn't -- when I said I was set up to fail there.
19 So, I mean, we had to do something different. I
20 just couldn't keep doing that.

21 I mean, at that time it seemed like it was
22 just all too often I was leaving, you know. I
23 mean, if I didn't have help or a ride or what I
24 needed to do my job, I mean, I wasn't just going to

1 sit there.

2 So I mean, I was just getting angry, I
3 guess, and just fed up with the place. I mean, I
4 couldn't do my job, and then I would get in trouble
5 for not doing something. There was no way I could
6 do it.

7 Q. I understand.

8 You also mentioned early on that you spoke
9 to a different super, who told you you needed to
10 talk to your super.

11 A. Yeah.

12 Q. Do you remember who that was that you
13 spoke to?

14 A. Everett something.

15 Q. Everett Hager?

16 A. Yeah, I think that's his name. It was
17 that night. I can't remember exactly what was
18 going on. It seems like Gary had me going -- Gary
19 May had me going somewhere to dust, and then
20 somebody said that Everett wanted me somewhere else
21 to dust or something.

22 I didn't really know what was going on, so
23 I eventually got Everett on the mine phone, told
24 him what was going on, and he told me to go to such

1 and such place, and I said, All right. I said,
2 Well, Gary May told me he wanted me here to do
3 this, and then he just got mad and went off. He
4 was like, well, you know, you don't work for me
5 anyway, you work for him, you deal with him, and he
6 just hung up the phone.

7 That night I went home. I mean, I didn't
8 know what to do, but I just kind of stood there for
9 a minute and thought he didn't really just talk to
10 me that way. I never even met the man before. And
11 I left a little bit after that, it seems like.

12 Q. Going over to the accident that you had on
13 the track. You said you got into it with the day
14 shift foreman. I may have not heard. Do you
15 recall who that day shift foreman was?

16 A. No.

17 Q. Did anybody suffer any injuries from the
18 track crash?

19 A. I mean, nothing major. As far as I know,
20 I mean, I don't know if the guy -- there was
21 several guys on the ride he was on, you know, the
22 crew, so, I mean, I heard some guys hollering and
23 stuff, but, I mean, I don't know if anybody went to
24 the hospital or anything like that.

1 Q. You don't know if anybody lost time?

2 A. I don't think that they did. I mean, I
3 would say everybody had to have been pretty stoved
4 up from it. I know I was, I mean.

5 And my red hat, he was. He really didn't
6 know what to do. He was just kind of sitting down
7 there with his head hung when we all got into it.
8 He didn't ever say much about anything.

9 Q. Going back to the book, if you can look at
10 the page that has 3/20 on it, that's the one that
11 says, Longwall belt and mother drive. And it says
12 "Gary" there. Is that Gary May's handwriting? Is
13 that his signature right there?

14 A. No, that's me.

15 Q. Okay.

16 A. I usually put my name at the end of my
17 notes. I didn't always, but I usually did.

18 Q. Well, it's just a little interesting
19 because you got -- there's a Gary at the end of
20 3/20 and a Gary at the end of 3/23. And it looks
21 just to me, as a layman, like it's different
22 handwriting.

23 A. I don't know. I mean, I wouldn't swear
24 it. I don't know. I write a little sloppy. I

1 mean, it might be mine, it might not. He may have
2 wrote that.

3 But I can tell you that 3/20/10 right
4 there, I wrote that. I can tell that. And it
5 looks like I wrote "the longwall belt and mother
6 drive," but I may not have.

7 Q. On the 3/23, you know, we've talked a lot
8 about that, but you have the "I'll call you
9 today." When you say "I'll call you today," were
10 you referring to Gary May?

11 A. Yes.

12 Q. Did you call --

13 A. Yeah, because Gary May is who this went
14 to.

15 Q. Okay.

16 A. If I wrote something on here, that was me
17 talking to him.

18 Q. Did you ever call Gary May?

19 A. Yeah.

20 Q. So you called him on the 23rd or on the
21 24th?

22 A. Yeah, I called that day, but I don't think
23 that I ever got to speak to him. I think he was
24 busy one way or another, so ...

1 Q. Another thing about this notebook, you
2 know, we have it in this copy form. The main page
3 seems -- it always seems to be this right-handed
4 page.

