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Statement Under Oath of **Bobbie Pauley**

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

BOBBIE PAULEY

taken pursuant to Notice by Brett Steele, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, May 28, 2010, beginning at 9:02 a.m.

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DANA FERGUSON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

JOHN GODSEY
Miners' Safety and Health Administration
P.O. Box 560
Norton, VA 24273

BILL TUCKER
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

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A P P E A R A N C E S (cont.)

CELESTE MONFORTON, MPH, DRPH

West Virginia Independent Investigation

(b) (7)(C)

(b) (7)(C)

(b) (7)(C)

JOHN KINDER

West Virginia Office of Miners' Health,

Safety and Training

1615 Washington Street East

Charleston, WV 25311

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY FERGUSON:

4 Ms. Pauley, my name is Dana Ferguson.

5 Today is May 28th, 2010. I'm with the Office of the
6 Solicitor, U.S. Department of Labor, MSHA Division,
7 Arlington, Virginia. With me is John Godsey, an
8 accident investigator with MSHA, an agency of the
9 United States Department of Labor. Also present are
10 several people from the State of West Virginia. I
11 would ask at this time that they state their
12 appearance for the record. Bill?

13 MR. TUCKER:

14 Bill Tucker, West Virginia Office of
15 Miners' Health, Safety and Training.

16 MR. KINDER:

17 John Kinder, West Virginia Office of
18 Miners' Health, Safety and Training.

19 MS. MONFORTON:

20 Good morning. I'm Celeste Monforton.

21 I'm with the Governor's special team led by Davitt
22 McAteer.

23 ATTORNEY FERGUSON:

24 There are also several members of MSHA's
25 investigation team in the room today, but Mr. Godsey

1 will be conducting the questioning. And once he is
2 completed, the State may have some follow-up questions
3 and Ms. Monforton may have some follow-up questions
4 for you.

5 MS. PAULEY:

6 Okay.

7 ATTORNEY FERGUSON:

8 All members of the MSHA Investigation
9 Team and all members of the State of West Virginia
10 Investigation Team participating in the investigation
11 of the Upper Big Branch Mine explosion shall keep
12 confidential all information that is gathered from
13 each witness who voluntarily provides a statement
14 until the witness statements are officially released.
15 MSHA and the State of West Virginia shall keep this
16 information confidential so that other ongoing
17 enforcement activities are not prejudiced or
18 jeopardized by a premature release of information.
19 This confidentiality requirement shall not preclude
20 investigation team members from sharing information
21 with each other or with other law enforcement
22 officials. Your participation in this interview
23 constitutes your agreement to keep this information
24 confidential. Do you understand?

25 MS. PAULEY:

1 Yes, ma'am.

2 ATTORNEY FERGUSON:

3 Government investigators and specialists

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

12 You may have a personal attorney or
13 representative present during the taking of this
14 statement and you may consult with that attorney or
15 representative at any time. Your statement is
16 completely voluntary. You may refuse to answer any
17 question and you may terminate your interview at any
18 time or request a break at any time.

19 Since this is not an adversarial
20 proceeding, like a court proceeding, formal Cross
21 Examination will not be permitted. However, you may
22 ask clarifying questions as you wish. Your identity
23 and the content of this conversation will be made
24 public at the conclusion of the interview process and
25 may be included in the public report of the accident,

1 unless you request that your identity remain
2 confidential or your information would otherwise
3 jeopardize a potential criminal investigation. If you
4 request us to keep your identity confidential, we will
5 do so to the extent permitted by law. That means that
6 if a Judge orders us to reveal your name or if another
7 law requires us to reveal your name or if we need to
8 reveal your name for other law enforcement purposes,
9 we may have to do so. Also, there may be a need to
10 use the information you provide to us or other
11 information we may ask you to provide in the future in
12 other investigations or hearings about the explosion.
13 Do you understand?

14 MS. PAULEY:

15 Yes, I do.

16 ATTORNEY FERGUSON:

17 Do you have any questions?

18 MS. PAULEY:

19 No, ma'am.

20 ATTORNEY FERGUSON:

21 After the investigation is complete, MSHA
22 will issue a public report detailing the nature and
23 causes of the fatalities in the hope that greater
24 awareness about the causes of accidents can reduce
25 their occurrence in the future. Information obtained

1 through witness interviews is frequently included in
2 these reports. Since we will be interviewing other
3 individuals, we request that you not discuss your
4 testimony with any person aside from your personal
5 representative or counsel.

6 A court reporter will record your
7 interview. Please speak loudly and clearly. If you
8 do not understand a question asked, please ask that it
9 be rephrased. Please answer each question as fully as
10 you can, including any information you've learned from
11 someone else. We would like to thank you in advance
12 for your appearance. We appreciate your assistance,
13 and your cooperation is critical in making the
14 nation's mines safer. After we have finished asking
15 questions, you will have an opportunity to make a
16 statement and provide us with any other information
17 you believe to be important. If at any time after the
18 interview you recall any additional information you
19 believe might be useful, please contact Norman Page at
20 the telephone number or e-mail address provided to you
21 in the letter.

22 MS. PAULEY:

23 I have it.

24 ATTORNEY FERGUSON:

25 Any statements given by a miner witness

1 to MSHA are considered to be an exercise of statutory
2 rights and protected activity under Section 105(c) of
3 the Mine Act. If you believe any discharge,
4 discrimination or other adverse action was taken
5 against you as a result of your cooperation with this
6 investigation, you are encouraged to immediately
7 contact MSHA and file a complaint under 105(c). Do
8 you have any questions before we get started?

9 MS. PAULEY:

10 No, ma'am.

11 ATTORNEY FERGUSON:

12 You can swear the witness.

13 -----
14 BOBBIE PAULEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
15 AS FOLLOWS:

16 -----
17 EXAMINATION

18 BY MR. GODSEY:

19 Q. Good morning.

20 A. Good morning.

21 Q. State your full name and spell your last name,
22 please.

23 A. Bobbie Dawn Pauley, P-A-U-L-E-Y.

24 Q. State your address and telephone number.

25 A. Address is (b) (7)(C)

1 (b) (7)(C) Telephone numbers are (b) (7)(C)
2 and (b) (7)(C)

3 Q. Are you appearing here today voluntarily?

4 A. Yes, I am.

5 Q. Have you been interviewed by any company official
6 or company representative?

7 A. Yes.

8 Q. When was this?

9 A. Approximately two weeks ago, by the Massey
10 attorneys.

11 Q. Did they give you any directions how to talk to us
12 in this investigation, any directions what to tell us
13 or anything?

14 A. None whatsoever.

15 Q. How many years of mining experience do you have?

16 A. Almost two-and-a-half years.

17 Q. And can you give us a brief description of your
18 employment, mining employment?

19 A. I began as a red hat, as a contractor under David
20 Stanley Consultants in November of 2007, worked at
21 Harris No. 1 for Peabody for approximately two months.
22 Our job ended December 2007. Was assigned to
23 Performance Coal Company, Upper Big Branch, January
24 2008. Experience included --- worked as a contractor
25 there until July 2008. And have been employed as a

1 Massey miner ever since.

2 Q. Are you presently employed?

3 A. Yes.

4 Q. Where?

5 A. Performance Coal Company, Upper Big Branch.

6 Q. In other words, you're not --- are you laid off
7 right now ---?

8 A. I'm working in the office at UBB-South.

9 Q. When did you start?

10 A. Did I start back with them?

11 Q. No. When did you start working in the office?

12 A. In the office. Oh, it's been about two to three
13 weeks ago.

14 Q. And what did you say you did? What job are you
15 doing in the office?

16 A. They have me answering the telephones and just
17 assisting the guys there, you know, with locking up
18 the gas monitoring.

19 Q. What was your first job assignment at UBB?

20 A. First job assignment. I worked outby as a general
21 laborer.

22 Q. What areas of the mine did you visit on your first
23 day of employment at UBB?

24 A. I don't recall my first day, where specifically I
25 was.

1 Q. Did you receive any training prior to being
2 assigned a job there?

3 A. Yes, I was.

4 Q. What was your job title on April 5th, 2010?

5 A. Shuttle car operator, Headgate 22, swing shift.

6 Q. What shift were you working? On April 5th, what
7 shift were you ---?

8 A. I was on swing shift. We were off that day. We
9 work six on, three off.

10 Q. What was your last day you worked?

11 A. Saturday, April 3rd, evening shift.

12 Q. Just take us through --- when you arrive for work,
13 just take us --- what your normal procedure is going
14 to the section.

15 A. Okay. Normal procedures, when I'm on evening
16 shift we usually --- we get dressed, check in, get our
17 lights and everything. We usually depart the
18 portal ---.

19 Q. Which portal is that?

20 A. Ellis Portal, at --- and I'm going evening shift,
21 because I work both day and evening.

22 Q. Okay.

23 A. Evening shift we depart at 3:00 p.m. Of course,
24 we get the ride, go underground. We usually arrive on
25 Headgate 22, approximately 3:35 to 3:40. We have a

1 safety meeting at the mantrip with our boss. Our
2 section boss conducts ---.

3 Q. Who is the supervisor?

4 A. Section boss is Brandon Bowling, B-O-W-L-I-N-G.

5 Q. Okay.

6 A. We walk approximately 20 breaks to the face.

7 Q. The track is that far behind?

8 A. Yes, it is. The Saturday night that we last
9 worked, if I remember correctly, the track ended at
10 Break Number 18. And we were mining, according to the
11 map outside in the Ellis Portal --- I know these maps
12 don't reflect it, I don't think.

13 Q. Maybe behind ---.

14 A. Do we have break numbers on here? Just spad
15 numbers?

16 Q. I just used spad numbers.

17 A. Okay. I know that when you look at one map at
18 UBB, it shows that we were mining at approximately 33
19 or 35 Break. The map that our boss goes by to give us
20 our cut cycle outside at Ellis shows us mining at 38
21 Break the night of April the 3rd --- the evening of
22 April 3rd. So that's 38 breaks in the face. And that
23 diagram was still on the board at Ellis about a
24 week-and-a-half ago.

25 Q. Did you say that the outside map was off a few

1 breaks?

2 A. Well, it's not the map. What happens is the
3 section boss --- we keep a drawn diagram on the board
4 out at Ellis, and he tells us, for example, what cut
5 is down, what cut is in, how many feet, what breaks,
6 and he gives us a cut cycle as to what we'll be mining
7 at, whether it's in Number Three will be our first
8 cut, Two right will be our second cut, and he goes
9 with the left and right miners and gives us our cut
10 cycle prior to going in.

11 Q. That's every day?

12 A. Every day. He showed --- that map showed 38 Break
13 being the face. And I've looked at numerous maps,
14 none of which show our face at 38. So I'm not sure
15 where the discrepancy is.

16 Q. Go on from there. When you had your safety talk,
17 what does your section foreman do then?

18 A. Normally we walked as a group to the face.
19 Normally, we kicked our power on. Everybody put in
20 their own power, or lots of times we put in each
21 other's power at the power center. We went to our
22 equipment. We did our PMs, greased our equipment,
23 checked our equipment, and then we began running coal.

24 Q. What were some of the topics that they used in
25 your safety talks?

1 A. He covered roof control, ventilation, gave us ---
2 Massey, I guess, gives each section boss some type of
3 documentation and they read off of that. They'll pick
4 one of the safety topics and read that to us and
5 discuss it with us prior to going in. He normally
6 briefed us on what the previous shift had done, where
7 they had mined. He informed the bolters what was
8 down, if anything, what needed bolted. Sometimes we'd
9 tell them, you know, that they had to put up monkey
10 faces, things like that, through the course of the
11 shift. He told us any stoppings that we would have to
12 build, just briefed us on the upcoming shift's work.

13 Q. When did you all do your dust parameters from a
14 miner and a drill and stuff, checked water sprays and
15 pressure?

16 A. The miner men did that when they went to their
17 equipment.

18 Q. Was it done all the time?

19 A. I can tell you --- on our particular section, we
20 had a miner --- our continuous miner operator for the
21 most part was James Griffith. We called him Dude.
22 For a period of time we did not have what we called a
23 left miner man. He was our right miner man. We had a
24 miner man that quit, went to another mine, and for a
25 period of time Dude bounced back and forth and he

1 would mine with both miners. During the last probably
2 month prior to the explosion, there was a young man
3 that was previously the scoop operator named Daniel
4 Davis. He was in training on the left miner. Brandon
5 was training him for the most part, the section boss,
6 and Dude was also assisting in training him. So
7 sometimes Dude would run both miners, sometimes
8 Daniel. I don't know about Daniel, whether he checked
9 his parameters, whether he even knew enough to check
10 them. Dude I do know was adamant about checking his
11 equipment. He checked his water sprays because I've
12 helped him check his water sprays pre-shift.

13 Q. Why did the miner operator quit?

14 A. The gentleman had made comments --- he had had ---
15 he had obtained his bossing papers and bossed for a
16 period of time, and he told us that Brandon, I guess,
17 continued to --- Brandon would go off and do other
18 things and say, you're in charge, because he had his
19 bossing papers. He didn't want to be in charge. And
20 he felt like Brandon was, I guess, putting him in an
21 uncomfortable situation. He did not want to boss.
22 That's why he went back to just running the miner.
23 And he made comments on numerous occasions that the
24 reason that he didn't boss anymore, he said, somebody
25 is going to jail here, and it's not going to be me.

1 Q. Why was somebody going to jail there?

2 A. It's my opinion that he felt he was being asked to
3 do things that he didn't feel comfortable as a boss
4 doing.

5 Q. What was he being asked to do?

6 A. I know he bossed us when we drove original. Is
7 the working longwall, is that considered Headgate 21?
8 We worked for a period of time --- we drove what we
9 called One section, and that would be --- the location
10 would be from 78 Break you went straight instead of
11 going north on North Mains towards the Glory Hole.

12 Q. And the map would show Tailgate One North is the
13 direction which you ---?

14 A. The direction of which we were mining at that
15 time. And this has been over a year ago. He was our
16 boss for a period of time up in this area, in the
17 tailgate north area. And I don't know what he was
18 being asked specifically to do, but I know that he
19 made comments back at that time that, you know,
20 somebody is going to jail up here, and it's not going
21 to be me.

22 Q. Who asked him to do stuff?

23 A. My assumption is management. I do not know.

24 Q. What were some of the problems that you all
25 encountered in developing that?

1 A. As I recall --- I don't know if there were five,
2 six, seven entries up in there. I know we had
3 problems with air at that time. And again, I don't
4 know specifically. We ran into a period of time where
5 the top was bad.

6 Q. Do you know about where that was on the map?

7 A. No, I don't, to tell you the truth. Let me look
8 real quick. Because this area was being developed.
9 This area, meaning Tailgate One North, was being
10 developed when I was first put on the section. So it
11 was underway as far as being mined. I don't know
12 where I was when I came into that.

13 Q. What job were you doing when you were on that?

14 A. At that time, I was training to run the miner. At
15 that time Dude was training me to run the miner, but I
16 was also running the shuttle car.

17 Q. Did you run into any kind of --- any methane
18 problems up there, while you were developing?

19 A. I don't recall methane problems, but I was so new
20 at section work I probably wouldn't have known methane
21 problems if you had told --- you know, I know that
22 when I was being trained on the miner, I don't recall
23 a time when the miner shut down. I remember there
24 being methane because I would ask about it bubbling up
25 in the water. We experienced some water problems over

1 in --- and I remember at that time we did have two
2 miner operators, a right and a left. Dude ran the
3 right miner again and ---.

4 Q. Did they run the miner simultaneously?

5 A. At that time, I don't remember if we were on split
6 air. I think, if I'm not mistaken, we were on split
7 air, so he would run the right side while we had a guy
8 named Nick that run the left side. And I think they
9 run at the same time, if I recall correctly.

10 Q. On the floor, did you have any floor cracks or
11 anything in the floor that showed, you know, where the
12 methane was coming out or did it just come out in the
13 water?

14 A. It came out in the water. I don't --- it seemed
15 like to me that the bottom hooved a little. I don't
16 remember there being large cracks in the floor, but I
17 do remember methane bubbling in the water.

18 Q. Do you remember anybody saying how much that they
19 ever detected coming out of there?

20 A. I do not remember.

21 Q. What about the rib conditions?

22 A. There was a period of time that I think we
23 experienced some weak ribs. I don't --- I mean, I
24 don't recall us --- I don't recall being afraid of,
25 you know, having a lot of rib rolls, like we did on

1 Headgate 22.

2 Q. Did you have many accidents up there or any
3 accidents on that ---?

4 A. I got hurt on there.

5 Q. How did you get hurt?

6 A. We were --- let me back up and make sure that I'm
7 --- we been everywhere. Was it there that I got hurt?

8 No, it was not there where I got hurt. It seems like
9 to me I recall --- and I don't know if we were on that
10 working area or a different working area that (b)(7)

11 (b)(7) blew his knee out. I think that was prior to my
12 coming onto the section as a worker. I think he had
13 just gotten hurt. I'm trying to remember if anybody
14 that I worked with --- I don't remember carrying
15 anybody out off of ---.

16 Q. When you get hurt, did you miss any work?

17 A. Yes.

18 Q. Did you have lost time or did they put you on
19 light duty or ---?

20 A. I had lost time.

21 Q. How long were you off?

22 A. I was injured in August of 2008. I broke my --- a
23 (b)(7)(C) and I broke the (b)(7)(C) and
24 I was off until sometime in October, in a soft cast at
25 home. And then I asked to come back. At that time

1 the superintendent was Homer Wallace, and he told me
2 that he needed a midnight shift dispatcher at that
3 time. So it worked out that I came back and I was the
4 midnight shift dispatcher from approximately October
5 until about March of '09.

6 Q. Did they give you any reduction in pay or anything
7 while you were doing that?

8 A. You opened a can of worms. Actually, it was my
9 understanding --- Homer told me when I took the
10 dispatching job that he would pay me my underground
11 rate. And it was my understanding that, according to
12 contract, I would be paid my underground rate. All of
13 the guys prior to me, and there had been several that
14 were working light duty, one of which was working
15 light duty as a dispatcher at that time, were all
16 being paid their underground wages. I was --- in
17 March of '09 I was going through my rehabilitation
18 exercises like five days a week. And I was about a
19 week-and-a-half to three weeks from being finished
20 with that and had been told by my physician that he
21 would release me when he thought that my leg was
22 strong enough to --- for me to undergo the work that I
23 do. Homer called me on the job one night, while I was
24 dispatching, and said that Chris Blanchard and he ---
25 he had gone to Marfork to have a meeting. Chris

1 Blanchard approached him and told him that he was no
2 longer going to pay me underground wages to work in
3 the office, that I had two choices, that I could
4 either take a warehouse clerk's wages, and it was
5 approximately \$14 an hour, or I could go back home and
6 go back on comp.

7 So I questioned at that time why all the other
8 guys had always been paid their underground wages and
9 why he was switching my title from a continuous miner
10 operator to a warehouse clerk and cutting my wages.
11 And Homer said that was his decision. So I went to my
12 --- I called my doctor, went back to the doctor the
13 next day and told him I wanted released because I told
14 him I wasn't working outside for \$14 an hour. He
15 hesitantly released me. I had not finished my
16 rehabilitation yet, and he felt like it was a little
17 bit early, but he went ahead and released me. I came
18 in the next day and gave Homer my release. He asked
19 me what it was. I said, I went to the doctor. I'm
20 going to --- I'm back underground. So he told me that
21 he didn't have somebody to replace me as a dispatcher
22 and he would need to hold me outside. And I said,
23 well, if you hold me outside, you got to pay me my
24 underground wages because I'm ready to go back
25 underground. If you're holding me outside, that's

1 you. He said, you're right, I do. So that's kind of
2 how it ended, and he told me that he didn't know how
3 much longer he would have to hold me outside. It
4 might be a week or two until he found someone. I told
5 him fine.

6 It was approximately --- if I remember correctly,
7 I may have worked one shift and I was in bed the next
8 day and the daytime dispatcher called me at home and
9 said, you're to report on whatever shift I was on.
10 You go underground tomorrow. I said, what --- I made
11 the comment, what, is that punishment, or something
12 like that. And he said, you know how it goes. So I
13 went back underground. Then the argument began where
14 they changed me to a warehouse clerk like in the
15 middle of a week. So they told me that they would
16 have to --- something about the way their payroll
17 went, that they would have to show me, as a warehouse
18 clerk, all the way back to over a week before that,
19 before I was even a warehouse clerk. And my argument
20 was no, because that was going to cost me over a
21 thousand dollars in wages. So I said, no, we're not
22 going to do that. And an argument kind of ensued and
23 I called the office, talked to one of the girls in
24 payroll, and she said basically that's the way it was.
25 She said, the only way it can be changed is if you ---

1 it comes from the corporate office. And I said, well,
2 give me Blankenship's number because I have no problem
3 calling him. And then they --- she said, wait, wait,
4 wait, let me work on some things. She called me back
5 in about an hour and said, you know what, we've just
6 put it back to like it will appear that you were never
7 a warehouse clerk as far as payroll is concerned. And
8 I said, well, fine.

9 Q. Whose decision do you think that was to do you
10 that way, what management person?

11 A. If I had to guess, I'd say she probably went to
12 Blanchard and he probably didn't like it. But I think
13 whoever authorized it probably knew that I was right,
14 so ---.

15 Q. Do you know of any other times --- any other
16 accidents that people --- men had or ladies had that
17 should have been lost time but they put them on light
18 duty and didn't charge it for a lost time accident?

19 A. Yes.

20 Q. How many times?

21 A. I'd have to think, but there are several.

22 Q. Do you know who directed them to do that or asked
23 them to do that?

24 A. I know that there was a guy on my fiance's crew
25 named Danny Farrell that was injured, and I think he

1 was approached by Berman, our safety director.

2 Q. Would that be Berman Cornett?

3 A. Correct, Berman Cornett. And he commented to
4 Boone that Berman kept calling him at home, telling
5 him he needed to come back home, come back home.

6 Q. Now, who is Boone?

7 A. Boone is my fiancé. He was a roof bolter.

8 Q. What was his name?

9 A. Howard Payne, Jr. He was a roof bolter operator
10 on Headgate 22. He was killed the day of the
11 explosion. Anyway, Danny had told Boone, or Howard,
12 that Berman was harassing him at home, calling him,
13 telling him, you know, that he could go back to work.
14 They'd put him on light duty. I don't know whether he
15 did or not. I know that I was hurt one other time,
16 but it was very minor. A big rock fell, hit me in the
17 (b)(7) and just kind of jammed me, stoved me up, and
18 Berman told me that --- how was it that he put it? If
19 I only missed one day, it would not be reported as an
20 LTA because there was some type of --- if you'd get
21 hurt in the evening and you go late to the emergency
22 room to where you don't get enough rest to work your
23 normal shift, you had that lax time, that they could
24 get by with it by me missing one day. But anything
25 more, it would be a lost-time accident. It ended up

1 being anyway because I didn't come back when he wanted
2 me to.

3 I know that there was another situation with
4 Rodney Osborne. He was working, if I remember
5 correctly, on a scoop and he injured his (b)(7) some
6 way, was taken to the hospital, and Rodney told me
7 that Berman came to the emergency room and Rodney had
8 told the doctor, you know, that he needed an excuse
9 for work and for him to let him --- you know, give him
10 an excuse so he wouldn't be in trouble at work. And
11 Rodney told me that Berman took the doctor out in the
12 --- away from him and he saw him talking to him, and
13 then after that discussion, the doctor came in and
14 told him that he was released to go back to work. And
15 Rodney ended up coming back and dispatching for a
16 little while in the office. He didn't go back
17 underground. But he was upset, that he felt Berman
18 had talked the doctor into releasing him when he
19 wasn't physically able to go back.

20 Q. Did you all visit a certain doctor? Was it a ---
21 company doctor?

22 A. Just an emer --- we went --- when I got hurt, I
23 went to an emergency room. When Rodney Osborne got
24 hurt, he went to an emergency room.

