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Transcript of the Testimony of **Ricky Hudson**

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STATEMENT UNDER OATH

OF

RICKY D. HUDSON

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, September 1, 2010, beginning at 5:02 p.m.

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2

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

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is
5 September 1st, 2010. I'm with the Office of the
6 Solicitor, U.S. Department of Labor. With me is Erik
7 Sherer, an accident investigator with the Mine Safety
8 and Health Administration, MSHA, an agency of the U.S.
9 Department of Labor. Also present are several people
10 from the State of West Virginia. I ask that they
11 state their appearance for the record.

12 MR. O'BRIEN:

13 John O'Brien, with the West Virginia
14 Office of Miners' Health, Safety and Training.

15 ATTORNEY KOERBER:

16 And I'm Barry Koerber, an Assistant
17 Attorney General assigned to represent the West
18 Virginia Office of Miners' Health, Safety and
19 Training.

20 MS. MONFORTON:

21 And I'm Celeste Monforton, with the
22 Governor's independent team.

23 ATTORNEY KOERBER:

24 Would you please swear in the witness,
25 please.

1 -----

2 RICKY D. HUDSON, HAVING FIRST BEEN DULY SWORN,
3 TESTIFIED AS FOLLOWS:

4 -----

5 ATTORNEY KOERBER:

6 Sir, would you please state your full
7 name for the record and spell your last name?

8 A. Ricky David Hudson, H-U-D-S-O-N.

9 ATTORNEY KOERBER:

10 And please give us your address and your
11 telephone number.

12 A. (b) (7)(C)

13 ATTORNEY KOERBER:

14 And do you have --- are you expecting an
15 attorney or a personal representative ---

16 A. No.

17 ATTORNEY KOERBER:

18 --- to appear here today? Okay. Are you
19 appearing here today as a result of receiving a
20 subpoena.

21 A. Yes.

22 ATTORNEY KOERBER:

23 This is a copy of the subpoena. I'd like
24 this to be marked as Exhibit One.

25 (R. Hudson Exhibit One marked for

1 identification.)

2 ATTORNEY KOERBER:

3 This is a copy of the return of service

4 showing that the Boone County Sheriff's Office served

5 it on you on the 11th day of August 2010. I would

6 like this to be marked as Exhibit Two.

7 (R. Hudson Exhibit Two marked for

8 identification.)

9 ATTORNEY KOERBER:

10 I just want to note for the record that

11 the subpoena, Exhibit One, is a subpoena compelling

12 Mr. Hudson to be here on August 25th, at 4:00 p.m. On

13 that date do you recall having a conversation with me

14 on the telephone?

15 A. Yes.

16 ATTORNEY KOERBER:

17 And during that conversation did you and

18 I agree to reschedule your interview to this time?

19 A. Yes.

20 ATTORNEY KOERBER:

21 And the reason for that rescheduling was

22 because you were feeling ill that day?

23 A. Right.

24 ATTORNEY KOERBER:

25 Sir, I would also like to advise you that

1 the statute that authorizes the director to subpoena
2 witnesses requires the Director to offer to each
3 witness subpoenaed a witness fee in the amount of \$40
4 a day and mileage at the rate of 15 cents a mile, plus
5 reimbursement for any tolls that you may have passed.
6 I provided you with the forms prior to the interview
7 and asked if you wanted to fill them out, and your
8 response to me was?

9 A. I decline.

10 ATTORNEY KOERBER:

11 Thank you.

12 ATTORNEY BABINGTON:

13 There may be several members of the
14 investigation team that join us later in the
15 interview. Erik Sherer will be conducting the initial
16 questioning.