5 Do you recall if anything was written on
6 the back of any of these pages or did you only
7 stick to writing on the right side of the page?

8 A. I think I stuck to the right side of the
9 page. Just going by if you look at 3/17, I put an
10 arrow there, I mean, well, I don't know.

11 There was one I seen a minute ago where I
12 finished it on the next page. Oh, it's at 3/9. I
13 had an arrow there, and then it's finished on the
14 right side of the next page where I put "didn't
15 have a motor."

16 Q. Is there any --

17 A. They took my motor again.

18 Q. So I see it's mostly your writing in
19 here. Do you recall if Gary -- you know, that 3/20
20 entry aside, do you recall Gary May ever writing in
21 the book?

22 A. I mean, not right off. I don't think so
23 because, I mean, the purpose of the book was for
24 him to know what we did.

1 I mean, I didn't look in the book to get
2 any kind of directions or anything like that. He
3 would write on the white wall or he would tell me.

4 Q. So he wouldn't put any work orders in the
5 book or anything like that?

6 A. No, not that I ever remember. I mean,
7 Clifton or somebody else may have wrote in the book
8 a time or two if he went in before me.

9 MR. BABBINGTON: Okay. Thank you,
10 Mr. Young.

11 EXAMINATION

12 BY MR. SHERER:

13 Q. One more question about the book. I'm
14 just a bit confused, so I need just a little help.

15 Did you start this out in a new notebook,
16 or were there previous entries prior to you
17 starting out, do you recall?

18 A. I'm afraid to swear it either way, but I
19 believe that they had already been using this
20 notebook. It seems like, I mean, by my memory,
21 but, I mean, I really don't know. But I think that
22 they had already been using the notebook.

23 Q. Okay. Thank you.

24 A. They may not.

1 Q. I've got quite a few different questions
2 that talk about a lot of different things, so just
3 bear with me if you would.

4 A. Okay.

5 Q. Did you ever notice any upper management
6 during your shift going underground?

7 A. Like Gary May?

8 Q. Uh-huh.

9 A. Yeah.

10 Q. Okay. Anybody else?

11 A. I would say he would be about it from what
12 I would call upper management from my side.

13 Q. Okay. Were there any crews or other
14 personnel changing stopping lines or building
15 stoppings in any areas that seemed strange when you
16 were working in the mine?

17 A. Not that I recall.

18 Q. Okay. Did you ever see or discuss any
19 dust problem with a mine examiner during your
20 shift, or just a mine examiner period, fire boss,
21 foreman, anybody like that?

22 A. No, just Gary May, I believe.

23 Q. Okay. Did he ever give you any feedback
24 on you need to put more dust down or less down or

1 anything like that?

2 A. It seems like there was probably a couple
3 times he said that a place needed more dust.

4 Q. When you're dusting, you can tell which
5 way the air and going. Did you ever dust a place
6 and then go back later and say the dust was going
7 inby the first time you dusted --

8 A. And change?

9 Q. Yeah.

10 A. Yeah, it seems like that's happened
11 before.

12 Q. Any place in particular that you remember?

13 A. I believe it was over on the Ellis side.
14 It seems like I remember talking with my helper one
15 day and saying, you know, it seemed like this air
16 was the other way the last time we was here.

17 I just kind of vaguely remember the
18 conversations, though. I know they had a lot of
19 air issues there.

20 Q. Did you ever notice people working on the
21 ventilation when you were underground?

22 A. No, not while I was underground.

23 Q. Okay. Did you ever talk to anybody that
24 was concerned with the conditions in the mine?

1 A. What do you mean, like coworkers?

2 Q. Yeah.

3 A. I mean, everybody said stuff, you know.
4 Just little things, kind of in passing, laughing,
5 you know, would say something about something was
6 messed up or something. I mean, nothing major, I
7 don't guess.

8 I can remember a few times me saying, you
9 know, if we had us a union safety guy here we
10 wouldn't be doing this.

11 But, I mean, nothing big. I mean, just
12 little conversations outside before we would go in.

13 Q. How about any former supervisors --
14 superintendents, any former superintendents?

15 A. What about them?

16 Q. Did you have any conversations with
17 anybody that used to be a superintendent at this
18 mine?

19 A. Yeah.

20 Q. Was that concerning the explosion or the
21 conditions of the mine?

22 A. I mean, I don't really recall. I mean, I
23 knew the superintendent that was there before
24 pretty personal, I guess. His -- myself and his

1 son, we grew up together.