25 Q. Would you say that was the practice by the

1 company, that anytime someone got hurt, that they
2 would try to get them back to --- on light duty?

3 A. Absolutely.

4 Q. Is there any other times that you --- any other
5 thing you remember people ---?

6 A. I just remembered one, and I lost it. Not that I
7 recall, but I may remember. Something may come to
8 mind.

9 Q. Was that being done just in the recent history or
10 has it been in practice ever since you've been there,
11 for them to do that, since supervisors or upper
12 management has been changed?

13 A. It came to my attention, you know, through talking
14 to people after I had been there for maybe four or
15 five months. You know, at first nobody talked to me
16 very much or confided in me very much. But after a
17 while, you would hear people, you know, talking about
18 --- I know that a lot of guys --- one guy cut his
19 finger, and he was brought outside, you know, to work
20 in the office, to sweep the warehouse for a while. He
21 was a boltman. I don't know if he come --- his name
22 was Chuck Smith. I don't know if he was a lost time
23 accident, but I know he'd come outside of work for
24 three or four days and then went back under. I think
25 he may have been one of them. I can't recall off the

1 top of my head.

2 Q. How would you say that the feelings were between
3 the workers and the upper management?

4 A. When you say upper management ---?

5 Q. Relationship. I'm saying from the supervisor up.

6 A. I think you had certain crews that respected their
7 section foreman. I think you have section foremen
8 that try to do the right thing, that are a good
9 supervisor of people and are good, safe workers. I
10 think that --- to answer your question, I think it
11 depends on who you talk to and whose section and who
12 their boss is. When you go above section foremen into
13 mine foremen, I think that's when you --- that's when
14 the men lose some respect for, I guess, why they're
15 there.

16 Q. Who were they? Who was the mine foremen?

17 A. Well, our mine foremen are Gary May. For a long
18 period of time Andy Kolson was a mine foreman.

19 Q. Where is he now?

20 A. Any was relocated.

21 Q. For what reason?

22 A. We ran into a lot of water when we were driving.
23 This is the active longwall, when we were driving ---.

24 Q. Headgate One North?

25 A. Headgate One North. And there was a period of

1 time when several entries were under water.

2 Q. You're talking about under water ---?

3 A. Under water, topped out to the roof with water.

4 Q. Do you know, pointing out on the map,
5 approximately where that would be?

6 A. We were way up. I would say we drove this section
7 about 140, --- about 140, 145 breaks. I would say it
8 was between ---. I don't remember. I would say it
9 was between --- we cut across --- it was between Eight
10 Break. Between Eight Break and 125 Break, somewhere
11 up in this area.

12 Q. That would have been on Headgate One North?

13 A. Correct.

14 Q. When were you all up there, approximately what
15 time?

16 A. It was 2000 --- sometime in the period of 2009
17 because we had driven Headgate One North all the way
18 to the Bandytown fan. That had been drilled. And I
19 was pulled outside for whatever reason. At that time
20 Everett Hager had become our superintendent, and I did
21 office work from time to time for him when he needed
22 me to. So he anticipated an audit coming of the
23 personal files of each miner that they --- that had to
24 be maintained at the mine site. He knew that the
25 files on each miner with the training forms and

1 everything had not been maintained correctly, so he
2 pulled me outside at the time that they were moving
3 the section. The guys were pulling all the equipment
4 out of the section and we were getting ready to head
5 to Headgate 22 to start driving it. He pulled me out
6 at that time to work on this project of straightening
7 up these files. It was at that time that I remember
8 the guys complaining about working in water up to
9 their chest. I know that management ordered chest
10 waders forever, I mean lots of chest waders for the
11 guys because they were working in water. They were
12 complaining about the water being up to their chest.

13 I know that Boone, my fiancé, Howard Payne, I
14 remember being out in the office and him coming out of
15 the mines on dayshift one day and being absolutely
16 soaking wet up to his chest. And he was probably ---
17 Boone was very tall. And he said that he had been in
18 water up to his neck all day. During that course of
19 time, it --- the guys kept having to go up in the
20 water and they didn't like being up there. They --- I
21 remember Boone telling me that they were not supposed
22 to be working up behind the longwall, that ---.

23 Q. Was the longwall working then?

24 A. I think it was running at that time. He kept
25 telling me, we don't have any business up there.

1 There are no communication lines up there. If
2 somebody gets hurt, he said, you know, we're just ---
3 you'll never walk somebody out that many breaks, get
4 them out of there. I remember him telling me that on
5 one occasion, mine inspectors were underground and
6 they went to the longwall and they were scared to
7 death that the mine inspectors were going to go on up
8 the track and see their mantrip up there and know that
9 they were behind that wall.

10 Q. They still had track in up the entry going behind
11 there?

12 A. Uh-huh (yes), to a certain point. I don't know
13 how far because I wasn't up there.

14 Q. And were they battery mantrips?

15 A. They were battery-powered mantrips.

16 Q. Who was his supervisor at that time?

17 A. The supervisor at that time was Dean Jones for
18 Boone's group, Dino Jones. He was killed in the
19 explosion.

20 Q. And you said the mine foreman was sent to
21 another --- for what reason?

22 A. For whatever reason, the guys at the mines had
23 this idea, and I don't know --- I don't think that
24 upper-level management --- I know that Chris Blanchard
25 knew about the water. I know Jamie Ferguson knew

1 about the water, because they went underground and saw
2 it. But I don't know if anybody in the big office,
3 Chris Adkins, Mr. Blankenship, knew about that water
4 being up there. And as far as I can remember, that
5 was --- I want to say that was a return going that
6 way. I remember it was so high that Boone told me
7 that there was a four-wheeler --- a rubber-tired
8 four-wheeler that they left under water still up there
9 and that there were --- it got to the point where they
10 could not get the toolboxes --- he said the toolboxes
11 are floating. They're gone. I left them. He said,
12 I'm not --- I wasn't getting out in it again.

13 I don't know what happened, but at some point ---
14 I was off at the time, but Boone come home and he
15 said, Andy Kolson disappeared today. And I said, what
16 do you mean he disappeared? He said, he's done. He
17 said, I guess, you know, they had to throw somebody
18 under the bus. He said, Andy is not with us anymore.
19 And I heard that --- I don't know whether somebody
20 fired him, whether he was the scapegoat, whether --- I
21 don't know, but I know that he --- all of a sudden, he
22 wasn't with us anymore and he was --- I heard that he
23 was fired. But then I heard that he went to the
24 office and talked to someone and they relocated him.
25 And the last I heard he was a section foreman at

1 another mine down Route 3.

2 Q. So the water up there, would it roof out pretty
3 quickly if the pumps weren't maintained?

4 A. There was a period of time where there were no
5 pumps, and it roofed out --- I was up there on some
6 occasions. I saw it to the top and it was to the roof
7 in one entry, and there was a crosscut, it was to the
8 roof in that, and a second entry, it was probably ---
9 it was above my head. And they ordered a bunch of
10 pumps, and we set pumps and set pumps, and there for a
11 while you went to the waterhole. That's where you
12 worked. You went to the waterhole. And we were
13 constantly running discharge line. And there was a
14 period of time that we would have to walk some 40 or
15 50 breaks and we would have to park because the track
16 was no longer there and then we would walk 40, 50,
17 sometimes 70 breaks up in there and carry all of our
18 equipment. They bought little wagons. We'd put our
19 discharge line in and push and pull them up through
20 there and lay discharge line and try to get the water
21 down. I think when the water got out of control and
22 maybe --- and I'm speculating again, ---.

23 Q. When did it get out of control?

24 A. I want to say --- I want to say in between July
25 and October of last year, of 2009, somewhere in that

1 time frame that we were forever pumping water. There
2 was --- at some point they put in a turbine pump or
3 some type of big pump because they ordered so many
4 pumps that we had under there and they just weren't
5 --- the water was gaining and gaining and gaining, and
6 we just couldn't get it out.

7 Q. Did you have much trouble with the mine roof or
8 the floor going back toward the pumps?

9 A. The mine roof and the floor when we walked back to
10 work in the water?

11 Q. Yeah. Did you all have to work on the roof any
12 time?

13 A. I remember when I was up there we walked. The
14 entries were okay. The roof wasn't the greatest, and
15 I remember you got to a certain point and cribs were
16 up to the top on both sides of you and you had maybe a
17 four-foot walkway, and you walked between --- you
18 walked between the cribs the rest of the way.

19 Obviously, the top wasn't good. I don't think the
20 ribs were the best in the world. I don't remember
21 really being afraid at that time. There was a time
22 later that we were working --- we were standing behind
23 the longwall while it was running, and I know all the
24 guys were scared. We were told we shouldn't be up
25 there.

1 Q. Who sent you back there?

2 A. Our boss took us up there.

3 Q. Who was the boss?

4 A. And I don't know whose authorization, but Brandon
5 Bowling was our boss, and there was --- and again,
6 there was still a water issue. I want to say, I'm not
7 sure, it was --- I'm trying to remember when we were
8 up there. I don't remember time-wise, but I
9 remember ---.

10 Q. Do you remember where about the longwall face was?

11 A. I'm trying to remember when we came in on the
12 mantrip, we came here, we came up the longwall. Oh,
13 golly. I don't know right off. I mean, I don't know
14 what break. I know that we were behind the wall and
15 the top was --- other than Harris No. 1, it was the
16 worst I've ever seen. And I remember Brandon telling
17 us in our safety meeting, I don't like being up here
18 any more than you all do. Let's just get in here and
19 get out of here.

20 Q. What about the airflow back that way?

21 A. We didn't have any air.

22 Q. No air going that way, back towards the back ---?

23 A. I mean, you had --- you had some air, but the ribs
24 were coming in so bad. The ribs were falling --- from
25 the rib, the ribs were coming in probably --- put it

1 this way, again, we had crib blocks all the way to the
2 top. We had a four-foot walkway between, and the ribs
3 were rolling, in some cases, all the way over to where
4 the crib blocks were and were putting pressure on the
5 crib blocks. I know that the top, everywhere you
6 went, it was falling in front of you. It was falling
7 behind you. You just --- everywhere you went, you
8 would have to stop. You'd hear a pop, you'd hear a
9 crack, and you'd just stop and wait for it to fall.
10 I know that the cribs were taking pressure. They
11 had timbers up there that were busting, taking on so
12 much pressure. And I remember it being so bad, Boone
13 didn't get --- he wasn't afraid of a whole lot. He
14 had 30 years bolting experience, so he had seen just
15 about everything. But I remember there being one
16 night --- his best friend he used to bowl with was
17 Timmy Davis. Timmy was a boss on longwall. And Boone
18 passed me underground. He would stop our mantrip a
19 lot of times and tell us, you know, where to be
20 careful and where, you know, the bolt cracks were and
21 things like that. He would kind of brief us on the
22 conditions, and he always would give me my little
23 safety talk. And we were up there that night and we
24 were taking --- hauling Kennedy stoppings up to put up
25 Kennedy stoppings. And you had --- and you went so

1 far up in there that you had certain people that would
2 go from point A to point B and drop them off, and then
3 you had a couple guys that would carry them point B to
4 point C all the way up on in there until you got into
5 the water area. I didn't go that far up. But when we
6 --- I kept seeing Timmy come off the longwall.

7 Q. Who's Timmy?

8 A. Timmy Davis, the longwall boss, boss --- section
9 boss, I guess, or the longwall boss. He was ---
10 evidently, his crew was working the same shift we
11 were, and it was evening shift, and Timmy kept coming
12 around to where we were working, well, that was behind
13 the wall, and he would just kind of hang around, look
14 around, go back. And I remember the wall was coming
15 by us because we could hear it. We could hear it
16 running over there. And we were taking --- I thought
17 maybe that's why we were taking so much pressure, was
18 because they were mining by us. I mean, the top was
19 coming ---. And Timmy kept coming around, and I said,
20 why do you keep coming over here? Don't you have
21 anything to do? And he said, I keep coming over here
22 to check on things because that's what I was told to
23 do. I said, who told you to come over here? And he
24 said Boone wanted me to come over, make sure you were
25 okay every hour because he's afraid you're going to

1 get hurt. And he said, and I promised him I'd check.
2 And he said, you keep an eye on my girl, and he said,
3 and I promised him I would, and that's why I am. And
4 I said --- and he said, don't say nothing to him, and
5 I said, thanks. So evidently, Boone was afraid for
6 me, you know. But I knew it was bad. As green as I
7 was, I knew that it was really bad, because Dude kept
8 saying to me, I don't like it up here. I don't want
9 to be up here.

10 Q. Why were you all back there at that time?

11 A. They had us putting up Kennedy stoppings and
12 trying to keep the top up for --- I mean, ---.

13 Q. For ventilation?

14 A. My assumption is, yes.

15 Q. When you were going back there, from the headgate
16 back there, you say you didn't --- what was the air?
17 So you didn't have much air movement?

18 A. We didn't have much air movement. I remember it
19 being really, really --- it seemed like to me it was
20 --- well, it was warm up in there, but we were working
21 hard, too. We got to the point where it was --- I
22 won't say it was hard to breathe, but it was just ---
23 there just wasn't any flow. There was no flow. I
24 mean, it just --- we'd just --- we'd strip down to,
25 you know, short-sleeved shirts and just, you know,

1 wringing wet with sweat and ---.

2 Q. Did you ever notice any methane or any --- while
3 you were back there, during these trips?

4 A. I didn't notice methane because we weren't given
5 methane detectors to wear.

6 Q. What about your supervisor, did he ---?

7 A. I would think --- he always wore one. But he
8 worked --- he was up towards the water. You know, he
9 was on the last leg. I know they were dragging --- we
10 were dragging --- I'm trying to remember if it was
11 discharge line. We were dragging some kind of line
12 all the way up in there. It was awful. It might have
13 --- it was electrical line because we had to hang it.
14 We had to hang it with rope hangers that whole way, so
15 I don't --- it must have been extension cords or
16 something for pumps that they were setting way up in
17 there.

18 Again, there was places where you had to --- there
19 wasn't enough clearance between --- the Kennedy
20 stoppings were here and then you had crib blocks here.
21 And sometimes there wasn't even enough clearance to
22 get through and the guys would have to walk around,
23 which we didn't like doing because then you were out
24 from under supported top. But you didn't have a
25 choice. And I mean, there were times that Brandon ---

1 you know, I was with Brandon walking up and he'd say,
2 walk around here, but hurry. And I kept going, I
3 don't like it, I don't like it, you know, but you try
4 not to be a big baby, but ---.

5 Q. Did I ask you about floor heaving --- is there
6 floor heaving much up through there?

7 A. I can't tell you the floor was hooving, because
8 you couldn't see the floor for all of the rib rolls.
9 I mean, it was everywhere.

10 Q. Did you all complain to anybody?

11 A. Oh, yeah. We complained to Brandon. We kept
12 telling him, we didn't have any business being up
13 there. We didn't like being up there.

14 Q. Did anybody complain higher?

15 A. I think it was a general --- I don't know
16 specifically. I did not go any higher up, but I think
17 that Boone had indicated to me that he had --- he was
18 a very opinion --- verbal. Let's say verbal. He was
19 very verbal in --- but he could be because he had
20 enough seniority. And he was very verbal in, you
21 know, we don't have any business doing this, you know,
22 why the H are we doing this, this is not going to
23 work, and he didn't like it any more than we did. I
24 know he told me that he had voiced his opinion.

25 Q. To whom? Who did he voice his opinion to?

1 A. If I remember correctly, I think he told me that,
2 you know, he was raising hell with Everett about why
3 Blanchard had us up there. And we knew, and I don't
4 know how we knew, but we knew that it was a general
5 consensus that Chris Blanchard had made the decision
6 to put us there, and you don't complain to him.

7 Q. Did he ever come to where --- on the headgate
8 where you all were working?

9 A. When we were behind the longwall working, he was
10 never up there when I was up there. Chris is one of
11 those that when he came out, he usually came out
12 dayshift. And he didn't normally show up on evening
13 shift. And I normally worked evening shift. At that
14 time we were working straight evening shift.

15 Q. Did you ever talk to any ---?

16 OFF RECORD DISCUSSION

17 BY MR. GODSEY:

18 Q. You just stated that you couldn't talk to Chris
19 Blanchard or tell him anything. Why? What was his
20 attitude toward discussing stuff with the ---?

21 A. Chris was very unapproachable. His --- he's very
22 authoritative. He's a yeller, a screamer, a cusser.
23 He's not well liked by anybody that works there. And
24 I think if we just did a --- we just did --- they sent
25 around, I guess, a survey of --- an anonymous survey

1 that all the members were supposed to fill out on how
2 we felt about our supervisors and our superintendents
3 and --- I think when it came back, we were told that
4 he received the lowest score, the lowest approval
5 rating in the company, like 60 percent. I mean,
6 people don't --- he --- it's just his way or the
7 highway. He micromanages the mine. He always has,
8 since I've been there. You have your superintendents,
9 but they're sitting in a chair. He calls the shots.
10 He demands the reports. He dictates what's going to
11 be done and what's not going to be done. And if you
12 don't like it, you can leave.

13 Q. How was he after that pushing everything back, was
14 he any different, after he received a low rating?

15 A. I never saw him after that. And that was --- we
16 were told that at our MIT training in March of this
17 year. And there was a period of time, like --- we
18 were told that there was some confrontation at Chris
19 Adkins' office with Everett. Supposedly Chris had
20 called Everett to Charleston and Blanchard was there,
21 and it was kind of a what is going on at UBB kind of
22 meeting. And I think Everett supposedly told Chris
23 Adkins that the guys were fed up, you know, that we
24 had all of our vacations cancelled last year because
25 of production. Now, that's us. Not all of the ---

1 not all the guys got cancelled, but we definitely did.
2 Headgate did, because we were behind schedule for
3 longwall. He said, you know, the guys are --- they're
4 sick of it. And we were told that the word come down
5 from Adkins for Blanchard to keep his self away from
6 UBB. Stay away from there. You don't have any
7 business up there. So whether that's true or not, I
8 don't know, but I know that you didn't see much of
9 Chris after that.

10 Q. Did you have any personal experiences with Chris?

11 A. Yes.

12 Q. What kind of experiences did you have?

13 A. Well, other than --- you know, we've butted heads
14 a few times. I've never felt like Chris wanted me
15 there. I've been told --- from the time I was a red
16 hat and I began working there, I could tell that I
17 was --- I felt like I was being singled out. If it
18 was the crap job, I felt like I was in it. Whatever
19 the --- you know, the worst job was, I usually ended
20 up with it.

21 Q. Is that because you were a female?

22 A. You know what, I felt like it was, but I didn't
23 want to think that it was.

24 Q. Was there any other females that worked there?

25 A. When I first came there, there was one. She was a

1 contractor. She was having an affair with the
2 superintendent, so I had a lot to overcome when I came
3 in. That --- she kind of finally went away. You
4 asked me. She finally went away, and I was the only
5 one. But you still have that reputation to overcome.
6 You know, she was I don't do anything but rock dust.
7 I don't shovel. I don't do any of that. And the
8 superintendent --- you know, that's the way it was.
9 But I shoveled. I wanted to shovel because I wanted
10 to work my way. But getting back to Chris, he and I
11 had a few --- I was training on a miner, and there was
12 a situation where I was told by my supervisor
13 that ---.

14 Q. Who was that?

15 A. The supervisor at the time was Grimmert, Carl
16 Grimmert. As a matter of fact, he was the miner man
17 that left and said that he --- somebody was going to
18 jail. I was training on Tailgate One North on the
19 miner, and I wasn't running at that time, I was
20 watching. And he pulled Dude to the side one night
21 and told him that Jason Whitehead said he didn't want
22 me on the miner, I was hurting production and that she
23 don't belong on a miner. Well, Jason Whitehead at
24 that time was the vice-president under Blanchard, and
25 I questioned --- I said, I'm not running it. How am I

1 hurting production if I'm not running it? I mean, I'm
2 just overseeing it. And he let me load, you know, a
3 couple buggies a night, but we never made a shuttle
4 car wait. And he said, I don't know. He don't want
5 her on there. She's not going to be on it anymore.
6 Well, anyway, so I questioned that and I was told
7 it came from Chris Blanchard. So I didn't say
8 anything because I was relatively new. And then later
9 on, when we were --- I ended up getting back on the
10 miner, and that was under Homer Wallace's
11 administration, and I was running. And at that time,
12 John Cooper became our boss. And every night it was
13 him standing behind me with a stop watch going, you're
14 being timed, you're being timed. Chris Blanchard
15 wants to know if you can run or not. And if you
16 can't, you're gone. And I'd just --- you know, I
17 would go, well, no pressure, and so I would run. And
18 I got so --- and that's when I was first on the miner.
19 And so he made me --- it was just constant pressure on
20 me. And then Homer would call me in the office and
21 say, listen, you know, you need to work on your load
22 times. I said, Homer, I've been on the miner. I've
23 been loading for a week. I mean, come on. You all
24 don't harass these other guys. You know, why am I ---
25 don't make me different. If you don't want me to be

1 different, then don't make me different. But I
2 deserve the same opportunity to learn and to load as
3 everybody else. Get these people off of me and let me
4 run coal. And he said, well, Chris --- every morning
5 Chris is calling me about, you know, your load times.
6 I said, well, I can't run like a pro. I think at that
7 time I was on it like three days. And finally, I just
8 --- I don't know what happened to me, but I finally
9 calmed down, and it was within --- it was probably
10 within another week that they would come up --- Cooper
11 would come up and he'd say, well, you're being timed.
12 I got my stopwatch. And I'd say, go ahead, and I'd
13 load in like 52 seconds, and Dude was loading in 56,
14 58, so --- and I consistently --- I guess I just made
15 up my mind to get better, and I did.

16 And there was one point that Cooper came to me and
17 he --- and he was kind of hard on me. He didn't want
18 me running the miner. He didn't think --- you know, a
19 woman don't belong on a miner. So he came and he took
20 the padding out of one of his gloves, one of his
21 metacarpal gloves, and he walked up to me one night
22 and he threw it on the ground in front of me. I was
23 changing bits on my miner. He threw it on the ground
24 and he and I --- I didn't like him because of how he
25 treated me, and I said, what's that about? He said,

1 I'm giving you a hand. I said, I don't want your
2 hand. I don't need your hand.

3 Q. Did they ever make any kind of off-color remarks
4 to you or ----?

5 A. Yeah, you have that.

6 Q. What all did they say to you?

7 A. One of the bosses that came after Cooper, John ---
8 Ron Wickline, would say things when I was running the
9 miner. He would say, Chris Blanchard is trying to
10 break you in half. Trying to break you like a twig,
11 that's what he told me. He said, he wants you to fail
12 on this miner, and then you're not going to be here no
13 more. And I said, well, I hate to ruin his day, but
14 that's not going to happen. And I started recording
15 my times and I started looking at the production
16 reports and looking at how --- what time I reported
17 that I ran and what time Cooper showed that I ran, and
18 they were different. He always showed me slower than
19 what I actually was. Out of a cut, he showed me in a
20 cut longer than I was in the cut. If we had a rock
21 fall on the miner and we were 20 minutes down, getting
22 a rock off a miner, he never documented that. He
23 showed that it took me that long to cut the coal. And
24 I saw all that, and I would --- I'd call their
25 attention to it, you know. But nothing was ever done.