17 All members of the Mine Safety and Health
18 Accident Investigation Team and all members of the
19 State of West Virginia Accident Investigation Team
20 participating in the investigation of the Upper Big
21 Branch Mine explosion shall keep confidential all
22 information that is gathered from each witness who
23 provides a statement until the witness statements are
24 officially released. MSHA and the State of West
25 Virginia shall keep this information confidential so

1 that other ongoing enforcement activities are not
2 prejudiced or jeopardized by a premature release of
3 information. This confidentiality requirement shall
4 not preclude investigation team members from sharing
5 information with each other or with other law
6 enforcement officials. Team members' participation in
7 this interview constitutes their agreement to keep
8 this information confidential.

9 Government investigators and specialists

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

18 You may have your personal attorney

19 present during the taking of this statement or another
20 personal representative, if MSHA has permitted it, and
21 you may consult with your attorney or representative
22 at any time. 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 information you
10 provide to us or other information we may ask you to
11 provide in the future in other investigations into and
12 hearings about the explosion. Do you understand?

13 A. Yes.

14 ATTORNEY BABINGTON:

15 Do you have any questions?

16 A. No.

17 ATTORNEY BABINGTON:

18 After the investigation is complete, MSHA
19 will issue a public report detailing the nature and
20 causes of the fatalities in the hope that greater
21 awareness about the causes of accidents can reduce
22 their occurrence in the future. Information obtained
23 through witness interviews is frequently included in
24 these reports.

25 Since we will be interviewing other

1 individuals, we request that you not discuss your
2 testimony with any person aside from a personal
3 representative or counsel. A court reporter will
4 record your interview. Please speak loudly and
5 clearly. If you do not understand a question asked,
6 please ask the interviewer to rephrase it. Please
7 answer each question as fully as you can, including
8 any information you've learned from someone else. I'd
9 like to thank you in advance for your appearance here.
10 We appreciate your assistance in this investigation.
11 Your cooperation is critical in making the nation's
12 mines safer.

13 After we've finished asking questions,

14 you'll have an opportunity to make a statement and
15 provide us with any other information that you believe
16 to be important. If at any time after the interview
17 you recall any additional information that you believe
18 might be useful, please contact any of us or Norman
19 Page at the contact information provided to you.

20 Finally, any statements given by miner

21 witnesses to MSHA are considered to be an exercise of
22 statutory rights and protected activity under Section
23 105(c) of the Mine Act. If you believe any discharge,
24 discrimination or other adverse action is taken
25 against you as a result of your cooperation with this

1 investigation, you're encouraged to immediately
2 contact MSHA and file a complaint under Section 105(c)
3 of the Act. Terry --- or I'm sorry, John or Barry?

4 ATTORNEY KOERBER:

5 Mr. Hudson, I'd like to inform you that
6 West Virginia code Section 22A-1-22 also protects
7 miners from discrimination for participating in
8 interviews such as this. I'd like to hand to you a
9 little memo containing the address of the West
10 Virginia Board of Appeals, which is the body that is
11 charged with the duty of hearing discrimination
12 matters involving coal miners. If you would find that
13 you are being discriminated against for participating
14 in this interview, you should contact the Board of
15 Appeals immediately and file a complaint with the
16 Board of Appeals. I would caution you that there's a
17 30-day statute of limitations from the time of the
18 discriminatory action until you have to have your
19 complaint filed with the Board of Appeals. I'm also
20 going to give you a business card for Mr. Terry
21 Farley, the lead interviewer for the State team, and
22 also a card for Mr. Bill Tucker, the lead underground
23 investigator for the State team. Thank you.

24 ATTORNEY BABINGTON:

25 Erik?

1 EXAMINATION

2 BY MR. SHERER:

3 Q. First of all, I want to thank you for coming down
4 here this afternoon, Mr. Hudson. We're still
5 investigating the Upper Big Branch explosion, and
6 we're looking to determine the causes and the
7 practices and the conditions that led up to that
8 explosion. We're doing it for two basic reasons. The
9 first is the families and friends of coworkers of the
10 miners deserve to know what happened. Secondly, is we
11 want to prevent this type of explosion in the future.
12 So any information you might share with us is greatly
13 appreciated. Roughly, how many years of mining
14 experience do you have, Mr. Hudson?

