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Statement Under Oath of **Brian Collins**

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Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH

OF

BRIAN COLLINS

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, C-137, Beaver, West Virginia on Saturday, June 26, 2010, beginning at 3:20 p.m.

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POLLY ANNA HAMPTON, ESQUIRE
U.S. Department of Labor
Office of Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

ERIK SHERER
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

CELESTE MONFORTON, MPH, DRPH
West Virginia Independent Investigation
2100 M. Street, NW
Suite 203
Washington, DC 20037

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

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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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Map

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OBJECTION PAGE

ATTORNEY

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ATTORNEY HAMPTON:

My name is Pollyanna Hampton. Today is June 26, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me here is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia and I ask that they now state for the record ---.

MR. FARLEY:

Terry Farley with West Virginia Office of Miners' Health, Safety and Training.

MR. TUCKER:

Bill Tucker with the Office of Miners' Health, Safety and Training.

MR. MONFORTON:

And I'm Celeste Monforton. I'm with Governor Manchin's special team.

ATTORNEY HAMPTON:

There are also some members of the accident investigation teams also present in the audience. Mr. Sherer will be conducting the initial part of the questioning today.

1 All members of the Mine, Safety and
2 Health investigation team and all members of the State
3 of West Virginia accident investigation team
4 participating in the investigation of the Upper Big
5 Branch Mine explosion shall keep confidential all
6 information that is gathered from each witness who
7 voluntarily provides a statement until the witness
8 statements are officially released. MSHA and the
9 State of West Virginia shall keep this information
10 confidential so that other ongoing enforcement
11 activities are not prejudiced or jeopardized by a
12 premature release of information. This
13 confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Your participation in this interview
17 constitute your agreement to keep this information
18 confidential.

19 Government investigators and specialists
20 have been assigned to investigate the conditions,
21 events and circumstances surrounding the fatalities
22 that occurred at the Upper Big Branch Mine South on
23 April 6, 2010. The investigation is being conducted
24 by MSHA under Section 103(a) of the Federal Mine
25 Safety and Health Act and the West Virginia Office of

1 Miners' Health Safety and Training. We appreciate
2 your assistance in this investigation.
3 You may have a personal attorney present
4 during the taking of this statement or another
5 personal representative if MSHA has permitted it. And
6 you may consult with this representative at any time.
7 Your statement is completely voluntary. You may
8 refuse to answer any question and you may terminated
9 your interview at any time or request a break at any
10 time. Since this is not an adversarial proceeding
11 formal Cross Examination will not be permitted;
12 however, your personal representative may ask any
13 clarifying questions. Do you have a personal
14 representative with you here today?

15 MR. COLLINS:

16 My wife.

17 ATTORNEY HAMPTON:

18 What is her name?

19 MR. COLLINS:

20 Miranda Collins.

21 ATTORNEY HAMPTON:

22 Your identity and the content of this
23 conversation will be made public at the conclusion of
24 the interview process and may be included in the
25 public report of the accident unless you request that

1 your identity remain confidential or your information
2 would otherwise jeopardize a potential criminal
3 investigation. If you request us to keep your
4 identity confidential, we will do so to the extent
5 permitted by law. That means that if a judge orders
6 us to reveal your name or if another law requires us
7 to reveal your name, or if we need to reveal your name
8 for other law enforcement purposes, we may do so.

9 Also, there may be a need to use the
10 information you provide to us or other information we
11 may ask you to provide in the future in other
12 investigations into and hearings about the explosion.
13 Do you understand?

14 MR. COLLINS:

15 Yes, ma'am.

16 ATTORNEY HAMPTON:

17 Do you have any questions?

18 MR. COLLINS:

19 None.

20 ATTORNEY HAMPTON:

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.

6 As you can see, a court reporter is here.

7 She will be recording your interview, so please speak
8 loudly and clearly. If you do not understand a
9 question asked, please ask the person to rephrase it.
10 Please answer each question as fully as you can
11 including any information you've learned from someone
12 else. I'd like to thank you in advance for your
13 appearance here. We really appreciate your assistance
14 in this investigation. Your cooperation is critical
15 in making the nation's mines safer.

16 After we have finished asking questions,

17 you'll then have an opportunity to make a statement if
18 you'd like or provide us with any other information
19 you think is important. If at any time after the
20 interview you recall any information that you believe
21 may be useful, please contact or have your personal
22 representative contact Norman Page at the telephone
23 number or the e-mail address that we provided to you
24 in the letter.

25 Any statements given by my miner witnesses

1 to MSHA are considered to be an exercise of statutory
2 right and protected activities under Section 105(c) of
3 the Mine Act. If you believe any discharge,
4 discrimination or other adverse action is 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 Section 105(c)
8 of the Act.

9 MR. FARLEY:

10 Brian, on behalf of the West Virginia

11 Office of Miners' Health, Safety and Training I want
12 to advise you that the West Virginia Coal Mine Health
13 and Safety Regulations also protect miners against
14 discrimination that you might suffer as a result of
15 participating in an interview like this. I'm going to
16 give you some contact information. In the event that
17 should happen, you have every right to file a claim.
18 Also, I want to give you my business card along with
19 one from Mr. Tucker. He's our lead underground
20 investigator, and you can contact us if your have any
21 such problems.

22 MR. COLLINS:

23 Thank you.

24 ATTORNEY HAMPTON:

25 Do you have any questions before we get

1 started?

2 MR. COLLINS:

3 No, ma'am.

4 ATTORNEY HAMPTON:

5 If you could please swear in the witness.

6 -----

7 BRIAN COLLINS, HAVING FIRST BEEN DULY SWORN, TESTIFIED
8 AS FOLLOWS:

9 -----

10 EXAMINATION

11 BY MR. SHERER:

12 Q. Please state your full name and spell your last
13 name.

14 A. Brian Alan Collins. The last name is spelled
15 C-O-L-L-I-N-S.

16 Q. Thank you. What is your address and telephone
17 number, please?

18 A. (b) (7)(C)

19 (b) (7)(C)

20 Q. Are you appearing here today voluntarily?

21 A. Yes, sir.

22 Q. Thank you. How many years of mining experience do
23 you have?

24 A. August 31st will be six years.

25 Q. Six years. Can you give me a rough outline of

1 where you've worked during that time period and what
2 you've done?

3 A. I started August 31st of '04 at UBB. And I had 30
4 days and they sent me to Black Knight II for equipment
5 training. I think I was there for roughly about 45
6 days. Then I came back to UBB and I stayed at UBB. I
7 left in early '08, I believe, and went to Brody for
8 one week. Then I came right back to UBB. And in
9 August of '08 I left UBB and went to Harris No. 1 for
10 I think it was three months. Maybe a little more than
11 three months. And then I came right back to UBB and
12 I've been there since.

13 Q. So the bulk of your experience has been at UBB?

14 A. Yes, sir.

15 Q. Do you have any federal or state mining
16 certifications?

17 A. I'm certified --- I've got my assistant mine
18 foreman card. I've got may shop tires card. And
19 that's it.

20 Q. Where are you currently employed?

21 A. I'm currently at Sand Creek and Elk Run.

22 Q. What were your duties at UBB prior to the
23 explosion?

24 A. Prior to the explosion, I was a section foreman on
25 Tailgate 22.

1 Q. And Tailgate 22 was identified with MMU-040?

2 A. Yes, sir.

3 Q. Thank you. Do you have a nickname?

4 A. Hammer.

5 Q. Hammer? I've heard that. Most of it has been
6 good, too.

7 When did you become a section foreman at UBB?

8 A. I got certified November --- I think it was
9 November of '07. And I passed my test. I think it's
10 the 7th of November if I ain't mistaken. And I came
11 to work late. We was in the area of around 78 Break
12 getting ready to punch across right here. I finished
13 bolting top for the rest of my shift there. When I
14 came in the next day they told me I was section
15 foreman. They left me with Okie Cook which was our
16 section foreman at the time for two days and then they
17 turned me loose. I started bossing right around when
18 I started driving the tailgate for the longwall. And
19 it was, right in here, around 78 break we pushed
20 across, came across, came was cutting these overcasts
21 right here, I was just trying to look for a break
22 number there, this overcast right here between the
23 double doors that went over the beltline. We was
24 cutting them and working on putting belt hangers
25 across the track right here.

1 MR. FARLEY:

2 You said 2007?

3 A. Yes, sir.

4 BY MR. SHERER:

5 Q. When you did your bossing in 2007 you indicated
6 that you worked on the tailgate primarily?

7 A. Yeah. At the time the longwalls wasn't supposed
8 to be up in here. They had changed their minds, we
9 was going to drive all this up and drive off pillar
10 panels and pillar, the way I understood if I remember
11 right. And then we got about almost up until we got,
12 I think around --- between 18 and 20, 22 Break. Then
13 I came out of the face with the fire bosses. And then
14 I fire bossed for a while and that's when --- I asked
15 to get off fire bossing I didn't like fire bossing.
16 As you can see it's a big mine, there's a lot of
17 walking. In my opinion we never had enough help fire
18 bossing. We was always shorthanded.

19 So when I came off fire bossing Gary May who was
20 --- I think his title at the time was block super, he
21 was over in this section. They asked me to come back
22 to section bossing foreman. And I think I came back
23 --- it was in August of '08. And I went back to
24 section bossing up here I think it was around 40-some
25 Break, if I remember right. It was the general area.

1 Q. That's good enough.

2 A. And I bossed for just a couple weeks and me and
3 Jason Whitehead bumped heads and I left and went to
4 Harris 1.

5 MR. FARLEY:

6 Repeat ---.

7 A. Jason Whitehead. What had happened is my buddy
8 Carly Reynold was a dayshift boss because I bossed
9 evening shift. Carl was off that day. There was a
10 fill-in boss up there. I can't remember exactly who
11 was up there that day. But when I got to the section,
12 there were seven entries, before we started dropping
13 entries out here somewhere, there was seven entries
14 wide, none of my face ventilation was correct, all my
15 air was short circuiting down my beltline. I went up
16 and I took my air readings. I think I had somewhere
17 in the neighborhood of like 1,800-something on my left
18 and 2,400-something on my right.

19 So I went back and took my vehicle --- at the
20 power center. I went back to the power center and I
21 knocked the power on the equipment. I told three of
22 my guys to go to the left, three of them go to the
23 right and me and the other three went up the center.
24 And we started doing face ventilation and there was
25 none of the backup fly pads or nothing was up there,

1 it all had been tore down. There might be like one
2 hanging here, one over here. So I done all that. And
3 I done my dust parameters. We was 55 minutes late
4 getting started loading all that day. And I came in
5 the next day and they told me I was suspended for
6 three days. He wrote it up as poor work performance.
7 And I'm hard-headed, they don't call me Hammer for
8 nothing. And if I think I'm right, I will stand my
9 ground. And Rick Hodge was superintendent at the
10 time. Rick said that Justin called and said to
11 suspend me three days for poor work performance and to
12 call him at the Marfork Office. I called him. He
13 told me if I wanted a chance to explain myself, I
14 would come down and talk to him. I told him it was
15 all wrote on my production report, that's the best I
16 could explain it.

17 BY MR. SHERER:

18 Q. So you were penalized for making the section safe?

19 A. Yeah, pretty much. That was my opinion. I mean,
20 he wrote it as poor work performance. He wouldn't
21 write it on there --- you know. He was pretty much
22 ---. The way I look at it, he's trying to cover his
23 ass. I went to the office and talked to --- I got
24 down there, we had a few words. He wanted to throw a
25 cuss word at me, you know, face to face. The way I

1 look at it, if I'm sitting there talking to you with
2 respect, I deserve respect back. And like I said
3 before, I am hard-headed, I will stand my ground.
4 Then Chris Blanchard came into the meeting. I
5 explained to them what I had again, once again I drew
6 it on the whiteboard. And Chris Blanchard said --- I
7 think it's Chris or Jason Whitehead, I can't remember
8 which one said it, he said, well, all you had to do is
9 get air at one face and you could have started
10 loading. I said no, if I ain't got the air in my last
11 open break, I cannot load. Which I'm correct; right?

12 MR. FARLEY:

13 You are correct.

14 A. Well, I mean, I know what I had to do. I got the
15 air right. I had like 18,000 on one side and I think
16 20,000-something on the other side. I mean I was in
17 good shape. It was just a matter of getting the
18 ventilation right. Well they decided while I was
19 sitting there not to suspend me for three days, to go
20 back to UBB and go back to work. Well, I left the
21 office and drove back to UBB. By the time I got from
22 Marfork to UBB, they called UBB, Jason Whitehead did,
23 and said when I got there to have me call him.