1 Ron Wickline would say things like, you're a
2 beautiful woman. If --- he made some comment one time
3 about these guys can't stand it. If you were the type
4 --- if you were the type of woman that they liked,
5 you'd be sitting on the rib and they'd be running your
6 coal for you. And he asked me to go motorcycle riding
7 with him a couple times, and I said I --- told him I
8 didn't think it was appropriate, and I told him I had
9 a boyfriend. And he didn't know that it was Boone.
10 And he said, well, he won't have to know. And I said,
11 oh, yeah, he'll know because I'll tell him, and he
12 backed off a little bit. John Cooper made a comment
13 one time, and I did record it. He asked me one night
14 if I knew how many calories were in a teaspoon of cum.
15 And I said something like, you're fucking nasty, you
16 know. The guys would make comments at the mantrip
17 sometimes about having sex with 12 and 13-year-old
18 girls and they would --- and I could tell that they
19 were saying it to see my reaction, because they would
20 look down the mantrip at me. And then one night one
21 of the guys put his light on me and he said, how are
22 you doing down there, Bobbie? And I said something
23 like, you know what, grow up. But I would take a
24 walk. I told him --- I'd say, you know, I think this
25 is going into a guy conversation. I'm going to take a

1 walk. You all go ahead. And I would walk around the
2 break or I'd say that I had to use the bathroom, and I
3 would go and I'd stand around the corner. Sometimes
4 I'd cry. Sometimes --- I wouldn't let them know I was
5 crying, but --- and then I would come back.

6 And there was one time that the guy said --- the
7 guy that said, you know, are you doing all right, when
8 we got up on that section, he came to me. I guess the
9 boss had said something like, I think she's mad, and
10 he approached me up near the miner and he said,
11 listen, he said, I probably shouldn't have said what I
12 said back there. And I said, no, you shouldn't have.
13 And he said, so you know, I'm sorry or whatever. I
14 said, well, first of all, I don't want your apology, I
15 said, but I'll tell you one thing right now, you ever
16 call me out in front of the guys that I work with, I
17 said, next time it happens I will embarrass you. And
18 I said, I don't need your apology. I don't want your
19 apology. And he said, well, I hope everything is
20 forgiven. I said, oh, it's forgiven, but it's not
21 forgotten. I said, don't let it happen again because
22 when it does, I am going to humiliate you. He's a big
23 guy. I said, I'll humiliate your fat ass like you've
24 never been humiliated before. So it's kind of ---
25 they kind of backed off of me, but there's been a lot

1 of comments. I mean, most of the time I deal with it
2 like, this is totally a guy conversation, and I make
3 an exit because I understand that I'm in a man's
4 world, and I don't expect them to adjust.

5 I think a lot of the problem with women being
6 underground is men feel like they have to change their
7 language and change their world, and that's their
8 world as they know it, when an imposter comes in. And
9 I don't want them to feel that way. I mean, I just
10 --- I'll work with them. But if it gets more than ---
11 I mean, they know my limits, and I've established them
12 from day one. I don't care about cussing, but I don't
13 need to know the graphics of what, you know, you do in
14 your private life. And when it starts, I make my
15 exit. And usually they've learned now that they don't
16 even go there or, you know, they'll back off. But
17 yeah, there's been several comments.

18 Q. Do you want to take a break?

19 A. Yeah.

20 SHORT BREAK TAKEN

21 BY MR. GODSEY:

22 Q. Do you have any other thing that you'd like to
23 discuss so far about Chris Blanchard or events you've
24 had with him or confrontations you've had with him?

25 A. The only other thing that comes to mind is there

1 was a time that eventually, after me being on the
2 miner and me getting my times down, which is what I
3 was told by management, Homer Wallace was the issue, I
4 felt like that I had complied with what they wanted in
5 order for me to stay on the miner. And I really did
6 like running the miner. I was a very safe miner
7 operator. I was told --- I came in one day, went to
8 the bathhouse and there was a bulletin that said I was
9 being realigned. There was a realignment and I was
10 going on a scoop. Well, I had never run a scoop in my
11 life. And I found out that there was a shuttle car
12 position open on another section. There were some
13 guys I think that were laid off from another mine or a
14 mine had closed and they were relocating those guys
15 and they were bringing in a guy named Morris Hugsdon
16 or something to that that had like ten years miner
17 experience. And they were pulling me off the miner
18 because he had had more experience and it was a
19 production issue. It wasn't anything that I had done
20 wrong. But I questioned why I was being put on a
21 scoop, because if you work on a section you know that
22 a scoop is the hardest physical labor on a section.
23 And I questioned, why am I being put on a scoop? I've
24 never run a scoop before in my life. You've got a
25 position open for a shuttle car operator on Four

1 section, and I'm being bypassed for that so you can
2 put me on ---.

3 And I told Homer at that time. I said, I am
4 concerned that I can't handle the job physically, the
5 physical lifting. You know, I don't know that I can
6 lift all that steel because you have to do --- load
7 all the bolters with all the bolts and everything.
8 And he said, do the best you can. So I began as a ---
9 I was a scoop operator for a while, and it was
10 grueling on me. There was times I just didn't think I
11 was going to be able to make it. And the guys weren't
12 easy on me. I mean, I --- when I had to load a
13 pallet, I loaded a pallet. They helped me on
14 occasion, you know, but that's what they normally did.
15 They normally helped the scoop operator. Eventually,
16 while I was on the scoop, during that time we were
17 transitioning --- our section was going to start
18 portalling over at Ellis. Ellis' bathhouse had not
19 been built, and it was --- like a construction,
20 single-wide construction trailer up there. I think it
21 may have had a porta-potty at that time. But the guys
22 dressed in the parking lot. And I was called in ---
23 the guys were all told that effective such and such a
24 date, you will be portalling at Ellis. Well, they
25 gave everybody a piece of paper outside when we were

1 waiting to go underground except for me. And I said,
2 where's my paper. He said, you're to see Homer in his
3 office. So the guys were like, well, here you go
4 again, and I said, my God. So I went upstairs and I
5 asked Homer, I said, what's the problem? He said,
6 you're --- well, he had told me about --- backing up
7 with the scoop situation, I questioned whose decision
8 was this? He said, Bobbie, this was not my decision.
9 I said, whose decision was it? He said, Chris
10 Blanchard's. I said, all right. That's all I need to
11 know. I didn't say anything. Because I knew if I
12 went, it was going to be kind of a --- well, if you
13 can't do the job, oh, well, you know. So I didn't
14 want to play that --- you know, a woman can't do that,
15 and I wasn't going to do that. So anyway, when they
16 told me to go up to Homer's office, he said, you're
17 being transferred from One section to Three section.
18 Well, Three section was 42 inches tall, on your hands
19 and knees. It was --- we called it, and pardon my
20 French, the shit hole. If you --- everybody had this
21 mentality, you know, if you were sent to Three section
22 is what did you do wrong, who did you piss off, you
23 know, who did you make mad. So it was kind of a
24 punishment area. And the guys were even told for a
25 period of time we had to run coal on Wednesdays on

1 Three section. And you know, some of the guys were,
2 you know, if you don't do this, you're going to Three
3 section. If you don't do that, you're going to Three
4 section.

5 So I was sent to Three section, and I said why?

6 And he said, because everybody is going to be
7 portalling at Ellis, and we don't have facilities for
8 you. I said, you don't have facilities for the guys.
9 And he said, yeah, well, but we don't have facilities
10 for you. I said, but you don't have facilities for
11 them. So I'm no different from them. I'm a miner
12 just like they are. And he said, well, they have to
13 dress in the parking lot. I said, well, then I'll
14 dress in the parking lot. And he said, well, I can't
15 do that. And I said, why not? And I said, whose
16 decision was this? I said, don't tell me. He said,
17 this came from Blanchard. And I said, well, you know
18 what, every time he makes a decision regarding me it's
19 to my detriment. It's nothing good. It's nothing
20 ever good, I said, but that's all right. So I went to
21 Three section. All my --- the next day Boone told me
22 that when they got off the mantrip onto the section,
23 each one of them were asked to sign a waiver, a
24 bathhouse waiver, that they agreed that they didn't
25 have to have a bathhouse. My section wasn't asked to

1 sign that waiver, and I asked why. I said, where's
2 our waiver we're supposed to sign for the bathhouse
3 because I want to sign it. And the boss said, ain't
4 nobody given me a waiver. I said, dayshift got one, I
5 said, so I want to know where it's at because I'm
6 going to sign it. My name is going to be the first
7 one on it in the biggest letters so Chris can see it.
8 And they never did give us that waiver, okay. So I
9 went on --- the guys went on. They took me off of the
10 section, sent me to Three. For two weeks I crawled on
11 my hands and knees, it was awful, in mud up to my ---
12 it was awful. But anyway, I hung in there. And
13 finally I called the 800 number, like you're supposed
14 to.

15 Q. That's MSHA ---?

16 A. No, the Massey 800 hotline that's anonymous. I
17 told them everything, that I didn't feel like I was
18 being treated fairly, that you know, I've been sent to
19 Three section and crawling around like a squirrel and
20 I hadn't done anything wrong and that I didn't
21 understand why I was taken off of my section because
22 --- evidently because I'm a woman and that it's not
23 right. So they give you a little number that you can
24 call back and you give them that number and they tell
25 you what the status of your complaint is. And I kept

1 calling back and they kept saying, it's being
2 investigated. And I'd call back --- I called several
3 times. Still under investigation. So I got fed up,
4 so I called the Charleston office. I've tried to talk
5 to Jennifer Chandler, who is our human resources
6 director. She scheduled an appointment for me to talk
7 to her. And the day of --- the morning before the
8 appointment, I think, or the day before the
9 appointment her secretary called and said she had to
10 cancel, didn't have time. I said, okay, well, she'll
11 reschedule. Well, she never did, and like over a week
12 went by. So I kind of got the opinion that evidently
13 you don't take my concerns very seriously and what do
14 you think when a woman calls you --- a woman coal
15 miner calls you and says she's having some problems,
16 what do you think it's going to be about? So I didn't
17 feel like that she cared, so I went over her head to
18 Gillenwater.

19 Q. Now, who's that?

20 A. John Gillenwater is over human resources, out of
21 the Charleston office, where Chris Adkins is. So I
22 made an appointment and went --- in the interim, after
23 I had made an appointment with Gillenwater, Blanchard
24 called a meeting at Marfork one day of all the miners,
25 and that was the day that he told us we were having

1 our pay cut, you know, times are hard, production ---
2 the price of coal is low. You know, we're going
3 through an economic crisis. Everybody is getting cut
4 back, you know, \$4 an hour or whatever. We had to
5 start paying part of our medical, et cetera, et
6 cetera, et cetera.

7 Jennifer approached me right before the meeting

8 and she said, I need to talk to you after the meeting.

9 And I thought, oh, now you want to talk to me. So she

10 --- I stayed after the meeting. She said, what was it
11 that you wanted to talk to me about? I said, don't

12 worry about it. And she said, no, no, no, no, let's

13 talk. I said, let's not. I said, I called you. You

14 haven't called me back in a week-and-a-half.

15 Evidently, it's not important to you. I'll deal with

16 it in my own way. So I met with Gillenwater.

17 When I was in Charleston, Gillenwater, when I met

18 with him, he brings in Stephanie Ojeda, who is the

19 attorney for Massey. I tell them what I feel, how I

20 feel I'm being treated. I told them at that time

21 about the John Cooper comment, that I didn't

22 appreciate it and I didn't like it, about me being

23 harassed with the --- you know, the stopwatch thing,

24 you know, all of that. And I said, you know what,

25 guys, I have the same right to work here and make a

1 living for my son as all these guys. And I'm going to
2 make a living. I'm not leaving. I said, if you ---
3 they've tried everything in the world to get rid of
4 me. I've been in every shit hole in this mine, and
5 I've come out of every one of them. I've done
6 everything that's been asked. You're not going to
7 break me. It's not going to happen. I'm here, and
8 I'm here to make a living. I don't bother nobody. I
9 want to come to work and do my job and go home without
10 any harassment, any aggravation, I said, so you need
11 to get Blanchard off of me.

12 Well, it went on, and Chris Adkins was not in that
13 meeting, but he stuck his head in the door at that
14 time and said hi or something like that. And the next
15 thing I know I get a call and there is a meeting
16 scheduled at Marfork with Chris Adkins and me, Chris
17 Blanchard and Stephanie Ojeda. That's fine. When I
18 arrive at Marfork, I walk in to a conference room,
19 table probably as long as this one. I bet you there
20 was 12 people in there. They had Chandler. They
21 had ---.

22 Q. Who's Chandler?

23 A. Jennifer Chandler, the woman that wouldn't meet
24 with me, ---

25 Q. Okay.

1 A. --- her. There were people I didn't even know
2 that were there and ---.

3 Q. Did you have anybody with you?

4 A. No. I was coming by myself --- no.

5 Q. Just asking.

6 A. No. I don't need that. So anyway, I came in
7 thinking it was going to be the four of us in this
8 meeting, and all these people are here. So I said ---
9 I made some comment as to, you know, what's all this.
10 Well, this is so and so and this is so and so, and of
11 course, Jennifer Chandler, and this is some guy I
12 never knew and some other guy and some other guy. And
13 I said, if you all think you're going to intimidate
14 me, having all these people here, it don't bother me a
15 bit. I said, you can bring them all in. It doesn't
16 matter. And they said, well, if you're not
17 comfortable --- I said, no, let them stay, because,
18 you know, they could hear what I got to say.

19 So the meeting was basically --- and when I came
20 to that meeting, I came with the production reports
21 that had been falsified. I came with a --- I had done
22 a spreadsheet comparing my load times to Griff, who is
23 our top miner man, and his brother Dude, who is our
24 second top miner man, and several other miner men and
25 I did a comparison and an average of everybody's times

1 and where I was in respect to them. And they had told
2 us that we were being moved to Ellis because it was
3 closer, yet I indicated, you know, on the production
4 reports where we weren't getting there any faster than
5 we --- had we, you know, stayed where we were at UBB.
6 And so anyway, I had all of my information with me,
7 and Mr. Adkins conducted basically the meeting, and
8 he, you know, went in to the concerns that I had
9 stated. And something was said about the John Cooper
10 deal, and I told him, I said, you know, here's a boss
11 that we have told you all, we have complained to you
12 all he's on drugs. He is on medication, but I guess
13 he takes too much of his medication.

14 Q. How did you know he was on drugs?

15 A. Because we had seen --- I've seen him come on ---
16 you know, as our boss, come into the bathhouse and
17 he's just like --- I mean, I know you can't put that
18 on, but he's just like, you know, he looks like he's
19 half asleep. He's like walking asleep he's so drugged
20 out. And you know, he'll say --- and he would say,
21 you know, time for my meds, you know, things like
22 that. You could tell that he was overmedicated. He
23 would openly brag about all these different
24 medications that he was on and, you know, but --- and
25 he had even --- he'd even --- on some occasions the

1 guys had told me that they had found him asleep on the
2 rib, passed out, you know, and him being the boss. I
3 told them about that. And I told them about the
4 comment that he had made.

5 He had also openly --- and everybody at the mines
6 knows, he's openly bragged about eating live rats
7 underground. The guys had --- there's guys that had
8 said they witnessed it, that he's done it. So I let
9 them know about that. And my point with Chris was,
10 this is the kind of guy you've got bossing a section.
11 Now, I'm telling you what he said. I'm telling you
12 --- I said, that is not normal behavior. Eating rats
13 underground, live rats, is not normal behavior. Why
14 do you have this guy section bossing us? And our
15 safety is in his hands and you've got him section
16 bossing. And the guys have told you that he's
17 overmedicating, you know, he's asleep half the time on
18 the rib. So Chris says to --- Chris Adkins says to
19 Chris Blanchard, John Cooper leaves UBB today. Well,
20 I thought, well, you know what, he doesn't need to
21 work, you know, underground like that. Well, later I
22 found out they don't get rid of him, they simply
23 transfer him, and he's a fire boss at a mine down the
24 road. So my comment to one of the guys I work with, I
25 said, oh, great, now he's not going to, you know,

1 almost kill one section. Now, he's going to kill a
2 whole mine, you know, --- I said, that doesn't make
3 any sense to me, their mentality of how they do
4 things. But at any rate, he left that day.
5 And finally, Chris Adkins, you know, he went
6 through, you know, and asked me what do you want?
7 What do you want to come of this meeting today? I
8 said, I want to go back on my section, back on my
9 shuttle car, like I was, and I said, and you know, if
10 the guys dress in the parking lot, I dress in the
11 parking lot. If they get undressed, I can turn
12 around, you know, and look the other way, whatever.
13 But I want to be --- don't single me out because I'm a
14 woman, because that's what I've been fighting to ---
15 you know, to be accepted all this time, and you're
16 just, you know, putting me backwards. You're making
17 me something different. So he said something to Chris
18 about --- I told him I wanted to know why I was taken
19 off the miner. And Chris said, well, something was
20 said, and I'm not sure if Blanchard said it, something
21 said about, well, you know, that was a production
22 decision. And I said, but, and he said, you know,
23 some of your load times, and that's when I whipped out
24 my comparison and I said, and my load times are what,
25 you know, with --- I'm right there with guys that have

1 been running the miner for 15 years.

2 Q. What was his reaction then?

3 A. Well, we have to --- you know, Morris had more
4 experience and it was, you know, a production decision
5 and we have to place these guys in a realignment
6 situation, you know, blah, blah, blah, and they didn't
7 look at my comparison very long. But anyway, Adkins
8 said to Blanchard, she goes back on her section, she
9 goes back on her shuttle car, effective immediately.
10 And he said, is there anything else that you want,
11 because he said, I'm the person that can make it
12 happen? And I said, no. I just want to come to work
13 and work for a living like everybody else does.

14 And he asked me if I had anything to say to Chris
15 Blanchard. And I said, yeah, I do. He said, do you
16 have anything to ask Chris? I said, yeah, I do. He
17 said, ask him. I said, I want to know what your
18 problem is with me. And he said, I don't have a
19 problem with you. I said, oh, yeah, you got a problem
20 with me and I want to know what it is. You're right
21 here, let's hear it, because you've had a problem with
22 me from the time I came here. I've been told by
23 different guys that, you know, you're trying to run me
24 off and you're trying to break me. Well, you know
25 what, it hasn't happened. It's not going to happen.

1 What is your problem? And I said, you send me to
2 Three section --- put me on a scoop. That didn't
3 work. Send me to Three section, that didn't work.
4 And he said, well, I sent you to Three section kind of
5 as a favor. I said, please explain that. And he
6 said, well, I knew that you had kids and I thought,
7 well, that it would put you on a --- they were on
8 swing shift, and it would give you some times during
9 the day. And I said, you do not give a damn about my
10 children. I said, you got a problem with me, and you
11 know what, I don't know what it is, but it is your
12 problem, not mine.

13 So long --- at the end of the --- well, I was off
14 --- I think they were off for the weekend or something
15 and something was said about Jamie Ferguson went and
16 met with my crew while I was off and said they --- I
17 think he told me to report back on Monday or whatever.
18 So they were working, I guess, that weekend or
19 something. But anyway, there was a meeting at Ellis
20 Portal where Jamie Ferguson came up and basically told
21 the guys at that meeting that they were a disgrace to
22 Massey, that they were one of the lowest sections on
23 production and they should be ashamed of themselves,
24 and you know, just really downgraded them.

25 Q. Did they call out any names or anything? Did he

1 say what type of workers they were or ---?

2 A. Did he?

3 Q. Did he say anything to them about what type of
4 workers he felt they were?

5 A. No. He just told them that they were a
6 disgrace. I remember them saying that he said they
7 were a disgrace to Massey. I think they --- what they
8 did was they score each section as far as production,
9 and I think maybe our section was low. We were
10 cutting a lot of rock, too. And you know, he said,
11 you know, look at where you are compared to --- you
12 know, this is --- you're a disgrace, and I know he
13 beat the guys up pretty bad.

14 And at the end of the day something was said about
15 --- I guess somebody was running my shuttle car and
16 something was said about who was going on the shuttle
17 car on, you know, Monday or something like that, and
18 he said --- something was said about me coming back.
19 And they asked where I was going, and one of the guys
20 told me that his comment was, her ass goes back on the
21 scoop. Well, Dude, my best friend that trained me on
22 the miner, calls me at home. He said, Jamie says
23 you're going back on the scoop. And I said, well,
24 Jamie didn't get the memo, so I called Stephanie Ojeda
25 and I said, look, I don't know what the communication

1 problem is with you people, but you better call them
2 and let them know, because if I come in Monday morning
3 or I come in on my next shift and I'm on the scoop,
4 I'm going to have a problem, because that's not what
5 Chris Adkins said. And she said, well, let me make a
6 telephone call. And I said, somebody --- I said, you
7 know, Jamie Ferguson is a vice-president. Chris
8 Blanchard was in the meeting. He's the president. He
9 knows what was said. And for Jamie to go up and say,
10 my ass is going back on the scoop, my ass is not going
11 back on the scoop. You better call and tell somebody
12 something. So she did, and I went back on the shuttle
13 car.

14 And we worked it out so that --- I mean, I pulled
15 on a pair of shorts and a T-shirt underneath my work
16 clothes. When I come --- you know, I put on my boots
17 at the top of the hill, and then when I come outside
18 and I was dirty, I just stripped down and I had my
19 shorts and my T-shirt on, I got my tennis shoes on my
20 --- and I worked it out, and we were fine, I mean,
21 after that. There was one guy also that got fired.
22 He made a pretty off-color comment to me on the
23 mantrip in front of some of the guys, and my boss
24 basically told me that I needed to forget about it,
25 that he didn't want to break up his crew. And he

1 said, you know, he hoped that I would let it blow
2 over, forget about it or something like that. And I
3 said, well, I said, are you going to do anything about
4 it or are you not? And he goes, well, you know, I
5 think you just need to let it go.

6 And I said, well, I'll tell you this --- and I
7 gave him a couple days to see what he would do, and he
8 didn't do anything. And I finally approached him and
9 said --- this was Ron Wickline. I said, what are you
10 going to do about what Rich said? And Rich said it in
11 front of him and in front of three other guys, but he
12 said he didn't hear it, but he was sitting right next
13 to him. And he said, I wasn't going to do anything
14 about it. I said, well, I'm going to tell you this.
15 Chris Adkins told me sometime back that anytime
16 something like this happened, he wants to know about
17 it. I've got his home phone number. I have his cell
18 phone number. Now, either --- if you don't want to do
19 anything about it, that's all well and good. You do
20 what you want to do. But I was told to tell him.
21 Now, if I don't tell him and it comes down the pipe
22 that I didn't tell him, then I'm going to be the bad
23 guy. I'm not going to be ---. He told me, and he's
24 the vice-president of this company, that I was to call
25 him. Well, I'm going to call him. I said, and I'm

1 going to tell you when he starts asking and wants to
2 know if my boss knows and I tell him, yes, how are you
3 going to answer Chris Adkins? Well, he ran to Homer
4 immediately. So he went and talked to Homer. Homer
5 came over. He and Jerry May took me in the trailer,
6 asked me what was said. I told them what was said.
7 And he said, I'm going to suspend him with intent to
8 discharge. I said, don't fire him. I don't want him
9 to lose his job. I said, he's a good guy. He's a
10 nice guy. He just let his mouth get away with him. I
11 said, just don't fire. That's all I ask. He said,
12 all right. Fair enough. But I'm giving him three
13 days off to think about it. I said, that's fine.
14 Don't fire him.

15 I think what ended up happening was Rich got
16 mouthy when they gave him a three-day suspension, and
17 I think he showed up --- after Homer left Ellis, he
18 told him to leave, you know, and his suspension
19 started that shift. And Homer went back to UBB, which
20 was where he now worked out of, and Rich came over
21 there and got mouthy, and I think Homer said, I'm not
22 putting up with your mouth, you just got yourself
23 fired, and he fired him. But he --- and he told --- I
24 said, I asked you not to fire him. He said, you
25 didn't get him fired. I said, no, but I'm going to

1 get blamed for it, you know. And he said, no, he got
2 --- his mouth got him fired. I was giving him three
3 days off. His mouth got him fired. And it ended up,
4 I think, when we went underground that day, Boone
5 stopped the mantrip and he kind of reprimanded --- it
6 was kind of comical. But anyway, just things like
7 that. That's the only thing that ---.