15 A. Thirty-five (35).

16 Q. Thirty-five (35). When did you first start with
17 the Massey organization?

18 A. '95.

19 Q. 1995.

20 Q. When did you first start working at Upper Big
21 Branch?

22 A. '95.

23 Q. '95. And have you been there the entire 15 or so
24 years prior to the explosion?

25 A. Yes.

1 Q. Thank you. Prior to the explosion, what was your
2 job description?

3 A. Outby.

4 Q. Outby. Did you work in a particular area or just
5 all outby area?

6 A. All over.

7 Q. All over, okay.

8 A. The whole mines.

9 Q. Okay. Which shift did you work?

10 A. Midnight.

11 Q. Midnight. Was that primarily a maintenance shift?

12 A. Yeah. They run coal on the longwall up to a
13 certain time, like two o'clock ---

14 Q. Okay.

15 A. --- then they quit running.

16 Q. Okay.

17 A. Yeah, it was mostly maintenance and belt work,
18 whatever you got to do.

19 Q. Okay. Sure. Do you recall the last shift you
20 worked prior to the explosion?

21 A. Well, that's --- like I was telling him, I got
22 hurt --- I was off hurt at the time of the
23 explosion, ---

24 Q. Oh, okay. Okay.

25 A. --- so I was supposed to --- I was actually

1 released the day it exploded.

2 Q. Okay.

3 A. I called them at two o'clock and told them I'd be
4 coming back to work. And the next day I had to go to
5 the retraining, eight-hour retraining. Then the
6 following day I was going to go on that section, and
7 it blew up.

8 Q. Okay.

9 A. I was going on the dayshift. But you know what
10 happened anyway.

11 Q. Sure.

12 A. And I think it was two or three weeks later I went
13 ahead and quit.

14 Q. How long had you been out prior to the explosion?

15 A. Let's see. It was in April. It was like six
16 months.

17 Q. Okay. I'm not going to ask you any specific
18 questions with regard to what was going on in the
19 mine, just during that length of time.

20 A. Well, let me tell you how they operate.

21 Q. Okay. Sure.

22 A. I worked midnight. Now, it wasn't always like
23 this. It's when them young boys come in there and
24 started running. I can name you. Jamie Ferguson, he
25 was the worst. Chris Blanchard was the president and

1 Jason Whitehead. If the dayshift --- and the fire
2 bosses were terrible. They wouldn't do their job, not
3 half the time anyway. And I know because I seen it.
4 If there was a stopping crushed out on the dayshift,
5 they wouldn't fix it until hoot owl come. And the
6 only thing they done was put curtain over it. And I
7 don't care who found it, that's the way it was done.
8 But it wasn't always like that.

9 Q. Sure.

10 A. You know, that happened a lot. I went up there on
11 the section one night, same --- the longwall section,
12 when it blew up, and there wasn't no air up there.
13 And you know what they done? They went in there and
14 put fly pads all the way across the return.

15 Q. Why did they do that?

16 A. I don't know. I have no idea. And we went over
17 there and tore --- I tore them out and then they got
18 air. Actually, the bosses were too young.

19 Q. Sure.

20 A. They start them out too young. You're getting
21 these papers in three years? That ought to be the
22 first thing you all stop.

23 Q. Sure. That's a good suggestion.

24 A. Well, it is.

25 Q. When you tore out those fly pads, do you know who

1 was in charge of putting them up?

2 A. It should have --- I don't know. They shouldn't
3 have been there in the first place.

4 Q. Sure.

5 A. But who put them up, I don't know.

6 Q. Okay.

7 A. I mea, they wouldn't hang curtain. It was bad. A
8 fly pad got tore down. I mean, they wouldn't put them
9 back. And them doors down there on the track, you
10 would go in and all four of them would be open at the
11 same time. I don't know how many times that happened,
12 especially around shift change.