24 So when I got there, I called him. And he said,
25 you're suspended at UBB for three days but go to Slip

1 Ridge and work those three days. I said, it's all
2 Massey. I said, if I'm suspended here, I said, I'm
3 suspended there. I said, that's the way I look at it.
4 And he started getting a little hotheaded and I just
5 laid the phone down on the desk, didn't even hang it
6 up, turned around and walked out and told Rick, I
7 said, I'll see you in three days. I went home and I
8 called Sabrina Phillips who works for Patriot Coal now
9 they call it. She's at Harris 1, she does the hiring.
10 I called her. My family has all worked for her. And
11 I told her I needed to come over and talk to her about
12 a job.
13 I went over the next morning and talked to her and
14 got a job. I was off --- I took the three days off.
15 I went back on a Monday. Gary May was on vacation the
16 week that all this happened. When I went back Monday,
17 I was going to let him know that I was going to work
18 that week and I was leaving. And at the time that's
19 when they was working inputting the tube across the
20 road at Ellis Portal. And Rick Hodge and Justin
21 Whitehead had been over there and they came around and
22 I walked upstairs and I was talking to Gary May. He
23 wanted to know what happened and I was explaining to
24 him what happened. Jason Whitehead told Rick Hodge to
25 walk up there and tell --- he said you tell that son

1 of a bitch he's fired. I said I ain't fired, I quit.

2 MR. FARLEY:

3 Who said that?

4 A. Jason Whitehead told Rick Hodge to deliver the
5 message.

6 BY MR. SHERER:

7 Q. What was Jason Whitehead's position?

8 A. At the time he was vice president.

9 Q. Vice president. Was that common behavior and
10 practice at this mine?

11 A. No. Before he came there, you couldn't ask for a
12 better place to work in my opinion. Before when Craig
13 Boggs which is president at Elk Run now, when he was
14 at UBB great place. You had Wendell Wills and Dixie
15 Petry. Your superintendent was Wendell. The mine
16 foreman was Dempsey. You couldn't work for better
17 people. I mean if you had a problem, they was right
18 on it. You never had to worry about no ventilation
19 problems because Wendell is a super, super smart man
20 with ventilation. I mean, if there was a problem
21 somewhere getting air, I mean, Wendell knew exactly
22 where to go to get it. He pushed the way he needed to
23 push. And I never --- I always loved --- you can ask
24 my wife, I always left the house --- my shift started
25 at four o'clock, I'd leave the house at 1:15, 1:20,

1 1:30, I was ready to go to work. And I never came
2 home at night. I mean, I was working 14, 15 hours a
3 day. I loved it there. And then they switched all
4 the managers around. They're little young guys trying
5 to make a name for themselves is the way I look at it.

6 I just went in, did my job and did what I had to do,
7 just tried to stay clear. But like I said, when they
8 tried to suspend me for when I knew I was right, I
9 stood my ground.

10 Q. So you came back to UBB?

11 A. I left in August of '08 and I came back November
12 10th of '08. I talked to Jason Bussey when I came
13 back, I was going to join the mine rescue team full
14 time. And they was trying to decide between how to
15 break their tiers of salary up. And wanted them to
16 hurry up and get away from Harris because they was
17 talking about a layoff. I didn't have enough time to
18 really keep a job there. And so I came back as a bolt
19 man. And Jamie Ferguson was the vice president then.

20 Q. Okay.

21 A. I talked to Jason Bussey and he said, well, if you
22 want to come back to UBB, he said, Whitehead's gone.
23 I said I'll be more than happy to come back. But
24 that's about the only run-in I've had with anyone.

25 Q. So you came back to UBB as a bolt man. When did

1 you resume section boss?

2 A. Let's see, I bolted the top --- I was on what we
3 call the southside on Number Three section. This map
4 here don't show --- it's on the big map over there.
5 Where the double pillar panels is, we were driving
6 those headings. I was on that section driving the
7 headings. The one that drove all the way out we
8 butted off and back down to the first pillar panel on
9 the right-hand side. We drove and pillared it and
10 then when we was headed to the second pillar panel
11 went over to the right and started driving it. They
12 cut us back to 40 hours a week. And like I explained
13 a minute ago, I liked overtime. So I talked to Jamie
14 and asked him if I could go back to fire boss where I
15 could get some hours. And he said, that would be
16 fine.

17 So I went back to fire bossing. I was fire
18 bossing and that's where the Headgate 22 miner section
19 was driving the headgate for the longwall present.
20 Down here's the present longwall. Once I got back
21 here from the Bandytown fan, I can't remember exactly
22 when it was, I think July, early August, somewhere in
23 there maybe, while they was pulling the equipment off
24 the headgate, they had an idle section at Slip Ridge
25 --- I forgot to tell you I went to Slip Ridge for

1 about seven, eight weeks.

2 While they was pulling this equipment back, Jamie
3 came to me and asked me, he said, I got an idle
4 section at Slip Ridge, he said, would you go over and
5 boss it with some guys from here who are running a
6 little bit of coal while we're moving the equipment.
7 He said as soon as we get the equipment moved back, he
8 said, we'll move you all back. I said, do you promise
9 me that I'm coming back. And he said I promise you
10 you will be back. I said, okay, I'll help you out.

11 Because Jamie Ferguson has always been excellent
12 to me. I mean, you can't work for a better person.
13 And so I went to Slip Ridge, seven, eight weeks,
14 however long it was there. And then when I came back
15 I thought I was going to go back to fire bossing. But
16 he had me go to the south side and boss Number Three
17 section. I came back on a Monday, I bossed Number
18 Three section Monday. I came in Tuesday, and they
19 brought Shannon Perdue. He was at the Marfork Mines.
20 They brought him over, it was either Tuesday or
21 Wednesday. I can't remember if it was Tuesday or
22 Wednesday.

23 Q. That's good enough for this.

24 A. Then he went with me to Three section and I went
25 with him and David, you know, showed him around where

1 the emergency shelters and everything was. Giving him
2 kind of like a little tour how to get to a section,
3 everyday. Explain where the intakes was and all that.
4 Just kind of helped him out get going at UBB.

5 Q. Sure.

6 A. Then the next day I came in and I started bossing.
7 At the time we just called it Number Four section at
8 the end of the barrier section up in Plumley Switch.
9 We was on the --- when you got off the track, it would
10 be on the right-hand side.

11 Q. Sure.

12 A. I bossed there until we mined it out. Once we
13 mined it out, we moved up here to 78 Break, went in
14 the tailgate side, came on and finished this little
15 block between the headgate and tailgate right here.
16 And I was bossing here. And then once we mined this
17 block out, we brought our equipment up to Tailgate 22
18 or MMU-040.

19 Q. When did you start tearing that tailgate out
20 there?

21 A. Up here at MMU-040?

22 Q. It was right after Christmas vacation sometime
23 because we was all --- we was trying to milk this
24 panel out, that way we didn't have to work through
25 vacation. We were just kind of backing off, taking

1 our time a little bit.

2 ATTORNEY HAMPTON:

3 Now you keep pointing and saying this,

4 can you be a little bit more specific?

5 A. The block between the headgate and tailgate, the
6 little V-shaped block here. We kind of backed off and
7 was taking our time with the block between the
8 headgate and tailgate so we didn't have to work
9 through vacation. And I'm pretty sure it was right
10 after the holidays. It wasn't too long after the
11 holidays. Then we had to move up here. When we moved
12 up to the tailgate, we had to come down and set a belt
13 head down where on the Headgate 22, put our beltline
14 in. They had that fall there. They was working on
15 cleaning it up, the rib up on top of it to bolt it.
16 And actually that's where they brought our track in.
17 They brought our track right across the top of the
18 fall and down to us. And then before the longwall
19 pulled back on track, we came up the longwall track
20 and we walked over to the section.

21 BY MR. SHERER:

22 Q. Who is your current supervisor? Who do you report
23 to?

24 A. Right now?

25 Q. Yes. Or immediately prior to the explosion,

1 excuse me.

2 A. They had two superintendents. Gary May was listed
3 as a superintendent and Everett Hager was listed as a
4 superintendent. Wayne Persinger was vice president.
5 He just had came there a couple weeks before, I
6 believe. He hadn't been there long. I was still ---
7 I was under Gary May while we was driving the barrier
8 section and when we moved up here, we was still kind
9 of under Gary May and Everett, too. We just listened
10 to both of them. I listened more to Gary than I did
11 Everett because Everett was at the Ellis Portal and I
12 was at the UBB Portal with Gary. So if I had a
13 question Gary was right there to talk to. When we got
14 up here, Everett made the calls and Wayne made a lot
15 of calls. Basically day by day whoever hollered at me
16 on the mine phone would tell me what needed done.

17 Q. Now, where did your crew portal from?

18 A. We portaled from UBB South. I think they call it
19 UBB Two North Portal.

20 Q. Sure. How many people were on your crew?

21 A. On the tailgate?

22 Q. Yes.

23 A. I had myself as the foreman. I had Scott Barnett
24 as the electrician. I had Mike Smith, Steve Daniel
25 and Daniel McAllister as boltmen. I had Kenneth

1 Colson and Dave Lambert as buggymen. And I had, we
2 called him Rudy is his nickname. His name is Jeremy
3 Irwin. I had him as a scoop man.

4 Q. Okay. And you primarily worked which shift?

5 A. Evening shift, worked straight evening shift.

6 Q. Straight, didn't rotate?

7 A. No. When we was driving the barrier section Steve
8 Harrah, the one that was killed, that's the boss that
9 I followed. Before I went up there, Charlie Moss was
10 boss. They would switch every two weeks, just the
11 bosses, not the crew. I told Steve, we called him
12 Head, I said hey, I don't want to do that swing stuff.
13 I said, if you want straight dayshift, man, he said,
14 I'd love that. I said, well, I'll take straight
15 evening. He said all right, so we just went from
16 there. We okayed it by Gary and Gary said that's
17 fine.

18 Q. Did you plan to work Mr. Collins or were you told
19 what do to?

20 A. As far as?

21 Q. General assignments, duties.

22 A. Like land of cycles and stuff like that?

23 A. I drew my own test cycles. As far as like if
24 something needed done to help out or something like
25 that, either Wayne or Everett or Gary May would let me

1 know what needed to be done.

2 Q. But you had authority over the section itself?

3 A. Yes, sir.

4 Q. Did you have the authority to hire and fire?

5 A. I was told --- I ain't going to say I can fire
6 them and they would actually be fired. That would be
7 up to like Everett and Gary and Wayne I would say.
8 But if I had a problem on the section, I could tell
9 them to get their stuff and go outside.

10 Q. Sure. Thank you. Was any part of your
11 compensation based on production or profitability
12 bonuses?

13 A. They do offer a production bonus but we never
14 bonused. We didn't run enough coal. You had to
15 average like so many feet per month.

16 Q. When did that shift normally start and end?

17 A. Evening shift started at four o'clock and ended at
18 1:00.

19 Q. Do you know if that was true for all of the miner
20 sections in this part of the mine?

21 A. No, sir. The Headgate 22, I think they started at
22 3:30 underground maybe.

23 Q. SO it's not really ---?

24 A. I really ain't sure, I never worked on that
25 section.

1 Q. So each section had a slightly staggered shift
2 time?

3 A. Yeah. The longwall hot-seated, they basically
4 never shut down between shifts, they'd switch out on
5 the face.

6 Q. Sure.

7 A. I know the Headgate 22 miner section, I think they
8 went in at, it was either 3:00 or 3:30 they started.
9 And they came out at 1:00 with us. I think they was
10 on ten-hour shifts. I think they worked 3:00 to 1:00
11 if I ain't mistaken.

12 Q. But you didn't hot seat on the ---?

13 A. We did not hot seat on the tailgate section. They
14 worked 6:30 to 3:30 on dayshift and usually Steve
15 would get out around 25 after 3:00, 3:30, 3:35 in that
16 area, draw up the whiteboard, draw what kind of cycle
17 and we'd go in.