8 Chris and I have never been --- you know, he
9 obviously doesn't respect me, and I don't have much
10 good to say about him. And the only thing, lastly,
11 was when I was working out, doing the filing thing for
12 Homer --- or Everett, per Everett's request, Everett
13 told me that Chris approached him and said, why is she
14 outside? And Everett said, Chris, she's out here
15 trying to keep us from getting violations. Because
16 when they audit these files, we're done.

17 Q. When MSHA audits them?

18 A. MSHA was getting ready to audit us. And they ---
19 I don't know how they knew that, whether maybe one of
20 the guys --- and he said, she's out here cleaning up
21 these files. She's been working on them for three
22 weeks. And Chris said, I don't want her in the
23 office. She goes back underground. So --- and
24 Everett said, he don't want you out here. I don't
25 know why. And I said, no, it's okay for everybody

1 else, but --- I said, he's got an issue with me.
2 That's fine, I said, because I don't belong out here.
3 I belong underground. That's my job. I said, I'm
4 just out here doing you a favor. But if he says I go
5 underground, that's fine with me. That's my job to
6 do. But he's continuously had a problem with me ever
7 since, you know --- some of which I felt and some of
8 which was evident in his decisions regarding me. So
9 if that answers your question.

10 Q. Okay. That's a good answer. We was talking
11 earlier that when you was on the Tailgate One North
12 development and you all were cutting bottom, mining
13 bottom, and something about water bubbling and gas
14 bubbling through the bottom, did you know how much
15 methane --- what the highest reading of it you got up
16 there when you were doing it?

17 A. I don't remember on Tailgate Number One North. We
18 called this One section when we drove up through here.
19 We drove it so far, and then we went and we drove
20 this.

21 ATTORNEY FERGUSON:

22 And by this you mean?

23 A. I'm sorry. Headgate One North. I don't remember
24 when we were --- we called this Old One section. When
25 I look at the diagram it says Tailgate One North. We

1 called that One section. We mined that. And it
2 appears to me, now that I look at it, one, two, three,
3 four, five, six, seven entries, that's when we were up
4 in there. That was when I saw the --- you know, the
5 methane bubbling. I don't --- Dude Griffith, our
6 right miner man, continuously wore a methane monitor.
7 I don't remember the right miner ever gassing off.

8 BY MR. GODSEY:

9 Q. Do you ever know of a time that they maybe had the
10 methane monitor bridged out?

11 A. I do not know. I have never --- and again, when I
12 was on that section, I was very young. I mean, I was
13 very young in mining. I wouldn't have known if they
14 had bridged it out or not. I probably wouldn't have
15 even --- I do remember the light being on, you know,
16 the monitor light. When we got to a certain point
17 here, we came around and started driving Headgate One
18 North. And another crew came up and drove this on
19 up --- drove Tailgate One North on up and then cut
20 over into our headgate. Now, when we drove Headgate
21 One North, we did run into methane.

22 Q. How much methane?

23 A. I remember the top just got worse and worse and
24 worse and worse as we went in. I remember --- and I
25 don't remember specific measurements. I remember

1 getting in an argument with my boss because when .5
2 was reached on the continuous miner and we were
3 supposed to pull the power or when it got to one
4 percent and you're supposed to pull the power at the
5 power center, he refused to do it. And he and I got
6 into this heated argument about --- because I told
7 him, I said, you are supposed to pull the power on
8 this equipment when we get to a certain methane
9 percentage. And he --- an argument ensued and it
10 lasted a couple of days.

11 And I finally --- he told me --- we were on split
12 air at that time. And if we would hit --- and I'm
13 giving an example, .9 percent or one percent on the
14 right miner, he would let the left miner continue
15 running. And I said, I don't think we're supposed to
16 do that. We're on split air. And I'm thinking that,
17 you know, I think you're supposed to shut the power
18 down, period, at the power center. And if it gets a
19 certain percentage, we're supposed to be outby. We're
20 supposed to retreat. And he kept telling me I didn't
21 know what I was talking about. And then at one point
22 he said, Gary May told me that we could mine up to two
23 percent. And I said, are you crazy? I said, I have
24 the law. I've already read the law, Ron. .5 and one
25 percent. I said, one percent --- you don't even have

1 power on the section at one percent. And he said ---
2 basically told me I didn't know what I was talking
3 about. There was one particular night that I guess I
4 got --- methane scares me and it always has scared me,
5 and Boone taught me for it to scare me. And he would
6 keep saying to me, you watch that methane up there.
7 We're getting gas, we're getting gas. And he would
8 tell me on his shift that he would shut the bolter
9 down because of gas.

10 ATTORNEY FERGUSON:

11 Where was he working?

12 A. He was working on Headgate One North. He was a
13 boltman. He told me that there were a couple of times
14 that they were shut down and they were pulled back off
15 the section. One time he told me that they were
16 pulled back to the power center, pulled all the power.
17 He has told me while we were mining that section that
18 he has gone himself --- and he said, I went and hit
19 the emergency stop button. I shut it down. And he
20 said, and Dino --- Dino was a really funny guy, and
21 his little byword was holy moley. And he had like a
22 speech and he would say, holy moley, Boone. You know,
23 what's happening? What's going on? And he'd say,
24 I'll tell you what's going on. I shut the power down.
25 We've got --- and he would say three percent methane,

1 --- I mean, one time he told me three percent methane,
2 and he said, and I'm not bolting and they would
3 ventilate, you know, and get it out of there. But he
4 told me that they were getting a lot of methane. We
5 were getting methane.

6 And there was one particular time that Ron and I
7 got into it because I felt the methane --- I mean, it
8 was, you know, getting up there. And I think I made
9 some smart comment like, you know, you're ignorant,
10 you don't know what you're doing or something like
11 that. And he said to me, shut the shuttle car off,
12 and I shut it off, and he said, get out, and I got
13 out. And there were some guys bolting right inby me,
14 and he said, let me tell you something. I said, no,
15 let me tell you something. You're not going to
16 reprimand me in front of the guys I work with. You
17 got something to say to me, you got something ---
18 you're going to jump on me, you take me outby, but
19 you're not going to stand here and talk trash to me in
20 front of the guys I work with. He said, let's go. I
21 said, let's go. So we went outby.

22 When we turned the corner, I didn't give him an
23 opportunity, I kind of --- I told him, I said, I don't
24 think --- and I was mad, so I cried that time, which
25 is very seldom I do, and I said, I don't think you're

1 taking this seriously. I said, we have a methane
2 problem up here, and you're the boss and you're not
3 taking it seriously. And I said, I'm going to tell
4 you something. I don't give a damn about you. I
5 don't care if you make it out of here or you don't.
6 But I've got two boys at home, and I want to go home.
7 I said, you can die tomorrow, it don't make any
8 difference to me, but I want to go home. And I said,
9 and you're going to get us killed up here. And he
10 said, I've done told you Gary May told me ---. I
11 said, you are a boss. You shouldn't even have to ---
12 what are you asking Gary May about methane for? You
13 should already know. I said, I'm a glorified red hat.
14 I know what methane I'm supposed to be working in and
15 not, and you're a boss and you've got to ask somebody.
16 And he said that he didn't appreciate me implying that
17 he wasn't doing his job. And I said, you're not doing
18 your job. And I said, and I'm going to tell you what,
19 I'm not going to do it. And he basically told me that
20 I needed to just stick with running the shuttle car.
21 Well, I went home and I went to Boone's that night
22 because I was so mad and I told him what had happened.
23 He said, go in that closet and get --- he had a law
24 book. And we looked it up and he said, right there it
25 is. You're right. I said, I know I'm right. I said,

1 give me this, and I took it to work with me the next
2 day, and I blew it up. So I told Dude before we went
3 under, I said, well, that's all right. When we get up
4 there and do our safety talk, I said, I'm going to
5 whip the law out on him. Because I had said one time
6 before, you mean to tell me if a Federal mine
7 inspector is standing right there with us and we had
8 methane on the back of that miner at one percent, we'd
9 just be running coal? And he said, yeah, that's what
10 I'm telling you. I said, you're wrong.
11 So I told Dude, I said, I'm going to let him go
12 through his little spew. I'm going to ask him a
13 couple more questions about methane, and I'm going to
14 throw the law out on him. And he said, Bobbie, don't
15 do that. He said, you're going --- he'll get mad, he
16 said, because you're going to embarrass him. I said,
17 he needs embarrassed. He don't know what he's doing.
18 He's going to get us killed. So it ended up Dude
19 asked me to give him the copy, and he said, let me
20 give it to him to the side so that he's not offended
21 by --- you know, I guess he felt the woman thing or
22 whatever. And I said, whatever, as long as he gets
23 it. Well, he did give it to him, and he said, you
24 know, she's right, she knows what she's talking about,
25 and you know, you need to start watching what you're

1 doing. And there was a period of time after that that
2 I was kind of the bad person. You know, it was don't
3 let her see us hanging these dust monitors over
4 against the rib because she'll go outside and tell.
5 And I said, I haven't gone outside and told anybody
6 anything.

7 Q. How would they --- is that when they were running
8 respirable dust, that they would hang them not on the
9 person but outby?

10 A. There's been times that I've seen them --- this is
11 when we were driving Headgate One North. My boss was
12 Ron Wickline. And I've seen him --- visibly seen him
13 go and take them --- take them off of one of the miner
14 men and hang them in a break maybe a break to two
15 breaks outby on the rib, in clean air.

16 Q. In the intake?

17 A. Yes, sir. I have seen that. On Headgate 22,
18 within the last ---.

19 Q. That's the section you work on now?

20 A. Yes. Within the last month-and-a-half to two
21 months, we ran --- and I don't know whether they were
22 dust pumps for MSHA or whether they were our dust
23 pumps, but I do remember I was going one break past
24 outby the power center, which is in Two entry, and
25 there's a man door, and I was going to the restroom,

1 and I walked going over to the man door and I hear
2 this purring sound, and I look up and there's one
3 hanging right there. And I was like, great, that's
4 where it's supposed to be, ain't it? So I just went
5 on and I came back and I said something --- I mean, I
6 --- you know, I'm not a troublemaker, but I don't like
7 people that try to make you, you know, out to be an
8 idiot. And I said --- I think I made some comment
9 about, hey, I think somebody lost their dust pump
10 because it's hanging down there in the intake. And
11 Brandon's like, where? And I said, right --- one
12 break out by the power center to the right. Go towards
13 them. I said, it's right there. And he --- you know,
14 he just kind of like --- but yeah, we do that.

15 Q. Let's start back on the trackway coming in. When
16 you come up towards --- I think this is the airlock
17 doors that goes from the intake into the neutral back
18 --- and then you come back into the intake I think at
19 Break 78 or what, ---

20 A. Correct.

21 Q. --- when you all --- have you ever noticed any of
22 those doors being left open?

23 A. I've never seen the doors left open. If you're
24 asking me if we opened one door and left it open for
25 like three mantrips to get in or if two have been

1 opened at the same time, that has happened. But I
2 have never seen a time that we approached that door
3 and one of them was just swung open. Those doors used
4 to be automatic, and now they're all manual.

5 Q. Was you ever aware that when the track crew comes
6 in and brings their flatcars and stuff, that they open
7 both doors ---

8 A. Yes.

9 Q. --- to bring them through?

10 A. Yes.

11 Q. Did that happen very often?

12 A. Yes.

13 Q. Did that ever concern you all on the section? Did
14 you all ever discuss what would happen if something
15 --- a fire or something ever broke out down there?

16 A. No, that was never discussed. As a matter of
17 fact, I knew that our intake come across through there
18 because you could feel it, you know. Especially in
19 the wintertime, you'd feel that cold air. And I knew
20 it came across through there, in between some of those
21 doors one time, but I did not --- I don't understand
22 ventilation, I'll tell you that. And I've told a lot
23 of people that. I've even considered taking a mine
24 class just to study ventilation for myself. I never
25 knew that down in here affected --- I mean, I know

1 it's our intake, but I never realized how those doors
2 and how one of them being open could take the air off
3 of us. I'm kind of learning a little bit that it does
4 affect, you know, us. I do know that there were times
5 when we didn't have enough air on our section, and I'm
6 talking Headgate One North, that the comments would be
7 made Two section is taking your air. And I know that
8 some of the guys would say things like --- when MSHA
9 came in and they would come up and check the air up
10 here, somebody would be making an adjustment down here
11 to make it look like we had more air up here. And
12 then when MSHA left there and come down here, the
13 adjustment was --- I don't know if whether something
14 was close, something was open, something --- there was
15 something done.

16 Q. Okay.

17 ATTORNEY FERGUSON:

18 And to clarify the record, the witness
19 has pointed to sections on the map when MSHA would
20 come to Headgate One North ---.

21 A. Adjustments would be made on Tailgate One North.

22 ATTORNEY FERGUSON:

23 And then the reverse would be true when
24 MSHA would switch.

25 BY MR. GODSEY:

1 Q. Recently, when you were on your section, Headgate
2 22, did you ever notice the air change, like maybe
3 somebody had been going through the doors and left
4 them open, where your air would kind of cease for a
5 while?

6 A. Well, on Headgate 22, let me say, first of all, we
7 never did have much air, you know. I remember there
8 being a time when we --- we had to walk for --- I
9 mean, there were some times that we were walking 20,
10 25 and 30 breaks off --- from the track up. And I
11 remember there being a time when we would --- we
12 always came in the intake, where the air would reverse
13 or --- the air would be hitting you in the face --- or
14 hitting you in the back one time, and then you'd walk
15 a period of time and it would be hitting you in the
16 --- it would be hitting you in the back once, it would
17 be hitting you in the face for a little period of
18 time, and then it started hitting you in the back.
19 And I knew I was in the intake because our lifeline
20 was always --- we walked our lifeline. And I thought
21 --- and Boone even said that to me. He said, Bobbie,
22 the air is not right up there. And he said, do you
23 notice when you're walking in or when you're walking
24 out that sometimes the air is hitting you one way and
25 the next thing you know it's hitting you in the back?

1 I said, yes. What is that? And he said, the air is
2 not right. The air is reversing. He told me that he
3 asked Chris Blanchard about it --- when Chris was on
4 the section one day, and he said, I asked him, what is
5 with this air that it hits you in the back. He said,
6 your intake air shouldn't be hitting you in the back,
7 Chris. And Chris said, that's the way it's supposed
8 to be.

9 Q. When was this?

10 A. This was --- would have been probably within ---
11 it was longer than a month before the explosion. I
12 would say it was January, February, that he told me
13 that he questioned Chris and Chris told him --- and I
14 think he said they were at the power center on the
15 section and Chris said, it's supposed to be like that.
16 And he said --- I think his return comment was, that's
17 BS.

18 Q. Have you noticed it recently, the last month, ---
19 or maybe not the --- the month before you --- from
20 April 5th back?

21 A. From the explosion? I know that the air --- we
22 were constantly doing air changes, constantly. I
23 mean, we'd come in, we'd put up airlock doors one
24 night. Dayshift would take them down. We'd build a
25 stopping, they'd tear it down.

1 Q. Do you know if those were approved changes?

2 A. I made a comment one time that I didn't think ---

3 I said something to the effect of has this been

4 approved by MSHA? And my boss at the mantrip said,

5 well, evidently it is because --- he made some comment

6 to the effect, well, evidently it is. You know, we're

7 doing it. I said, that don't mean that we've gotten

8 approval for it, that it's approved. And I remember

9 specifically that we would make a change one day and

10 then we would --- the example goes back to the airlock

11 door. We would put an airlock door in on evening

12 shift, and Boone would come home off of dayshift and

13 say, --- I'd say, what did you all do today? Well, we

14 tore that airlock door that you all put up last night.

15 I'd say, what did you tear it down for? He said,

16 that's what they told us to do. So I knew that if you

17 put one up and you had the approval, you couldn't have

18 gotten approval that fast to tear it down on the next

19 shift. So I knew there were constant --- you know, we

20 would build stoppings, like I said, and ---.

21 Q. Where were these changes made, these airlock

22 doors?

23 A. The airlock doors that I remember --- well, the

24 only airlock doors on Headgate 22 are down here

25 towards the mouth.

1 Q. Were they still in on your last shift, these
2 doors, as shown on this map, at the mouth of Headgate
3 22?

4 A. I do not remember if these particular doors are
5 the ones that we put in and then tore down.

6 ATTORNEY FERGUSON:

7 And let the record reflect that these
8 are ---.

9 A. One, two, three, four doors in Number Two entry,
10 at the mouth of Headgate 22.

11 ATTORNEY FERGUSON:

12 Thank you.

13 BY MR. GODSEY:

14 Q. Did they make these changes on shift while people
15 --- while they were still running coal?

16 A. Always.

17 Q. Who would --- would each shift do that or who was
18 in charge of the ventilation changes?

19 A. To answer your first question, did each shift do
20 that, as far as I know, yes. I don't --- as long as
21 I've been on Headgate 22, I don't ever remember being
22 pulled out when an air change was being made outby.
23 To answer your question who authorized the changes,
24 all I can tell you is when we went underground, the
25 boss told us what --- the section boss, Brandon, told

1 us what we had to do. Who gave him his instruction, I
2 do not know. But it was common knowledge that most of
3 the air changes that were being made were per Chris
4 Blanchard. I know that --- Boone did tell me one
5 time, he said, I'll give Chris Blanchard this, and he
6 did not think highly of Chris, I'll give Chris
7 Blanchard this, they were supposed to build I don't
8 know how many stoppings on dayshift that day, one
9 particular day. And this would have been probably
10 the --- I'd say the January to March window,
11 January/February window. And he said, Chris was up
12 there, and he said, before we build these stoppings
13 and then have to tear them down, let's put up a
14 curtain to see if it's going to direct the air the
15 right way. And then if it goes the right way, we'll
16 be --- we can build the stopping. And then he said,
17 you know, at least we're not building them up and
18 tearing them down. But he said, they're just trying
19 anything, Bobbie. They don't know --- you know,
20 they're just trying anything. They don't know what
21 they're doing.

22 Q. Just mostly like on their part guesswork? They're
23 just guessing which ---?

24 A. Oh, yeah. Absolutely. Yes, sir.

25 Q. They didn't have a plan or didn't ---?

1 A. I don't know if they had a plan or not, but it
2 didn't work. I mean, we never had good air on that
3 section. We never had good air on that section.

4 Q. Were you ever on section --- on your section when
5 a State inspector or Federal inspector was there?

6 A. Most of the time --- there was a couple times when
7 inspectors came up on our section, yeah.

8 Q. Did your air increase when they were up there?

9 A. It only increased if we like stopped and run a
10 diagonal curtain and just drove it to the front, but
11 that wasn't normal.

12 Q. Did you all do the --- did you all use belt air to
13 ventilate? Did you all use air off the beltline to
14 ventilate the places?

15 A. We did not use air off the beltline. We hung
16 curtains around the feeder to block the belt air from
17 coming up. We did, however, route our intake air up
18 Two entry and it would go over to One entry and go
19 across the feeder because I used to question why are
20 we bringing our intake air across the feeder and
21 taking all that coal dust from when we dump straight
22 to the face and redistributing the dirty air right
23 back into our intake.

24 Q. What was their answer?

25 A. Well, there really wasn't one. I remember that on

1 previous headgates me driving through --- because I
2 would run the left and right shuttle cars. I never
3 run the middle shuttle car. But I remember them
4 always having a fly pad, and I'd drive through the fly
5 pad, and this feeder would be right there to dump on.
6 On Headgate 22, we would drive the intake air out of
7 Two and it would make a left. And I didn't have fly
8 pads there. It would be open. But it would also go
9 on up to in the next crosscut and make a left. So it
10 was going both ways and then up into One. But it
11 would go into --- it would split across two crosscuts,
12 off of Two entry over into One, one being the feeder
13 and one being a crosscut inby the feeder. And I would
14 --- I always wondered --- and again, I don't know that
15 much about ventilation, but I would ask --- Dude was
16 kind of my go-to buddy. He taught me a lot. And I'd
17 say, it looks like to me that we lose velocity by that
18 coming up. You know, if we bypass where the feeder is
19 and we drive that straight up, it looks like, to me,
20 you've got more air going up and across and up into
21 One as opposed to splitting it two different ways. It
22 looks like, to me, that you use velocity there. Maybe
23 I'm wrong. But I couldn't understand why I used to
24 have a fly pad when I drove over to the feeder, and
25 then I didn't have a fly pad.

1 Q. Okay. How about when you all were mining, what
2 would you have to cut, you all, there?

3 A. We used to be on 40s way back when, but we were
4 cut down to 20-foot cut.

5 ATTORNEY FERGUSON:

6 On Headgate 22?

7 A. On Headgate 22, correct.

8 BY MR. GODSEY:

9 Q. Do you ever see much methane on the monitors when
10 you --- when you all were cutting coal?

11 A. Define much methane.

12 Q. Above five-tenths.

13 A. Yes.

14 Q. How much? What's the highest?

15 A. We ran anywhere from negative .3 to --- the
16 highest I ever saw was --- the last shift I was on it
17 was 1.7 in the return.

18 Q. What did the section foreman do? What actions did
19 he take?

20 A. He sat at the power center. Didn't do anything.

21 Q. And they continued running?

22 A. The situation that particular night, we had been
23 picking up .9 percent methane in --- I distinctly
24 remember in Two entry and in Two Right numerous times.
25 That particular night, it was probably --- and I don't

1 know what time we were mining in Three. You could go
2 back to production reports, but it seemed like to me
3 it was --- I know it was towards the end of the shift.
4 I don't think the left shuttle car was running to
5 Three. I think the bolter was blocking him. They
6 might have been hanging monkey faces, doing something
7 over there, chicken wire, whatever. I think I was the
8 only shuttle car. I know I was the only one. I never
9 saw Richard running, and we usually intercept, and I
10 did not see him. I was running to Three. And I'm
11 forever watching the monitor, the methane monitor,
12 because I'm afraid of methane. And Dude was looking
13 at the face and he was running. Curtain was hung. We
14 run with curtain. Dude is very legal about that, and
15 he had it right up to where he was.

16 I kept seeing it climb, .4, .6, and I'm using
17 examples. Kept going. Kept going. .9, one percent,
18 it started flashing. So I started watching it. 1.2,
19 one-point whatever, one-point whatever. When it got
20 to 1.7, he was watching the face running, and I
21 started doing my light. I started doing my light in a
22 left/right motion right on the monitor, where the
23 light was. And he looked back at me and he said,
24 what? And I said, you better check that methane,
25 because I had not seen it get that high on my shift,

1 and he kind of looked at it. I was almost full. My
2 buggy was almost full. And he immediately said, back
3 up. And I backed up and he started pulling the miner
4 out. And he said, I'll tell you what, go ahead and
5 dump. I'm going to drop this curtain some more, try
6 to get it flushed out. I said, okay. I said are you
7 sure? You want me to help you? He said, no, go ahead
8 and dump. So I went ahead and dumped, and he was
9 pulling on back with --- pulling the miner on back.

10 I went to the Number Two entry, which is my
11 intake, back towards out --- going outby towards the
12 power center. Brandon was standing on the left side
13 of the power center. I pulled in to the crosscut to
14 go to the feeder and I stopped my buggy in the curve
15 and I shut it off and I said, Brandon, Dude's got 1.7
16 percent methane in Three. You need to go check it.
17 He said, all right.

18 I went on to the feeder. I dumped. I come off
19 the feeder. When I come around the curve he was still
20 standing at the power center. Lots of times he did
21 his paperwork and stuff at the power center. Lots of
22 times he was just at the power center. So I went on
23 back. When I got back to Three, it was still at 1.7.
24 And Dude said, I'm going to turn this scrubber on and
25 see if I can flush it out. He had dropped a curtain.

1 I did notice that. And he started --- the miner
2 wasn't on. He started the miner back up and turned on
3 the scrubber and it went right back down. I mean, I
4 saw it --- it started decreasing back down. And I
5 think, if my memory is right, it went back down to .4.
6 We continued mining. But it bothered me.