13 Q. Sure.

14 A. If they knew there wasn't an inspector in there,
15 there ain't no way you could clear. If you had a car
16 and two motors, which you had two when you was running
17 the shields in there, you couldn't open one door at a
18 time. You had to open both. And I'm going to say
19 that was one of the biggest reasons that place blew
20 up, is because of them doors.

21 Q. Sure.

22 A. Did you ever notice that at shift change, the
23 first crew out would open all the doors up and the
24 last one would close them?

25 A. Yeah.

1 Q. How common was that?

2 A. That's pretty regular.

3 Q. Okay.

4 A. The only thing I could say, it happened a lot.

5 Q. Sure.

6 A. And if they get tore out, it might be a week
7 before they get fixed back.

8 Q. Sure. Now, did you work under Wendell Wills?

9 A. Yeah. Wendell Wills was great. If he was there,
10 it wouldn't have blew up.

11 Q. That's what we understand.

12 A. He told him how to ventilate that place and they
13 wouldn't listen to him before he left.

14 Q. How did he suggest that they ventilate it?

15 A. Well, he told him to put out at Ellis. And also
16 there's a set of doors --- shoot, I can't remember
17 where it was at. It was outby. It was on --- they
18 were on Two North belt, ---

19 Q. Okay.

20 A. --- on the track, like 72 Break. This is going
21 from UBB, not from Ellis in. He told them any
22 time --- whenever you go back up in the North to run
23 you had to put them doors back in operation, ---

24 Q. Sure.

25 A. --- but they didn't do it. They just wouldn't

1 listen to him.

2 Q. We understand that Mr. Wills was running this mine
3 when they had the big methane outburst in 2004.

4 A. Yeah.

5 Q. Do you recall that?

6 A. Yeah, I remember that.

7 Q. Did he seem to take care of the methane problem
8 then?

9 A. Yeah. I mean --- yeah. I mean, he done what he
10 had to do.

11 Q. Sure.

12 A. It took several days to get the methane out,
13 but ---.

14 Q. But he kept it safe and ventilated while he was
15 doing that?

16 A. Yeah.

17 Q. We heard a lot of good things about Mr. Wills?

18 A. Oh, he was great. He was the best man I ever
19 worked for. But them other guys they have, they was
20 sorry. I mean, they were terrible.

21 Q. Do you know who was in charge of ventilation at
22 this mine?

23 A. Well, at the time Jamie Ferguson was.

24 Q. And what was his title?

25 A. He was vice-president.

1 Q. That's kind of odd for a vice-president ---.

2 A. Well, that's what was wrong with that mines. They
3 wouldn't let the other guys run it that should have
4 been running it. Chris Blanchard and Jamie Ferguson
5 would come in there and, you know, they would start
6 calling the shots. And they were, most of the time,
7 wrong.

8 Q. We've heard that one crew would go in and build
9 stoppings and the next crew on the next shift would go
10 in and knock those same stoppings out.

11 A. Yeah. Yeah.

12 Q. Did you ever have to do anything like that?

13 A. Oh, yeah. They've called in there and told us to
14 go in there and knock stoppings out, told you know,
15 the boss, a section boss, where to go to knock them
16 out at, where they want them out. Well, I knew it was
17 going to blow up. My boy worked there, and I told him
18 to quit. I knew as soon as that longwall come back
19 and started running that that mines would blow up.

20 Q. What made you think that it was going to blow up?

21 A. Because them guys didn't know what they was doing.

22 Q. Okay.

23 A. Hell, they couldn't get air up there on the miner
24 section. And I knew they weren't going to get it for
25 the longwall and the other coal crews. There wasn't

1 no way. That fan outside was pushing seven miles up
2 in there. If they needed air on the wall, they would
3 cut off the miner sections.

4 Q. Did you ever hear of when an inspector went in the
5 mine people would open certain doors up and close
6 others just to get air when the inspector went in the
7 mine?