18 Q. Sure. When you would come in from the UBB Portal,
19 did you pass through any equipment doors?

20 A. Yes, sir.

21 Q. How many roughly?

22 A. From outside all the way to the section?

23 Q. Yeah.

24 A. When you go in you had two sets at the Plumley
25 Switch. You came up to, right before Ellis --- what

1 we called the Ellis Switch, which would be I think the
2 doors was at 130 and 132 Break or 131. There was two
3 sets there. If you turn the curve to the Ellis Switch
4 to head up north mains, it started back at One Break.
5 At 78 we went around the curve and then you had the
6 doors. At 79 Break you had two sets. And then a
7 couple breaks down around 80, 81 Break there was two
8 more sets. We came on down the north mains track and
9 turned in on the Headgate 22 miner section of track.
10 And we'd go up here and we had a backward switch. We
11 came in and we had two sets of doors right here. And
12 then we came down the track and parked. And then we
13 ran --- the track wasn't through there yet but we had
14 two sets of doors here, two sets of doors here where
15 the track was going to come through.

16 ATTORNEY HAMPTON:

17 Would it be helpful to have him mark
18 where the doors were?

19 MR. FARLEY:

20 For right now we can just say that these
21 last two sets of doors were near the mouth of the
22 section.

23 A. Yeah, they was right behind the belt head on the
24 Tailgate 22 motor section. There was 2, 4, 6, 8, 10,
25 12, 14, ---

1 BY MR. FARLEY:

2 Q. A lot of doors.

3 A. --- 16 sets of doors. Only one set was automatic.

4 Q. Were those doors always maintained in good shape?

5 A. No, sir.

6 Q. Were they damaged by motors coming through or
7 trips?

8 A. The doors inby 78 Break I have seen them hit with
9 motors. A motor hit it and it had a block out in the
10 top corner. The intake actually came between those
11 two sets of doors.

12 Q. Is there a lot of leakage when those doors are
13 damaged?

14 A. Until they got back up there and blocked them they
15 would actually be the inby set so you had a door shut
16 behind that was fully sealed that you could still hear
17 a little air whipping through, not major, major, but
18 you could still hear a little pull through I guess
19 where it's coming under that front door.

20 Q. Sure. Have you ever come up on those doors and
21 found them open?

22 A. I have come up on the doors at Ellis Switch and
23 found them open. I found them open one time but what
24 had happened, the dispatcher had got confused and let
25 a ride come --- we was coming in and they took a ride

1 coming out. And he had just come through the doors
2 and he parked between them and went ahead and walked
3 down and opened the other set before he shut the back
4 set. And he pulled down and was almost at 128 Break
5 Switch, instead of pulling up and using the switch and
6 letting the switch out, he backed all the way back
7 around the Ellis Curve and got in Ellis Switch. So
8 that's about the only time I ever came up on those
9 doors opened.

10 Q Have you ever come up and one of the doors would
11 be open?

12 A. Like one end or the other?

13 Q. Sure.

14 A. I've come up on the door to Plumley numerous times
15 and liked the outby set have been open.

16 Q. Have you ever heard of when there's several trips
17 coming out at shift change, first one would open the
18 doors and the last trip would close the doors?

19 A. Yes, sir.

20 Q. You have heard of that. Any specifics?

21 A. Mainly the doors at Plumley, that's automatic.
22 You just had to push the button for them. The front
23 trip would open them and then pull up. And instead of
24 pulling all the way down to the next set of doors and
25 let a couple trips in behind, they would shut the back

1 set and then open the front set. I have seen the
2 front set open the front valves I've seen open, just
3 take on off, and then the last trip they shut both
4 sets. We had a big meeting on that. There was a
5 federal inspector rode in with the crew and they done
6 that. They got their hind ends tore up which, I mean,
7 myself, I always --- if we was coming out, if I was in
8 the lead I'd open the front, the inby door, I'd pull
9 all the way down by the outby door and I'd sit there
10 somebody until shut the back door and opened the front
11 door. I mean, they're called air lock doors for a
12 reason.

13 Q. Thank you. What did a section foreman on the 22
14 Tailgate normally do? Roughly what's your duties?

15 A. When I got to the section?

16 Q. Uh-huh (yes).

17 A. I'd run my faces, check for gas, check my air,
18 make sure my ventilation was correct. We'd do dust
19 our parameters on the motors to make sure we had our
20 dust sprays on the miners working, cleaned the dust
21 boxes, on the motors, put water in the boxes. I'd
22 come down I'd check around the power center, go over
23 and check the intake phone. I'd always check --- I'd
24 walk down and visually check my barricade shelter
25 usually at the start of every shift. And then I would

1 date up on it when I was done with preshift.
2 And I would walk down and I'd visually check the
3 barricade shelter and the intake. And I wouldn't date
4 up, I'd visual check it, make sure everything was in.
5 And then I'd come back up and my men would have their
6 dust parameters done and then if we had air, we would
7 take off running coal.

8 Q. And during the shift itself, what did you do as
9 far as doing ---?

10 A. Get my center lines up, made sure my equipment had
11 air, dates, time and initial in every face every two
12 hours, checking for gas, CO, methane. I went along
13 behind them and I'd try to keep my backup flies up,
14 you know. If we'd touch a breakthrough, as soon as we
15 can go through --- nine times out of ten I would
16 already have my fly pads on my backup board and I'd
17 just have them wrote up. I'd just have to go back
18 around and drop them. And we tried to keep it that
19 way, it made it a lot easier, a lot simpler, a lot
20 faster.

21 Q. Did you swap out with the equipment operators?

22 A. When I was a section foreman?

23 Q. Uh-huh (yes).

24 A. All right. If we was running good coal, like no
25 downtime or nothing like that, if we was running good

1 coal I would go up and ask the miner man if he wanted
2 a break to get a little bite to eat. And I would load
3 long enough for him to eat his sandwich or whatever.
4 I forgot to tell you one person who was on my crew on
5 the tailgate. My miner operator was Josh Hodge. I
6 forgot to tell you my miner operator.

7 MR. FADLEY:

8 Hodge?

9 A. Hodge, Josh Hodge.

10 BY MR. SHERER:

11 Q. How many miners did you have on that section?

12 A. We had two miners.

13 Q. How many bosses?

14 A. How many bosses?

15 Q. Bolters?

16 A. Bolters? Two.

17 Q. How many shuttle cars?

18 A. Three.

19 Q. How many scoops?

20 A. Two. Nine times out of ten our last shuttle car
21 we was talking about we was just running three entries
22 and just reset without stopping.

23 Q. Sure. That's a lot of equipment on a three-entry
24 section.

25 A. Yeah.

1 Q. What about your preshifts, when would you start
2 those?

3 A. Three hours prior to the next shift coming on. I
4 usually done my preshift the last time that I ran my
5 face. We left the section --- we had about an hour
6 ride on the mantrip, hour, hour and five or ten
7 minutes if we didn't get held up. I would run my
8 faces --- the last time I would run my faces is
9 usually about 10:00 to 10:45 is when I would run my
10 preshift. It took a little longer, you know, that's a
11 long time on three entries but, you know, that was me
12 coming out checking my scoop chargers when they was
13 close to the section. Once we got up in there the fire
14 bosses took care of the scoop chargers right down here
15 around the belt head, Number Two belt head here. I
16 went around checked my intake phone again, checked my
17 shelter, checked the calibration on the spot or in the
18 shelter, made sure all my gauges had the pressure and
19 nothing was leaking off, checked my power center and
20 all that.

21 Q. And did you call your preshift out?

22 A. Yes, sir.

23 Q. Did you ever have a chance to meet up with the
24 oncoming section boss or did you meet up with the
25 section boss coming off of the previous shift?

1 A. The previous shift?

2 Q. Yes.

3 A. Are you talking dayshift coming out?

4 Q. Yes.

5 A. There have been times that I've been coming in and
6 we'd pass the crew in a spur somewhere. More than
7 likely like the belt hangers or if something happened
8 say something went down and they had to stay back
9 working on it or something like that. I have passed
10 them at 78 Break Switch a couple times.

11 Q. It was just kind of an unusual occurrence, it
12 wasn't a common thing?

13 A. No, it wasn't very common.

14 Q. You didn't meet up and try to tell them where
15 things were at?

16 A. No. Nine times out of ten Steve was in the office
17 before my shift started and had the board drew and I
18 had my cut cycle drew up. Josh would walk upstairs
19 and write his cut cycle down. And we'd go from there.

20 Q. Okay. When you got on the section and you did
21 your ventilation quantities, were they fairly
22 consistent? And I'm talking roughly the month or two
23 before the explosion.

24 A. Are you talking about as far as in the last open
25 break?

1 Q. Yes.

2 A. I have shut down this Tailgate 22 section one
3 night for no air. I had air --- let me rephrase that.
4 It wasn't for no air. I had air but it was --- I had
5 more air coming in by on my belt where belt air is
6 supposed to go out by. I had more air coming in by my
7 belt than I had coming up my intake.

8 Q. Is that allowed under your ventilation plan?

9 A. No, sir. It wasn't actually during --- at the
10 start of the shift I went up and checked my last open
11 breaks and everything. We got off the mantrip, just
12 go across the overcast and straight up the intake to
13 the section nine times out of ten. Sometimes one of
14 us would go around and make sure that the belt
15 switches was running. And if we heard one belt
16 running, then we knew the Number Two belt would be off
17 at the tail. So we would walk the belt. If one belt
18 went off, sometimes they'd come down and they'd shut
19 one belt off at the tail. So I had both of my belts
20 shut off. So if we didn't hear the belt, one of us
21 would go around that way and start the belts up. I
22 went up to the section, I done my last open break air
23 readings. It was roughly like --- I'm thinking like
24 26,000, 27,000 in that area that day. Your last open
25 break reading is always depending on what you had on

1 the curtain. And then I walked around, I said, well,
2 something don't feel right because I was walking down
3 the belt and there wasn't much air rushing me in the
4 face, something don't seem right. So I said, maybe
5 the curtain down there across the fly pad on the right
6 duct, somebody tore it down coming through there. So
7 I walked over to check it to see if it was --- because
8 it wasn't running right buggy, it was running left and
9 center. I came down and looked and saw the curtain
10 was still there. I looked at my check behind the
11 feeder and it was blowing straight toward the section.
12 I took off and I went down the beltline looking to see
13 if I had a problem with one of the overcasts or
14 something like that. I went down there and I noticed
15 I had more air than what I did, I got to the belt
16 head, hit the stop button on the belt. I called the
17 section and told them we was down until we got the air
18 right. I called outside and told them I was down with
19 air problems. That day on dayshift, I ain't for sure
20 who done it or nothing like that, I never did hear
21 nobody say who done it. They put a regulator right
22 behind the Number Two belt head going towards the
23 return, you can see it marked right here on the map,
24 regulator. Somebody put a regulator in that stopping.

25 ATTORNEY HAMPTON:

1 Can we maybe mark where you're pointing
2 to on the map? I'm handing you a pink marker, if you
3 could circle that and then make an arrow off to the
4 side.

5 A. There's a belt --- this is a belt regulator.

6 ATTORNEY HAMPTON:

7 Yeah, write the word belt regulator. And
8 do you know approximately when this was?

9 A. I ain't for sure of the date. Like I say, I'm
10 super horrible with remembering dates.

11 ATTORNEY HAMPTON:

12 Maybe the month?

13 A. It was ---.

14 BY MR. SHERER:

15 Q. Was it within a month of the explosion?

16 A. I would say.

17 Q. Was it within two weeks of the explosion?

18 A. No.

19 Q. So it was ---.

20 A. It was probably three weeks to a month before the
21 explosion roughly. We was just in here and had these
22 overcasts built. The feeder was sitting one break
23 inby the overcast on the beltway when we had that
24 problem.

25 Q. Okay.

1 A. So it was roughly three weeks, a month maybe, in
2 that general idea. The feeder was sitting right there
3 one break inby that overcast when I had that problem.

4 MR. SHERER:

5 Let's have Polly label the exhibit.

6 ATTORNEY HAMPTON:

7 I want to mark this as a scale 1 to 200

8 map of the longwall. I'm marking this as Exhibit One,
9 Collins, 6/26/10.

10 (Exhibit Number One marked for
11 identification.)