7 At the end of the shift, Dude and I were the last
8 two people that walked off the section that night.
9 And I said to him --- he and I are best, best friends.
10 He lost his brother, is Griff, the right miner man on
11 dayshift. And I lost Boone. I said, did Brandon ever
12 come up and check that methane? And he said, no, he
13 never did come up there. And I said, I stopped my
14 buggy and told him that you had 1.7 percent, I said,
15 and he never came up there. Because I thought maybe
16 he went up there when --- you know, maybe after I had
17 left. And he said, he never did come up there. And
18 he said, Bobbie, I've told him and told him that we've
19 got --- you know, we've got methane in, you know, .9
20 and one percent. He said, I've told him I don't know
21 how many times that we were getting methane. He said,
22 he don't ever come up and check it. He said, he won't
23 do nothing.

24 Q. Do they maintain the methane monitor? Do they
25 calibrate it or ---?

1 A. On the right --- I think, yes, they do calibrate
2 them from time to time, to answer your question. And
3 the reason I know this is our left miner, for weeks,
4 registered a negative .3, and I didn't understand
5 that. And I asked Brandon, why does our left miner
6 show methane at negative .3. It's either zero ---
7 it's not negative .3. So that tells me that when we
8 have .5, we have .8. We can't have negative .3
9 methane. And he said, well, maybe --- Brandon is kind
10 of a Marine, cut you off, you know, in his answers.
11 You almost --- I get so I don't ask him any answers
12 because he makes you look like an idiot or he'll give
13 you some smart remark like you're stupid. So I don't
14 ask him very much. And he said, well, obviously it's
15 out of calibration. And I said, well, obviously we
16 need to get it calibrated. And so I do --- and I know
17 that it was calibrated because within a couple weeks,
18 maybe a month prior to the explosion, we did have a
19 mine inspector that came up on our shift and he
20 checked the miners for water sprays, and he took his
21 time. It was a long time. We didn't get to run coal
22 for a long time. And everything was good.

23 Q. Did you all know he was coming? Did they know he
24 was coming?

25 A. We always knew they were coming.

1 Q. How did they do that? I mean, what mechanism do
2 they do to inform you that an inspector is on the way?

3 A. You want me to tell you from my perspective
4 underground or from my dispatching perspective above
5 ground?

6 Q. Both.

7 A. From my perspective underground, we have a
8 telephone that is placed beside the feeder. It has a
9 light on it, a red light. When somebody really needs
10 to contact us, lots of times you can't hear, the light
11 is turned on from the dispatcher's office outside.
12 There's a little room right off the dispatcher's
13 office. So when that light is on, sometimes they
14 alert us that way, sometimes you hear them paging. We
15 are alerted from the outside office that a mine
16 inspector --- we usually know whether he's State or
17 Federal, whatever that's worth, but we know whether
18 they're going to be up in our area, i.e. around
19 longwall, which tells us they're a maybe, they might
20 shoot on up, or they're coming to our section, you
21 know, heading your way usually, you know, something
22 like that is said, you know. Two Federal mine
23 inspectors heading your way. Sometimes they might
24 give us the names, you know. Sometimes it might be
25 State and Gerry Pauley. You know if Gerry Pauley is

1 on the way, you're in trouble. I mean, you're not in
2 trouble, but you better have your eyes ---.

3 Q. What would the section foremen do when they heard
4 that?

5 A. Normally if I take the call, they'll say, go tell
6 Brandon. I go tell Brandon what I was told. He
7 usually --- I mean, for whatever reason, they just
8 don't hit us a whole lot on evening shift, but there
9 have been times that we've been mining and he shut us
10 down and said, back out, let's make sure everything is
11 right, make sure we're right, you know. And while we
12 always run with curtain, I think lots of times we make
13 adjustments. For example, we might be running to an
14 area where we probably don't have enough air legally
15 to run, so he'll shut --- he'll shut my buggy down for
16 --- when the mine inspector gets up there. He'll say,
17 you're not running to whatever and you'll hang a
18 diagonal curtain, which blocks my route and the other
19 shuttle car will be the sole shuttle car running to
20 that miner because I'm ---. You know, my ability to
21 run depletes the air supply. We've done that.

22 I mean, we might tighten up curtain, you know, try
23 to get just a little bit more, and you know --- and
24 again, I'm not with him when he takes an anemometer
25 reading. I don't know how close we are. I can tell

1 you that I was not at work Friday night before the
2 explosion, but I was there Saturday. And we didn't
3 have any air, so even --- and it was different.
4 We never have a surplus amount of air. We had the
5 minimum, or maybe a little bit more than the minimum.
6 But Saturday night we had nothing. I mean, we ---
7 sometimes you can see the sign, the high voltage sign
8 at the power center. Sometimes it'll swing left and
9 right, left and right. You can feel some air there
10 and you might come back 30 minutes later and it's
11 sitting dead still. And it may not move for the rest
12 of the shift and it may start swinging again in an
13 hour. I don't know why that is, what happens outby
14 that affects that or does that, but for whatever
15 reason, Saturday night there was nothing. There was
16 --- it was almost ---. I won't say suffocating, but
17 it was hot and it was --- there was ---. And even
18 Dude said to me, he said --- because I helped Boone a
19 lot, bed up the miner, clean his water sprays, clear
20 rock off the mine. Whatever he needs done, you know,
21 move cable, whatever. He said, there's no air up
22 here, Bobbie. I said, I know, I'm dying. And I've
23 heard --- and I heard him say to Brandon that night,
24 you're going to have to get me some air up here,
25 there's no air up here, Brandon. And you know,

1 Brandon might go outby and he might, you know, tweak
2 some curtains or --- and he tries. He does try. You
3 know, I won't say Brandon is an awful boss, but
4 Brandon's production.

5 Q. Did you all run with low air up there? Did you
6 run the miner?

7 A. We ran Saturday night, yes. Normally, yes.

8 Q. Normally?

9 A. Yeah. And again, I don't know what his anemometer
10 reader ---.

11 Q. But you could tell by the belt you were ---?

12 A. I could tell we didn't have none. I could tell we
13 didn't have the air we should have, because it wasn't
14 even the minimum that we normally have. Something was
15 different. And Dude had told me in conversations
16 after the explosion, he said, do you remember --- he
17 said, Bobbie, Friday and Saturday night we didn't have
18 any air. I said, I wasn't there Friday night because
19 my uncle had died and I went to his funeral. I said,
20 I wasn't there Friday night. I said, I remember
21 Saturday night. He said, we didn't have none Friday
22 either.

23 Q. Did you talk to any of the other section ---
24 tailgate section or longwall about the air they had
25 that day? Did they complain about low air?

1 A. Have I talked to anybody else on the mine section?

2 Q. Or the Tailgate 22? Have they ever discussed to
3 you about having low air during that period?

4 A. I didn't talk a whole lot of the Tailgate 22 guys.
5 The Headgate 22 guys, it was common knowledge that we
6 ran with either minimal air or we would say no air.
7 There's no air. As a matter of fact, it was a joke
8 with --- even with the mine inspectors sometimes.

9 Q. Was any of the people up there on section --- how
10 many people worked on this section? I'll ask you
11 that.

12 A. Approximately nine.

13 Q. Were any of them ever scared up there or afraid to
14 come in or expressed concern about their safety up
15 there?

16 A. I don't know how concerned they were about --- I
17 know Dude was always concerned about methane, but the
18 other guys, like our bolt men, I always felt that they
19 --- I shouldn't say this about them. I always felt
20 that like they didn't take care of their business like
21 they should have. I don't know if they did their
22 methane checks because I'm not in the face with the
23 bolt men, but I know that Boone was constantly raising
24 Cain.

25 When we would pass them underground if we were on

1 evening shift and they were on dayshift, again, he'd
2 stop us every day. And he would say --- one of our
3 bolt men's name is Harliss. He'd call him heartless
4 and he would forever --- you know, he didn't go to
5 Cortay, he always went to Harliss. And he'd say,
6 Harliss ---. You know, he'd tell him I'm getting
7 cracks at four feet in Two and Two right. Watch the
8 top, and you know you've got slate, and you know,
9 sandstone, or whatever, all of it. But he would brief
10 him all the time, you know. You put your extra cable
11 bolts up, you use six foot bolts on them ribs. I'm
12 telling you, you need to use six foot bolts on those
13 ribs. You all using four foot. They're not holding
14 anything, you know. And he would tell them what he
15 had. The bottom's hooving and blah, blah, blah. And
16 he would --- and then he'd come back to me and he
17 would say ---. He'd tell me everywhere --- you know,
18 watch the corner in One right. It's starting to break
19 away and he'd say, keep your ass in the buggy as much
20 as you can. It's falling out in between bolts and it
21 was falling out. We were taking a lot of pressure.
22 The bottom was hooving a lot in the intersection.
23 Q. How much --- how high was it, the hooving ---?
24 A. Maybe a foot or two, maybe a foot.
25 Q. Did it make a difference to run or did it trim the

1 bottom or ---?

2 A. There's a couple of times that, you know, I would
3 go over a ledge, you know, where they had to cut it
4 out, you know. They tried to the best that they could
5 without, you know, dipping into production time, but
6 the ribs were awful. I mean, the ribs were just
7 coming all the time and we couldn't keep them up. And
8 even Brandon took it upon himself to --- he would ---.
9 When the guys were bolting on the right bolter, he
10 would take the left bolter a lot of times and put
11 extra rib bolts up, you know, put extra pie pans up
12 and do straps and things like that. We could not ---
13 I mean, we were just taking a lot of pressure.

14 Q. Did you have much slick and slide, slips or falls
15 in the roof?

16 A. I don't really know. I know that when the bolters
17 bolt, they're required to put their initials up and
18 usually a checkmark, so Boone would get mad because he
19 would say, I --- and he told me. He said, I've told
20 Everett, and I've told Everett, and I've told these
21 guys, putting up four foot bolts is not doing a damn
22 bit of good up there. And he said, and they --- you
23 tell them, and you tell them, and you tell them and
24 they won't listen. He said, they put four foot bolts
25 --- he said, you're not holding anything. He said,

1 I'm telling you when a slab of that comes down on
2 somebody, it's not going to break your leg, it's going
3 to kill them. He said, somebody's going to get hurt.
4 They're going to get killed up there because they
5 won't put up a six foot bolt. He said, you can't tell
6 them anything, I've told Everett. And I know that he
7 talked about the top was getting really bad and that
8 it was going to get worse because he --- I guess he's
9 familiar with up in that area, outby. I'm not, but he
10 said it was going to get a lot worse.

11 Q. Did you ever hear it working on the floor or
12 anything?

13 A. I wasn't there. There was one night when the guys
14 said they could feel the bottom coming up while they
15 were standing there, but I wasn't there when it
16 happened, but they were talking about it.

17 Q. Are you aware --- did anybody tell you about any
18 floor heaving and raising the miner up?

19 A. Am I aware of it?

20 Q. Did you --- did anybody talk to you about it?

21 A. No, no.

22 Q. How high were they cutting the mining entries?
23 How high were they cutting?

24 A. Our entries were about usually six feet, something
25 like that, six and a half.

1 Q. And what about the rock dust, did they adequately
2 --- do you feel like they adequately rock dusted the
3 section?

4 A. You know, we came out of the cut I will say that
5 we were good about --- we hand dusted, you know,
6 everything and if it wasn't ---. If the bolt men
7 didn't do it then me and Dude would do it lots of
8 times, whoever, but we did rock dust when they come
9 out of a cut. About once a week we had our --- a big
10 rock dusting machine that came on the front of the
11 scoop and they would rock dust everything. And I know
12 that that was done --- lots of times our section did
13 it. We always complained because evening shift had to
14 do it and dayshift, you know, they're the golden boys,
15 they don't do nothing, but --- you know, we tease them
16 about it. You know, I guess you all didn't rock dust
17 today. But you would come --- there were occasions
18 that we would come in when we worked dayshift and
19 there'd be, you know, a quarter inch of rock dust
20 sitting in your seat, you know, in the shuttle car.
21 So yes, we did rock dust. Now, I will say that our
22 intake outby was very dusty. I don't think it had
23 been rock dusted in a little while because when we
24 walked in there was a lot of dirt, a lot of dirt.

25 Q. What did the beltline in track look like on your

1 last shift?

2 A. The beltline I can't ---.

3 Q. Before it was rock dusted?

4 A. The beltline, I can't tell you about because I
5 went to the --- we came up the intake up Two. The
6 feeder was in One and we curtained the feeder off, so
7 I can't tell you what was down the beltline. The
8 intake --- or the track ---?

9 Q. Take from Ellis Switch in, how did the track look
10 to the section with rock dust or float dust?

11 A. Again, I don't remember because I'm just usually
12 zoning when I'm --- you know, when we drive in on the
13 mantrip. I can't answer that.

14 Q. But when was the last time you walked through the
15 primary escapeway and who were you with?

16 A. Oh, my goodness. We walked --- it wouldn't have
17 been March. Maybe February of --- and it was our
18 complete crew and ---. Minus maybe two because I
19 think maybe one or two guys were off at that time, and
20 I don't know if they ever walked it. We walked from
21 --- I remember us going over into the return in Three.
22 That's where we started.

23 Q. You started walking the primary in the return?

24 A. We started at --- in Number Three entry. That's
25 where the cache that had our ---.

1 Q. SCSR?

2 A. SCSR. And that had our map and our lifeline and
3 things like that. He took it out and we spent about
4 20 minutes sitting there going through the blue rods
5 and, you know, him --- and he was very thorough in
6 that. And then we walked out and walked all the way
7 out Ellis Portal. I mean, it took us like three and a
8 half hours.

9 Q. Did you walk the return or did you walk the
10 intake?

11 A. We started in the return on Headgate 22.

12 Q. Okay.

13 A. I'm just telling you where we started at the cache
14 that was there. And again, this would have been in
15 February, so I don't know exactly what break we were
16 at. I'm trying to remember where ---.

17 Q. Well, did you walk part of the --- I mean, return
18 and get into the intake?

19 A. We started in Three. That's our return. We
20 end ---.

21 Q. Do you remember going through a door or anything
22 to get into the intake?

23 A. You know what, that's what I'm trying to remember
24 if --- how we got over and which route we went. I'm
25 trying to remember if we come down this way ---.

1 Q. Where you started out then did it have a lifeline
2 in it, the entry you started? You said the return.
3 Did it have a lifeline?

4 A. It shouldn't have. That's not our primary intake.

5 Q. It should have?

6 A. It should not have if it was our return.

7 Q. No, I'm saying if it was a primary ---?

8 A. Right. I don't think so. We started in Three.

9 I'm telling you we --- because our intake ---. Our
10 cache and our intake is right behind the power center.
11 That's not where we started. We went to Three and
12 that's when --- our ventilation was all crazy at that
13 time, and I don't know whether we started there. I
14 remember we walked for a period of time and then ---
15 something was said about us having to cut left in
16 order to get right or something like that. I mean, we
17 had to go like around this route that we thought ---
18 we were ---. It seemed like to me that we were
19 walking inby to get outby. You know, we were walking
20 towards the Glory Hole to get into whatever to get out
21 to Ellis.

22 And I remember Boone saying at one time to me, you
23 do understand, Bobbie, that the way they've got our
24 intake right now that we've got to walk deeper into
25 the mine in the intake to get outside? And I said,

1 no, I didn't know that. He said, we do. He said, if
2 --- you know, if anything had ever happened, we have
3 to go inby, deeper in the mine to get in the intake to
4 get outside. He said, how much sense does that make?

5 Q. Did you have to cross over any overcast or
6 anything?

7 A. I'm trying to remember. I don't remember if we
8 crossed an overcast. I want to say we did, but I
9 don't know.

10 Q. Do you know where you came up Eight North off the
11 return?

12 A. I wish I was a ventilation expert.

13 Q. Well, that would take you deeper into the mine.

14 A. I know we walked down Three and I know it went
15 left. I remember it going left.

16 Q. So that would head towards Eight North?

17 A. I remember it going left, because I can see myself
18 walking down and it broke to the left. It broke to
19 the --- it angled off to the left. Whether that took
20 me to Eight North, I don't know, but I remember it
21 angling off to the left because there was an orange
22 --- some kind of orange ---. I don't know if it was a
23 joy part. There was something that was laying on the
24 rib. There was stuff laying on the rib up there, and
25 I don't --- I can tell you, I don't know. But I know

1 we walked the in --- I mean, we ended up in the
2 intake.

3 Q. Okay. So at that time you kind of felt that they
4 didn't --- the air was not being managed, some people
5 didn't know which way it really was supposed to be
6 going?

7 A. Yeah, I always thought that.

8 Q. Okay. Are you qualified to take gas checks or do
9 you carry a spotter with you? How many people are on
10 the section ---?

11 A. No. Pardon me?

12 Q. How many people on the section have a spotter
13 or ---?

14 A. Has a spotter? Miner man, miner men. If Daniel
15 is around. Of course, the boss. I don't know if both
16 of our bolt men wear them or not, but I know our scoop
17 man usually has one. We have a guy that helps out on
18 the scoop, but he also helps out bolting, I don't know
19 if he wears one constantly or not.

20 Q. How do they take the 20-minute gas checks on
21 Headgate 22? What do they use?

22 A. Are you talking about miner men?

23 Q. Yeah. When you mine for, say, 19 minutes, then
24 you're supposed to stop, take a gas check.

25 A. You're asking me when MSHA's there or when they're

1 not there?

2 Q. When they're not there.

3 A. When they're not there normally I've seen Dude ---
4 you know, of course when you're six feet high and you
5 raise your arm up, you're right there in the top, so
6 I'll grant him that. He'll check it like that. When
7 MSHA's there we'll usually use the ---.

8 Q. Do you know if they ever had any emissions or any
9 methane pop while they were up there?

10 A. I've never seen a methane pop. I have seen ---
11 when we drove Headgate One North there was ---. And I
12 remember because this was July of 2009. We had to
13 work the 4th of July, and we were up in the area just
14 outby the Bandytown fan borehole, and there was an
15 area where we had to go back in and grade bottom for
16 --- I mean, we trenched it, you know, straight down.
17 It was only --- like it's only the width of my buggy.
18 I remember the walls being like this, and I
19 remember ---.

20 ATTORNEY FERGUSON:

21 And like this, you mean straight up?

22 A. Oh, I'm sorry. Straight up. And I remember the
23 left miner running. I was running to him and we were
24 gobbing everything, and the scoop was picking it up,
25 taking it outby and gobbing it somewhere to get

1 stoppings. You know, a lot of water --- and my
2 assumption is we were digging those trenches for water
3 retention so the --- I was told that the water would
4 run in there. I remember there being a lot of
5 methane, a lot of methane.

6 BY MR. GODSEY:

7 Q. How much is a lot?

8 A. Well, I remember the left miner gassed off one
9 time. It shut down because --- it stopped and I said
10 ---. I asked the miner man, Morris, what's wrong?
11 What's wrong? And he said, oh, we gassed off. And I
12 remember there was a lot of water up in there, like a
13 pond, you know, if you will. And it sounded like a
14 cauldron boiling. It was just --- that cauldron like
15 water boiling, there was so much of it. And you could
16 look up there and it was just boiling and boiling, you
17 know, the methane in the water bubbling. And I knew
18 that there was --- and the water was pretty deep up in
19 there because I know it was over his boots at that
20 time. And that's the highest I've ever seen ---
21 that's one of two times that I recall a miner gassing
22 off.

23 Q. Do you know what the height --- did he take a gas
24 check with his handheld spotter when you had that?

25 A. I did not see him.

1 Q. Okay. Did you ever --- I've asked you before, but
2 did you ever see anything any time they manipulated
3 the methane monitor?

4 A. No. I've heard the term jumping it out or ---

5 Q. Bridging.

6 A. --- bridging it out, but I've never been witness
7 to that. I've heard the term, but I --- to my
8 knowledge, I've never heard of anybody doing that.
9 I'll say no.

10 Q. Are you ready to take a break?

11 A. Yeah. Sure.

12 SHORT BREAK TAKEN

13 BY MR. GODSEY:

14 Q. I earlier asked you --- we were talking about
15 notification from the company underground to notify
16 the State or Federal inspector. You said that you
17 worked as a dispatcher, too. And what --- how do they
18 do it from a dispatcher, to let people know when
19 they're ---?

20 A. When I was a dispatcher, normally what would
21 happen would be the guard shack at the bottom of the
22 hill --- and this is UBB when I dispatched, I was over
23 there. The guard at the guard shack would announce on
24 a
25 two-way radio --- a two-way radio was in the little

1 room to the right of the dispatcher's office that had
2 the computer with the beltline and the CO monitor
3 computer there. It was to the right of that by the
4 window. They would announce that there was a federal
5 mine inspector, lots of times who --- what his name
6 was. So we knew before he topped the hill that we had
7 one on site. It was common knowledge that the
8 dispatcher's responsibility was to notify as soon as
9 they knew where that mine inspector was going that we
10 were to notify the section underground, the section
11 boss.

12 In most instances --- sometimes the mine inspector
13 would come up --- you know, would come up into the
14 mine office on the second floor. There were lots of
15 times that he would not allude to the fact of where he
16 was going, or he would not --- and sometimes it was a
17 guessing game. For example, Andy Kolson or Gary May
18 or sometimes the superintendent, sometimes it was
19 Chris Blanchard, sometimes it was Jamie Ferguson if
20 they were there, would --- as soon as they found out
21 they would try to I guess pry and question. And they
22 would take from what little bit the mine inspector
23 would say and try to ascertain where specifically he
24 was going. If they could do that, we were normally
25 told, if they didn't know go ahead and turn the lights

1 on the section to their telephones, the red light. Go
2 ahead and turn the light on on all the sections and
3 let them know that we've got X amount of mine
4 inspectors, whether they were State or Federal.

5 And if we didn't know yet where they were going,
6 we would say, we have X amount of mine inspectors on
7 site, don't know where they're --- don't know anything
8 yet. Some of the section foremen would continually
9 call back out and say, you know, you heard anything,
10 you know anything, have you heard anything? And you
11 would say yes or no. If you didn't know, you'd say,
12 don't know yet. And once we knew --- once upper
13 management knew, they would come in and say, get ahold
14 of One section, get ahold of whatever. Wherever they
15 were going get ahold of that person, let them know
16 they're coming their way.

17 And I know there were some times that they would
18 try to --- I remember one time in particular when the
19 water situation behind the longwall --- and when I
20 told you that Boone said they weren't supposed to be
21 up there working behind the longwall, and they were
22 working and there were no communication lines. I
23 remember there was some indication about the mine ---
24 there was a mine inspector that came and they said
25 they --- and I don't recall who. It was stated that

1 Andy Kolson, they were going to go up towards that
2 water. And he talked them out of it. So lots of times
3 if they knew something was bad, and I guess they were
4 going to be caught dead they would try to --- well,
5 you know, I guess reroute them, you know, get them to
6 go somewhere else if something was blatantly wrong to
7 where I guess they knew they would get a big
8 violation. It was a blatant violation or maybe an
9 S&S. There were times that we would run coal and we
10 would find out that a mine inspector was coming, and
11 we would shut down and get things right prior to his
12 arrival. So that he didn't shut us down we would
13 already show ourselves shut down.

14 Q. What do you mean we get right, we get the section
15 in order?

16 A. We would, you know, make adjustments, tighten up
17 curtains, make sure that --- you know, throw some rock
18 dust here, throw some ---. If something didn't look
19 like it should or --- I mean, there's been times that
20 I've been told, throw some rock dust around that power
21 center. Just things that probably needed tidied up or
22 needed corrected, you know, in a better manner than
23 what it originally was.

24 Q. Did you have any phrases when you were a
25 dispatcher to say --- to let somebody know where they

1 were going, like some kind of catch phrase, you know?

2 A. Normally what --- again, I've been told to go in
3 the other ---. We had a lot of mine phones upstairs.
4 You know, there were a lot of offices, so if you had a
5 mine inspector standing in front of you, then you
6 might go in another room and try to get ahold of the
7 section. We would say, we've got company. That's one
8 of the --- probably the most popular phrases, you
9 know, we've got company, or you're going to have
10 company. And a lot of the --- some of the section
11 foremen would call out and say, you know, we got
12 company yet or what's going on, anything going on or
13 do you know anything yet? And then you would say yes
14 or no or, you know, don't know yet.

15 Q. On March the 9th of 2010 this year they made a
16 major ventilation change on the longwall. I think
17 they were --- the tailgate air was going in the wrong
18 direction and they were probably shut down, and they
19 were down for a couple of days. After this
20 ventilation change, did it affect your office with
21 ventilation any? It was about a month or so, a month
22 and a half or so before the accident.

23 A. Where we were all shut down?

24 Q. No, that they ---.

25 A. Just the longwall was shut down?

1 Q. Just the longwall. I think they shut the longwall
2 down. Did you know about it?

3 A. I don't know if it was in March like you said, but
4 I remember there being a period of time when our
5 longwall was shut down for like a week, week and a
6 half.

7 Q. Has that been in the last couple of months prior
8 to the explosion?

9 A. I would say probably in --- maybe February, March
10 window. That sounds about right. I remember there
11 being a time when we were shut down because of
12 ventilation, and I don't know why I was outside in the
13 office sometime during that, whether I was working on
14 that, the filing thing or what. But I remember their
15 --- Chris Blanchard being at the office all the time.
16 I mean, quite frequently. And I remember there being
17 a lot of chaos. I remember Chris being --- Eric Lilly
18 was an engineer and I remember Eric being there. He
19 had a little laptop in the office right --- to the
20 right of the dispatcher, and I remember ---. And
21 again, I don't know that this was when you're talking
22 about, them making constant air changes and Jamie
23 Ferguson being underground and him making the change
24 and calling out to Chris Blanchard and Chris saying, I
25 want an air reading at such and such and I want an air

1 reading at such and such. And they would make a
2 change or build a stopping or knock a stopping and
3 then Jamie would call straight out and tell Chris what
4 he had. And then Chris would tell Eric and Eric and
5 them would go to the big map in the hallway and they
6 would --- it was constant and then there was some MSHA
7 people there, but you could tell there --- it was high
8 stress. There was a lot of stress going on.

9 I remember, and again, I don't know if this is
10 when you're talking about, there being one time when
11 Jamie Ferguson took a crew underground in the evening.
12 And me coming in the next day and those boys were
13 still underground and they didn't come out 'til like
14 --- I think I usually come in at like 5:00 in the
15 morning, something like that and those boys didn't
16 come out 'til like between 7:00 and 9:00. I think
17 when I thought about it they had been underground like
18 20 hours, because I remember some of the guys coming
19 out and they looked like they were just zombies. They
20 were so tired, but he kept them under there all night
21 long making, again, ventilation changes and air
22 changes. But it was ---.

23 I remember one time Chris happened to go to Oak
24 Hill and meet with MSHA and Eric had to go with him.
25 Whether Eric --- every change they made he did

1 something on the map on his computer and then they
2 would call out what the ventilation was and they'd go
3 okay --- they'd go to the map and say, okay, this has
4 been done. Okay. And then Chris would talk to Jamie
5 and say, now go to --- and there were different crews
6 at different areas and they were doing different
7 things and taking different air readings. I know that
8 there was a lot of stress and then there was a lot of
9 --- we were getting phone calls from the Charleston
10 office. And any time a longwall is down, you get a
11 massive amount of calls. And I know that when ---
12 it's common knowledge that when Chris Adkins or Mr.
13 Blankenship calls that office, it's --- you know,
14 something's going on major. And I know that Mr.
15 Blankenship had called the office a couple of times.
16 I did not answer the phone, but Greg Clay normally
17 does answer the phone. He's a purchasing agent. And
18 Greg --- I remember Greg answering the phone saying,
19 it's Mr. B. or it's Mr. Blankenship. And he would
20 route the call to Bobby Gulf, who's longwall --- or
21 Jack Roles, who is longwall or --- there was another
22 guy. It began with an F. And he's no longer with us
23 any more. He went to Speed.

24 Q. Is it Ferrell?

25 A. What was the name?

1 Q. F-E-R-R-E-L-L?

2 A. No. I want to say Fontana, but it's not Fontana.

3 But anyway, he was on the next level up over longwall.

4 He was the main longwall guru, if you will, that came

5 from the corporate office there, and he kind of camped

6 out for a couple of weeks. I want to say his name is

7 Jim. I don't know.

8 Anyway, a lot of calls. And then a couple of

9 times Chris Adkins would call and I've talked to

10 Chris, and he's asking, is anybody back in the

11 longwall room? And I would either say, they're all

12 underground or --- and then I would usually take his

13 call to Greg Clay and then he would talk to Greg Clay.

14 Anytime longwall was running, from the time longwall

15 started running last year, we were on a 30-minute

16 report, call-out report around the clock, except on

17 your nightshift, your maintenance shift. They called

18 out every 30 minutes. It was either me or Greg Clay

19 that normally kept the logs outside. At first it was

20 Greg and then it became me. And every 30 minutes we

21 had to know how much they had run, where the shearer

22 was, whether it was moving to the head towards the

23 tail or in the shuffle. If they were down, they

24 wanted to know --- well, they wanted to know any kind

25 of downtime they had in that 30-minute window and why.

1 If they were down at the time of the call that
2 report --- Blanchard's office wanted to know why they
3 were down, when they anticipated being up, what
4 specific time. It couldn't be 20 minutes. It had to
5 be --- I will be ready to run at 1:45 or 1:42. It had
6 to be a time. And if they weren't at --- when that
7 time came, if they were not running coal then he
8 wanted to know why they weren't running coal. I had
9 to send another report to him, why they're not running
10 coal, how much longer is it going to be, what problems
11 are you --- what's the problem?

12 We were told that he --- now, those reports were
13 sent via e-mail, when I was on shift, to Chris
14 Blanchard's secretary, Lisa Williams. And my
15 assumption is she compiled, I guess, the --- it was
16 like a spreadsheet, an Excel spreadsheet, by the half
17 hour, a.m. and p.m. I think when some of the --- when
18 I wasn't on shift or Greg ---. The evening shift guys
19 didn't have a lot of computer skills, so they would
20 sometimes write them in, you know, and fax them over,
21 so they were sent by fax sometimes. And then those
22 were forwarded on to Chris Adkins/Mr. Blankenship. On
23 weekends we faxed --- because Lisa wasn't working down
24 at the North Fork office we were to fax those reports
25 every 30 minutes to Jamie Ferguson at home, Chris

1 Blanchard either at North Fork or at home, Chris
2 Adkins at home and Mr. Blankenship. There was a fax
3 number for him. I don't know if that was at his home,
4 where that was. I'm trying to think if there was
5 anybody else. Right offhand, I remember those four.
6 It was adamant that you get their reports to them on
7 time.

8 Q. Did Mr. Blankenship ever call you when the
9 longwall was down?

10 A. I had knowledge that he called, because I remember
11 --- I never personally answered the phone when Mr.
12 Blankenship called, but I do recall Greg Clay saying
13 he had Mr. Blankenship on the phone or I remember
14 there being discussions that Blankenship called today
15 or Blankenship wanted called and wanted to know this.
16 Normally I think the calls were made by --- initiated
17 by Chris Adkins and therefore reported to Mr.
18 Blankenship, but yes, there were occasions that Mr.
19 Blankenship called.

20 Q. Do you know any time that the section foreman has
21 stopped running coal due to a safety concern and then
22 he was told by upper management to get back on the
23 coal?

24 A. Yes.

25 Q. How many times would you ---?

1 A. I would be afraid to say a specific number. I
2 mean, my knowledge is mostly --- and it's hearsay, you
3 know. I have no direct knowledge. I know that Boone
4 has told me that Dino was having problems, and I don't
5 know if it was air or if it was methane. It seems
6 like to me it was air, that Dino called out and he
7 wanted to pull them back. And it must have been big
8 for Dino to do that, because he just didn't do that,
9 you know, a lot. Dino tried to run coal safely, but
10 he also tried --- he tried to do things the right way,
11 but he tried to satisfy management as well. He had a
12 child that was very sick and he worried about losing
13 his job and losing the medical, you know, for Kyle.
14 And I remember Boone saying Blanchard told him, put it
15 in the coal. And that was usually the phrase that was
16 used, you know, put it in the coal.

17 Now, I do know that Dino's wife had --- since the
18 explosion her and I have become really good friends,
19 Gina, and she has told me that Dean told her that he
20 wanted to pull the guys out. And that he called
21 outside and that he was told --- I don't know if it
22 was by Blanchard or per Blanchard, that if he didn't
23 put it in the coal that he would be fired, that he
24 better not stop production. He would be fired.

25 EXAMINATION

1 BY MR. TUCKER:

2 Q. I got a few questions. I'll try not to repeat
3 things you've already been asked, but --- I try to
4 keep notes, but if I do just ---.

5 A. I can go over it again.

6 Q. All right. One thing I was wondering, you
7 mentioned you were on swing shift. How exactly does a
8 swing shift work?

9 A. Okay. On Headgate 22 we worked six days on, three
10 days off. You have a straight dayshift who was the
11 crew that was killed. Dino Jones was the boss. You
12 have a straight evening shift. The boss is Pat
13 somebody. He just started not too long ago. It used
14 to be Rick Hutchens, Smurf. Those guys worked six
15 days on --- when dayshift takes their three days off
16 my crew swings to dayshift and we work three days of
17 day. Then they come back after their three days off
18 and it's evening shift's turn to take their three days
19 off. At that point we swing --- my crew swings to
20 evening shift and we work three days of evening shift.
21 Then it becomes our turn to take three days off and
22 your straight day and your straight evening shifts
23 work and we take our three days off, and then we go
24 back to dayshift for three days.

25 Q. Okay. You said they had a new boss on evening

1 shift. Rick Hutchens used to be the foreman?

2 A. Rick Hutchens is --- we called him Smurf. He used
3 to be at --- on the --- straight evening shift boss
4 and he is now at Speed. They have a new boss named
5 Pat, and I cannot recall his last name. He came off
6 of ---.

7 Q. Would you know if you heard it? Gilbert?

8 A. It sounds familiar. He came off of Tailgate 22, I
9 believe. He was on Hammer's crew, Brian Collins'
10 crew, which was the crew on evening shift Tailgate 22,
11 and I don't think he and --- Hammer is what we call
12 Brian Collins, he and Brian got along and he got his
13 bossing papers, and he took the evening shift position
14 on Headgate 22.

15 Q. Do you know why Rick left and went to Speed?

16 A. I'm going to call him Smurf because that's what I
17 --- he goes by.

18 Q. That's fine.

19 A. Smurf, for the most part, was a boss that tried to
20 do the right thing. As a boss you can't always do the
21 right thing where we worked, but he tried to ---.
22 Again, they tried to satisfy management, but tried to
23 do things the right way. I had heard once that Smurf
24 wanted to go back to longwall and come off of boss,
25 and I think --- I don't know that that's true, but I

1 think they wouldn't let him is what the rumor was. He
2 and Everett, the superintendent, Everett Hager, butted
3 heads a lot, and I don't know why that is. I think
4 sometimes bosses kind of, what we call, threw each
5 other under the bus, you know. You don't run the coal
6 or you don't get started as soon as you should and,
7 you know, you can always say, well, evening shift
8 didn't do this or evening shift didn't do that. I
9 think sometimes Smurf got blamed for a lot of things
10 that he wasn't necessarily responsible for, but
11 everybody tries to keep their head out of the noose.
12 Because when you go --- they go to their bosses'
13 meetings, it's not pretty for them if they're not
14 running good coal.

15 I've heard on several occasions that Blanchard had
16 this, I don't want to hear any excuses policy. I
17 mean, we're cutting rock and it's taking an hour and
18 20 minutes to get a 20-foot cut or it's taking, you
19 know, an hour and ten minutes to get a 20-foot cut.
20 He don't want to hear it. Why? You know, we should
21 be running 300 feet a shift.

22 Q. How about back to the dispatching? You just spoke
23 about that. You mentioned the 30-minute reports and
24 those are sent out in different forms, whether it be
25 e-mail, fax or whatever, but as a dispatcher you keep

1 a log. Do you all have a book that you keep that you
2 log stuff in?

3 A. When you say stuff, define stuff.

4 Q. Okay. Where people go, where the rides are at.

5 A. Yes, the dispatcher's log as far as the road and
6 the track, ---

7 Q. Track.

8 A. --- movement of travel. Yes.

9 Q. The manual tracking of people when they go in
10 areas of the mine where they don't have the
11 communication and tracking, do you all do that or does
12 somebody else do that?

13 A. That came after me.

14 Q. Okay.

15 A. When I dispatched, we did not have the tracking
16 devices yet, so that was prior to my time. Now, there
17 was a period of time I know that when you went
18 underground you had to fill out a piece of paper with
19 everybody that was on your mantrip and give it to the
20 dispatcher so he knew who was underground and had a
21 number of how many men were underground at all times.
22 As far as the tracking and the zones, who was in what
23 zone, that came after I was no longer dispatcher. I
24 was underground at that time.

25 Q. Okay. Do you have any other notes or anything you

1 keep as a dispatcher on things that's called out, any
2 type of logs that you would keep maybe that we
3 wouldn't be aware of that you keep concerning
4 production, or downtime or things of that nature?

5 A. I'll tell you what, as far as paperwork I was
6 midnight shift dispatcher when I worked outside. I
7 did all the time, everybody's time, worked it up, made
8 sure that everybody was paid, got everything ---
9 totaled up the timesheets, gave them to the
10 superintendent or the mine foreman to sign off on.
11 The offset of that --- of your actual payroll and
12 hourly --- daily and hourly hours, we filled out what
13 we called a manpower report. And it was an Excel
14 spreadsheet, an Excel workbook that had numerous
15 spreadsheets contained in it and it had kind of your
16 call centers by section. So you had your outby
17 people. That might be your head electrician, your
18 superintendent, your dayshift mine foreman, your
19 dayshift dispatcher. Over here, you might have your
20 Headgate 22 people dayshift, your Headgate 22 people
21 evening shift, your Headgate 22 people swing shift.
22 You did that and then another sheet might be your
23 tailgate. Then another two sheets or three sheets
24 might be your longwall people by crews.

25 What we were --- I had to transfer the hours off

1 of payroll sheet onto that so that Chris could keep an
2 ongoing record, if you will, of total hours that we
3 were working versus how much production we were
4 making. Okay? Those were manpower reports and those
5 were due to Chris Blanchard's office every morning
6 before eight o'clock. You had a production report
7 from the day before, so if I was on midnight shift, I
8 would have everybody's production report, each section
9 boss' production reports for the whole day. Dayshift,
10 evening shift. Longwall had their own report. And I
11 did a total sheet and it showed --- you had to figure
12 out the footage, you know, do your multiplication, and
13 then you had to total out how much total coal was run
14 for that day, you know. Cover page, everybody's shift
15 production report. Within their shift production
16 report might include how many inches of coal, how many
17 inches of rock, whether they had checked their --- you
18 know, the rollers, if there was any issues, you know,
19 with regards to the section itself, the feeder, things
20 like that. Each section foreman's report was
21 approximately --- if they had any people off that
22 would be on there, their downtime would be on there.
23 I think their reports were like five or six pages
24 each, so we compiled all of that together. That went
25 in one little package and that was sent to Chris

1 Blanchard's office and it was due as early as
2 possible. I usually tried to get it on there by 6:00
3 in the morning, get them from everywhere.

4 Q. There's a detailed report and after you completed
5 it then it was sent to Chris Blanchard. Would there
6 be anything left at the mine as far as ---?

7 A. Yeah, the original.

8 Q. The original.

9 A. The original was left at the mine in the drawer
10 and then we faxed everything to Chris. In addition to
11 that, you had a start-up --- a morning start-up report
12 and an evening shift start-up report. When your crews
13 go underground they have so long from --- they
14 anticipate how long it's going to take them to get to
15 the sections. They are to call the dispatcher as soon
16 as they get in the coal and tell him what time they
17 got in the coal. If they're not in the coal, what is
18 wrong that you're not in the coal. If you got
19 equipment down, you know, what's wrong with it, left
20 bolter's down, right miner's down, et cetera, et
21 cetera, how long it's going to be down. When you
22 anticipate being in the coal --- and just like as I've
23 described before, you give Chris a time that you
24 anticipate being ready to go, being ready to run, and
25 if you're not ready to go at that time that you told

1 me, you need to call me back and tell me why you're
2 not running or call me and tell me you're running.
3 And then I've got to forward it on to him.
4 Other reports. When a CO monitor goes off --- on
5 the computer system in the room next to the
6 dispatcher's office there is a log, a book. When a CO
7 goes off it records within the computer system
8 internally, the --- we call it the address, the
9 location of that CO monitor, the number, what
10 happened, et cetera, what its readout is. I have to
11 look at that, see what's wrong, call that section
12 wherever that may fall or sometimes a fire boss if
13 it's on the beltline, report that to them. In
14 addition to the internal report that is generated
15 within that CO system, there's a notebook that the
16 dispatcher has to report the date, the time, what the
17 CO location --- what CO monitor location was, what
18 it's reading, if it says fire, if it says, you know,
19 6.2 CO, whatever, the reason for it going off, the
20 current status, who I reported it to. Then that
21 person is supposed to go to that monitor, find out
22 what's wrong, either clear it up, fix it, tell me it's
23 down. And he is to report back to the dispatcher, the
24 status of that monitor, whether it's okay now,
25 whether, you know, it's down, whatever. And then you

1 have to --- one monitoring system is supposed to
2 coincide with the internal is what we were told. Over
3 and above that, you have your intake phone lines, your
4 fire bosses and/or your electricians on each shift
5 have to test your intake phones. And they will call
6 out and there's a log that you log the date, the time,
7 who it is. I'm trying to remember if --- I think it's
8 the location of the intake phone and whether it's okay
9 or whether it's not. And then the longwall --- the
10 30-minute reports on longwall, that's the ---. And
11 then your dispatching logs themselves. That's about
12 all I can remember.

13 Q. So the dispatcher also is the automatic --- you're
14 over the automatic monitoring system, the ---?

15 A. The dispatcher is over the dispatching, the
16 dispatcher answers the phone, the dispatcher --- they
17 secure the monitoring systems, the dispatcher does the
18 reports, the payroll, parts downstairs in the
19 warehouse, unloading trucks. The dispatcher does a
20 lot of things.

21 Q. Okay. And you said you haven't done it since the
22 communication track and you haven't been dispatcher
23 since then?

24 A. No.

25 Q. Are you aware or any time that you've been outside

1 since they have put in the communication tracking
2 system, the dispatcher? Do they still use him to load
3 and unload the trucks or are you aware --- are you
4 not ---?

5 A. Well, I'm at Ellis Portal now and the monitoring
6 system is over at UBB.

7 Q. Okay.

8 A. But Greg Clay is the purchasing agent upstairs and
9 I know that he is slammed with paperwork. I'm sure if
10 you go back into the receiving documents of deliveries
11 that you're going to see the dispatcher signed off on
12 them. I don't know who else they have. On dayshift
13 you have a guy that runs the inloader outside that
14 unloads trucks, but you've also --- but that's what
15 goes out in the yard. Then you have usually the
16 dispatcher goes down and he takes the forklift and he
17 unloads trucks of equipment that goes into the
18 warehouse and puts them away. To my knowledge, nobody
19 else has been hired to do that, no.

20 Q. Well, when you were doing that, if somebody called
21 from underground, did you hear them?

22 A. If they called underground and you were out in the
23 yard unloading?

24 Q. Right, right.

25 A. No, you couldn't hear it.

1 Q. If a warning or an alert went off on the CO
2 monitoring system, would you be able to hear it?

3 A. There is a speaker that's over the outside
4 stairwell that overlooks the yard and the UBB Portal.
5 It goes off, but I don't know if it goes off
6 instantaneously. I don't know if that monitor has to
7 go off for a period of time before it starts blaring
8 outside. I'm not sure of that, no.

9 Q. Okay.

10 A. I've heard it going off outside.

11 Q. I got you. Okay. When you were dispatching and
12 you had alarms that went off on the CO monitoring
13 system, you would send people like --- say if it was
14 along the belt, whoever you could get there, you'd get
15 somebody to check it. Have they ever called back and
16 have they --- to your knowledge, have they ever had a
17 small fire along the belt where they had a stuck
18 roller and be hot, to the best of your knowledge?
19 Have you ever heard them talk about having any type of
20 fire?

21 A. The only time I can recall there being a fire
22 reported underground was --- and I don't know why I
23 was outside. This may have been when I was working on
24 the ordeal. There was a fire on the belt. It was
25 either Four North belt or Five North belt. It was

1 between Ellis Switch and 78 Break. As best as I can
2 remember, a crew was either going in or coming out
3 reported that they smelled smoke. Fire bosses were
4 dispatched to the area. I don't recall if it was a
5 roller that got out or what happened, but it was ---
6 or whether it was grease. I'm not sure, but I think
7 it began smoldering. The fire bosses proceeded to put
8 the fire out and I know that they --- I remember them
9 calling out saying it flared up. Okay? So I know
10 there were flames. It wasn't a smoke fire, there was
11 flames and the --- and I remember Scott Halstead was
12 one of the fire bosses, because Scott is a --- and
13 correct me if I'm wrong, a 90 percent miner, a 10
14 percent miner. He has the respiratory problems
15 that ---.

16 MS. MONFORTON:

17 Part 90, part 90.

18 A. Part 90 miner. Okay. They were bringing him out.
19 He was overcome with smoke, and I knew that he had
20 some respiratory issues. So I'm an EMT and I went ---
21 we called an ambulance to get there for him. And he
22 had smoke inhalation, and I went downstairs and got
23 the oxygen ready to go so when he come outside I was
24 ready to treat him. And I was standing out by the
25 warehouse door ready to go with the oxygen and when

1 they brought him out I mean, it was couple of minutes
2 before the mantrip cleared the portal, the ambulance
3 got there. So I just stayed by him. The guys helped
4 him off and put him in the ambulance, so I do know
5 that he was one of them. That's the only time I
6 recall a fire. I wasn't dispatching at the time, but
7 I was up in the office area.

8 BY MR. TUCKER:

9 Q. Do you remember when that was, time wise, a rough
10 date, estimate on a date?

11 A. I want to say the fall of 2009, between September
12 and December of '09, because I was working on that
13 filing system, if I remember correctly, and the audit
14 was coming at the end of the MSHA quarter, whatever
15 that was. So I want to say the fall of 2009.

16 Q. Just to touch base again on the calls, when you
17 made the calls to Blanchard. I understand you gave
18 the time that you were going to be backing coal, if
19 there was --- if you didn't meet that time then you
20 had to call and give another time. What, generally,
21 happened when there's a report and Blanchard and they
22 didn't meet the time that they had originally said
23 they were going to be back into coal?

24 A. Okay. Are you referring to --- there's a
25 difference from when you're calling ---. We send the

1 miner section reports to a secretary and we send the
2 longwall reports on an every 30-minute basis. Are you
3 talking about the longwall or just everything in
4 general?

5 Q. Whether it be longwall or miners.

6 A. Okay.

7 Q. I understood that, you know, when he'd call and if
8 somebody's down ---

9 A. Okay.

10 Q. --- and he's wanting a time when it's going to be,
11 not 20 minutes, but a specific time and you don't meet
12 that deadline, I mean, ---.

13 A. Most of the time he doesn't call. Okay? His
14 secretary calls. And Lisa is adamant about --- and
15 she'll tell you, he wants to know what time they're
16 going to be in the coal. I have called the section
17 foreman and said, Mr. Blanchard wants to know
18 specifically what time and he'll --- he might say, I
19 don't know, I don't know how long it's going to take
20 to put this, you know, pod in the bolter. I don't
21 know how long it's going to take to put the drill pod
22 in. And then if I say that to Lisa, you know, he says
23 he don't know, I mean, they're working on it, she
24 says, that's not good enough. You know, she would ---
25 I need a time. She wants a time, so they have ---

1 give me something, you know. So they'll give me a
2 time.

3 He has called before. If he calls and somebody's
4 not in the coal and he --- you can't answer his
5 question, it's usually not pretty. It's usually not
6 good. You need to have an answer for him.

7 Q. Feel threatened by his response during that time?

8 A. He will throw a fit. I mean, he wants an answer.

9 He wants a specific answer, and he wants it now. And
10 I mean, I've even had --- lots of the time our section
11 foreman and our guys get busy working on an issue that
12 they might have and they forget to call me, you know,
13 or they'll forget to call a dispatcher. I mean, it
14 comes to the point where they might be running on the
15 left side and, you know, the right side's down. And,
16 you know, it's --- if he has a question, it comes to
17 the point where I've been told, turn their belts off
18 until they get to the phone and answer your question.
19 The guys were always good about calling me, you know,
20 because I tried to work with them a lot and I
21 understand their situation.

22 Q. Do you know if anybody's ever been fired as a
23 result of ---?

24 A. Of lack of communication with Blanchard?

25 Q. Yeah. Not getting back to coal as he felt they

1 should or anything like that that you're aware of?

2 A. Anybody fired? I've seen bosses disappear. We
3 call it disappear, get transferred.

4 Q. Okay. I know you gave this name. I'm going to
5 bounce around a little bit now and just try to figure
6 out a few things. You mean some boss made the
7 statement, he was forced to kind of fill in a little
8 bit, and he didn't want that responsibility and you
9 said, somebody's going to go to jail?

10 A. Carl Grimmett.

11 Q. Okay.

12 A. G-R-I-M-M-E-T-T. He's up near Pineville now in
13 the mine.

14 Q. Okay. Have you seen the dispatcher's log since
15 the explosion?

16 A. No.

17 Q. When you were on the section, typically, let's say
18 like ---?

19 ATTORNEY FERGUSON:

20 Bill, wait.

21 MR. TUCKER:

22 Oh, I'm sorry.

23 A. I don't know if this is relevant. When you say
24 dispatcher's log, I know that the day of the explosion
25 I was off, but I was told that there was a dispatcher

1 working by the name of --- hang on. He's a bolt man.
2 I can't think of his name. Give me a minute. I have
3 a visual. He's standing right there, and I can't
4 think of his name. I'll come back to it.

5 BY MR. TUCKER:

6 Q. Okay.

7 A. He was dispatching, Greg Clay was working in the
8 office. At some point shortly after the explosion
9 Greg began logging occurrences as they happened. When
10 ambulances were called, when ambulances --- when calls
11 were made to ask for more ambulances, when calls were
12 made to MSHA, just a timeline. Greg told me that he
13 felt I better do that, so he started making that list.
14 He said that he got the dispatcher's log from the
15 dispatcher and his records and locked them in the
16 cabinet in the hallway and he had the key. And they
17 were in the hallway, he told me, for a couple of days.
18 At some point --- dispatcher's name is Adam Jenkins,
19 J-E-N-K-I-N-S. At some point within a couple days of
20 the explosion Adam came to Greg Clay and told him that
21 Gary May wanted the dispatcher's log, and Greg took it
22 out of the cabinet, and Greg told me that he gave it
23 to Adam and said, if you want to give it to him, you
24 give it to him. And Greg said that Gary May said, I
25 want it all. He said that he gave everything he had,

1 the timeline and everything. I don't know if he gave
2 it to Adam and Adam gave it to him or if he presented
3 it at that time. Anyway, it was turned over to Gary
4 May. Gary May supposedly locked it in his personal
5 locker, which is in the upstairs office where the
6 coffeemaker is at UBB South. Gary's got a locker
7 there and that was his personal locker and he
8 supposedly locked it in there. I don't know what the
9 next communication was, but all the records came up
10 missing out of Gary's locker.

11 And I asked Greg --- he said at some point Gary
12 come back to him and said, did I not give that back to
13 you? And Greg said, don't even try it, you know I
14 gave that to you, you wanted all of it. Uh-uh (no).
15 You had it. And I said to Greg, well, he put it in
16 his locker and he put a lock on his locker, and he's
17 the only man that's got the key to it. Where's the
18 information? And he said, I don't know. I said,
19 well, it doesn't disappear. Greg said to me --- and
20 I'm not sure about this, but he said something about
21 ---. And I assumed he was talking about before he
22 gave it to --- I don't know if he was talking about
23 before he gave it to Gary or whether from Gary. He
24 said the State had a copy of it. The State was given
25 a copy, but he alluded to the fact that when the

1 Massey lawyers wanted it, it came up missing. I might
2 be wrong about that, but something about the State had
3 a copy, and I don't know if Massey lawyers and MSHA
4 wanted it and it came up missing, but I have not seen
5 any dispatch logs. And we usually kept them in the
6 --- we have a closet out in the front area of the
7 upstairs. And of course, I came a couple --- two,
8 three, four weeks after the mine explosion, so
9 everything probably should have been gone by the time
10 I got there. I mean, I don't mean that in a negative
11 way. I meant, you know, general investigative
12 procedures would indicate that, you know, nothing
13 would be there, so I didn't --- I don't expect to see
14 them.

15 Q. Okay. You mentioned about the 800 number that you
16 used to call in complaints if you have problems, that
17 it's a Massey 800 number?

18 A. Yes.

19 Q. You know, did you ever call in any safety
20 complaint on that number?

21 A. I have not, but Boone has.

22 Q. Okay. So it was used for any type of complaint?

23 A. Any kind of problem that you might have or a
24 safety concern. He had told me on numerous occasions
25 that he has reported it on the 800 number, and he says

1 --- and then he stopped calling it because he said
2 they don't do anything about it. I don't know what
3 safety concerns ---.

4 Q. Right.

5 A. Because I would say, call the 800 number. He'd
6 say, I already have, they're not going to do anything
7 about it and they wouldn't, I guess.

8 Q. When you were at the --- let me go back one
9 section. When you were dumping and you was on the
10 shuttle car, and you was dumping your load of coal
11 into the feeder, ---

12 A. Yes.

13 Q. --- did you notice the box check behind the feeder
14 along over the belt, ---

15 A. Yes.

16 Q. --- the curtain that was ---? Okay. Was there
17 --- could you tell which way it was blowing, the way
18 it might have been ---?

19 A. No.

20 Q. Okay.

21 A. No.

22 Q. I thought that might be ---.

23 A. And I thought it myself.

24 Q. And you couldn't tell you which way the air
25 was ---?

1 A. Let's put it this way, I never fought any curtain
2 when I was hanging it, no.

3 Q. Okay. So you couldn't tell if the air was coming
4 up or going back?

5 A. No.

6 Q. Okay. You mentioned you all --- your crew would
7 ---. You know, when you get to the end of the track
8 then you would walk up on to the section, but you
9 basically typically would have a little safety meeting
10 at the mantrip before you'd have to walk on the
11 section or after you got on the section?

12 A. Before we went.

13 Q. Before ---

14 A. At the mantrip.

15 Q. --- you started walking. So once you left the
16 mantrip, now you're walking up to the section, and you
17 said typically you would go and put the power in?

18 A. Your power center was in Two entry, which is the
19 intake that you're walking up. So as you come by the
20 power center into, you know, the areas where our
21 equipment was, if you were walking down the right
22 side, I'd kick on the power to the shuttle cars and
23 maybe, you know, a miner. And whoever got the left
24 side would get --- you know, for example, the roof
25 bolter or one of the other miners, I usually got the

1 feeder and then you --- everybody --- the miner man
2 went his way, we'd go to our shuttle cars and then
3 we'd do our PMS and grease, do our, you know,
4 equipment check.

5 Q. Where would the boss be? Would he be walking
6 along with you all when you go by the fire center
7 typically or sometimes he was ---?

8 A. He was always at --- right with us. I mean, he
9 walked right with us. He never walked ahead of us.
10 We walked as a group, you know, up there and sometimes
11 he would --- he never took a lunch. Sometimes he'd
12 stop there and, you know, drop off his pot and put his
13 --- he might put his clipboard there. And at some
14 point he --- you know, he might piddle around there
15 for a minute or two doing whatever and then he would
16 head on to the face.

17 Q. So you all basically went to the face. Do you all
18 put the power in as you come to the power center and
19 then everybody go to their equipment and he'd go on to
20 the face together?

21 A. Correct. That was the daily routine.

22 Q. Okay.

23 A. Unless an MSHA inspector was with us, and if he
24 walked in with us normally Brandon would say at our
25 safety meeting at the mantrip, everything's just like

1 normal. We'll stop there at the power center and wait
2 'til I run the faces and --- you know, and then I'll
3 let you all know if everything's okay. In that event,
4 we all stopped at the power center. Nobody cuts any
5 power and he ran the faces and come back and told us
6 if everything was okay.

7 Q. Okay. Did you ever go put the power in and a
8 breaker already be set up like maybe where they ---
9 somebody forgot to lock it and left it in, that you
10 recall?

11 A. It was already set up. I don't specifically
12 recall, no.

13 Q. You mentioned a gentleman had got hurt, Mr.
14 Osborne, and he was at the emergency room. Which
15 hospital was that, that he was --- when Berman had
16 talked to the doctor?

17 A. I don't know if Rodney went to Raleigh General.
18 Normally, unless you otherwise specify, normally they
19 go to Raleigh General. I don't know for sure.

20 Q. Do you have a rough guess on when that was,
21 approximately?

22 A. Well, I was outside. We were moving the section.
23 I'm trying to associate --- think because I know we
24 were moving the section and everybody was in the neck-
25 high water, I was outside because Boone kept saying to

1 me, you need to stay right where you're at. Because I
2 was mad. I said, you guys are going to think like I
3 abandoned them and, you know, I need to be wading
4 water to my neck just like you all. And he said, you
5 need to stay your hind end outside as long as you can.
6 He said, Everett did you a favor getting you out of
7 here. And I'm thinking that was in --- I want to say
8 July of last year.

9 Q. Okay.

10 A. And I would say June, July, August or July,
11 August, September 2009.

12 Q. Okay. Just to touch base. I'm not sure I
13 understood right. The airlock doors when you got two
14 sets up, the doors, but you mentioned that there had
15 been occasions, if I heard you right, that while crews
16 were going through those doors that all the doors are
17 open at the same time. Then when a final crew would
18 go through they'd shut the doors behind them, but if
19 you had enough mantrips, it would work out sometimes
20 where all the doors were open at the same time?

21 A. Okay. Let me clarify that. I've never been ---
22 and we're talking at 78 Break, inby 78 Break. I've
23 never been there when all four doors were open at the
24 same time. Usually two. Usually there's one door
25 that there's not a whole lot of space in between the

1 two. You got enough for maybe two, three mantrips.
2 Sometimes you have four mantrips going through. In
3 that case you might open one. We'll go on up and then
4 when we go on through they'll --- when we go inby,
5 they'll come behind us, and at that point two of them
6 are open at the same time. I've never seen four open,
7 all four open. That's a long area for that all to be
8 open.

9 I will tell you this, I just thought about this.

10 On Headgate 22, at the mouth of the section we had, I
11 think, it was four doors. One door wouldn't close at
12 the time, and I remember that because --- I don't know
13 whether it wasn't set right, it wasn't ---. It used
14 to close. I don't know whether somebody hit it with
15 something, but there were times that we would come
16 inby or outby, and it was just one of the doors. And
17 if I'm not mistaken, it --- I want to say it was the
18 right door going inby would be open. The left one
19 would be there where it was supposed to be. And there
20 were times that, you know, we had to take turns
21 getting off the mantrip. I'm in front of the mantrip
22 coming out and I would get off to open the doors,
23 they'd go through and I tried to shut that door and I
24 remember. And I'd say, it won't stay shut. And
25 sometimes the boss would say, leave it. I mean, I

1 guess I could have, you know, rope hangered it to the
2 other one, but --- or put a rock in front of it or
3 something, but it was very loose. Now that I think
4 about it, when I was on the old headgate, there was a
5 door up here we had a problem with, too, and it was
6 78. We used to call this mouth one. Mouth one, door,
7 door, door, door. There's a spur up here that takes
8 you all --- that the track veers off to the right.
9 Where is that on this map? Can someone help me? You
10 would go --- where's the track? Right here
11 (indicating)?

12 Q. The belt there.

13 A. Okay. The track runs along the belt. Okay.
14 Here's a spur that went over to the right. Anyway
15 when we came up our mantrip ran parallel on Headgate
16 One North. This was when we were still getting on
17 section from going --- we taught it the old way. We
18 came up the beltline, our track ran parallel and there
19 was a spur over to the right and there was a set of
20 --- a set or two of airlock doors. That might have
21 been them right there. I'm not sure. Oh, I'm sorry.
22 Not right there. Approximately 28 Break on Headgate
23 One North. I don't know which one of these --- if
24 they were all up when we were up there. It's been a
25 while back, but there was one of these doors that we

1 had problems with because we used to have to rope
2 hangar it to the other door when we went in. And I
3 would say, you know, that's going to be great if we
4 try to --- you know, in an emergency if we try to get
5 out of here and you can't see anything, you know.
6 They said, well, we'll just bust through them or
7 something like that, but I know there was a door up in
8 that area that malfunctioned and that's been some
9 while back. So I don't know if it's relevant though.

10 Q. Do you know why they used so many doors instead of
11 overcast?

12 A. No, I don't. I think that is the question of the
13 year because everybody in the mine wonders that.

14 Q. Do you know if they had much problem with the fans
15 going off, and if they do go off, I mean, what do you
16 usually do?

17 A. I know here in the last year the fan at UBB went
18 down. I don't know if it blew up or something
19 happened to it. Anyway we were pulled out. We didn't
20 work for a couple of days like --- it was like three,
21 maybe four days.

22 Q. Well, like underground while you were working or
23 people were underground whether you had knowledge
24 while you were dispatching or while you were actually
25 underground if a fan went off what did they normally

1 do?

2 A. I think the fan went off one time when we were on
3 --- it seems like to me we were on evening shift and
4 they pulled us outside. And I remember that because
5 we got outside I think a whopping 15 minutes early and
6 they --- and our boss docked our pay. I remember a
7 time when I was working in the office and the
8 Bandytown fan went down. It has an automatic call out
9 directly to UBB, and it called because the fan was
10 down. We had to evacuate everybody and it seemed like
11 I was mad because Boone's crew was working up in that
12 water up behind the longwall. I might be wrong about
13 this, but working up in that water up behind the
14 longwall and those boys never got evacuated because
15 they didn't --- we didn't have any communication line.
16 I was upset about that, and I was real upset when he
17 got out of the mine. I was real upset about that.

18 I do remember one day we were on evening shift.

19 I'm trying to think. I think it was evening shift.
20 We came in at Ellis Portal. We were going
21 underground. I might be wrong. We might have been on
22 dayshift. Anyway the fan was down. The fan alarm was
23 going off in the little room right off to the right of
24 my bath house, and one of the guys said, it can only
25 be off for --- I think he said 12 minutes, 15 minutes,

1 20 minutes. It can only be off for so and so minutes
2 and then they've got to fire boss the whole mine and
3 being a coal miner --- we're watching the clock and it
4 ended up ---. And I said, oh, boy, we're going to be
5 outside for a little while because we know that's two
6 hours. Anyway I said, we're going to be outside for a
7 little while, because we were like five, six minutes
8 past that window. And Brandon came downstairs and
9 said, let's go. And I said, let's go where? He said,
10 going to work, time to go to work. And I said, the
11 fan's been down too long. I said, isn't it supposed
12 to be fire bossed? He said, they said go underground.

13 Q. Do you remember when that was?

14 A. Between January of this year and mid-March.

15 Q. When you were in the bad conditions and you was
16 working you mentioned at one time, you know, the men
17 were afraid ---

18 A. Yes.

19 Q. --- to tail the top?

20 A. Yeah.

21 Q. If they would have exercised their rights and
22 withdrew themselves from that unsafe condition, what
23 do you think would have happened?

24 A. We wouldn't have been there the next day. It
25 seems like to me, I remember one of the guys making

1 the comment that somebody did complain. Obviously it
2 was a guy. I'm the only woman, but obviously he had
3 complained and said he wasn't going up there. And I
4 don't know what the comment made to him, but it was
5 something to the effect that --- it was some remark
6 about, well, you know, you either work there or you
7 don't come back or ---. Somebody complained about it.
8 I don't know --- I can't remember who it was. I'll
9 try to remember in talking with some of the guys, but
10 somebody complained and he said --- and he refused to
11 go. And he didn't go that night, but there was some
12 issue with it, and if I remember correctly there was a
13 message from Blanchard about it.

14 Q. You mean by state law, he has a right to withdraw
15 for unsafe conditions and then of course call us.

16 A. By Massey law it's probably not the smartest thing
17 to do.

18 Q. Right. I understand.

19 A. You know, I understand ---

20 Q. Right.

21 A. --- the situation we're in to.

22 Q. Exactly. Did the crew that you work on ever shut
23 down due to low air, actually stopped producing coal?

24 A. I don't ever recall us being in the coal and
25 pulling out. There's times that we went in and had to

1 get the section right. Lots of times on --- when we
2 were on dayshift following that evening shift crew, I
3 hate to say this, was a nightmare because they just
4 didn't ---. Those boys didn't do it right. I mean,
5 they didn't hang curtain line --- they didn't run like
6 they should have. So when we went in when we were on
7 dayshift a lot of times, if we followed Dino's crew we
8 were in good shape. We knew we were okay, but when we
9 come --- when we followed that evening shift crew we
10 usually would have to delay in the morning and, you
11 know, tighten up some curtain or hang some fly pads or
12 --- you know, we were constantly tweaking the air to
13 try to get in that ---. But to be in the coal and
14 then the boss man say, shut down, we don't have enough
15 air, that does not --- that did not happen, not on our
16 shift.

17 Q. Okay. You made reference earlier about dropping
18 the curtain down.

19 A. Yes.

20 Q. Do you see it rolled up and then --- I mean, have
21 you ever went into a place and start loading and the
22 curtain would be rolled up, not actually be hanging
23 upright?

24 A. You mean rolled up from the previous miner cut?

25 Not so much it being rolled up. Sometimes it's not

1 there.

2 Q. Okay.

3 A. Dude and I --- sometimes you have bolt men that
4 don't like to hang curtain when they bolt up, so
5 sometimes they back out and go over to the other side
6 because they're in a hurry to bolt that side. And
7 they don't hang their curtain for the miner man, so on
8 numerous occasions I've helped do --- hang curtain
9 that wasn't hung. And we complained and voiced our
10 opinion and normally it's kind of, well, somebody's
11 going to hang it, it's got to be hung, hang it. I
12 mean, we all just hang it because he --- I will say
13 that about Dude. He runs with curtain.

14 Q. When the miner's not loading coal, do you always
15 make sure the curtain's hung, but other times like
16 when you get done bolting, ---

17 A. Yes, not necessarily ---.

18 Q. --- it's not always going to be ---? And you all
19 have to hang it when you go in to start mining?

20 A. Correct.

21 Q. Okay. Do you all have another rubber tire mantrip
22 on the section that you can use to ---?

23 A. We have an emergency ride.

24 Q. Will it transport everybody on that crew? Can
25 everybody on the crew fit on it?

1 A. Everybody on our crew can fit on it, but if you're
2 on a stretcher somebody's got to stay behind. I mean,
3 everybody can ride on it if they're sitting upright,
4 yes, to answer --- if that's your question. And I say
5 that because due to the length --- due to the distance
6 between the end of our track and our face ---. And
7 we're talking 120 foot pillars and we're talking 20 of
8 them. I mean, there was a ton and there was 30, you
9 know, 35. We would park the emergency ride. You
10 know, dayshift would bring it off and they'd park it
11 there at the end of the track and when we come up we'd
12 get on it and we'd drive it back up to the track
13 because it's a heck of a long distance. And we'd plug
14 it in, and it stayed plugged in right there at the
15 power center and available for emergency transport.
16 At some point, it stayed broke down a lot, you
17 know. Lots of times we'd have to walk, and I guess
18 you get spoiled sometimes, but it stayed broke down a
19 lot. And there was an occasion where Gerry Pauley
20 came up on the section during dayshift and the tire
21 was off of it. There was a problem with the tire. It
22 was down. And he shut the section down. And that
23 tire had been off for two weeks, but they found the
24 tire that day, and I think they said they had a tire.
25 And Boone's telling me this. They had said they had

1 the tire and the tire was coming in, and Gerry Pauley
2 went outside and there was some --- they had the tire
3 and then Gerry said, well, then I'll just go back in
4 and make sure you put it on and you just bring that
5 emergency ride down to the end of the tracks so I can
6 see it. Well, they didn't have a tire, but they ended
7 up actually really getting a tire when he called them
8 on it and he went back under. And he checked it, but
9 he wrote them a violation. Boone told me the next day
10 that --- and I think I might have been off that time.
11 I'm not sure, but anyway Boone told me the next day
12 that he --- something about them walking off the
13 section. I said, why did you walk off the section?
14 Because I thought the emergency ride was fixed.
15 And he said that Wayne Persinger told them on the
16 section that he was getting sick and tired of every
17 time that emergency ride went down somebody placed a
18 call to MSHA. And so from now on you all don't touch
19 it, you don't ride on it and it's not to be moved in
20 case somebody's hurt. You walk in and out, and so I
21 said, you mean to tell me we got to go back to
22 walking? And he said, we walk. And I said, well, I
23 guess that's our punishment, but I mean, he told me
24 that Wayne told him that. I asked Gerry. Gerry asked
25 me something about the emergency ride. I said, we're

1 not allowed to ride it in and out no more. Oh, I
2 asked Gerry did it have to be --- I questioned what
3 the law was from end of track to face, and I said I
4 didn't think we were legal. And he said, well, you
5 have to have an emergency ride. Then I said, well, we
6 do have an emergency ride, but we can't --- that
7 doesn't help us transport. And he said, I don't think
8 that matters, Bobbie. I think it has to be available.
9 I don't think it has to be made available to you all
10 to transport yourselves down to the track to the
11 mantrip and back. He said, but I'll check on it. And
12 he asked me why and I told him and he said, nobody
13 called me. I said, well, they think somebody called
14 you. And he said, well, nobody called me. He said, I
15 just happened to be up there that day, so ---.

16 Q. I got just one or two more questions.

17 A. Okay.

18 Q. When the scoop is cleaning in the place, in the
19 faces where was the curtain then?

20 A. Normally you roll up the curtain. If you're going
21 to go in and scoop --- if you have a lazy scoop man,
22 he leaves the curtain down and he scoops as close as
23 he can, you know, and half does it. If you have a
24 good scoop man we normally --- if I'm available, if
25 I'm not running, we'll run all that curtain up, the

1 whole break. And he'll scoop the right side unless I
2 put all the gob in the face and then we --- we'll
3 usually rock dust. You know, we try to rock dust and
4 everything, hand dust. He usually carries six bags of
5 rock dust on a scoop and we'll hand dust it and then
6 we'll drop the curtain. Now, when the bolt duster's
7 doing it, I can't tell you because I'm not up there.
8 That's just not my job. Brandon usually does it. I
9 mean, if he did it right he'd roll up the curtain, but
10 then you got to go in all that rock dust and find your
11 way and drop it back down, and I know a lot of the
12 guys don't like to do that, but that's the right way
13 to do it if you're going to get the right rib. But I
14 can't tell you about the bolt dusting. Did that
15 answer your question?

16 Q. Yeah.

17 A. Okay.

18 MS. MONFORTON:

19 Thank you so much.

20 EXAMINATION

21 BY MS. MONFORTON:

22 Q. Ms. Pauley, we really appreciate all the time
23 you're taking and also for the loss that you've
24 suffered. You're very brave to come here and talk to
25 us after everything you've been through.

1 A. Thank you.

2 Q. You mentioned that you were interviewed by some
3 Massey attorneys a couple of weeks ago?

4 A. Yes.

5 Q. And I'm wondering when they took your --- the
6 information from you. Did they ask you to sign
7 anything, sign a statement?

8 A. No.

9 Q. Do you know if other people have been interviewed,
10 if they were asked to sign anything?

11 A. Someone at the mine told me that they were asked
12 to sign a form. I don't know who it was.

13 Q. Okay. Thank you. At the UBB Mine, have you ever
14 personally accompanied an MSHA or a State inspector
15 when they do their walk around?

16 A. When they do their walk around?

17 Q. When they do an inspection, accompany the
18 inspector?

19 A. I've asked to go, but they wouldn't let me go.

20 Q. Who wouldn't let you go?

21 A. When Clarence Dishman was an inspector that had a
22 lot of the guy's respect and he wrote a lot of
23 violations, but he was very thorough and he was very
24 safety conscientious. And when I was --- I don't
25 recall if I was a red hat getting ready to be a black

1 hat, but I asked the superintendent, Rick Hodge, at
2 that time that if the next time Mr. Dishman come in if
3 I could go with him because I wanted to learn. I
4 wanted to know what he looked at and why he looked at
5 it and, you know, I said, you don't know if
6 something's right if you don't know if it's wrong, you
7 know. So I wanted to get that side of it. And he
8 told me that I could, but then when Mr. Dishman came
9 they wouldn't let me go. They'd send me somewhere
10 else and tell me, no, that I couldn't go. I've been
11 underground on section when mine inspectors have been
12 with me. I've had them there when I ran a miner, you
13 know, observing me, but for me to just one on one go
14 with one, no, I haven't done that.

15 Q. Do you know about the provisions in the Mine Act
16 that allow miners to designate a representative that
17 would be allowed to go with an inspector? Did you
18 learn about that in your --- from your training,
19 either your new miner trainer or your refresher
20 training?

21 A. I know that you are allowed to have a miner
22 representative, but I don't think Matthew lets you ---
23 I don't know of anybody that ---. Usually at where I
24 work a member of management goes with the mine
25 inspector. Nobody's ever told me at that mine that I

1 could exercise that right or --- nor do I ever recall
2 that being exercised, that a normal miner can ask to
3 go with a mine inspector and be allowed to do that,
4 never heard of it.

5 Q. It sounds like one of the things we need to do is
6 give you some information if you do ever go and work
7 underground again about how you can designate someone
8 to be a rep for you.

9 A. Okay.

10 Q. And so that that would be a person you could ---
11 say you want to go ---. Say you want them to go with
12 the inspector ---

13 A. Okay.

14 Q. --- along with management.

15 A. That would probably get you in trouble, but thank
16 you. I appreciate you telling me that.

17 Q. How did you personally learn about citations that
18 were issued by either the State or Federal inspectors?

19 A. Normally you hear first and foremost word of
20 mouth, you know. News spreads and you'll ---
21 something will be said about, you know, where were the
22 inspectors today? We went to Three section and they
23 hammered them --- you know, they got 15 violations, or
24 you know, they were on section and usually if it's on
25 my section, you know, I want to know what it was. And

1 you know, we weren't real bad on violations on my
2 section. I mean, we ran with our curtain and
3 everything, but mostly word of mouth. Sometimes, you
4 know, if I'm working in the --- if I was working in
5 the office, the violations themselves would be on the
6 superintendent's desk. Sometimes I had to file those
7 for him and sometimes they would be laying on his desk
8 and I would straighten up his desk and get him ready
9 to go in the morning. And I would read them, you
10 know, just for my own knowledge and try to learn, you
11 know, what's against the law, what's not and --- but
12 for the most part you ---. Very rarely does anybody
13 discuss, you know, we have --- you might get a sheet
14 on a board over at Ellis that says --- that might come
15 from corporate \$2,437,000 this year in violations, you
16 know, something like that, something like a shocker.

17 Q. Uh-huh (yes). What do you think they were trying
18 to communicate to the miners when they would put that
19 dollar amount there?

20 A. That we're wasting money. And I hate to say it's
21 funny, but it's kind of --- I mean, it was a common
22 joke that when our wages were cut last year they said,
23 you know, we had to cut back and, you know, the
24 economic crisis and everything. As many violations as
25 we had last year, I mean, a lot of the guys commented

1 that, you know, that money wasn't to help the company
2 through the economic crisis, they were sticking all
3 the violations and fines to us. And we should have
4 just --- yeah, every pay day we should have just
5 written a check to the federal government, you know,
6 payroll deduction, here's for our fines. And
7 actually, I mean, it appeared that way to a lot of us.

8 Q. When did you last have your annual refresher
9 training?

10 A. March of 2010.

11 Q. And do you recall who the instructor or
12 instructors were?

13 A. Yes.

14 Q. Can you name them?

15 A. Oh, God. The one woman, what is her name? The
16 short lady. She teaches all of our safety classes
17 with regards to EMT.

18 Q. That's okay.

19 A. I have an awful time with names today.

20 Q. That's okay.

21 A. Real short lady. Jim Walker and Terry Moore
22 taught one class. I think it was on ventilation.
23 Jonah, the safety director, talked to us about
24 accidents. We did the smoke trailer. I don't even
25 remember who put us through that. Berman did our

1 refresher on gas detectors and also SCSRs.

2 Q. What type of SCSRs did you use?

3 A. CSEs.

4 Q. At any time in the last six months did you learn
5 about any problems with the CSEs, SCSRs? Did they
6 cover that in the training?

7 A. No, they did not cover it in the training and on
8 the board over at Ellis Portal somebody put --- and I
9 don't know if this came from management or if it came
10 from one of the guys. Put a newspaper article ---
11 copy of a newspaper article where they were having
12 problems with them and put it up there. And that's
13 about all it was.

14 Q. Were you ever briefed about those problems or what
15 --- how they might affect your experience using them
16 if you need to use them in an emergency?

17 A. No, I don't recall that.

18 Q. Did any inspectors, either from the State or
19 Federal MSHA, talk about problems with those SCSRs?

20 A. No.

21 Q. Okay. I'm wondering about your training. You did
22 your new miner training, your annual miner training
23 and you're experienced with the ventilation experience
24 that you had in low air. In any part of your training
25 would you have, you know, a demonstration or something

1 where you would know, you know, this is what adequate
2 air feels like, or this --- because it sounds like you
3 had a sense that the air was not adequate. Would you
4 have had in your training something where, you know,
5 they would have anemometer and they would say, you
6 know, this is what this many, you know, cfm ---

7 A. Cfm?

8 Q. --- was and this is what ---? You know, if it's
9 below that this is what it's going to feel like? And
10 I'm trying to get a sense of this about, you know,
11 what could we do to improve the training so that
12 miners know, you know, that it's not just a sense,
13 that you really are ---?

14 A. Right.

15 Q. You really know what you're feeling.

16 A. As far as ventilation is concerned --- I mean, I
17 know what an anemometer does. I've been there when
18 they've measured the height and the width and, you
19 know, you do the multiplication and all that to get
20 your cfm. But no one has ever said, you know, stand
21 here, this is 20,000 cfm, this is eight or this is
22 three. I mean, you know. Common sense tells you
23 there's a difference, but I could not tell you what
24 legal feels like. I don't know what legal feels like.
25 And I'm not saying that we're illegal all the time.

1 Q. Right.

2 A. I'm saying, I don't know to stand and have intake
3 air blowing in my face to say, you know what, this is
4 probably good to run and then going over and saying,
5 this is probably minimum. I mean, it's the minimum we
6 have to have legally, but it's not --- you know, it's
7 not enough.

8 Q. Right. That's very helpful. Thank you. Can you
9 talk a little bit about the Raymond points?

10 A. Uh-huh (yes).

11 Q. How did that work?

12 A. It's kind of a strange --- Raymond points are
13 points that you earn for safety. You're placed on
14 like these random --- in these random groups, with
15 ---. I mean, I don't really know fully, but I know
16 you're put in these groups with people that you don't
17 even know. Like there might be a group and you might
18 have this --- you know, you always got a habitual
19 faller, you know, that likes to get hurt all the time
20 and stay home, you know. And so he ruins your points,
21 you know. Any time you have a lost-time accident, you
22 know, you're not awarded as many points that
23 particular month that you would normally have.

24 There's like three --- I think there's three different
25 ways that you could earn points, and so if somebody in

1 your group, you know, falls and breaks his arm or, you
2 know, gets, you know, run over by a shuttle car then,
3 you know, whether he was at fault or whether he's just
4 a dangerous worker or whether it was a legitimate
5 accident, that penalizes you. And you don't get your
6 points because you happened to be in his group, which
7 I don't really think is fair because, you know, if I
8 get hurt why should you be --- lose your points, you
9 know, or not get as many points as you did ---. I
10 know that if you're an EMTM, and I'm the EMTM we get
11 extra points every month for being an EMTM. And then
12 every so often, you get your little catalog and you
13 pick out what you want and you cash your points in.

14 Q. Did they give you something that helps to explain
15 the point system? Who keeps track of that?

16 A. I guess the safety department. You know, Berman
17 --- the girl that works with Berman or something. The
18 safety director used to --- the guys that worked
19 before Berman --- and I can't remember his name
20 either. Greg? I want to say Greg something. He
21 complained a lot about he was having to maintain all
22 of the records, all of the Raymond points. And how
23 was he supposed to do that and do air samples and do
24 this and do that as the safety director? So I know
25 for a period of time he did it. I think Berman has a

1 girl that works with him, and I don't know whether she
2 does it or what, but they used to be four and five
3 months behind. When you would look, you know, you
4 wouldn't get awarded your points for a long time.
5 They were very lax in that, and I'm sure it's because
6 the guy, you know, had a full plate, but they're ---
7 they seem to be pretty up to date.

8 Q. Some of the other miners that we've talked to said
9 that they did not believe that if you had a lost-time
10 injury you lost points.

11 A. I thought that if you --- I thought that if
12 somebody in your group ---. You might be in with, you
13 know, six other guys, but if somebody in your little
14 cluster got hurt, they don't penalize you and take
15 them back. But let's say your maximum number you
16 could earn this month might be 600. Okay? Well, you
17 might only earn 400, you know, or you might only earn
18 300. You don't get as much, but I don't think they
19 take them back if you get hurt. But that's the way it
20 was always explained to me.

21 Q. You can look at your points online ---

22 A. Uh-huh (yes).

23 Q. --- so to show you why there was a deduction?

24 A. No, it doesn't break it down. It just tells you
25 what you have, so you don't know what you earned. You

1 don't know if you --- you know, if you didn't earn as
2 much. You take what they tell you, you have.

3 Q. When you ran the continuous miner, what shift ---
4 it was still the swing shift or sometimes it was the
5 day and sometimes ---?

6 A. No, no. When I ran the miner we were on --- my
7 crew was working straight evening shift.

8 Q. When does the dayshift start and the evening shift
9 start?

10 A. Dayshift goes underground at six o'clock in the
11 morning and they're outside by 4:00 and evening shift
12 goes under at 3:00 and we're outside by 1:00 in the
13 morning. We work ten-hour shifts.

14 Q. Great. Thank you. And I just have a couple of
15 clarifications, things that you spoke of previously.
16 From your testimony, it seems to me that you were the
17 dispatcher from about October 2008 to March 2009; ---

18 A. That's correct.

19 Q. --- is that correct? Thank you. You seem to have
20 very good recollection about some of the different
21 injuries, your own injuries and other injuries. If we
22 were to show you the records of injuries that were
23 reported by the company, would you perhaps be able to
24 pick out some of the ones that you were talking about?

25 A. Yes.

1 Q. Okay. Thank you. You mentioned the incident when
2 you were hit by a large rock and it knocked you down.
3 When was that? It was after you had your broken leg;
4 right?

5 A. It was --- crap.

6 Q. If you can't remember, it's okay. We might pull
7 those records and see ---.

8 A. Yeah, I would say --- I went under in March.
9 Maybe May, June, something like that.

10 Q. I just want to clarify. You were talking about
11 the area --- it may have been the area you were
12 talking about that had a lot of water in it.

13 A. Okay.

14 Q. And you had to go out from under the supported
15 roof?

16 A. Yes, behind longwall.

17 Q. Just to clarify, what I heard you say was that
18 Brandon told you to go under it, but go quickly?

19 A. He went with me. Yes, he went with me. I
20 followed him.

21 Q. So you went with a person of management under
22 unsupported roof?

23 A. Yes, I did.

24 Q. Thank you.

25 A. And that's not the only time.

1 Q. When you were working as a dispatcher for that
2 period of time, and you received some training about
3 how to be a dispatcher, who gave you instructions
4 about when to notify or what the procedures were for
5 notifying when an inspector was on the property? Who
6 provided that training to you?

7 A. I'm trying to think who the dispatchers were. It
8 would have been, you know, from the dayshift
9 dispatchers. I know one of them --- me and names
10 today.

11 Q. That's okay. It was another dispatcher?

12 A. It was another dispatcher, but also you --- I knew
13 how the system worked because I was underground prior
14 to that, so I already knew, you know, what the routine
15 was. But also while outside you were approached by
16 people. You were approached by the superintendent or
17 the Jamie Ferguson or the Gary May or the Andy Kolson
18 that did get ahold of one section, tell them we have,
19 you know, four boys coming up the hill or whatever. I
20 mean, you were told verbally.

21 Q. So you would say that was standard operating
22 procedure?

23 A. Absolutely.

24 Q. At one point you talked about the section. You
25 were working on 22 Headgate with no air?

1 A. Right.

2 Q. And you said it was pretty much a joke, and then
3 you said it's even a joke with the mining inspector?

4 A. Yes.

5 Q. Can you elaborate a little bit on that?

6 A. We used to tell the mine inspectors all the time,
7 and even Boone has told me that, you know, when mine
8 inspectors come up they say, you know --- lots of
9 times you're not running they say, you don't have any
10 air up here. And Boone would say, well, don't you
11 know you're supposed to bring it with you when you
12 come in? This particular situation was within a month
13 before the explosion. I was on evening shift, Dino's
14 crew was underground on dayshift. When we got to the
15 Ellis bath house, we were told that the Federal mine
16 inspector had had the Headgate 22 dayshift shut down
17 all day, and so --- for no air, which, you know, our
18 response was usually shocker, you know, something like
19 that.

20 So Keith Stone was the Federal mine inspector, and
21 Keith came outside and he came in and I said, where
22 have you been? And he was with another guy and he
23 said, Headgate 22. I said, what did you get them for?
24 He said, no air. And I said, don't you know you're
25 supposed to bring that with you when you go in? And

1 he said, yeah. He started laughing. He said, yeah, I
2 know. I said, well, evidently you didn't bring it.
3 And he said, well, they've been shut down all day.
4 Here I had them shut down all day. And I said, and I
5 guarantee you one thing before you ever hit that
6 portal they's running coal. And he said, I was a coal
7 miner once, too, I know. I said, well, then why don't
8 you go back? And at some point I heard Dino call out
9 and I can't remember if --- I think Keith was outside
10 before Dino. Dino called out and I ran over and got
11 on the mine phone because I like to listen to what's
12 going on before I go in. He called out. It seems
13 like to me there was 15,000-some, which was probably
14 legal for up there at that time, but Chris Blanchard
15 had sent a memo out several months back that said, if
16 you do not have 20,000 cfm of air in the last open
17 break, you will not run coal. You do not run coal,
18 you will not run coal, and if you don't have that, I
19 am to be notified. So Dino called out 15,000 and, you
20 know, sometimes you just --- you know, you kind of
21 ---. I try to have fun with stuff and I was like, oh,
22 that's not enough, it's not enough to run per Chris.
23 And so I think --- I didn't listen to what the
24 instructions were back to him. I think I said
25 something to the effect of, you know, I told you all.

1 And so when we passed Boone and them crew
2 underground of course --- you know, you have to dig on
3 them a little bit, because the golden boys, they don't
4 --- you know, they usually run big coal or try to run
5 the most, you know. So I said, you all must have
6 broke some records today. I said, how much did you
7 run? Boone said, GD five feet, something like that.
8 There was a big joke about it and, you know, of course
9 they were all laughing about it. They think it's
10 great when MSHA comes in and says, hey, not today
11 boys. So they thought it was comical.

12 And so later on I said --- when I got in from work
13 that night I usually get home to his house about 2:30
14 in the morning. He's up going to work, so we pass.
15 He always ask how much were you running and
16 everything, and I said something about Dino calling
17 out his air at 15,000. And he said, yeah? And I
18 said, well --- I said, you all shouldn't have been
19 ---. I said, you all was running? And he said, yeah,
20 we was running. He said, we started running just as
21 soon as they left. And I said, well --- I said, who
22 told you to run? Well, you didn't have any air. And
23 he said, Dino called out and he said Whitehead got on
24 the phone and said put it in the coal. And I said,
25 Whitehead? Because that's going up the ranks a little

1 bit. I didn't know Jason was there. And he said,
2 Blanchard and Whitehead was underground and Whitehead
3 said, put it in the coal. And he said, so what else
4 you going to do? Put it in the coal. I said, okay.
5 That was what he said. And my comment to him was,
6 well, that's in direct contradiction to Chris
7 Blanchard's memo. I said, Chris said 20,000 or
8 nothing. And he said, I don't care what Chris said,
9 Whitehead said put it in the coal.

10 Q. You were talking at one point about the area where
11 the ribs were awful and you said between the stoppings
12 and the cribs, it was really ---?

13 A. Yes.

14 Q. Can you indicate on the --- indicate where or
15 describe what area you were talking about?

16 A. We were behind the longwall, Headgate One North.
17 Give me a minute. I'm not sure what break it was. It
18 seems to me that it was coming --- it had to have been
19 between ---. I don't know.

20 Q. That's okay.

21 A. Yeah, I can't remember. I remember it was when we
22 were working back behind the wall. The wall was
23 coming by us and it didn't have a whole lot longer to
24 go until it was roughly around 35 Break. If I had to
25 wager a guess, I would say, it was between 60 Break.

1 I don't know. Forty-five (45), 50 Break, something
2 like that.

3 Q. Thank you. Just a couple more questions. The
4 guard shack would call the dispatcher when the ---
5 either a Federal or State inspector would come. Was
6 there anyone else that they would announce besides the
7 inspector?

8 A. No.

9 MS. MONFORTON:

10 Okay. That's all I have. Bill?

11 MR. TUCKER:

12 Just one question. I'd just like to read
13 a statement to you.

14 RE-EXAMINATION

15 BY MR. TUCKER:

16 Q. When you were hired in, were you given a copy of
17 the State and Federal law books?

18 A. No.

19 Q. Okay.

20 A. Nor was I given a copy of S-1.

21 MR. TUCKER:

22 Okay. I'd just like to read this
23 statement and get it on the record here, make mention
24 to you about some of your gripes. As I mentioned
25 earlier, my name's Bill Tucker. I'm an inspector-at-

1 large, Region Two Welch. Terry Farley and I are the
2 lead investigators for the State and UBB
3 investigation. On behalf of the State, we, too, would
4 like to thank you for appearing here today to talk to
5 us.

6 You were already explained your rights
7 under Federal law in the event you're discriminated
8 against for speaking to us here today. I'd like to
9 also mention that West Virginia law also protects you
10 from discrimination for speaking to us. West Virginia
11 Code 22A-122 protects miners who discuss safety
12 violations in mine practices that may have contributed
13 to this explosion.

14 I'm going to hand you a memo that
15 contains the addresses of Board of Appeals. This is
16 administrative body that hears and determines cases of
17 discrimination. If you believe that your employer has
18 discriminated against you in any way for speaking with
19 us, you can file a discrimination action by simply
20 writing in a letter how you believe you were
21 discriminated against and then mail the letter to the
22 Board of Appeals. The letter must be filed within 30
23 days. The memo that I'm giving you also contains
24 phone numbers where you can reach me if you think of
25 something later that might be relevant to this

1 investigation. And again, I'd like to thank you for
2 coming today.

3 A. All right.

4 ATTORNEY FERGUSON:

5 Ms. Pauley, on behalf of MSHA and the
6 Office of Miners' Health, Safety and Training I want
7 to thank you for appearing today and answering
8 questions. Your cooperation is very important to the
9 investigation as we work to determine the cause of the
10 accident. We request that you not discuss your
11 testimony with any person aside from your personal
12 attorney or representative. After questioning other
13 witnesses we may call you if we have any follow-up
14 questions. If at any time you have additional
15 information regarding the accident you'd like to
16 provide to us, please contact us at the information
17 provided in your letter.

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

22 A. The only thing I just remembered that I didn't let
23 you know was when we drove Headgate One North --- and
24 I'm not sure ---. We were called One section then.
25 We didn't call it Headgate One. We called ourselves

1 One section and Tailgate One North was called the Two
2 section at that time. There was a point when Two
3 section, what we call cut into us. I'm not sure if it
4 was this cut-through, but I know we were told that
5 they couldn't cut into our air unless we were pulled
6 out. And I remember Ron Wickline, being our boss,
7 Rick Hutchens was the Two section boss. They were all
8 on evening shift, and they kept saying they were going
9 to do the cut-through on hoot owl. And our belts went
10 down and they told us our belts would be down for ---
11 I can't remember. It was a little period of time and
12 we found out at the end of that shift that they had
13 let them cut-through on us while we were inby. And I
14 know some of the guys were upset about that.

15 RE-EXAMINATION

16 BY MR. GODSEY:

17 Q. Was that last year?

18 A. Yes.

19 Q. About what period of time was it?

20 A. Well, we were on inby. God, I don't know, because
21 we were --- I remember we were mining on inby that and
22 they cut through. I don't know --- if you're looking
23 at production reports, you'd have to look when they
24 --- when two section got down to around there, 105
25 Break. And then, of course, it took them some time to

1 drive this. They drove this. We didn't drive this
2 right here (indicating). Oh, I'm sorry. We didn't
3 drive the portion between 180 North 80 Break, the
4 three entries that connect Headgate One North at 80
5 Break to Tailgate One North at approximately 107
6 Break. Again, I'm not sure if it was when they cut
7 through into Headgate One North at 80 Break or whether
8 it was this diagonal that they cut through more closer
9 to 90 to 92 Break on Headgate One North. But it was
10 in one of the cut through and we were inby working.
11 That's all I can remember.

12 I appreciate what you all are doing. I don't
13 understand why this happened, and I don't understand
14 what happened, but I can understand to some degree how
15 it happened because we weren't right. And I will wait
16 until you all do your job. And we really don't have
17 any choice but to accept whatever the answer finally
18 is going to be. But I know the morning he left for
19 work he thought he was coming home. I thought he was
20 coming home, too, but --- I'm sorry.

21 I mean, you lose --- you know, he was the same as
22 a husband to me. We might not have been married, but
23 he was. I mean, he was my best friend, but I lost ---
24 you know, we lost a lot of friends that day, and I
25 mean, that's enough. That's more than enough, but you

1 know, you lose your future, you really lose your
2 present. And I won't ever be the same person I used
3 to be, I know that. But we can't let this happen to
4 anybody else. No one should lose their life trying to
5 make a living. That's not what this is about. And
6 nobody should die like they did and lay like dogs for
7 two damn weeks. And you think you're going to see
8 them again and you can't, and you think you can put
9 their favorite clothes on him and you can't do that
10 either. He can't even wear clothes. I think that's
11 what hurts the most is he laid like that. I don't
12 know if he suffered. They said he didn't. I don't
13 know. I don't think anybody knows. I hope to God he
14 didn't, but we have to find out what happened here.
15 Something went terribly, really wrong. It won't bring
16 him back. I don't know. I don't know what you do.
17 Anyway, I just appreciate you all. If there's
18 anything I can help you with or anything I can
19 clarify, just let me know.

20 ATTORNEY FERGUSON:

21 Thank you. Thanks.

22

23

* * * * *

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STATEMENT UNDER OATH CONCLUDED AT 2:07 P.M.

25

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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



Brett Steele