8 A. Oh, yeah. Yeah.

9 Q. How common was that?

10 A. A lot. Things changed when the inspector was
11 coming on the job.

12 Q. We understand that.

13 A. I mean, they had signals. You know, like the
14 dispatchers hollered on the section it's raining
15 outside. When they said that, there was an inspector
16 on the property. I know you all already know that,
17 though.

18 Q. We've surprised several mines lately and then
19 found out how bad some of that is.

20 A. You know, I worked there 15 years, and I can never
21 remember one time there's ever been a blitz at that
22 mine, not that I know of.

23 Q. Would you recommend a blitz at mines like this?

24 A. Every day.

25 Q. I agree with you, sir.

1 A. Massey does things their way.

2 Q. How is their way different from complying with the
3 regulations?

4 A. Well, they're not the number one coal producer for
5 nothing. You got to do it, and you can't do it right.
6 There's no way. I mean, you can mine coal, but not
7 35,000 ton a day. At one time that's what they was
8 doing, 35,000 to 50,000 ton a day.

9 Q. That's a lot of coal.

10 A. Yeah, it is.

11 Q. Have you ever heard of production crews being told
12 to just get in the coal no matter how much air they
13 had or anything like that?

14 A. Well, no, I couldn't say that ---

15 Q. Okay.

16 A. --- because I wasn't on production. No.

17 Q. Sure.

18 A. But they have sent us underground with the fans
19 off.

20 Q. When did that happen?

21 A. It's happened several times, especially when the
22 mines was just starting out. They do a lot of things
23 wrong.

24 Q. Yeah, that's --- I never heard of that.

25 A. And the president, superintendent and --- they

1 know how to put it off on the other guy. That's why
2 they have all of these block superintendents. That's
3 why they do it. It puts the blame on them. Keeps the
4 monkey off their back. That's why they have so many
5 of them.

6 Q. Did you notice they went through a lot of those
7 type of positions?

8 A. Yeah. Oh, yeah, because they wouldn't --- some
9 guys would actually try to run it right, and they
10 didn't last long when they did.

11 Q. Have you any knowledge of anybody that got fired
12 for trying to do things the right way?

13 A. Yeah. Yeah, I know. I mean, that wasn't why they
14 was fired, but eventually they got rid of them, yeah.

15 Q. Who was that?

16 A. Well, I ain't going to mention no names.

17 Q. Okay. Sure.

18 A. I know it went on.

19 Q. Sure. Do you think the ventilation in this mine
20 was adequate?

21 A. No. That's just like that --- the Glory Hole. I
22 don't know if it was empty or full or what when it
23 blew up. But when that thing was empty and the gates
24 were open, the air changed, I mean, big time.

25 Q. And that was open to the Black Knight Mine?

1 A. Up at Logan's Fork.

2 Q. Logan's Fork, okay.

3 A. Now, it was supposed to never be empty, but it was
4 a lot. And the air --- instead of the air going inby,
5 I mean, it would absolutely hit you in the face.

6 Q. I'll be darn.

7 A. That much difference.

8 Q. Did you ever hear of methane --- high methane
9 readings at this mine?

10 A. Yeah. We went up there on the section and had to
11 pull out, I mean, to get the methane down because the
12 curtains wasn't up.

13 Q. Oh, geez. About when did that happen?

14 A. A lot.

15 Q. Any particular section or ---?

16 A. Yeah, that --- the headgate, the one that blew up.

17 Q. Okay.

18 A. But see, where the longwall went in was on a hill
19 there, but we drove way past it.

20 Q. Now, this is the headgate of the current panel.

21 It goes all the way out to this Bandytown fan. It's
22 about another mile or so out there.

23 A. Yeah. But the longwall started up at --- what was
24 it, 84 Break?

25 Q. Yeah. The setup seems to be right on 80 Break?

1 A. Yeah, 80. See, we drove way up past that and we
2 drove that --- they drilled that hole, that air shaft.

3 Q. And you say the high methane was up ---?

4 A. It would get up, you know --- yeah, it would get
5 up two, three percent up there.

6 Q. Okay.

7 A. Yeah.

8 Q. Were you working up in that area when it got that
9 high?

10 A. Yeah.

11 Q. Do you recall who the section boss was?

12 A. Yeah. It was Tommy Harra, which he was my boss up
13 there. And he didn't even have his bossing papers.
14 He forged them. You all remember that?