12 BY MR. SHERER:

13 Q. Let's get back to ventilation on the section.

14 A. Okay.

15 Q. Were you advised that that change in the
16 ventilation had occurred before you arrived at the
17 section?

18 A. No.

19 Q. Was that common?

20 A. No.

21 Q. Usually if they had done something to make your
22 air pull around or something, they would say hey we
23 checked this regulator off a little bit or we'd open
24 this regulator a little bit to see if that helps you
25 or something like that. Usually they let you know but

1 I never did find out who laid that belt regulator
2 right there.

3 Q. Do you think that was done during the preceding
4 shift though?

5 A. It wasn't there the night before.

6 Q. So it was done sometime during that period of
7 time?

8 A. Yes.

9 Q. Did you notice when the regulator appeared on the
10 maps?

11 A. No. I can't relay remember when it appeared on
12 the map. I never really looked at the big map. I
13 always just went off my little pocket map that I
14 carried with me. And once I seen it on there I pulled
15 my pocket map out and I marked it.

16 Q. What about the conditions on the tailgate section?
17 I'm talking about the roof ribs, floor?

18 A. The bottom was busted up, we had some water coming
19 in the bottom. In my opinion it was coming from down
20 the longwall. Back here behind the longwall you could
21 see a lot of water. They used to have a crew that did
22 nothing but go back in here and run pumps behind this
23 longwall. I'm pretty sure they still had a crew doing
24 it. I think Jeremy Burdoff, and don't ask me how to
25 spell his name. I don't know. He was a boss.

1 Q. We've interviewed one of the red hats that worked
2 with him. I think he referred to this as the
3 Bandytown Lake.

4 A. Yeah, basically that's what it is. I mean,
5 Christmas vacation last year I worked with Gary May
6 and Jamie Ferguson when they was doing the ventilation
7 change. And we had to come back --- we would make
8 this tailgate and every five stoppings somebody got
9 black marks on them. Every five stoppings where
10 there's manholes, we made a common air. And we got
11 back in here and then we had to come down --- we came
12 across back in here somewhere. And we went down in
13 here and man alive, we was in water up to our chin.
14 I'm six foot five and I was in water up to my chin.

15 ATTORNEY HAMPTON:

16 Can you explain when you're pointing at

17 the map and saying here where you were when the water
18 was up to your chin?

19 A. We was at the tail end of the tailgate. It went
20 across the back of the tailgate up through the
21 headgate section. We went all the way up in through
22 here. We were right in here checking air, I think
23 around 85 to 90 Break. And then we got down here in
24 the 75 to 70 Break. They were ugly and they were
25 full of water. We had one entry that was passable.

1 BY MR. SHERER:

2 Q. Were any of the entries roofed out?

3 A. None of them was roofed out. They was back there.

4 They all had pumps running. They had a crew of men

5 back there and they had those air pumps. And they had

6 kept a crew of men back there daily pumping water,

7 make sure the pumps was running. I had bought them

8 all waders. They would go out --- that's all they

9 done was go out the longwall and pump water.

10 MR. FARLEY:

11 You said you did a common air thing in

12 December of 2009; is that what you said?

13 A. Yeah.

14 BY MR. SHERER:

15 Q. Going back to the tailgate section, you said the

16 bottom was breaking up. Was the floor hooving or just

17 breaking up under the equipment?

18 A. Number One entry?

19 Q. Uh-huh (yes).

20 A. Like I say, when we was cutting it would be heard.

21 Every once in a while you'd hit a little soft spot in

22 it. And you'd run out of roof for a couple cuts, and

23 then bust up. We was off for two days, a two-day

24 weekend. We'd come back and the breakthrough between

25 One and Two had hooved. I mean was up in the middle

1 hooved.

2 Q. About how high was it hooved up?

3 A. It was hooved probably a good foot to 18 inches.

4 It was just right up in the middle busted. I just

5 took my scoop and bowed down and shoved it up in

6 there. And then I took my miner across there and

7 graded it down and smoothed it back out for the

8 buggies.

9 Q. Okay. Now, when the floor was hooving like that,
10 did you notice any methane on your spotter?

11 A. No, sir.

12 Q. Okay.

13 A. The only methane I found while I was on this

14 tailgate section --- I'd show like .1 in my faces. If

15 the faces were drove across flush, you know, we would

16 flush everything up. You had your curtains up right,

17 I'd show no methane. You get your faces up in there a

18 little bit, probably 60, 70 feet, you'd hold .1, .15.

19 That's the most I ever seen in my faces. I think it

20 was .2 or .25 one night. That was in One face, but it

21 was drove in 120 feet. So what I done was I took my

22 curtain off of the rib bolt and I moved it to the

23 center of the entry, pushed more air in and pulled

24 more air out. That height would go down a little bit

25 more on the bottom. Didn't have no pogo stick or

1 nothing like that. I'd just get me some big pieces of
2 rock and I'd make sure I had it pulled down tight to
3 the bottom. And there was some crib blocks where, you
4 know, you angle your curtain to give more to go up to
5 your face. We always had a fly board down at one down
6 there. I went back here and I --- they had flies all
7 the way across that for like four foot off the rib,
8 you know, as your return. I rolled up two of those
9 fly pads and put my curtains to the center of that fly
10 board and sawed the other side of the fly board off
11 with the curtain. And there was some crib blocks
12 laying there and I took those cribs and nailed the
13 curtain to the cribs to hold it down and went back up
14 in there, and it showed .5 --- .05, not .5.

15 Q. So you never saw much methane at all in this
16 section?

17 A. I never seen a whole lot. The most methane I ever
18 seen in this mine personally was when the miner
19 section was driving the headgate for the longwall. I
20 think around 75 Break in the return there was a pump.
21 And when I was fire bossing I went across to this pump
22 and I had .8. When I came out of that return I went
23 straight to the section and let the section foreman
24 know. The section foreman was Rick Hutchens, called
25 him Smurf. And he said he'd keep an eye on it. That

1 was on my first fire boss run. I done two a night. I
2 fire bossed --- we pre-shifted for hoot owl and then
3 we pre-shifted for dayshift.

4 On the second run I went up there they wasn't
5 producing coal, and I had .4.

6 Q. Have you heard of greater concentrations of
7 methane anywhere?

8 A. Yes, sir. I heard when they drive up to this fan
9 right here, at Bandytown, I heard they hit nine ---
10 eight, nine, ten percent.

11 Q. Oh, geez.

12 A. I was never up there to verify it, but I have
13 heard them talk about it.

14 Q. Okay. What about immediately --- within a week or
15 so prior to the explosion, did you hear of any
16 problems with methane anywhere?

17 A. I heard the section foreman on Headgate 22 called
18 out his pre-shift one night. And usually we was on
19 the phone about the same time calling out our
20 pre-shifts. I always tried to beat him because when
21 Pat Hill --- when he was on the phone calling out a
22 pre-shift, he wants to give you his life story. He
23 talks and talks and talks. You know, you're sitting
24 there, trying to get your pre-shift called out so you
25 can get back to your job. So I always tried to get

1 down there and I'd start hollering, tried to get ahead
2 of him. And I sat there one night and I heard him
3 call out like .25, .2 and --- I think the most I heard
4 him call out was .25, and he said that was all faces.

5 Q. Okay. You mentioned you had a problem with
6 ventilation coming down the --- air coming down the
7 beltline.

8 A. My beltline air was coming inby.

9 Q. Yeah. Any other ventilation surprises on the
10 section?

11 A. The tailgate section that I run?

12 Q. Yes.

13 A. No.

14 Q. Did things ever change while you were in the
15 section? Would the air all of a sudden get stronger
16 or die off?

17 A. We went up here one shift and it was probably ---
18 I want to say roughly a month before the explosion.
19 The faces was flush except for the belt entry. It was
20 in one cut. I went over there and I had 46,000,
21 47,000 in my last open break. That's what I say, if
22 you had your faces pretty much flush, I mean, that
23 air, you know, you had to tie crib blocks to your
24 curtains. As soon as you ran, it seemed like your
25 return didn't want to pull. It was strong or

1 something, but you know, it was going up around the
2 faces. Our return came down and they knocked a
3 stopping. They had put our return one night up behind
4 the longwall, and there was --- there was times I'd go
5 over there and it just seemed like it wasn't pulling,
6 and it was pulling but it wasn't pulling hard, you
7 know, like the dust was hanging. Then the return off
8 of the headgate miner --- Headgate 22 miner section,
9 they came down, they put their return coming across,
10 built an overcast across my intake, across my
11 beltline, and put their return dumping out right into
12 my return, and it went out and up behind the longwall
13 also. I have walked down the return and come to where
14 their return dumps in and pick up like .2, .3 methane.

15 Q. Okay.

16 A. But ---.

17 Q. So you're saying occasionally you just wouldn't
18 have the quantity you would normally have?

19 A. Yeah.

20 Q. Do you know what may have contributed to that?

21 A. The only thing I know is the night that --- when I
22 shut down for no air, somebody went down here and done
23 something with these doors. They was having air
24 troubles on the headgate section the same night. I
25 don't know if it was something they done that blocked

1 my air or made my air pull backwards, but they had me
2 go there that night. I built those two --- we built
3 two belt regulators, stop across the belt. I found
4 two pieces of I beam when we just built these
5 overcasts. I set them across my beltline and built a
6 stopping all the way --- you know, where the beltline
7 runs through. Terry Moore is the one that told me to
8 do that. I called out and he told me to build some
9 beltline stoppings and do that and see if that helped
10 anything. And Scott Barnett, my electrician on the
11 section, was also a certified foreman. A great man to
12 have on the section, do anything in the world to help
13 you. He was down in here. I think he had Dave
14 Lambert with him.

15 ATTORNEY HAMPTON:

16 Down in here is where?

17 A. Towards the --- he was down the track, towards the
18 Headgate 22. And he was down in here in the intake,
19 walking to make sure there wasn't no fall or anything
20 like that or a stopping crushed out. He was down in
21 here, around the mouth of the Headgate 22 miner
22 section, checking everything out, trying to see if
23 they could find anything. And me and the rest of the
24 guys was up here building these beltline stoppings at
25 the Number Two belt head. It was between Number Two

1 belt head and the intake overcast.

2 BY MR. SHERER:

3 Q. Do you recall roughly when that occurred?

4 A. It was, like I say, about three weeks to a month
5 before the explosion maybe.

6 Q. Now, you did mention that the 22 Headgate was
7 having problems with air.

8 A. Yeah. They constantly had air problems.

9 Q. Okay.

10 A. You know, I'd hear them on the phone hollering,
11 well, I ain't got no air or something like that. I
12 called out at seven o'clock and ten o'clock. And
13 around seven o'clock, you know, I'd always holler, you
14 know, competition, I said, how much footage you got.
15 He'd say, I got 25 feet. I'm smoking your ass
16 tonight. I got 50 already. When we were down on the
17 barrier section, we was outrunning the longwall when
18 they was in that bad condition. And you know, for a
19 miner section to outdo the longwall, it would be --- I
20 mean, we ran around like banty roosters with our
21 chests bowed out. And the longwall boss, I heard him
22 on the phone one night, he said, how much has that
23 barrier section got here at seven o'clock? He said,
24 well, he said, what do you got? He said, right now I
25 got .1 passing. He said, well, he said, they got 120

1 foot already. He said, man, he said, them guys can
2 run coal, can't they. I said, that's all right,
3 buddy. We'll keep the lights on for you. He said,
4 all right, smart ass. I had the road then, you know,
5 but ---.

6 Q. What about rock dust, what do you think about the
7 way this area was dusted, both your section and the
8 area immediately outby?

9 A. The section, we tried to machine dust every other
10 shift. Every other night we tried to machine dust.
11 Jason Thomas was the hoot owl foreman, the move boss.

12 Q. Sure.

13 A. and if something happened like, you know, I was
14 low on scoop power or something, when I called out my
15 pre-shift I'd say --- we called him Jaybird. I'd say,
16 Jaybird, can you take care of dusting the section
17 tonight? I'm low on scoop power. He'd say, not a
18 problem. By the time, you know, we got off the
19 section and come down the track and switched out with
20 him, he got up there and he had enough scoop air, he
21 could dust. I mean, we hand dusted heavy. I always
22 believed --- always said a white mine is a happy mine.

23 Q. There you go.

24 A. Jeremy Lester was the scoop man on the section,
25 one of the red hats, and that's what he was telling

1 me. He would come up there --- I mean, you'd be
2 bolting and they would be standing beside you throwing
3 a handful of rock dust over your head. I'd say,
4 Jeremy, can you wait until I get done? He said, a
5 white mine is a happy mine. That's where I got that
6 from.