2 Q. Okay.

3 A. So, I mean ...

4 Q. Who was that?

5 A. Holmer Wallace.

6 Q. Holmer Wallace?

7 A. He just passed.

8 Q. Sorry to hear that.

9 In your opinion, was management at this
10 mine safety oriented or production oriented?

11 A. I mean that -- seems like everybody is
12 probably production oriented. I mean, everybody
13 says stuff about safety, but, I mean, what you say
14 and what you do is two different things.

15 Q. Sure.

16 You mentioned you had problems with your
17 spotter. How did that work? Did you go in -- did
18 they have a rack where they kept them or did you
19 have to --

20 A. It seemed like that was in Gary May's
21 office, I think, the one that I would usually get.
22 It seemed like that's where it was.

23 Q. Okay. And then --

24 A. I don't really remember. Somebody else

1 usually had one.

2 Q. Okay. And they were charged up and
3 calibrated and all that sort of stuff?

4 A. To my knowledge, yes.

5 Q. Okay. I think you mentioned the Solaris.
6 Was that the type of spotter you used?

7 A. I believe that that's what they had. I'm
8 pretty sure.

9 Q. Did you ever bump test that spotter before
10 you took it in the mine?

11 A. I don't believe so.

12 Q. Okay. Did Mr. May ever give you any
13 feedback about what was taking so long to make the
14 repairs on your duster or get you the help that you
15 needed?

16 A. Yeah, he had told me -- I said something
17 to him a few times because I was hand dusting and
18 stuff, and I told him, you know, I could fix it if
19 he would just give me the stuff, and I guess -- he
20 said he was waiting on parts and stuff like that.

21 And he had one certain guy he was wanting
22 to work on it that knew about it or something that
23 worked in the shop, and that was, I guess, the only
24 one he wanted to work on it.

1 Q. Okay.

2 A. So he -- and it seems like maybe he worked
3 on the other side a lot or something, so he worked
4 on it when he was over there and had the parts.
5 That was pretty much how that went.

6 Q. Okay. It was kind of hit or miss
7 whether --

8 A. Yeah. Some days I could tell it had been
9 worked on a little bit, and some days I could tell
10 it hadn't.

11 Q. Okay. Did you receive any training from
12 Mountaineer, the contractors?

13 A. No.

14 Q. Okay. So you got all your training from
15 Upper Big Branch?

16 A. What do you mean?

17 Q. Did Mountaineer Labor -- what was the
18 name?

19 A. It seemed like I got retrained from them
20 before I started.

21 Q. So they did like an annual refresher?

22 A. Yeah.

23 Q. Okay.

24 A. And then I did the MIT thing. And then

1 after not too long working there, then they had
2 their, you know, I guess, their regular annual
3 retraining at the mine, so then I went to that,
4 too.

5 I remember I had, like, three or four that
6 year, one way or another.

7 Q. Did you ever get trained in the
8 atmospheric monitoring system at this mine?

9 A. What is it now?

10 Q. AMS system, the CO monitors?

11 A. Not formally, I don't guess.

12 Q. Do you know who owns Mountaineer Labor?

13 A. Buzzard, I believe. Brian Buzzard.

14 Q. Who supplied the SCSR that you took in the
15 mine?

16 A. The mine.

17 Q. Okay. You mentioned running the buggy or
18 pinning top. Do you recall -- and, in fact, I
19 think you mentioned that was the 3rd right section;
20 is that correct?

21 A. I'm pretty sure.

22 Q. Had you been to any other or worked on any
23 other production sections in this mine?

24 A. I think that that was the only one. I'm

1 not going to swear it either way, but I'm pretty
2 sure that was the only one.

3 Q. Okay. Who trained you on running that
4 pinning machine?

5 A. I don't remember. I mean, I already knew
6 how to run it.

7 Q. Did you get the hazard training on that
8 machine?

9 A. I believe so.

10 Q. Okay.

11 A. Yeah, I did. I remember. I can't
12 remember right off, but I remember getting my
13 papers for it.

14 Q. Okay. After you got the training record?

15 A. Yeah.

16 Q. Did you have one of those tracking tags
17 with you? Did they give you one of those?

18 A. Like the little radio thing?

19 Q. Yeah.

20 A. Yeah.

21 Q. Okay.

22 A. It was a little metal thing in my belt. I
23 remember now.

24 Q. Did they train you on that?

1 A. I believe they told us how it worked and
2 stuff. It seemed like they did that in that MIT
3 class.

4 Q. Okay. Sure.

5 When you were going into the mine, did you
6 have to call out to the dispatcher and then tell
7 them where you were at on a regular basis?