15 Q. I've heard that one.

16 A. He was the one. But who could believe him if you
17 had --- I was just going on what he went by, you know.

18 Q. When you ran into that two or three percent
19 methane, you say he pulled you out of the section?

20 A. Yeah, he did. Yeah. We come back and they got
21 air, got rid of it.

22 Q. Do you know if when people left these doors open
23 whether it would cut off air to these other sections
24 inby?

25 A. Well, I'd say it would have to, wouldn't it? I

1 mean, it had to. Like I said, especially around that
2 shift change.

3 Q. Now, you mentioned something about fire bosses and
4 you didn't think they were doing an adequate
5 examination.

6 A. No. They were terrible. Not all of them. There
7 was a few of them good, but ---.

8 Q. Do you think they just didn't have time to do
9 adequate examinations?

10 A. Well, yeah, they had plenty of time. They didn't
11 do nothing else.

12 Q. Okay.

13 A. They had plenty of time. I mean, at one time they
14 was shorthanded, you know, when guys were doing, you
15 know, double duty, really.

16 Q. Sure.

17 A. But it didn't matter. It was just like they walk
18 them beltlines and it would take you a good hour,
19 hour-and-a-half to do, and they did it in 30 minutes,
20 you know. You ain't checking nothing. I don't know
21 how many fires there was on the beltline. One South
22 belt three or four times ---

23 Q. Oh, geez.

24 A. --- after they done fire bossed.

25 Q. Something was wrong.

1 A. But it all boils down, the guys in charge of
2 running it. They didn't know what --- they didn't
3 know how to run a coal mines.

4 Q. I think given what happened there on April the
5 5th, that's pretty obvious.

6 A. Yeah.

7 Q. What did you think about the rock dust in this
8 mine?

9 A. Sometimes they would do it. sometimes they
10 wouldn't. You know, it was like a checkerboard. Hit
11 one spot and miss the next one, you know.

12 Q. Sure. Did you ever notice ---?

13 A. I mean, the neutral entries were never rock dusted
14 hardly. If they did, they had to knock --- you know,
15 take a stopping out and leave it out until they dusted
16 it, hang a curtain up over it.

17 Q. So they had all of these equipment doors, but they
18 didn't have doors to get to where they needed to get
19 to?

20 A. No. Are you talking about doors in the intake or
21 something?

22 Q. Yeah, or doors into the neutral entries that
23 you're talking about.

24 A. Oh, yeah, you didn't have no doors. No, not to
25 get to no neutral. I mean, you had little man doors.

1 Q. But you couldn't take equipment or a lot of rock
2 dust ---?

3 A. No. You had to knock a stopping. And in some
4 places they had doors, but you know, most of them they
5 didn't. Once they was done with the supply doors,
6 they just, you know, built stoppings in there, inside
7 of it.

8 Q. Are you aware of problems with water in this mine?

9 A. Yeah. That section up there, that was terrible
10 with water. They didn't run no discharge line. When
11 Wendell was there, they run a discharge line up, two
12 of them, six inch. They was told to do it, and they
13 wouldn't do it. You know, they said they didn't need
14 it. They'd do it when, you know, they had to. I seen
15 guys running up there in three foot of water. If
16 anybody said anything, they'd tell you to just hit the
17 road. But it wasn't always like that, though. Like I
18 said, it used to be a great place to work.

19 Q. We've heard some people say at one time this was a
20 show mine.

21 A. It was. I mean, it was nice.

22 Q. About when did it start going downhill?

23 A. When Chris Blanchard and Jamie Ferguson and Jason
24 Whitehead started taking over. Well, when Wendell
25 Wills left, that's when it started going bad. It went

1 to hell after that.