7 Q. Okay. That's a good one.

8 A. He would --- I mean, we tried to dust religiously
9 every other night. If I didn't get to it, Jaybird
10 would.

11 Q. How about your beltline?

12 A. The beltline, Jaybird, he would --- it would go
13 down through there. You couldn't get a scoop down
14 there. He would hand dust it. He would keep it ---
15 actually, it would be on his to do list --- their to
16 do list, and it would say hand dust beltline. There's
17 beltline down through here. There was spots in it
18 that was black and some of it that was pretty white
19 the last time that I seen it. I didn't go down that
20 beltline much.

21 ATTORNEY HAMPTON:

22 Which beltline are you referring to?

23 A. That's the Number One beltline that come from
24 Headgate 22 to Tailgate 22.

25 BY MR. SHERER:

1 Q. Who was supposed to keep up with the dust in that
2 section of the belt?

3 A. Fire bosses.

4 Q. Fire bosses.

5 A. I don't know which fire boss took care of it. I'm
6 not for sure. They was always in different places.
7 When I was fire boss, you know, running our belt
8 heads, they expected us, you know, to keep the big
9 plow shoveled, keep the --- run the trickle dusters at
10 the heads. And between those, if I had time I would
11 dust, you know, the beltline or I would go shovel.
12 They expected us to get the pins done on the belt
13 heads, the greasing and make sure the fire suppression
14 sprays was all in good shape, the --- I forget what
15 they call them. It looked like a little helicopter
16 blade on top of them.

17 Q. What about the trickle dusters? Did you have a
18 trickle duster on that belt?

19 A. On this belt?

20 Q. Uh-huh (yes).

21 A. On the tailgate?

22 Q. Yeah.

23 A. They hadn't got one hooked up there yet.

24 Q. Okay.

25 A. If they got it hooked up, it would have been on

1 dayshift ---

2 Q. Okay.

3 A. --- or hoot owl the day before the explosion, but
4 I didn't see one there the last shift I worked.

5 Q. Okay. Thank you.

6 A. I can say, too, the six-foot beltline, I filled
7 in --- we had our retraining and then the way they
8 broke it up, all the fire bosses had to go to
9 retraining on the same day. So they made the section
10 foremen come out and fire bossing for them that night.
11 That's poor planning. They took my day off. But when
12 I did walk these beltlines, Four North and Five North
13 and Six North had been dusted heavy. It was probably
14 the whitest I've ever seen those belts. Since Everett
15 Hager came there --- he's big on belts, and he stays
16 on those boys' hind ends about keeping the belts
17 dusted. The Four North, Five North and Six North
18 belt, it had probably been the whitest I seen them in
19 a long time, but they was always white, but you know,
20 you'd get your float dust and it would go gray. Then
21 by the time you start down here and you come up there
22 another 20 breaks dusting, you'd have to go there and
23 start gain.

24 Q. Sure.

25 A. So it would get gray in spots up through here from

1 float dust and then --- but up to the Seven North head
2 was --- I mean, looked like it snowed. And then Seven
3 North belt was --- needed some additional dusting. I
4 mean, there was --- you go a couple breaks, it would
5 be white, go a break it would be gray, go a break it
6 would be white, go a couple breaks gray. It just ---
7 because that belt sat idle for the longest time after
8 we got done using the Glory Hole. And they just had
9 put it back in service not long before this explosion
10 happened for this belt head off the Headgate 22 mother
11 section and our belt dumped on the Headgate 22, over
12 onto there, too.

13 Q. Do you know if there were any trickle dusters up
14 in this area?

15 A. When I fire bossed I seen one down around the
16 Seven North belt tail for the headgate. It wasn't
17 hooked up yet. It was still brand new, on the pallet,
18 wrapped in plastic.

19 Q. That's real effective.

20 A. I mean, like they just had brought it in or
21 something. I ain't sure how long it been there.
22 That's the first time I fire bossed in a long time,
23 the first time I walked my belt lines in a long time.
24 I don't know how long it had been sitting there, but
25 I'm pretty sure there was one sitting right there

1 around Seven North tail. I know Six North head, Five
2 North Head and Four North head all had trickle
3 dusters.

4 Q. Okay. You mentioned that there were gray spots on
5 those belts. When did you notice that in relationship
6 to the explosion?

7 A. Retraining was in March.

8 Q. Okay.

9 A. I can't remember exactly what day the retraining
10 was. Maybe March 16th, ---

11 Q. Okay.

12 A. --- somewhere in that neighborhood. It was on a
13 Saturday.

14 Q. About mid-March?

15 A. Yeah, about mid-March.

16 Q. Okay. So within about two weeks or maybe three
17 weeks?

18 A. Yeah. They went to --- I'm pretty sure March was
19 retraining. I got a calendar at home. I can probably
20 look at it.

21 Q. No, that's good enough. So it was within two or
22 three weeks, would you say that's ---?

23 A. Yeah, within two or three weeks. But like in the
24 gray spots, if you take your foot and you kick in, I
25 mean, it was thick rock dust.

1 Q. Sure.

2 A. It just had float dust on top of it.

3 Q. Just a little float dust on top of it?

4 A. Yeah.

5 Q. Okay. Ever hear of ventilation problems in any
6 other part of the mine within the week or so before
7 the explosion?

8 A. Well, the only section I really ever heard holler
9 about ventilation problems was the Headgate 22. And a
10 couple months before the explosion, I knew the
11 longwall had a little bit of an air problem.

12 Q. Yeah. Have you ever been sent home or told not to
13 come in because of ventilation problems?

14 A. No. I never got that lucky. I always had to go
15 into work.

16 Q. Do you know if the other miners had to stay home?

17 A. I have --- I think there was a day or two that I
18 remember the guys getting called off, telling them not
19 to come in, we was working on ventilation.

20 Q. Okay. Do you recall roughly when that occurred?

21 A. Let me think here. I heard a couple times, matter
22 of fact, while I was at Slip Ridge --- I wasn't even
23 at UBB. I was at Slip Ridge and I heard that the
24 guys --- we'd go in on evening shift, and Tim Shea was
25 the superintendent over there, and he'd say, well,

1 those UBB boys are off again.

2 Q. I know you told when you were up at Slip Ridge,
3 but ---.

4 A. That was --- I'm going to say it was around July
5 to September --- late July to mid-September of '09.

6 Q. Okay.

7 A. It was whenever they cut into the --- for the
8 Bandytown fan up there while we was over there.

9 Q. Okay. The week or so before the explosion did you
10 ever hear of any methane-related problems anywhere in
11 the mine?

12 A. The only methane I heard of --- I never really
13 heard nothing about the longwall because I was over on
14 Ellis side, and I --- I'd hear --- when I'd hear Woody
15 on the phone --- we called him Woody, Kenny Woodruff,
16 I'd always aggravate him because --- that's one that
17 always tried to --- down the miner section because
18 they were stopping us, you know. I'd ride him a
19 little bit, but I never heard --- he never said
20 nothing methane or nothing. I never heard nobody on
21 the wall talk about methane.

22 Q. Okay.

23 A. But like I say, I wasn't around them.

24 Q. Okay. How about the --- as I understand it, when
25 the coal mine shut down for Easter Sunday, ---

1 A. Yes. I know I was off.

2 Q. --- that's good, did you guys get like an extra
3 day, holiday? Did some folks shut down ---?

4 A. Good Friday.

5 Q. Good Friday.

6 A. We had a three-day weekend.

7 Q. Did the miner sections run over that weekend?

8 A. Headgate 22 did run Friday and Saturday I do
9 believe, ---

10 Q. Okay.

11 A. --- if I ain't mistaken. And the way I understand
12 it, everybody was supposed to be off Easter Sunday.

13 Q. Okay. Did the longwall work on Easter Sunday; do
14 you know?

15 A. I ain't for sure if the longwall did or not. I
16 know the longwall usually don't shut down very often.

17 Q. Sure.

18 A. They usually keep on trucking.

19 Q. Do you --- have you --- do you know or have you
20 heard how the longwall did on the day of the explosion
21 during the dayshift?

22 A. Are you talking about how they --- as far as
23 footage-wise or ---

24 Q. Yeah.

25 A. --- passed us?

1 Q. Did you have any breakdowns or anything unusual?

2 A. I got to the mines the day of the explosion,
3 around 15 after 2:00. I got dressed. And Dave
4 Lambert always got there early, too. I'd always talk
5 to Dave a few minutes in the bath house before I went
6 upstairs. I went upstairs and I went in and I talked
7 to Gary a few minutes, and he just had got outside.
8 And I went back and I talked to Rick Foster a minute,
9 and then Steve Harrah hollered on the phone, giving
10 his pre-shift. I took his pre-shift, so I laid it
11 over by my book. I went to the restroom, and then
12 they had some little small lockers in the office
13 restroom. I kept my clipboard and my anemometer and
14 stuff in there. I got that stuff out and I come back
15 out and I sat down. I just had got done filling out
16 my book. I just had signed my name and we heard --- I
17 thought the fan was going down. I didn't know what
18 had happened. We just heard a big like (makes sound
19 effect), a big high vibration. I looked at Shannon
20 Perdue, he was sitting there, and I said, man, the fan
21 is going down. I said, we're going to get a day off.
22 We got up, walked out on the little back deck, I
23 looked over at the fan and it looked fine. The shaft
24 wasn't wobbling or nothing like that. And I went back
25 through. I didn't know if Gary May had even heard. I

1 was going to let them know. I went through and Gary
2 was coming through to get his belt and stuff on the
3 ground and he said, we probably got a fall in the
4 intake or somewhere. He said, we've got dust coming
5 out the portal. I said, okay. I said, so you heard
6 it then, I take it. He said, yeah. I said, hang on
7 until I get my belt on, I'll go with you. He said,
8 no. He said, Rick's going with me. He said, we'll be
9 all right. He said, just stay out here for the
10 meantime. I said, okay. So we sat there. And I'm
11 saying around --- between 3:30 to 3:45 roughly I heard
12 somebody --- I heard --- I knew it was Rick Foster. I
13 knew his voice. I heard him holler at the dispatcher.
14 I picked up the mine phone in the fire boss room and I
15 said, I'm going to listen and see if he needs
16 anything. And he said, we need an ambulance. They
17 said, how many do you need? He said, as many as
18 available. And right then I knew what had happened.
19 That's about all I can remember of the day of the
20 explosion.

21 Q. Sure.

22 A. And then, you know, we all just kind of went
23 around and we started --- we all went out to the drift
24 mouth and started monitoring with Reba. I can't think
25 of her last name, federal inspector.

1 Q. Reba Crawford.

2 A. Yeah. I know Reba. When she pulled up, I was out
3 at the drift mouth. I talked to her a few minutes.
4 And she actually knows my dad and his oldest brother
5 real good.

6 Q. Sure.

7 A. And she come over and gave me a hug and she said,
8 I'm glad you're all right. I said, well, thank you.
9 And we went back over --- me, Shannon Perdue and I
10 can't remember the other one that was over there with
11 us, Brandon Davis, was monitoring the gas and air
12 readings on the drift mouth on the north side. I
13 think Jim Boyer and Lacey Stewart was monitoring the
14 drift on the left side, on the south side of the
15 mountain. I done that for a while, up until probably
16 8:30, then Brandon and Shannon took over and I went
17 and started doing other stuff. I couldn't stand over
18 there anymore. It was just aggravating me. The
19 rescue teams and stuff was rolling in. I went over
20 there and started helping them set up their trailers
21 and all that, getting power running to them, just
22 anything I could do to help them.

23 Q. Sure. Do you recall when the fan made the odd
24 noise or started making that odd noise? Did you
25 happen to glance at your watch or something?

1 A. I think it was about five after 3:00, roughly.
2 Between 3:00 and five after 3:00. It was within that
3 five minutes right there.

4 Q. You mentioned that you actually went and looked at
5 the fan shaft.

6 A. Yeah, up in the office. The back room is what we
7 call the fire boss room. That's where my whiteboard
8 was for my section. I always sat back there and
9 that's where all the belt books and everything was.
10 The back door goes out and there's a little metal
11 platform there that goes down the back steps. You
12 step back there and you're looking right at the fan.
13 I just would step out on there and I looked at the fan
14 and, you know, I thought maybe the bearing or
15 something on the shaft was going out and it would be
16 flopping around, going crazy or something. I didn't
17 know what had happened.