8 A. Yeah. Yeah, you would call and you would
9 tell dispatch you was going to such and such place,
10 and they would tell you, okay, when you get to,
11 say, 78 break, let me know when you get there.

12 Q. Sure. And did you get the rights to the
13 road when you called out?

14 A. Yeah.

15 Q. How come that foreman run into you, then?

16 A. Buddy, I'm not the dispatcher or him.

17 Q. Okay.

18 A. I don't know. I mean, I don't know how
19 that went. I was over there dusting and he hit
20 me. I don't know if he called for the road. I
21 don't know if he got the road.

22 Q. Now you generated a lot of dust when
23 you're doing that, don't you?

24 A. Uh-huh.

1 Q. You would think somebody would notice
2 that, wouldn't you?

3 A. The dust?

4 Q. Yeah.

5 A. Well, I mean, he said himself he had been
6 running through it, dusted out for minutes before
7 he run into me.

8 Q. Did he ever connect those two?

9 A. Apparently not. That was my feelings
10 about it. I mean, you know, it seemed like a
11 common sense situation to me. I wouldn't have went
12 in it. I mean, I would imagine as close as I was
13 to outside, it was probably coming out.

14 Q. Sure. Do you recall any equipment doors
15 being brought in during your shift? You ever have
16 to take any in yourself?

17 A. Not that I recall.

18 Q. Okay. Did you ever take a red hat in on
19 his first day?

20 A. On his first day?

21 Q. Uh-huh.

22 A. I don't think so. No, I didn't.

23 Q. You mentioned sometimes you would stay
24 outside because you couldn't get what you needed.

1 Were there anybody else staying out there, similar
2 situations?

3 A. (Witness shakes head.)

4 Q. You were just out there on your own?

5 MR. BABBINGTON: Sorry. Was that a yes?

6 A. Yes, yes. Sorry. Yes, that happened.

7 Q. Do you recall who the responsible person
8 was on the midnight shift?

9 A. I guess it would have been Everett. I
10 mean, Gary May wasn't there, so ...

11 Q. Did Everett tell you who the responsible
12 person was?

13 A. I'm sure they did, but, I mean, I don't
14 remember. It's been a while. I never talked to
15 them.

16 Q. Going back to the detectors, did you ever
17 have to work along without a detector?

18 A. Not by choice, but I'm sure it happened a
19 few times.

20 Q. And you mentioned you could put dust down
21 for about ten breaks or so with a full load. About
22 how thick was that dust when you put it down?

23 A. Well, now, that depends on how I was doing
24 it, too. Now, if I was running a flinger duster, I

1 mean, I could go a long ways, you know, a lot of
2 breaks.

3 Q. Sure.

4 A. If I was dragging the hose, you know, 60-,
5 70-, 80-foot hose, I mean, it would just depend.
6 That's what mattered how far I got.

7 Q. Okay.

8 A. Just how much time I had and how bad it
9 was on the dust. I mean, I would dust some places
10 that hadn't been that long since I dusted, you
11 know, so obviously it wouldn't take me as long to
12 do it.

13 Q. Just touch them up?

14 A. Just, you know, make sure it was good.
15 But then some other places, you know, it
16 was wet or, you know, it was black.

17 Q. Sure.

18 A. So, I mean, it just depended on where I
19 was at.

20 Q. Did you have a radio you carried with you?

21 A. Yes.

22 Q. Okay. Did you ever have any other wreck
23 with that motor besides when that guy ran into you?

24 A. Yes.

1 Q. How did that happen?

2 A. I didn't have any sand and just went down
3 the hill. We arrived at the bottom of the hill.

4 Q. A derail?

5 A. Uh-huh. I wasn't operating, by the way.
6 I was the brakeman.

7 COURT REPORTER: You were the what?
8 Brakeman?

9 THE WITNESS: Yeah, I was sitting in the
10 other chair.

11 Q. Did you ever hear the wheels falling off
12 of that duster?

13 A. The wheels falling off?

14 Q. Yeah.

15 A. They fell off the track pretty constant,
16 but not actually falling off the duster, I don't
17 guess.

18 Q. Okay.

19 A. But it did, it was really bad for
20 derailling. It seemed like that was about an every
21 other day thing. Sometimes three or four times a
22 day.

23 Q. Were there any specific reasons it
24 derailed that much?

1 A. It was just older than junk is what I
2 figured. The track wasn't in great shape either.

3 Q. The track was bad. And do you think the
4 gauge was wore too much on the duster, the wheels?

5 A. Maybe. I mean, it was old. Plus, like I
6 said, it -- the track wasn't in great shape
7 either. So just certain places that it would
8 derail about every time you went through there.

9 Q. Okay. You ever have to go in and dust
10 where there had been any belt fires?

11 A. No.

12 Q. Okay. Were there problems with water that
13 needed to be pumped in any area where you would go?

14 A. Not that I can recall.

15 Q. Okay. Did you ever get trained on the
16 refuge alternatives, those emergency shelters?

17 A. Yeah, in those, like the MIT and
18 retraining stuff we get.

19 Q. Did you ever have a problem with a bad
20 roof anywhere in the mine?

21 A. Not terrible. I mean, not that I recall
22 anything really bad.

23 Q. Okay. Do you recall anybody getting hurt
24 in the mines?

1 A. Not right off, I don't.

2 MR. SHERER: That's all the questions I've
3 got.

4 EXAMINATION

5 BY MR. TUCKER:

6 Q. Got two, I believe.

7 I take it for granted that the guy who ran
8 into you on your motor, was that on a production
9 crew coming in the mines on the day shift?

10 A. Yes.

11 Q. But you said you didn't recall the name of
12 the foreman?

13 A. No. He was pretty young.

14 Q. Okay. How would you typically call for
15 the road? What type radios would you use?

16 A. Mine phone or the radio. It depends on
17 where you was at. I mean, if I was outside, like,
18 getting ready to head in, I would probably holler
19 on my radio.

20 But the radios didn't work that good
21 there. A lot of times dispatchers would have us,
22 like, take the radio outside the door or to a
23 certain window or something where it would work
24 better.

1 Q. So but normally would you use your hand-
2 held radio?

3 A. Sometimes. But usually we would use the
4 mine phone. Probably more than the radios. Just
5 because we knew the guy had to go outside to use
6 the radio, you know.

7 MR. TUCKER: That's all I have. Thank
8 you.

9 EXAMINATION

10 BY MR. MCATEER:

11 Q. Just one or two questions.

12 Did you ever have a conversation with a
13 state or federal inspector?

14 A. You mean at the mine?

15 Q. At the mine.

16 A. Not that I can recall.

17 Q. Did you ever have a conversation away from
18 the mine with a state or federal inspector about
19 the mine?

20 A. No.

21 Q. Okay.

22 A. You mean while I was working there?

23 Q. That's correct.

24 A. No.

1 MR. MCATEER: That's all the questions I
2 have.

3 MR. BABBINGTON: I just want to note for
4 the record we marked up one exhibit. A copy of the
5 notebook, we marked that Young Exhibit 1.

6 MR. KOERBER: Is there anything that you
7 can think of that you believe would be important
8 for determining the cause of the explosion on April
9 the 5th that we haven't asked you about?

10 Is there anything you can think of that
11 might be helpful to us?

12 THE WITNESS: I mean, nothing specific, I
13 guess. I mean, not right off. I mean, I don't
14 really know how to answer that.

15 MR. KOERBER: You have Bill Tucker's
16 business card, so if you think of anything, please
17 give him a call.

18 At this point in time, if there's anything
19 you would like to clarify, if there's anything
20 you would like to add, any statement you would like
21 to make, the floor is yours.

22 THE WITNESS: I mean, I really don't know
23 what else to say. I mean, I'll help any way I can.
24 If you all forgot to ask me something, just call me

1 anytime.

2 MR. KOERBER: On behalf of all three
3 accident investigation teams, I would like to thank
4 you very much for coming here tonight.

5 And with that, we'll go off the record.

6 (Deposition concluded.)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of THOMAS GARY YOUNG 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