2 Q. There was people quitting, you know, people
3 retiring at 55 just to get out of there, you know.
4 That's what I done, I quit. I'm just waiting to turn
5 55.

6 Q. I appreciate the information. That's all the
7 questions I've got for right now.

8 MR. O'BRIEN:

9 I have a couple.

10 EXAMINATION

11 BY MR. O'BRIEN:

12 Q. What sort of West Virginia certifications do you
13 have?

14 A. Just a miner's certificate.

15 Q. Miner's certificate?

16 A. Yeah.

17 Q. You said you worked outby. Did you ever help move
18 the belts?

19 A. Yeah. Yes.

20 Q. On the average, what was the procedure? How close
21 to the face did they --- did you normally try to keep
22 the tailpiece?

23 A. Well, they wanted it shoved right up in the face,
24 you know. Probably --- I've seen it where they
25 couldn't --- I've seen the feeder so close where the

1 miner and the buggy just barely clear. That's the
2 only buggy they could run was the center buggy, you
3 know.

4 Q. Clear in between the cut and the miner?

5 A. Yeah. Yeah. I mean, all they did was punch the
6 hole. Once they punched the hole in it, they moved
7 the belt, you know.

8 Q. And that was pretty much on all the sections
9 or ---?

10 A. Oh, yeah. I mean, every one of them. Yeah.

11 Q. What about track, how close did they normally keep
12 track to the section?

13 A. Oh, about a mile.

14 Q. Was there any particular reason why it was behind
15 or --- that you know of?

16 A. Well, they didn't have the track. They didn't
17 have the track. They didn't have the people to lay
18 it, unless somebody wrote it up, you know, then they
19 would get them --- you know, hire a bunch of
20 contractors in there or shut the coal crews down and
21 lay track.

22 Q. And you say they didn't have track. They didn't
23 actually have the track on the property, the rails
24 or ---?

25 A. Yeah, they'd be outside, yeah, or they had to go

1 retrieve them, you know. But yeah, the track was ---
2 that was a bad thing. I don't know how far --- I bet
3 Dino and them --- how far were they away from the
4 track, from that section, the Headgate 22?

5 MR. FARLEY:

6 We understand they were about 18 or so
7 breaks.

8 A. Yeah. If that track would have been up where it
9 was supposed to, they would still be living today
10 because they would have been out of there. But the
11 rest of them was waiting on Dino and them other ones
12 to hang curtain. Now, Dino was a good boss. When he
13 left out of there every night, it was right. But they
14 would still have been living if their track would have
15 been caught up. I guarantee it.

16 MR. O'BRIEN:

17 I thank you.

18 EXAMINATION

19 BY MS. MONFORTON:

20 Q. I just have a couple of questions. How much do
21 you think part of the problem is they just didn't have
22 enough --- they wouldn't hire enough men to work here?

23 A. That's all over Massey. You work shorthand. They
24 could have used, you know, at least 50 more or 75.

25 Q. And how does that jive with their safety first and

1 their other rhetoric?

2 A. That's bullshit. It's production first, safety
3 whenever. That's the way it is.

4 Q. Mr. Hudson, did you say that you suffered an
5 injury at some point ---

6 A. Yeah

7 Q. --- and you've been off work? When did you have
8 that injury?

9 A. I can't remember. I think it was in this August
10 or September. And I'll tell you what happened there.

11 Q. Yeah, let's hear.

12 A. We got the road out, okay. The dispatcher gives
13 the dayshift the road in. Well, we go through the
14 second door inby. We just through it, and I'm driving
15 the mantrip. Well, when we get through the door, by
16 that time the outby door opens, okay, and both doors
17 are open when he opens the second door, because you
18 can feel the air. Well, they get out of the mantrip
19 to shut the doors, and here comes the mantrip, bam.
20 And a couple guys was riding with me, they was asleep,
21 you know, coming out from midnight. I told them, I
22 said, jump. Well, they all jumped but this other guy.
23 He couldn't because he was too close to the rib to get
24 out. Well, when I jumped out, where I'm about laying
25 down where I'm driving, you know, the mantrip, my foot