18 Q. Do you think the fan just stalled out or did the
19 blades actually reverse? Did you notice?

20 A. I think they reversed.

21 Q. Okay.

22 A. I ain't a hundred percent positive on that. My
23 opinion, they reversed.

24 Q. If they reversed, did they --- after the pressure
25 passed, did they reverse again?

1 A. The chief electrician, John Eli, and a couple
2 other electricians went over there to the fan. He
3 said --- I think he said the explosion doors was
4 blowed shut or ----.

5 Q. Blowed open?

6 A. Blowed open. And they shut them. And the fan
7 started sounding good. It wasn't 10, 15 minutes
8 later, ---

9 Q. Okay.

10 A. --- if it was that long. It sounded normal again.

11 Q. Okay. Once they got ---?

12 A. Somebody said --- what I said about in my opinion
13 they reversed, after I got talking to a couple guys,
14 they said when that air came rushing out, it probably
15 reversed the fan. That's what I'm saying. I ain't a
16 hundred percent positive that it did reverse it, but I
17 mean, it sure sounded like it done something, but I
18 ain't for sure what it done.

19 Q. Okay.

20 MR. SHERER:

21 That's all the questions I've got for
22 right now.

23 ATTORNEY HAMPTON:

24 You know, we've been going a little over
25 an hour. Do you want to take just like a quick break?

1 MR. SHERER:

2 Up to you guys.

3 A. That's up to you all. I'm fine. It's up to you
4 all.

5 ATTORNEY HAMPTON:

6 Anybody? All right. Then go ahead.

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. I'm going to kind of work backwards here, so bear
10 with me. On April 5th you said you took Harrah's
11 pre-shift call; correct?

12 A. Yes, sir.

13 Q. Now, Harrah was calling from 22 Tailgate?

14 A. Yes. He was the dayshift boss on the 22 Tailgate.

15 Q. Okay. Do you recall what he said to you?

16 A. He hollered outside. I answered the phone and it
17 --- you just had to know Head, Steve Harrah. We
18 called him Head. He was always trying to give me some
19 kind of crap, goofing off, joking off.

20 Q. All right.

21 A. That's just how he was. He was always goofing
22 off, trying to have fun. He called out. I answered
23 him. I said, yeah, Head. He said, how are you doing,
24 son. I said, I'm doing all right. I said, you ain't
25 my daddy, though. I never will forget that. He said,

1 well, he said, anyway, son, he said, here's what you
2 got. He gave me the pre-shift. No methane. I think
3 he was calling me from 78 Break switch. He had done
4 come off the section and around down to 78 Break
5 switch and stopped there and called me out his pre-
6 shift. And I got his pre-shift and he said, well, he
7 said, I'm on my way out. He said, I'll see you here
8 shortly, he said, and tell you what we got. I said,
9 okay. He said, I'll see you in a few. And if I
10 recall right, between 66 and 67 Break is where they
11 found him. That was the first guy they found was
12 Steve's crew. Timmy Blake was down around Four North
13 belt head, around 42, 43 Break, walking. That's one
14 of the survivors. He had enough whereabouts to tell
15 Rick and Gary then when they got there what had
16 happened. He said that --- he had enough whereabouts
17 to tell them, you know, roughly the guys is about 20
18 breaks, 15, 20 breaks inby from here. I've come that
19 far. He said, I was heading for a phone to get help.
20 The way I understand it, Timmy took enough time to
21 help put rescuers on. That's what I was told. He got
22 a rescuer on everybody but Deward Scott. That's the
23 way I understood it. He couldn't find Deward. Deward
24 was running with the shuttle car. He was seen driving
25 the car, you know, everybody carries their rescuer on

1 a hanger because you're turning around in the seats.
2 And they always --- I think he always just laid it
3 beside his dinner bucket or something there. I don't
4 know if the force blew it away from him, but they
5 didn't get one on Deward. They took Timmy on out and
6 then the rest of them went on in to Steve and the rest
7 of them.

8 Q. When you were in the office, when you talked ---
9 before you talked to Harrah, do you recall who took
10 the pre-shift call from Headgate 22?

11 A. They was over at Ellis.

12 Q. Was that at Ellis?

13 A. The books for the Headgate 22 miner section was at
14 the Ellis Portal?

15 Q. Okay. So Headgate 22 Portal at Ellis?

16 A. Yes, sir.

17 Q. Okay.

18 A. I think the boss that was there that day was Pat
19 Hilbert.

20 Q. Okay.

21 A. Yeah, Pat Hilbert was the section foreman there on
22 Headgate 22 section that day.

23 Q. Let me change subjects here. You gave us a
24 description of a situation where you left UBB in
25 August of 2008 ---

1 A. Yeah.

2 Q. --- after your disagreement with Whitehead?

3 A. Yeah.

4 Q. That probably qualifies as discrimination. But
5 anyway, it speaks well of you that you stood up to
6 these people and didn't do something wrong that they
7 wanted you to do.

8 A. Yeah.

9 Q. Now, other than yourself, do you know of another
10 foreman, fire boss, mine foreman, whatever, who
11 experienced similar treatment from upper management?

12 A. I can't --- first off, with me and Whitehead, I
13 talked to Clarence Dishman. I spoke to Clarence about
14 that. After I left UBB I called and talked to
15 Clarence Dishman to let him know what was going on
16 because he was the state inspector there at the time.
17 They don't know that I called and talked to Clarence
18 or nothing like that, but I felt that I needed to let
19 somebody know about it, so I called the state mine
20 office out of Mount Hope and talked to Clarence. And
21 I can't remember the guy's name. He's a big guy, like
22 chief inspector or something. I can't think. His
23 name is on the paper. I wish I could think of his
24 name.

25 MR. TUCKER:

1 That's Oak Hill office?

2 A. Yes, sir.

3 MR. TUCKER:

4 One of the supervisors?

5 A. Yeah.

6 MR. TUCKER:

7 Steve Snyder?

8 A. Yeah, Steve Snyder. I talked to him also when
9 that happened. I went in there by myself and after I
10 talked to a couple people, they told me I should have
11 took --- like Mike Boggs was the safety man at that
12 time. They said I should have took Mike down there
13 with me. Like I said, I'm hardheaded. I was going to
14 stand my ground. I didn't care if I had somebody
15 watching my back or not, I was going to stand up to
16 them. But I went in there by myself and I stood my
17 ground and done what I thought was right, and if it
18 took me leaving, I was leaving.

19 BY MR. FARLEY:

20 Q. Now, do you know of any other bosses that
21 experienced similar treatment?

22 A. I was getting ready to go to that. Okay. I ain't
23 heard this directly out of Rick Hutchens' mouth, but I
24 have heard it from one of the guys that worked on the
25 section with him, said that they was down for air

1 problems one night. We called him Smurf. They said,
2 Smurf called outside and told the dispatcher they was
3 down on air. He said, it wasn't long after that the
4 phone was beeping. Smurf answered the phone and they
5 said that Chris Blanchard called and told Smurf that
6 he better be into coal within an hour or he can get
7 his stuff and go on home.

8 Q. Now, the call that was made underground to
9 Hutchens, did Blanchard make the call personally or
10 was somebody relaying the message?

11 A. A dispatcher.

12 Q. Okay.

13 A. The dispatcher, when they was down on air or
14 something like that, they would always call Blanchard
15 and let them know that they was down. The message
16 came back, Blanchard said you have one hour to be in
17 the coal or get your stuff and go home. I don't care
18 if it took me ten hours, if I didn't have the air I
19 wasn't going to run nothing, plain and simple. My
20 opinion, Blanchard is a punk. I have no respect for
21 that man at all.

22 Q. Okay.

23 A. And Dean Jones, the foreman that was killed and
24 the boss on the Headgate 22 section that day, I heard
25 someone mention that he called out with air and

1 methane problems and Blanchard told him he better get
2 it into coal.

3 Q. When did that happen?

4 A. Like I say, I ain't for sure that's a fact, but it
5 was like the weekend of Easter weekend. Like Saturday
6 I think maybe when they was running, and the morning
7 of the explosion I think he called out with air
8 problems, the way I understood it, if I remember the
9 way the guy told me. Like I say, that was hearsay,
10 but that's hearsay I figure you all might want to
11 know.

12 Q. Sure.

13 A. Like I say, I mean, Dino ain't here to ask
14 himself.

15 MR. SHERER:

16 If you don't mind.

17 MR. FARLEY:

18 No.

19 MR. SHERER:

20 Hearsay is fine. We're trying to find
21 out any information we possibly can to help us figure
22 out what occurred at Upper Big Branch, so any way you
23 can help us is certainly fine.

24 A. Like I told you, I'll tell you everything I know.

25 BY MR. FARLEY:

1 Q. We only ask you try to be accurate as best you
2 can. So you think it's possible then that Dean Jones
3 may have called out on April 5th about a ventilation
4 problem?

5 A. It was possible. If I remember the way the guy
6 told me, it was either the Saturday --- we was talking
7 at work and, you know, he was trying to keep it where
8 nobody else was listening in on our conversation. So
9 there was times I couldn't really understand or hear
10 exactly what he was saying. It was either the
11 Saturday before the explosion or the Monday morning of
12 the explosion. It was one of the two, because they
13 was off on Easter Sunday and ---.

14 ATTORNEY HAMPTON:

15 Did you say who told you?

16 A. Marvin Perdue.

17 BY MR. FARLEY:

18 Q. Now, that ventilation problem that he may have
19 called out about, now would that be --- you know,
20 would he have had an insufficient quantity of air to
21 ventilate with? Is that what he would have meant?

22 A. Yes, sir. Dino, is the only section foreman ---
23 Dean Jones, Dino, however you all want to refer to him
24 as, is the only foreman I ever knowed that carried the
25 two binders of plans with him to the section every

1 day. If he had a question, you'd see him down there
2 flipping through his books, and he would find it. If
3 it wasn't right, he'd down it. Dino was an excellent
4 foreman. I worked for him a little bit as a red hat.
5 When they sent us to Black Knight II, that was the
6 foreman they sent with us. He was a fine fellow.

7 Q. He carried the ventilation, roof control plans and
8 so forth?

9 A. Yeah. He had a three-ring binder with the plans
10 and stuff in it. He carried it with him to the
11 section, along with his clipboard every day. I mean,
12 that's the only boss I ever seen do it. I had enough
13 stuff to carry. I wasn't carrying the plans with me.
14 I had my roof control and ventilation plan and my MMU.
15 That's all I needed, you know. I wasn't going to
16 carry a whole big binder full of extra paperwork up
17 there with me.

18 Q. Okay. Now, earlier when you were talking about
19 methane that you had detected on 22 Tailgate you said
20 .1 or .15. Now, you mean one-tenth of a percent ---

21 A. Yes, sir.

22 Q. --- to 15-hundredths of a percent; right?

23 A. Yes.

24 Q. You did not mean one-and-a-half percent?

25 A. No, sir.

1 Q. Okay.

2 A. No. And if it would have been that high, there
3 wouldn't have been no power on that section. I would
4 have went straight to the power center and hit the
5 little red button. I don't play with. I'm terrified
6 of methane. I don't play with it. When I had ---
7 when I got that three-tenths, it was down around here,
8 I got nervous as all get out. Scott was looking at
9 me, man, it's just three-tenths, calm down, you know,
10 you're all right. I said, if you got three-tenths
11 here, the way I look at it, you got a potential for it
12 to be a pocket right here somewhere. I get nervous.