1 gets caught in the NASCAR net. And by that time, bam,
2 they hit together, and it twisted me to the ground.
3 Well, they shove that mantrip through the door, and
4 both the doors tear out. And if I would have still
5 been in that seat, there's a roof bolt welded to the
6 door, you know, the leg of the jack, it was welded, it
7 went right through that seat. And I had had to have
8 surgery on my knee. Tore my knee up. But you know,
9 they said the --- the dispatcher said he didn't give
10 the guys the road in, but you know ---. That's how
11 that happened. And two days later --- I worked two or
12 three more days, and my knee started hurting too bad.
13 And them doors were still not fixed.

14 Q. Uh-huh (yes).

15 A. See, that's the way they do it, you know.

16 Q. So you were off work that whole time, and then
17 just before the explosion you were going to return to
18 work?

19 A. Yeah. The day of the explosions I called at two
20 o'clock and told them I was released and coming back
21 to work, and at 3:30 I think it blew up.

22 MS. MONFORTON:

23 Thank you.

24 ATTORNEY BABINGTON;

25 I just have a quick few.

1 EXAMINATION

2 BY ATTORNEY BABINGTON:

3 Q. You know, we talked a lot about your problems with
4 upper management. How were the bosses at the lower
5 level bosses?

6 A. Well, they were pretty good, but they had them
7 scared to death, you know. They had them competing
8 with each other. You know if one guy got 80 buggies,
9 the evening shift guy better get more. You know what
10 I mean? That's the way it was.

11 Q. You mentioned that you said they wouldn't listen
12 to Wendell Wills when he was --- who is they?

13 A. Jamie Ferguson and Jason Whitehead and Chris
14 Blanchard.

15 Q. So they came in while Wendell Wills was still
16 there?

17 A. Yeah, but they --- see, Wendell --- yeah, Wendell
18 was still there, but he was calling most of the shots.
19 And then they brought the --- shit, I can't think of
20 his name, Rick Hodge in, and then he took over. And
21 then Wendell, he got mad and he left and went to
22 Logan's Fork for a while, then he quit.

23 Q. You also mentioned that at least on one occasion
24 you --- they sent you underground without any of the
25 fans on?

1 A. Yeah, a couple of times they've done that.

2 Q. Why would they do something like that?

3 A. Well, to get some work done. It wasn't --- at the
4 time the mines wasn't that far in there. You know, it
5 was just probably, I don't know, maybe a thousand feet
6 or more.

7 Q. My last one is --- you might have already answered
8 this, but is why did you quit?

9 A. Why did I quit?

10 Q. Uh-huh (yes).

11 A. Well, like I said, I got 35 years in. And I'll be
12 ^{(b) (7)(C)} in another year. And I was going to retire anyway,
13 so I just made an early retirement. I had enough.
14 And well, really, just about scared to go in anymore,
15 you know. Coal mining is not as safe as it used to
16 be, you know. You've got to watch yourself. If you
17 don't, you're going to get killed. That's about it.

18 ATTORNEY BABINGTON:

19 Thank you. Erik, anything else?

20 MR. SHERER:

21 I don't have anything else?

22 ATTORNEY BABINGTON:

23 Celeste, anything else?

24 MS. MONFORTON:

25 No.

1 ATTORNEY BABINGTON:

2 Well, there were two documents that we
3 marked at the beginning. R. Hudson One is a copy of
4 the subpoena. R. Hudson Two, a copy of the return
5 service.

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

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

23 A. I don't have nothing else.

24 ATTORNEY BABINGTON:

25 Thank you. And again, I want to thank

1 you for your cooperation.

2 A. All right. No problem.

3 * * * * *

4 STATEMENT UNDER OATH CONCLUDED AT 5:40 P.M.

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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