13 ATTORNEY HAMPTON:

14 You're pointing to Exhibit One and you're
15 pointing to the area by the belt regulator; right?

16 A. I had like three-tenths down around --- it would
17 be like one break inby Number Two belt head on the
18 tailgate, in the beltline and towards the intake. It
19 was this entry that runs right here between us and the
20 headgate section, the tailgate and the headgate miner
21 sections. When we was developing this beltline and
22 stuff, there wasn't supposed to be no air movement
23 coming through there yet. Their return was still
24 supposed to be coming down and out North Mains --- I'm
25 sorry. I think it went down around the Glory Hole, I

1 believe, and back around until they built these
2 overcasts down here, then they go up the return and
3 into our return. I could walk --- like, say, before
4 we started running on the tailgate section, I could
5 take off walking down through here and a guy would be
6 working on a belt head or something, having to walk
7 back up to my end to get a pair of come-alongs or
8 something else. I'd have like .05 down on my end.
9 You know, we was still under construction, developing,
10 wasn't really --- didn't really have the intake
11 established around all the way yet to where you can
12 push it up and around everything good. And there
13 wasn't no equipment up in the face or nothing. It was
14 just kind of like a little dead area pretty much. But
15 the farther I walked towards the headgate section, the
16 more methane I'd get. And it would get up like .3,
17 .35, and then it would be --- it was actually the
18 return. It shows the return now. And that's where it
19 comes across the belt head in our return. But there
20 was supposed to be no air coming between there at the
21 time. But I went about it. They take that spray foam
22 and they sealed some stuff off. It seemed to help,
23 but still, at the time it was supposed to be neutral.
24 I still had a little bit of methane right around
25 there. I don't know if it was bleeding out of a lot

1 of the coal here or if it was leaking through a
2 stopping up here somewhere coming towards us, but they
3 took that silent seal spray foam and foamed these
4 stoppings up here. And then we went down through here
5 and there was a couple that had a couple holes knocked
6 in them. We fixed the holes, re-plastered, and by the
7 fall, where our track came from the headgate to the
8 tailgate, I remember one shift we went down and laid a
9 stopping here, not plastered at all, and two stoppings
10 inby towards the tailgate side was a stopping that was
11 not reamed around the edges. What it is, I think they
12 had that stopping out for a reason it wasn't fully
13 plastered. When they built it back, nobody just --- I
14 didn't have time to plaster it, and so I forgot it is
15 what I believe happened there. It was right beside
16 that hole right there, between --- on the track entry.
17 And the other thing on ventilation real quick,
18 while it's on my mind, before I forget, also the guy
19 that told me that Dino hollered, this Marvin Perdue,
20 Ellis Five and Four belt, where they was working,
21 setting up that little mini-longwall, he said on
22 Easter weekend, I think --- I'm pretty sure that he
23 worked that weekend. He said one day the air was
24 coming outby. The next day it was going inby.
25 BY MR. FARLEY:

1 Q. Is that out on Headgate 22?

2 A. No, that's going out Ellis Portal.

3 Q. Okay.

4 A. Ellis Four and Five belts, where it goes all the
5 way out to the bath house.

6 Q. Would that have been maybe the Friday before the
7 explosion?

8 A. Either Friday or Saturday before.

9 Q. Okay.

10 A. They said like the air was going outby one day.
11 The next day it was going inby. He said then the day
12 of the explosion he said it was coming outby again.

13 Q. Okay.

14 A. I wanted to let you --- I wanted to tell you that
15 before it slipped my mind.

16 Q. Okay.

17 A. I have heard of Rick Hutchens and Dino getting in
18 scrapes like that.

19 Q. Okay. I gotcha.

20 A. I ain't heard it straight, directly from their
21 mouth. But as far as Hutchens, I heard it from the
22 electrician over on the section. Larry Richards was
23 who it was that told me.

24 Q. Thank you very much.

25 ATTORNEY HAMPTON:

1 Questions?

2 MS. MONFORTON:

3 Yes.

4 EXAMINATION

5 BY MS. MONFORTON:

6 Q. Mark, thank you so much for all the information
7 that you're sharing with us. I have a general
8 question. When you became a section foreman, what's
9 the procedure for getting trained to be a section
10 foreman?

11 A. They usually all give you a 60-hour class. I
12 think I got about 30 hours of class. We was going
13 like two hours a day, three days a week, I think,
14 wasn't it?

15 MRS. COLLINS:

16 I don't remember.

17 A. I think we was going --- yeah, on Mondays --- no,
18 it was on Tuesdays and Thursdays. Every week we'd go
19 two hours for class every day, then go work our shift
20 at work. And then after you got through the class,
21 you go to Mount Hope mine office and take a test.

22 BY MS. MONFORTON:

23 Q. Okay. So then you get the card that you're a
24 certified foreman?

25 A. Yes.

1 Q. And then when you got the assignment at UBB to be
2 a section foreman, did Massey provide any special
3 training of what their expectations were for a section
4 foreman?

5 A. No. I kind of had a general idea anyway. I had
6 been there for three years.

7 Q. Yeah.

8 A. Basically you go up there and they want you to run
9 the coal.

10 Q. Okay.

11 A. But the way I always said it, there ain't no lump
12 of coal worth a man's life. That's the way I always
13 looked at it. And every day, at the end of the track,
14 when I read my roof control plan and stuff to my guys,
15 I tell them to be safe, do what we can. As long as
16 all of us go home at the end of the night, we done a
17 good job.

18 Q. Okay.

19 A. That's what I tell them all the time. I didn't
20 want nobody hurt. If it came to doing something or
21 getting a man hurt, we just wouldn't do it. I wasn't
22 there to get nobody hurt. I mean, they'd tell me what
23 they expected, you know.

24 Q. When you say they, you mean Massey?

25 A. Yeah. Like the superintendents and stuff would

1 tell me, you know, we expect you to run right, run
2 with your ventilation right, but we want you to be
3 productive. So I mean, the bottom line is it all came
4 to production.

5 Q. So they would say about the want you to run right,
6 but ---

7 A. Yeah.

8 Q. --- you're supposed to produce coal?

9 A. Oh, yeah. You'd hear speeches all the time about
10 running right. I can say right now, though, Jamie
11 Ferguson and Gary May, when they gave you that speech,
12 they meant it. Jamie went on Number Three section. I
13 think they called it the portal section at the end.
14 He went over there and then he told them they didn't
15 have no curtain, those boys came outside. He made it
16 clear, he said, if I ever walked up on anybody and you
17 ain't got curtain, he said you're coming outside. He
18 backed his words, so I mean, I have a lot of respect
19 for Jamie. When he was vice-president and he come
20 underground, he didn't come up there to harass you or
21 nothing like that. He come up there and worked right
22 with you, just anything he could do to help you. He
23 showed you great respect. And usually when he gives
24 you a speech, he means what he's telling you, so ---.

25 Q. What instructions did you get from upper

1 management in terms of when a worker got injured?
2 What were the procedures? What was supposed to
3 happen?

4 A. What was supposed to happen if I got somebody
5 hurt?

6 Q. Yeah, somebody got hurt on your section.

7 A. Bad or just minor or ---? I mean, if it was like
8 a guy on my section came to me and said, you know, I
9 cut my finger, you know, Scott, my electrician, was an
10 EMT. Mike Smith, one of my belt men, was an EMT. Pat
11 Hilbert used to be --- run the miner for me. He was
12 an EMT, I think. I had two EMTs I knew of for sure.
13 I'd say, well --- I'd look at it, and if it was
14 something minor, you know, here's your roll of black
15 tape, let's wrap it up and go on.

16 Q. What if it was something more serious?

17 A. If it was somebody serious --- I had Ricky Workman
18 go down on me one night. This has been a couple years
19 back. He's one of them who got killed, too. He had a
20 hernia a few years before, that he re-ruptured his
21 hernia. And to see a grown man doubled over and start
22 bawling like a two-year-old baby is hard. I just had
23 came down and checked on him. He said, I'll be all
24 right. He said, just let me sit here and rest. I
25 said --- Buddy, I said, take the rest of the shift if

1 you want to. I said, if you're hurting, I said,
2 anything you need. I turned around and I was headed
3 up to the belt entry to pave that center line, and I
4 just had rounded the corner and Mike came running at
5 me and said Ricky was down. Not Mike. Mike was the
6 EMT. At the time he was a red hat, matter of fact,
7 and he was my EMT. I think it was Richard Gray who
8 might have hollered at me and said Ricky was down.
9 You know, we ran around there. I hollered at Mike.
10 Mike came with me. We got to him. I sent two guys to
11 get the first-aid boxes and me and Mike went there,
12 went straight to Ricky. The rest of them went after
13 the first-aid box. I sent the electrician to the
14 phone to call out and get me an ambulance on the way.
15 I knew I was going to have to have an ambulance soon.
16 I mean, there wasn't no ifs, ands or buts about it.
17 Sent a man to get one. They got the backboard over
18 there and everything. We put him on the backboard.
19 Mike tucked his legs like he was taught for a hernia,
20 tucked his legs. We put a strap around his legs so he
21 didn't have to try to strain himself holding his legs
22 up. We just strapped his legs and hooked them to the
23 backboard to hold him, where he said he was
24 comfortable. By then I done had two guys go to the
25 mantrip and drop the seats. They had the seats

1 dropped and we picked him up and carried him to the
2 mantrip, set him in there. And I sent Mike --- the
3 EMT went with him. I stayed on the section and I sent
4 three guys with Mike in case he needed help or
5 anything. I had a driver and two other guys with Mike
6 if they needed like an oxygen --- help them change an
7 oxygen bottle or something like that, he had somebody
8 to help him. And we all sat at the power center. And
9 once the mantrip leaves the section, you don't run
10 coal without an emergency ride on the section. So we
11 were down until we got a mantrip back on the section.

12 Procedures, all I know is you just --- you always
13 assess your situation first. And then if it's minor,
14 you got to take care of it. If you see they're
15 down --- I always went by --- I would send somebody
16 directly --- straight, straight to the phone and get
17 my EMT to the section, to the man, so ---.

18 Q. When did you do your safety talks with your crew?

19 A. At the end of the track.

20 Q. Just before you guys ---

21 A. Yeah.

22 Q. --- get started?

23 A. Right before production. We'd go in. Once we got
24 to the end of the track, I'd read the roof control
25 plan and stuff to them. Massey, they give you these

1 little booklets for a month at a time, a safety topic
2 for each week. Nine times out of ten it was talking
3 about a fatality of somebody. Somebody got in a red
4 zone or electrocuted or something like that. And I
5 would read that to them, they'd sign a safety talk
6 paper. But there at the end, when I'd read it to
7 them, we didn't have nothing to sign. But I just read
8 it to them and we would go run coal.

9 Q. We've heard some other witnesses talk about them
10 booklets, so I'm glad you explained that.

11 A. Paperwork is Massey's big thing. The more paper
12 they can make you carry, the happier they are, I
13 believe. Our production reports was three pages long.
14 Now it's seven pages long.

15 Q. You mentioned the production bonuses but that your
16 particular crew, you never reached those. Did you, as
17 a section foreman, and your crew, was there any
18 opportunity for you to have input in what a realistic
19 production goal would be?

20 A. I mean, it was set, but we ran those little short
21 panels out so quickly on the barrier section. I mean,
22 it would take us three weeks to drive them, then we'd
23 be pulled off and, you know, you're down three or four
24 days. That right there killed your bonus. We was
25 number one in Massey in production eight straight

1 weeks and never got the first bonus out of 76
2 sections. We led the top of the charts and never got
3 the first bonus out of it, but that's --- I mean,
4 they'd set it. If you did hit it, then once you hit
5 it, they'd move it up more. If you hit that, they'd
6 move it up more. And then it's out there where you
7 ain't got a chance of touching it. It's hard to
8 maintain a 300-foot average for a solid month. I
9 mean, you --- between both shifts you at least got to
10 run 300 foot a shift, and you got to do it day in/day
11 out. I mean, when we was on the barrier section we
12 was running four --- anywhere from 360 to 450, 460 a
13 shift and never touched it.

14 Q. Mark, have you been interviewed by any other ---
15 by Massey attorneys?

16 A. I have spoke with Massey attorneys.

17 Q. Can you tell us about when that happened?

18 A. I was working at Hunter Peerless at the time.
19 It's been roughly a month, month-and-a-half, since
20 I've talked to them.

21 Q. Brian, I've been calling you Mark, and I apologize
22 for that.

23 A. Oh, that's fine.

24 Q. And Polly just notified me of that.

25 A. I was going to say something.

1 Q. No, you should say something. It sounds like you
2 would speak up to everybody else. You should speak up
3 to me, too. Can you tell us a little bit about what
4 they asked you in those interviews, if they made any
5 promises?

6 A. They didn't make no promises or nothing to me.
7 When I went in there, I told them the same thing I
8 basically told you all. I'll tell you what I know. I
9 ain't here to lie for nobody, and I ain't going to lie
10 for nobody. They asked --- some of the things they
11 asked was like --- is if I shut a section down, did I
12 feel if they called in and told me to run and I told
13 them I wasn't running, did I feel I'd be fired. I
14 told them at the end, no, I didn't feel that way
15 because, you know, Gary May and Wayne, they was ---
16 they was fair to work for. If you had a problem and
17 you was down, they just wanted you working your
18 hardest to get right to running. They really didn't
19 --- really didn't say nothing. The last time I shut
20 the tailgate section down over air, there was not a
21 word said to me. I came in the next day, I said,
22 well, I wonder if I'm going to get fired like I did
23 last time, is what I was thinking. And I walked
24 upstairs and Gary May said, hey, dude, how are you
25 doing today, Hammer. I said, I'm doing fine. How are

1 you doing, Gary. I worked by Wayne. Wayne said, how
2 are you doing, Hammer. Nobody said nothing out of the
3 way or nothing to me. And I never --- like I say,
4 I'll say it again, I never felt unsafe at UBB. I
5 mean, there was times we got in stretches of bad top,
6 you know, you'd feel uncomfortable, but as long as you
7 back off and you slow down and you take care of it as
8 you go, you know, that's all you could do. The place
9 I felt most unsafe ever at UBB is when we tried to go
10 in between and get that block of coal on Headgate 18
11 that they left. That got hairy. The top was
12 cracking. There was a crack that went across that
13 intersection. The day before they shut that section
14 down and pulled us of there was a crack that went
15 across the intersection. At the start of the shift I
16 could stick about half of my fingers in it. Like
17 seven o'clock, I went over there and I could stick up
18 to my wrist in it. I drove me a couple cap wedges up
19 in it. I said, I'm going to watch this. I swung my
20 bolt machine around and I drilled about 22 feet. I
21 had enough stacks --- extensions and I drilled 22
22 feet, and I never hit the first crack. I said, this
23 is going to be big. And about that time the cap
24 weight fell back out of the top. I could stick my arm
25 in about there. I sat down to eat up there, you sat

1 in the center of the intersection because the ribs
2 would roll out eight to ten foot thick, from corner to
3 corner, just --- and it was ten foot high up there.
4 You know, it'd wipe you plum out. I did not like it
5 at all up there. By the end of the shift I could
6 stick my arm up in that top up to my elbow, and we'd
7 come in the next day and Federal would shut us down
8 and pull us off. I was jumping up and down, hooting
9 and hollering, you know. I was happy as all get out.
10 I didn't like it up there. But that's the most
11 uncomfortable I've ever been at UBB is when --- as far
12 as anything. Up North Mains here we hit stretches of
13 bad top, you know, but you just had to slow down and
14 take care of it. Other than that, I never felt
15 uncomfortable about nothing else.

16 ATTORNEY HAMPTON:

17 Okay. We're going to take just like a
18 couple-minute break right now.

19 A. Good.

20 ATTORNEY HAMPTON:

21 We'll go off the record.

22 SHORT BREAK TAKEN

23 RE-EXAMINATION

24 BY MR. SHERER:

25 Q. Okay. Mr. Collins, I've got a few questions I

1 need to ask you, a couple follow-up questions. Was
2 the mine ventilation adequate at all times in this
3 mine; do you know?

4 A. There towards the end they was having a lot of
5 ventilation problems. It seemed like MSHA always was
6 wanting us to change something on the ventilation.

7 Q. Okay.

8 A. I remember two or three ventilation changes
9 probably this year.

10 Q. Major changes?

11 A. We done a major one over Christmas vacation. I
12 think we worked on it for three days before we
13 actually got it right over Christmas vacation. The
14 other ones I don't believe was too major.

15 Q. Have you ever heard of Mr. Blanchard and Whitehead
16 making ventilation changes?

17 A. I heard that they was --- I don't know what they
18 was doing? I heard that they was underground doing
19 something with ventilation. I don't know if they was
20 changing something or if they was working on ceiling
21 stoppings. I know that they delivered them 20 spray
22 foam packs and they were sealing some stoppings for
23 sure, but I don't know if they knocked any stoppings
24 or switched any air courses or not. I never heard
25 nobody say.

1 Q. Have you heard a rumor if they were underground
2 during the weekend immediately prior to the explosion?

3 A. I heard that they was underground the weekend
4 before the explosion.

5 Q. Who did you hear that from?

6 A. I can't remember who told me exactly. Like I say,
7 when all of this was happening at the mines, you know,
8 there was probably a thousand people there, it seemed
9 like.

10 Q. Sure.

11 A. You know what I mean, you just talked to
12 everybody.

13 Q. Sure.

14 A. And I heard somebody mention that they was
15 underground. I know the day of the explosion they was
16 underground, too.

17 Q. Okay. How do you know that?

18 A. The day of the explosion they went in trying to
19 get to everybody.

20 Q. So they went in after the explosion?

21 A. Yeah. And I think that they had been underground
22 prior to that also.

23 Q. Okay. Why do you think that they were underground
24 prior to the explosion?

25 A. I believe that's when they was working on sealing

1 these stoppings up in here.

2 Q. And you're pointing to the mouth of the ---?

3 A. Headgate 22 motor section. They said there were
4 some stoppings going up the Headgate 22 motor section
5 that was leaking a little bit and they was foaming
6 around the edges of them.

7 Q. And Mr. Blanchard and Whitehead are the president
8 and vice-president?

9 A. No. Blanchard is president. And Jason Whitehead
10 now --- I think his title --- I don't know exactly
11 what they called him. I think he's like over all of
12 production ---

13 Q. Okay.

14 A. --- or whatever they call him.

15 Q. So like czar or something like that?

16 A. He's something.

17 Q. Okay.

18 A. Something that he shouldn't be, my opinion.

19 Q. Okay. Do you know if ventilation changes were
20 made --- major ventilation changes were made when
21 miners were underground?

22 A. I know of none. I know when the major change was
23 done, the miners underground, the only thing that they
24 was doing was working on the ventilation, ---

25 Q. Okay.

1 A. --- the ones that I was involved with.

2 Q. And what would you consider to be a major
3 ventilation change?

4 A. The one over Christmas break was a major ---
5 that's when we knocked all the stoppings up the
6 tailgate of the longwall, you know, I think, because
7 every five stoppings I think is every man door.

8 Q. Any 10,000 CFM change or 20,000?

9 A. Yeah. What is it, anything greater than 9,000 or
10 anything --- I think anything greater than 9,000 is
11 considered a major ventilation change. You can't
12 change it no more than 9,000 at a time; correct?

13 Q. Ever hear of mining taking place without
14 ventilation curtains?

15 A. Without ventilation curtains?

16 Q. Uh-huh (yes).

17 A. I have seen the curtains rolled back, you know,
18 for your miner. But as far as being up in a place a
19 hundred foot or something like that, I mean, you
20 usually roll up about the last 20 foot until you get
21 inby your scrubber. But we was on a 20-foot cut plan,
22 so we couldn't run our scrubbers. So I always told my
23 guys if you run, if you got the curtain rolled back
24 where you don't tear it out, just drop it as you go,
25 keeps the air pushed up to you.

1 Q. You ever hear of methane monitors being bridged
2 our or covered with a plastic bag or anything like
3 that?

4 A. I never heard of it being covered with a plastic
5 bag. And I have seen a methane monitor bridged out,
6 but it was for troubleshooting purposes only. We had
7 a miner, it was acting stupid, like going F4, F9, then
8 shut off, F4, F9. They bridged something out trying
9 to figure out if it was the monitor or the sniffer.
10 We didn't produce no coal with it. It was bridged out
11 to see if the monitor was the problem, the readout, or
12 if it was the sniffer. And we actually ended up
13 putting new sniffers and monitor in it. Q. Were

14 miners subject to retaliation and threats for
15 reporting safety issues or other concerns?

16 A. Not to my knowledge.

17 Q. You were talking about the gentleman putting SCSRs
18 on the --- the victims on the mantrip. Do those
19 mantrips have the ---

20 A. Extra caches?

21 Q. --- extra ---?

22 A. Yes, sir.

23 Q. Okay. They have them on the mantrip?

24 A. Yeah. I think that's --- actually, most of them
25 that they use, the mantrip that was brought out, the

1 rescuer cache boxes was off of them.

2 Q. Okay.

3 A. I actually went underground the night or the early
4 morning that they got the last of them guys out that
5 was on the Headgate 22 section. After they got all
6 them out, I actually went in back underground to
7 transport their rescue guys out. I think they said
8 there was 167 men underground, and they didn't have
9 enough mantrips, so we --- it was me, Scott Barnett,
10 Terry Moore and Kenny Farmer went underground with
11 mantrips to haul people out. And when I went by
12 that --- between 67 --- 66 and 67 Break on the North
13 Mains is where they found Steve Harrah's crew, which
14 would have been Timmy Blake's crew, that you could see
15 all the rescue cache boxes and stuff laying around
16 there.

17 Q. Do you remember who the dispatcher was on the day
18 of the explosion?

19 A. Dispatcher? I know Greg Clay was there. He's a
20 purchasing agent, but he would dispatch some. Let's
21 see. Who was there that day? It might have been Adam
22 Jenkins dispatching. I might not be right on that. I
23 know Adam was there. I don't know if he came in on
24 the evening shift or if he was there on the dayshift
25 that day, but I do remember seeing him there.

1 Q. So the dispatchers rotated also?

2 A. Yeah.

3 Q. One more thing. You were talking about making the
4 return common on the tailgate of the longwall?

5 A. Yeah.

6 Q. Do you recall roughly when you did that?

7 A. That was Christmas vacation of '09. I volunteered
8 to work my vacation day. I worked three of my
9 vacations.

10 Q. Do you recall who asked you to do that or worked
11 with you to do that?

12 A. When we went up the tailgate side of the longwall,
13 it was me, Gary May, Terry Moore, Robert Clark, who
14 was one of the victims who got killed. He was on
15 Steve Harrah's crew. He was with us. Steve Harrah
16 was with us. There was a few more with us, but I
17 can't remember. I know those five there for sure,
18 myself.

19 Q. So a lot of folks working on it?

20 A. Yeah. And then while we was up in here, there was
21 some guys that were over on the headgate side doing
22 stuff and there was guys down around 78 Break doing
23 stuff and guys over here around the Headgate 22 miner
24 section doing stuff. They just had us spread out
25 everywhere.

1 Q. And you say you took out about every fifth
2 stopping?

3 A. Yeah. I think it was every one that had a man
4 door, we'd go up and we'd knock a big hole in them.
5 And then we'd go to the --- like three of us would go
6 over here. All they had was sledgehammers. And the
7 stoppings up towards the end of the tailgate was B-
8 Bonded. I mean, it was a pain in the hind end trying
9 to knock some of them.

10 Q. Sure.

11 A. We beat them out with sledgehammers and just made
12 a big enough hole. I mean, pretty much most of them
13 about half a stopping, if I remember right.

14 Q. And this was the stoppings between the Number One
15 entry and the Number Two entry?

16 A. Every stopping had a man door. We done the ones
17 towards the longwall and we done one --- I can't
18 remember what entry the track was in coming up the
19 tailgate. I think it was in Number Three or --- Three
20 starting, then went over to Four with the beltline and
21 came up for the old beltline for the miner section.
22 There was a stopping on each side. We knocked each
23 side.

24 MR. SHERER:

25 That's all I got.

1 MR. FARLEY:

2 That's all I got, too.

3 ATTORNEY HAMPTON:

4 Okay. On behalf of MSHA and the Office

5 of Miners' Health, Safety and Training, I want to

6 thank you for appearing today and answering questions.

7 A. You're welcome.

8 ATTORNEY HAMPTON:

9 Your cooperation is very important to the

10 investigation as we work to determine the cause of the

11 accident. We do request that you not discuss your

12 testimony with any other person other than your

13 personal representative.

14 A. Okay.

15 ATTORNEY HAMPTON:

16 After questioning other witnesses, we

17 might call you if we have any follow-up questions.

18 And if at any time you have any additional information

19 you'd like to share with us or something else you'd

20 like to say, please contact us at Norman Page's

21 contact information, which is in that letter that you

22 received.

23 A. Yes, ma'am.

24 ATTORNEY HAMPTON:

25 If you wish now at this time you can go

1 back over any answer that you've given or you may make
2 any statement or offer any other information that you
3 would like us to know.

4 A. The only statement I got, I think you all need to
5 talk to Richard Hutchens, Smurf.

6 ATTORNEY HAMPTON:

7 Okay.

8 A. I do believe you all need to speak with him.

9 MR. FARLEY:

10 Appreciate that.

11 ATTORNEY HAMPTON:

12 Thank you. We'd like to thank you for
13 your cooperation.

14 A. You're welcome.

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16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 5:30 P.M.

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards