

1 **WEST VIRGINIA MINE SAFETY AND HEALTH**
2 **ADMINISTRATION**

3
4
5 **IN THE MATTER OF:**

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

9
10
11
12
13
14
15 The interview of DENNY HUGHES, taken upon oral
16 examination, before Jenny Marmol, Court Reporter,
17 and Notary Public in and for the State of West
18 Virginia, Tuesday, June 21st, 2011, at the Mine
19 Academy, 1301 Airport Road, Beaver, West Virginia.

20
21
22 **JOHNNY JACKSON & ASSOCIATES, INC.**
23 606 Virginia Street, East
24 Charleston, WV 25301

 (304) 346-8340

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

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

U.S. DEPARTMENT OF LABOR
Office of the Regional Solicitor
Robert Wilson, Esquire
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209
(202) 693-9389

U.S. DEPARTMENT OF LABOR
Mine Safety and Health Administration
Dean Cripps
302 W. Main
Benton, IL 62812
(618) 439-4355

U.S. DEPARTMENT OF LABOR
Steve Caudill
11 Kentucky Drive
Hindman, KY 41822
(606) 785-4191

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

EXAMINATION INDEX

DENNY HUGHES

BY MR. CAUDILL	7
BY MR. TUCKER	43
BY MR. CAUDILL	48
BY MR. WILSON	49
BY MR. CRIPPS	51
BY MR. CAUDILL	70

EXHIBIT INDEX

Exhibit	Page
1 Mine Map	25

1 MR. WILSON: Good morning.

2 Today is June 21st, 2011. It is
3 approximately 9:05 a.m.

4 We're here to conduct an interview of
5 Denny Hughes.

6 My name is Bob Wilson. I'm with the
7 Office of the Solicitor and United States
8 Department of Labor.

9 With me is Steve Caudill and Dean Cripps,
10 who are investigators for the Mine Safety and
11 Health Administration.

12 Also present for the State of West
13 Virginia Office of Miners' Health, Safety and
14 Training is Bill Tucker, and they will be
15 conducting the questioning today.

16 Government investigators and specialists
17 have been assigned to investigate the condition,
18 events and circumstances surrounding the fatalities
19 that occurred on the Upper Big Branch South on
20 April 5th, 2010.

21 The investigation is being conducted by
22 MSHA, pursuant to Section 103(a) of the Federal
23 Mine, Safety, Health Act and by the West Virginia
24 Office of Miners' Health, Safety and Training.

1 We appreciate your assistance in this
2 investigation.

3 After the investigation is complete, MSHA
4 will issue a public report detailing the nature of
5 the causes of the accident in hope that greater
6 awareness that causes of accidents can reduce the
7 reoccurrence in the future.

8 Information obtained from witness
9 interviews will be included in these reports.

10 You should know that if you request
11 confidentiality, confidentiality will be granted on
12 a case-by-case basis, but your statement may be
13 used in other proceedings.

14 You may have a personal representative
15 with you during the taking of the statement. Do
16 you have a representative with you today.

17 THE WITNESS: No, sir.

18 MR. WILSON: Your statements are
19 completely voluntary. You may refuse to answer any
20 questions. You may request a break at any time.

21 This is not an adversarial proceeding. A
22 formal cross-examination will not be permitted.

23 A court reporter will be recording the
24 interview, so please speak loudly and clearly.

1 If you do not understand the question
2 asked, please ask that the question be rephrased.

3 Please answer each question as fully as
4 you can, including any information that you may
5 have learned from anyone else.

6 I would like to thank you in advance for
7 your appearance here today. Your cooperation is
8 critical in making the nation's mines safer.

9 After we have finished asking the
10 questions, we will give you an opportunity to add
11 anything else to the record that you would like at
12 that time.

13 We will be interviewing additional
14 witnesses, so we ask that you not discuss your
15 interview with anyone outside of the room here
16 today.

17 After the interview, if you think of any
18 additional information that you would like to
19 provide to the investigation team, you can contact
20 Norman Page, the lead accident investigator, at the
21 address and telephone number in the letter that was
22 provided to you today.

23 Before we move on, I'll turn it over to
24 Bill Tucker if he has anything to add.

1 MR. TUCKER: I would just like to say, on
2 behalf of the Office of Miners' Health, Safety and
3 Training, we appreciate you coming in today and
4 helping us out.

5 MR. CAUDILL: All right, Mr. Hughes, I'll
6 ask that you face the court reporter and she'll
7 swear you in.

8 DENNY HUGHES, DEPONENT, SWORN

9 EXAMINATION

10 BY MR. CAUDILL:

11 Q. How are you doing, Denny?

12 A. All right.

13 Q. Well, let's start with your work history.

14 I understand you worked at the Upper Big Branch
15 mines?

16 A. Yes, sir.

17 Q. When did you start up there?

18 A. I started in April the 4th of 1995. I
19 think that's when it was.

20 Q. What were your job duties?

21 A. I was a section foreman.

22 Q. The entire time you worked up there?

23 A. Well, I was a fire boss there, too, also,
24 and did mine foreman duties, too, for a short

1 while.

2 Q. Which section did you work on?

3 A. Back in the early '90s, I drove headgate
4 sections. It was Headgate 3 I drove. Then I drove
5 the MRS sections on the south side of the mines.

6 Q. Who was your leading supervisor at that
7 time?

8 A. At that time Eddie Lester was there, he
9 was one of the superintendents.

10 And Wendall Wills was the mine foreman.

11 And Holmer Wallace, which has passed away,
12 he was a superintendent on the south side. On the
13 hazy side.

14 Q. So you started in '95, so you would have
15 been there during the '97 ignition?

16 A. Yes, uh-huh.

17 Q. Are you familiar with that?

18 A. Yes.

19 Q. Can you explain to me what you were doing
20 on that day?

21 A. The morning of that ignition or explosion,
22 I was on Headgate 3, and I did my evaluation of the
23 faces, went and checked for methane, checked
24 everything, my fire boss run, and I had stopped by

1 into the belt entry, which is Number 2 entry,
2 because you cut up three entries on the headgates,
3 and I marked that off for a breakthrough.

4 And was there with the bolt crew, talking
5 to the bolt crew, when I felt a concussion from a
6 -- something going on.

7 I told the men, I said, I don't think it's
8 a roof fall. I said we better pay attention
9 closer.

10 Just in a moment of time there was two
11 more that went off after that. A total of three
12 different occurrences with the ventilation.

13 About that time the phone on the section
14 started flashing, and it was the president of the
15 company at that time.

16 His name is Joe, but he was out of
17 Kentucky, so I can't remember his last name. His
18 first name was Joe.

19 And he said that we needed to come on
20 outside and said that the longwall had a back-
21 flash, so that's what we did.

22 Q. You said you felt three, you called them
23 concussions?

24 A. Yeah, like -- yeah.

1 Q. Just pressure?

2 A. Yeah, pressure on them. Nothing bad, but
3 just something -- you know that something is going
4 on. You could tell. The air would come and go
5 back.

6 Q. Okay. What kind of time frame are we
7 talking about from the initial one until the last
8 one?

9 A. Probably about -- it seemed like about two
10 or three minutes, something like that.

11 Q. Had you ever experienced anything like
12 that underground before?

13 A. Other than just air changes where roof
14 falls happened underground. So I know there's a
15 difference in the air pressure.

16 Q. Okay. Now once you arrived on the
17 surface, then what happened?

18 A. Well, they sent the men home, but several
19 of us was left. All the salary people had to stay,
20 and they had some work for us to do.

21 Q. What type of work?

22 A. Well, they took us around to the south
23 side of the mines to the belt entry. We went in
24 there. They took us around in the company truck,

1 around to the top of the mountain. We went in at
2 the south side portal. Number 1 belt comes out
3 there and dumps at that time.

4 Q. I've got a map. This is the north and
5 south portals right here.

6 A. North and south. Okay.

7 MR. CRIPPS: And then over here is the --

8 Q. Yeah, that's the Silo portal.

9 A. Well, they brought us over here and we
10 went in right.

11 Q. And when you say "here," you're indicating
12 the here Silo portal; correct?

13 A. Yeah, the Silo portal. They took us from
14 where we came out, this is the north portal, when
15 we came out -- where is Headgate 3 at?

16 Q. Probably would have been down in this area
17 somewhere.

18 A. But we came out from Headgate 3, which was
19 really just a straight -- the mine wasn't in there
20 that far. They kind of had it halfway developed
21 and started longwalling in the middle of the
22 mines. We came out. We came out the south portal
23 out here.

24 Q. You came out the south portal?

1 A. Yeah, which their mine office is over here
2 somewhere and we met there. And they took us in
3 the company truck back around the road, back to
4 right here, and we went in and we met Johnny
5 Nelson. He had a load of blocks he had brought in
6 from the south side portal, brought in.

7 Q. Okay. Why -- what were you guys doing
8 down in here? Did they not have track down this
9 way?

10 A. Yeah, they had track so far, but we had to
11 walk in to the track, and there's a mantrip there
12 and we rode down, as far as I can recall.

13 I can't remember how we got there, but we
14 got there and we met Johnny Nelson, and then went
15 to an area and built an overcast back.

16 Q. Do you recall which area it was that you
17 built the overcast back?

18 A. Can you see any overcast here? Have you
19 got a magnifying glass?

20 Q. Yeah.

21 A. Well, it was on the main line and it was
22 overcast. It was somehow -- for some reason it was
23 out, and we built it back before the agencies got
24 there.

1 Q. Oh, before the State and Federal arrived?

2 A. Showed up, yeah. It was built shortly
3 after the explosion.

4 Q. I'm still confused. I mean you come out
5 this side, they take you in a truck -- you come out
6 of south portal, they take you in a truck all the
7 way around to the Silo portal. What was the
8 reasoning for doing that?

9 A. To me, the way I felt, it was like out of
10 sight, out of mind, so nobody could see you.

11 Q. And who was directing this operation?

12 A. Gary Frampton was the superintendent at
13 that time. I guess he gave the orders, but I don't
14 really know who gave the orders, but I know that we
15 had to do that at that time.

16 All the salary people had to go. Plus
17 there was two men that was left inside the mines.

18 Q. So you stated that you went to repair an
19 overcast that was tore out?

20 A. Uh-huh.

21 Q. What caused the damage to the overcasts,
22 do you know?

23 A. Well, we never asked no questions why it
24 was out. All we know is they was moving a section

1 that day, some equipment, and the answers never was
2 clear to us and we never did ask that much.

3 Q. They were moving equipment in that area
4 but --

5 A. I don't know for sure if it was taken out
6 to move the equipment --

7 Q. For that?

8 A. -- or if the blast from that.

9 Q. Right. Was that overcast used to
10 ventilate that particular longwall at that time?

11 A. Uh-huh.

12 Q. It was?

13 MR. WILSON: Is that a yes?

14 A. Yes. Yes, as far as I can recall, it was
15 part of the ventilation for the longwall.

16 Q. Did you ever question anyone as to what
17 happened to the overcast?

18 A. No, we never did. It was kind of a hush-
19 hush thing.

20 Q. But they wanted it repaired before the
21 agencies arrived?

22 A. Yes, uh-huh.

23 Q. Did anyone from any of the enforcement
24 agencies, as far as MSHA or the state, ask about

1 anyone being in the mines to make repairs prior to
2 their arrival?

3 A. As far as I can recall, no, none of us was
4 asked anything.

5 Q. Okay.

6 A. But we went in that way and we came out
7 that way and came back.

8 Q. Now when you came back out -- you said you
9 came back that way?

10 A. Uh-huh.

11 Q. Had the MSHA and State officials arrived
12 by then?

13 A. I think they had, but we didn't see none
14 of them. We was kind of, like, out of the picture,
15 you know what I mean, nobody seen us and we seen
16 nobody.

17 Q. All right. So let's -- that takes us up
18 to '97.

19 A. Uh-huh.

20 Q. Did you continue to work at the Upper Big
21 Branch mines after '97?

22 A. I'll say I worked there until 2000, the
23 year 2000, then I quit. I quit and left after
24 2000.

1 Q. Was it 2000 when you left?

2 A. Either 2000 or 2001. I can't remember the
3 exact date.

4 Q. All right. Did you continue to be a
5 section foreman --

6 A. Yes.

7 Q. -- from '97 to 2000?

8 A. Uh-huh.

9 Q. Working in which area of the mines?

10 A. It was on the south side the most. But
11 when I fire bossed, I fire bossed the whole mine,
12 the south and the north. I walked all the airways,
13 all the way to the fans and then the returns and
14 everything.

15 Q. Okay. That's all the way up to 2000?

16 A. Took all the air readings and everything.

17 Q. Did you ever work at Upper Big Branch
18 mines while Chris Blanchard was there?

19 A. Yes.

20 Q. Approximately when was that, and what was
21 Blanchard's duties?

22 A. It was in January of 2006 or '7 -- no,
23 2007.

24 MR. WILSON: Let's just clarify the

1 record. You said you left the mine in 2000-2001.

2 Did you go back to the mine then?

3 THE WITNESS: Yes, I got rehired with the
4 company. I had left and went to another coal
5 company, and it didn't work out so I came back.

6 MR. WILSON: When did you come back to
7 UBB?

8 THE WITNESS: UBB, in 2007.

9 MR. WILSON: How long did you stay there?

10 THE WITNESS: I worked there from January
11 to July before I quit.

12 BY MR. CAUDILL:

13 Q. From January to July, who was your
14 supervisor then?

15 A. Rick Hodge. Richard Hodge is his name.

16 Q. And would that be the same time that
17 Blanchard and Whitehead and all those guys came in?

18 A. Uh-huh.

19 Q. Did you ever see Blanchard on the section?

20 A. Yes, uh-huh.

21 Q. What was his attitude when he had come on
22 the section?

23 A. He mostly come to see if production was
24 being -- being done the way he wanted it.

1 MR. WILSON: Do you know what his job
2 title was at that time?

3 THE WITNESS: He was president of Marfork,
4 which ...

5 Q. Now, you also mentioned that Mr. Whitehead
6 was there also. What was his title?

7 A. I think he was assistant, but I ain't for
8 sure exactly what his title was. I know he was
9 upper management.

10 Q. Did you see him on your section also?

11 A. I've seen him different times, yes.

12 Q. You said you saw Blanchard on the
13 section. Is there any particular instance that
14 sticks out in your mind as far as when Blanchard
15 was on your section?

16 A. I just remember one time. I spoke to him
17 about the roof control plan. Recall if it was --
18 he come up to evaluate the mine roof himself, and
19 they was installing the torque tension bolts and
20 the cable bolts, installing pattern at
21 intersections, which in that area of the mines we
22 was going to drive it up for pillars. Because at
23 that time, they wasn't planning on putting a
24 longwall back at UBB.

1 Q. Right.

2 A. And he come up and looked at all the roof
3 support we was putting up, and he said that was a
4 little bit too much, so he was going to change it
5 just to resin bolts, shorter bolts, instead of the
6 six-foot and the eight-foot cable bolts.

7 Q. So he wanted to change to a shorter bolt
8 and do away with the cable bolts?

9 A. Uh-huh. Which I told him, you know, the
10 roof control plan stated in it that you had to have
11 the cable bolts in it.

12 Q. What about the torque tension longer
13 bolts, did it also specify those?

14 A. Yes. But they immediately changed it and
15 started putting up the shorter bolts that day. I
16 know they sent the scoop man to get the smaller
17 bolts.

18 Q. Do you know if they had an approved plan
19 to do that?

20 A. I don't really know and I never seen one
21 the rest of the time I worked there before they
22 took me off the section.

23 Q. What was his reasoning for changing the
24 bolts?

1 A. Cost.

2 Q. Cost?

3 A. Uh-huh.

4 Q. Okay. Did you confront him about this?

5 A. I mentioned it to Rick Hodge and to Bill
6 Harless.

7 Q. And Bill Harless is?

8 A. The mine foreman.

9 Q. He was the mine foreman?

10 A. Uh-huh. Which Bill might not recall, but
11 I do.

12 Q. And what was the response?

13 A. Just, more or less, whatever the boss
14 says. You have to go with what he says.

15 Q. Did they tell you they had submitted and
16 got an approved plan to allow them to go to the
17 shorter bolt?

18 A. No, I never did hear nothing about it.
19 And shortly right after that, I was taken off the
20 section, and they put Rick Hodge's son up there
21 section bossing.

22 Q. Why do you think they removed you from the
23 section?

24 A. I got my thoughts, but everybody has

1 thoughts. I can't really pinpoint it, but I think
2 they wanted inexperienced people so they could
3 train them the way they wanted to do things,
4 shortcuts.

5 Q. Now, this was in January of '07. Do you
6 recall which part of the mine you were mining in at
7 that time?

8 A. It was -- this is the previous map of
9 2007. See, this is all about the longwall.

10 This is the area coming in from the north
11 side. This is Number 5 north belt.

12 Q. Yeah, this is -- you come in from north
13 portal over here, and you come down on this, and
14 then you came here, turn left to go toward Ellis,
15 and left to come down this way, out toward Ellis?

16 A. Uh-huh.

17 Q. Okay.

18 A. But we had some short smaller panels. I
19 believe I was over here in this area here
20 somewhere. Some panels we had drove that way and
21 -- for pillar panels. But that part of the map I
22 don't see.

23 MR. TUCKER: Back here is the Bandytown
24 Fan, if that helps.

1 A. No, I wasn't back that far that way. Roof
2 falls right there.

3 But the area where we was at, I know when
4 they pulled me out, after that younger boss started
5 bossing, they had several roof falls up there from
6 that deal with them shorter bolts.

7 Q. After they started putting shorter bolts
8 up they started getting --

9 A. Started getting several falls, because you
10 got have a rider seam and stuff.

11 COURT REPORTER: I'm sorry. I didn't
12 understand you.

13 A. They was installing shorter bolts,
14 according to what the operator wanted installed.

15 Roof bolts. Roof bolts. Roof support.

16 MR. WILSON: And you said there was a
17 rider seam?

18 A. There was rider seam. It varies. It came
19 down sometimes four foot, five foot, eight foot.

20 Q. You were aware of the rider seam?

21 A. Yes. And the miners there was, too.

22 Q. Did you convey that information to Chris
23 Blanchard and Rick Hodge and Harless?

24 A. I talked to Bill about it, and some of the

1 miners approached me and talked to them about it.

2 Q. Bill?

3 A. Bill Harless.

4 MR. WILSON: Let's go off the record for a
5 second.

6 (Whereupon an off the record
7 discussion was held.)

8 MR. WILSON: Let's go back on the record.

9 Denny, so how would you describe the area
10 where you were when you had this encounter with
11 Mr. Blanchard concerning use of the roof bolts.

12 THE WITNESS: To me, I didn't like the
13 idea of changing the plan, because I had worked
14 there previously and I knowed the mine's roof and
15 the history of it.

16 And the older miners that worked over here
17 on this side that didn't work on my section,
18 because they brought that crew of miners from
19 another mines down from Marfork, Marsh Fork Eagle,
20 and they brought them down there and put them
21 there.

22 And the company's theory was if they put
23 them men down there, then they would outrun the
24 other older guys there at the mines, more

1 production then they'd try to beat the older guys
2 up, you know, try to pump them. They had their
3 theory about production.

4 They brought these guys down here and just
5 try to have some competition, which these guys was
6 lost, you know, as far as production was to go.

7 They never did want to go with UBB's plan
8 for P-2 and all of that. And P-2, if I can -- ask
9 me some questions or whatever, and I'll explain a
10 little bit about P-2.

11 MR. CAUDILL: Would you care to mark this
12 on the map as far as the area we're talking about?

13 MR. WILSON: Do you recall what that area
14 was called?

15 A. Well, LBB 2 and 1. I don't remember
16 driving up on the LBB 2, 1, but --

17 MR. WILSON: Okay. Why don't we just mark
18 that with the marker as LBB.

19 THE WITNESS: Where do you want to mark
20 it, just right here?

21 MR. CAUDILL: That area where you were
22 driving when Mr. Blanchard asked you to change the
23 roof support.

24 THE WITNESS: Probably around about right

1 in -- wasn't up in there too far. Probably about
2 right in here.

3 MR. WILSON: You can just circle that
4 entire section here.

5 MR. CRIPPS: Put a circle around the area.

6 THE WITNESS: As far as I can recall,
7 that's right there. It wasn't up in there very
8 far.

9 MR. WILSON: Out on the margin, put LBB.

10 THE WITNESS: Just the whole thing?

11 MR. WILSON: Yeah.

12 MR. CRIPPS: Use this pen and just label
13 that LBB. It will show up better than that marker.

14 MR. WILSON: LBB?

15 MR. CRIPPS: Yeah. You circled the area
16 with a pink marker; is that correct?

17 THE WITNESS: Yes, uh-huh.

18 MR. WILSON: Can we mark this as Hughes
19 Exhibit 1.

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

22 MR. WILSON: Why don't we also -- before
23 you were talking about the south portal and the
24 Silo portal, can you go ahead and mark those also

1 with the pen and circle those?

2 MR. CAUDILL: With the blue marker.

3 THE WITNESS: You want to circle the
4 portals?

5 MR. CRIPPS: Yes.

6 THE WITNESS: Okay. This is the south.

7 MR. CAUDILL: Just circle the Silo portal
8 with the blue highlighter.

9 THE WITNESS: Just circle the whole area?

10 MR. CRIPPS: Use a different color for the
11 Silo portal.

12 MR. CAUDILL: Use an orange marker for the
13 south portal.

14 THE WITNESS: Just put "south"?

15 MR. WILSON: Just write "south" and
16 "silo."

17 BY MR. CAUDILL:

18 Q. We're up to 2007 and you're section
19 foreman up here and they ask you to change the
20 roof.

21 A. Uh-huh.

22 Q. During your time as a section foreman up
23 here, how did you guys handle your cleaning and
24 rock dusting and so forth on the section?

1 A. Well, we cleaned and rock dust like we was
2 supposed to, you know, every other cut, you know,
3 keep the rock dust within 40 foot of the face.

4 And at the end of our shift we run the
5 scoop across with the brooder duster.

6 COURT REPORTER: With a what duster?

7 A. It's called a super -- they put a duster
8 on a scoop, and we dusted at the end of the shift.

9 MR. CRIPPS: What was that word you used?

10 A. Brooder dust. It's big bags. You can
11 call it a super dust, too, if you want to, if that
12 would be simpler. It's like a, what --

13 Q. 2,000 pounds?

14 A. 2,000 pound bags. You could put two in
15 the scoop bucket that runs across the section.

16 Q. Did you do this dusting every day?

17 A. A lot of times you didn't get to because
18 they would call in and have you hot seat at the end
19 of the shift. If production didn't meet their
20 qualification, Chris Blanchard would call in and
21 tell your guys they had to work, and if they didn't
22 like it they could quit.

23 Q. So if you didn't meet production, you had
24 to hot seat, so you didn't get to rock dust?

1 A. Didn't get to rock dust like you should
2 do.

3 Q. And you say Blanchard called in?

4 A. Well, he would have the dispatcher to
5 call, flash your section and tell you, you had to
6 stay. And the men would get very disgusted and
7 everybody, because they had plans, too.

8 Q. Would the dispatcher -- would he tell you
9 -- would you be the one that takes the call?

10 A. Yeah, most of the time they would come up
11 to the face area and get me and tell me I had a
12 phone call. And I had to call, and then I had to
13 pass the word around they had to stay.

14 Q. When the dispatcher called in, what did he
15 tell you?

16 A. He just say Blanchard called and said that
17 you all will have to stay in between shifts today.
18 He said if anybody didn't like it, they could quit.

19 Q. Now, did Blanchard have an office at UBB?

20 A. No, his office was at Marfork. His main
21 office was at Marfork.

22 Q. How did he know the type of production you
23 guys had that day?

24 A. Well, you had to call out three times, and

1 he always kept up with the dispatcher, too. He'd
2 call, like, the office and the dispatcher would
3 tell him. They had to fax a little paper to him,
4 how much the production was, fax it to his office.

5 So he knowed at every mines how much coal
6 they was running at certain times. I think one --
7 you had to call out at 10:00, then at noon, then
8 there at last, you had to call out around about 2
9 o'clock or something, before the end of the shift.

10 Q. During this interview I've heard you
11 mention a whole lot of things that concern
12 production and so forth. I've yet to hear you
13 mention anything about safety.

14 A. Well, they had an S-1 program, which would
15 be a good thing if it really applied. I mean, it's
16 one of the best safety programs a person can have,
17 if it would be ...

18 Q. You said if it was applied?

19 A. I mean, if management would keep it
20 applied. But when P-2 come around it was totally
21 different. You know, when the guys come on the
22 section, though, for P-2, it was mostly with the
23 stopwatches, and their policy was that you run your
24 shuttle cars through your last open line

1 regardless. The closest route to the mine is the
2 route the shuttle car run.

3 Q. That brings me up to my next question.

4 Have you ever seen a member of management
5 alter ventilation controls to get two cars behind
6 the mine?

7 A. I've seen curtains took down.

8 Q. Seen curtains took down?

9 A. Uh-huh.

10 Q. Who took the curtain down?

11 A. Well, different ones in management would.
12 I mean, I can't remember back exactly who did what,
13 but I've seen them took down in order to get a
14 shuttle car through there.

15 Like if you had it blocked off with a
16 check, then if they wanted a shuttle car to go
17 through there and there wasn't a set of flues in
18 that breakthrough, that curtain got took down and
19 that shuttle car run that way.

20 Q. So what members of management would
21 normally be on your section?

22 A. Sometimes on P-2, James Hancock would be
23 one of them. So would Chris Blanchard and
24 sometimes Jason Whitehead.

1 Q. Did you ever see any of those individuals
2 take the curtains down?

3 A. I've seen them do all kind of sort of
4 things, but, you know ...

5 MR. WILSON: Is that yes or no?

6 A. Yes. I'll just say yes. That's what I'm
7 going to do, just say yes, yes, yes.

8 MR. WILSON: Just to clarify a little bit,
9 you were talking about P-2, and that P-2 stands for
10 production second; is that right?

11 THE WITNESS: Yeah, production second.
12 S-1 is supposed to be safety first.

13 Q. You said supposed to be safety first?

14 A. Well, that's the way the miners felt at
15 UBB. And even the foreman, the section bosses felt
16 the same way.

17 Q. Okay.

18 A. You know what I mean?

19 MR. WILSON: Felt what way?

20 THE WITNESS: We felt, after we worked
21 there so long, that, to us, as part of the miners,
22 we felt like S-1 was second to P-2. Everybody felt
23 that.

24 MR. WILSON: And you said that -- you

1 referred to someone having a stopwatch?

2 THE WITNESS: Yeah.

3 MR. WILSON: Could you explain what --

4 THE WITNESS: They timed everybody.

5 Everything was timed, as far as production goes.
6 You had to report how long it took you to cut. You
7 had to have a production report. You had to put
8 how long it took you to get a cut. You had to know
9 how long it took for that buggy to leave the miner
10 and go to the feeder and come back. Everything was
11 on a time basis for production.

12 MR. WILSON: And who would do the timing?

13 THE WITNESS: Sometimes the upper
14 management would and they got -- all the section
15 bosses had a stopwatch. And they had you to do it
16 because you had to put it down on your production
17 report.

18 MR. WILSON: So every shift you had to
19 time each cut, how long it took.

20 THE WITNESS: Yes.

21 MR. WILSON: And you had to time how long
22 it took for a shuttle car to get to the miner.

23 THE WITNESS: To the feeder and back, a
24 round trip, yeah.

1 MR. WILSON: And you would have to put
2 these times on your production report?

3 THE WITNESS: The total amount of time for
4 that cut of coal. And then if it didn't meet what
5 they thought it took, then you would be in a
6 production meeting.

7 BY MR. CAUDILL:

8 Q. You said "they." Who are you referring
9 to?

10 A. Upper management.

11 Q. Which would be Blanchard and --

12 A. Barry Hale at that time. You ever heard
13 of the name Barry Hale?

14 Q. I'm sure we have.

15 A. Which he no longer works for Massey.

16 MR. WILSON: Just to clarify on something
17 else we were talking about. We were talking about
18 taking down curtains --

19 THE WITNESS: Yes.

20 MR. WILSON: -- so that the miners could
21 run to the last opening break?

22 THE WITNESS: Uh-huh. The closest route
23 to the miner.

24 MR. CAUDILL: Shuttle cars.

1 MR. WILSON: Shuttle cars. And what, if
2 any, impact does that have on the ventilation
3 plan?

4 THE WITNESS: Well, it puts more dust in
5 the air, and then it short circuits your air. If
6 you take down a curtain and we were on a section,
7 that messes with your ventilation.

8 MR. WILSON: Does the ventilation plan say
9 anything about curtains?

10 THE WITNESS: Ventilation plan? It
11 usually says that it has to be within ten foot of
12 the working face.

13 And then a roof bolter, it would say that
14 it has to be up at least to where the operator is,
15 as it advanced.

16 BY MR. CAUDILL:

17 Q. Now taking these curtains down, how would
18 it affect your face ventilation? If you take a
19 curtain down to get two cars up there, what kind of
20 face ventilation are you going to have?

21 A. Well, you're going to have lower amounts
22 of air, I mean, but usually you --

23 Q. I think that's what Bob was getting at.
24 He wants to know what effects --

1 A. Yeah, your volume of air would change.

2 MR. WILSON: The purpose of the curtains
3 is to direct air up to the face; correct?

4 THE WITNESS: Absolutely.

5 MR. WILSON: And management instructed you
6 to take those curtains down? Is that your
7 testimony?

8 THE WITNESS: Well, I've seen it done.
9 Nobody will exactly tell you, but they'll say, you
10 get that buggy and you get that buggy running
11 through that break through there.

12 And then buggy man would come up there,
13 and he'll take the curtain down and get it out of
14 his way so he can run through there, because you
15 can't run through a solid curtain unless you got
16 fly pads on it.

17 Q. Under the instruction of management?

18 A. Yeah. I mean, which I was there and I had
19 to do what I had to do when I worked for them. It
20 ain't that I wanted to, but sometimes you're forced
21 to do it.

22 Q. Why do you feel you were forced to?

23 A. Because production.

24 Q. And what if you didn't comply with their

1 production standards?

2 A. You didn't no longer work there. You
3 wouldn't have a job.

4 Q. So if you didn't meet their production
5 standards, they would fire you?

6 A. Yeah, they would, or put you in a rat hole
7 somewhere for punishment.

8 I mean, I'm trying to get serious. Just
9 coal mining talk, you know, it ain't nothing out of
10 the --

11 Q. Oh, I understand. I know exactly what
12 you're talking about.

13 After you left the section at the LBB,
14 where did you --

15 A. I'll tell you --

16 Q. -- work then?

17 A. I don't want to make a long story out of
18 it or nothing, but one morning I came to work.
19 Okay? So Rick Hodge, the superintendent, says,
20 Denny, I need to talk to you a while. So as you
21 come upstairs, there's a little room and they had a
22 black couch, and he sat me down there, patted me on
23 the back.

24 He says, I need you to do me a favor. I

1 need you to help Bill Harless. We ain't got nobody
2 outby, but I'll get one man and you, and we can
3 seal the stoppings. We got a problem with our air
4 up toward the glory hole. We don't have no air up
5 there, and there's about 300 and something
6 stoppings that needs to be sealed.

7 He said, What I'll do, I'll work it out
8 and we're going to order that gunnite, and I was
9 wanting you and another man to seal all of them
10 stoppings all the way up from one part of the mines
11 all the way up to the glory hole. And that's what
12 I did for several weeks.

13 But when it was time that job was over, I
14 was supposed to go back to my section, as a section
15 boss, but then Rick had his boy there section
16 bossing so I didn't get to go back.

17 Q. You sealed the stoppings up toward the
18 glory hole. You're talking about --

19 A. On the track side, we sealed them.

20 Q. Four north belt?

21 A. Yes, four north, all the way up.

22 Q. And five north belt?

23 A. Uh-huh.

24 Q. All the way up to the north glory mains?

1 A. All the way up, yeah. All the way down,
2 yeah, every stopping.

3 Q. What conditions were the stoppings in?

4 A. They was bad. They was deteriorating.
5 Some of them was crushing out, and some of them the
6 plaster had done fell off of, and some of the doors
7 was hard to get into because of the pressure
8 sitting down on them.

9 And I even talked to Barry Hale, he was
10 the main man. I talk to him one time. I said, If
11 you are expecting to keep these mines ventilated, I
12 said, you're going to have to rehab some of that.
13 You're going to have to rebuild some new stoppings
14 and stuff.

15 And no comment there. He just said get
16 your job done, more or less. So we sealed them and
17 left it be.

18 Q. I mean, you voiced your concerns to
19 management?

20 A. Uh-huh, yeah.

21 Q. He said no comment?

22 A. In other words, they didn't say nothing.
23 He wouldn't say nothing.

24 Q. Do you feel they took your concerns

1 seriously?

2 A. No. But that was just my opinion against
3 their opinion.

4 Q. Now after you sealed this area, you said
5 you were supposed to go back to your section?

6 A. Yes, uh-huh.

7 Q. But you said --

8 A. They had Rick Hodge's son, Aaron Hodge was
9 section bossing on that section then, at that time,
10 a younger boy.

11 Q. Okay. So after you completed this task,
12 what were your job duties then?

13 A. Then they just had me with some guys doing
14 outby work. I would go around to the belts and
15 clean them, and, like, if you had a violation, I
16 would take a few guys there to -- like an outby
17 boss, to clean up the areas where they had
18 violations on the belts.

19 Q. You had just took care of areas where you
20 got a ticket?

21 A. Uh-huh.

22 Q. How many men did they give you to clean
23 these areas up?

24 A. Usually about three or four. They would

1 all be red hats, contractors most of the time.

2 Q. Did they ever send you to do any
3 preventative maintenance prior to getting a ticket,
4 or was everything already --

5 A. No, it was always after the ticket.

6 Q. It was always after the ticket?

7 A. Uh-huh.

8 Q. Did they have a crew shoveling on the
9 belts and doing --

10 A. No, no, no. They had belt men to fire
11 boss, belt men, they shoveled the tails. That's
12 all they had. That's all Massey had. They didn't
13 have a regular belt crew cleaning their belts.
14 They just had a belt man, the fire boss.

15 Q. During your experience at this mine, what
16 kind of condition were the belts in?

17 A. The belts? I guess they was pretty rough
18 shape when I was there.

19 MR. WILSON: What do you mean "rough
20 shape"?

21 THE WITNESS: A lot of places, they would
22 have the rollers running in gob in different
23 places, and that's where they -- when the
24 inspectors come in, they do a good, they would

1 write them up and cite them, and they would give
2 them a certain amount of time to get them cleaned
3 up.

4 And if it was really bad, you know, the
5 inspectors shut it down to where they would have to
6 shovel it immediately, but the dirty areas would be
7 cleaned and re-rock dusted.

8 Q. And that's where you came in at that time?

9 A. Yeah. Uh-huh.

10 Q. You would come in and clean the belt and
11 get the ticket taken care of?

12 A. Uh-huh. But I do know one time, for
13 instance, I mean, this is just something, at the
14 glory hole, glory hole up here, they had their belt
15 that came out of that other mines up there, that
16 came down and they dump on the longwall belt there
17 that come through the mountain. But their drive
18 right here -- is this where it comes down? There's
19 a belt drive.

20 Q. Here is the glory hole.

21 A. Okay. That's the glory hole.

22 Q. This is the entrance to the shaft right
23 there that comes up to the other seam.

24 A. But right there, the tailpiece or

1 whatever, they had a take-up unit there, and the
2 coal and stuff was plumb up to the top of the
3 fence.

4 Q. Top of the fence?

5 A. The top of the guard, which is six foot
6 high, and the belts still run and didn't get turned
7 off. So we had to take a fire hose in there and
8 spray it out.

9 It was mud and muck and dirt and coal and
10 everything else. But the belts didn't get turned
11 off. If you turned it off, they'd scream like
12 demons until you get it back on.

13 Q. Who would scream?

14 A. Just different ones in the mines, get the
15 belt running.

16 Q. Okay. You're on this belt crew now and
17 was that --

18 A. Uh-huh.

19 Q. How much longer did you work after that?

20 A. I worked there until July, and then you
21 had a cutoff and realignment. And they was wanting
22 to put me to fire bossing and I just told them --

23 Q. You're talking about July of 2007?

24 A. '7, yes. So I worked from January to July

1 there.

2 Q. During this realignment they wanted to
3 move you to where?

4 A. To fire bossing.

5 Q. Fire bossing?

6 A. Take me completely off of my salary job
7 and put me -- I mean, as far as my pay scale, they
8 was going to change it down to fire boss rates, and
9 I told them I didn't want it. I quit.

10 MR. WILSON: When did you go to work for
11 MSHA?

12 THE WITNESS: 2008, December 2008.

13 MR. WILSON: And you've been with MSHA
14 ever since; is that right?

15 THE WITNESS: Yes, uh-huh, yes.

16 EXAMINATION

17 BY MR. TUCKER:

18 Q. That's what I was going to ask you. If
19 after you left in 2007, July, have you ever worked
20 at UBB since that time?

21 A. Not since that time, but I did have to --
22 they called me -- like that was on a Friday I quit,
23 they called me Monday and asked me if I would go
24 back to work for them. Which I had another job,

1 but I went ahead and went back to work for them.

2 I went to this mine they had. They called
3 it Shumate Powellton, worked there about a year or
4 so more, and then they transferred me on down to
5 this little mines they called Coon Eagle, and that
6 was because I had some experience driving three
7 entries, headgate entries.

8 Supposedly that's what they told me they
9 was going to do, but that was the lowest mines they
10 had so they put me there.

11 And we drove that portal out to where they
12 could hook Ellis up, bring the coal in, you know,
13 and then do away with the overland belts of
14 performance. But that was part of the development
15 plan on punching Coon Eagle out for the Ellis and
16 coal to come straight through the mountain.

17 Q. So you continued to work for Massey, just
18 not at UBB up until 2008?

19 A. Yeah, up until 2008.

20 Q. Just had a couple of questions there about
21 the event in '97. You said when you all got
22 outside, they sent some of you around to the Silo
23 portals?

24 A. Uh-huh.

1 Q. Do you know who else -- do you remember
2 anybody else that was with you?

3 A. I can remember a lot of them. Do you want
4 some names? I'll give them to you.

5 Benny Presley was one of them. Dennis
6 Simms, he was one of the men that was left on the
7 Headgate Number 2 section. He was left behind.

8 The boss run off and left two men in the
9 headgate -- in the intake. Dennis Simms and then
10 Dempsey Hatcher.

11 Q. Those were the two left behind?

12 A. Yeah, that day.

13 Q. How did they end up getting out?

14 A. I don't know. I guess they finally got to
15 a phone or something. Somebody remembered, when
16 they got outside, they left them in there, and they
17 got ahold of them somehow.

18 But they ended up working with the salary
19 people, them two airway guys did, and help build
20 the overcast back.

21 Q. So they ended up going with you to --

22 A. Build the overcast back

23 Q. -- Silo portal?

24 A. Uh-huh.

1 Johnny Nelson was one of the guys. He's
2 the one that run the motor. He brought the blocks
3 in. I do recall that.

4 Q. So apparently, then, they had left them
5 behind, then somebody went back and got them, then
6 everybody is outside, then you all were instructed
7 to go and they drove you around to --

8 A. Uh-huh.

9 Q. So after you got outside, about how long
10 was it, do you recall? I know it's been a long
11 time.

12 A. It was probably about 30 minutes or
13 something. Just long enough for them -- whoever
14 knew the overcast was out, you know, then they got
15 their plans together and took us around the
16 mountain.

17 Q. Okay. And all that, you say, was pretty
18 hush-hush?

19 A. Oh, yeah, it was definitely hush-hush.

20 Q. Okay. When you got to that overcast, did
21 it look like they had been running any equipment in
22 that area through there where the overcast was
23 damaged?

24 A. We really didn't pay no attention to see

1 if it was or not, you know. But I know there was a
2 power source there close by to where they could
3 plug cat heads in, but there was no equipment in
4 that area at the time.

5 Q. Okay. You had mentioned they was moving a
6 section, so I was just wondering.

7 A. Yeah, they was setting up for a section
8 somewhere.

9 Q. And again, I know this has been a long
10 time, but did it appear to you that the overcast
11 had intentionally been taken out?

12 A. Well, it definitely didn't look like it
13 had been blowed out, you know what I mean, there
14 wasn't no blocks scattered nowhere or nothing.

15 Q. The concussion that you felt up on your
16 section, in your opinion, would that have been
17 strong enough to blow out an overcast?

18 A. No, not where that was. That was at the
19 mouth of that panel. It was all the way out to the
20 main line to the tracks.

21 Q. Okay.

22 A. But I do know that the superintendent
23 walked, and he told everybody, he walked up through
24 the longwall, and he said that the stoppings that

1 had been blowed out, it blowed the block about 60
2 foot away from the stoppings. So there was pretty
3 good force to blow solid blocks, eight inch solid
4 blocks, 60 foot away.

5 Q. Up next to the --

6 A. To the longwall.

7 Q. How far back?

8 A. That was the first longwall panel, so I
9 don't know how far back they was on it. But just
10 hearsay is all I know, you know, as far as that,
11 and I just know the tail side of the wall was
12 blocked that day with a fall, roof fall,
13 somewhere.

14 Then we all thought, well, when we found
15 out about the overcast, it was another short
16 circuit in the ventilation because the overcast
17 wasn't in. But as far as knowing why it was taken
18 out, I don't know, or why it was out.

19 Q. That's all I have. I appreciate it.

20 A. But it was at the mouth of the longwall
21 there.

22 EXAMINATION

23 BY MR. CAUDILL:

24 Q. You said the tail side of the wall was

1 blocked with a roof fall. Is this the information
2 that --

3 A. That the miners told me, yeah.

4 Q. Did they know about the block fall prior
5 to the beginning of that shift?

6 A. I don't really know if they did or not. A
7 lot of things was kept hush-hush there. I mean, it
8 was just one of them deals.

9 (Break.)

10 MR. WILSON: Let's go back on the record.

11 EXAMINATION

12 BY MR. WILSON:

13 Q. Denny, I just wanted to clarify a couple
14 things. Going back to the 1997 incident where
15 there were the pops, and you talked about going
16 into the Silo portal and working on the overcasts,
17 do you know if MSHA and the State were notified of
18 that incident?

19 A. The best of my knowledge they was, because
20 I had to work that Sunday to monitor for CO. Had
21 to call out every hour. I would take a check for
22 it every hour and see if it's coming down or going
23 up, make sure everything is okay on it.

24 Q. And when an accident would occur or an

1 ignition would occur, and MSHA would be notified of
2 something like that, what would their normal
3 procedure be upon being notified of something like
4 that?

5 A. The operator?

6 Q. No, MSHA's policy.

7 A. MSHA usually places the order to where
8 they can't do nothing, change no evidence or
9 nothing until they come to investigate it. Nothing
10 is to be touched.

11 Q. And when you went underground, when they
12 drove you around the mountain to the Silo portal,
13 if there were an order in place, would you have
14 been allowed to do that, to go into the mine and
15 change that overcast if there were a K order in
16 place?

17 A. No. You shouldn't have been able to, no.

18 Q. And was it easier to get to the overcast
19 from the Silo portal?

20 A. No.

21 Q. Would it have been easier to go in --

22 A. From the south side.

23 Q. -- from the south portal?

24 A. South portal.

1 Q. It would have been easier from the south
2 portal?

3 A. It would have been faster.

4 Q. So, then, do you know why they would have
5 taken you around to go through the Silo portal?

6 A. Like I said, my thought was out of sight,
7 out of mind.

8 Q. If MSHA were to come to the mine, which
9 portal would they go to?

10 A. They would go to the south side.

11 Q. Is that because the offices were located
12 there; is that right?

13 A. Yeah, the offices was there. The south
14 side and the north side. That's where the office
15 was.

16 MR. WILSON: Okay.

17 EXAMINATION

18 BY MR. CRIPPS:

19 Q. Yeah, Denny, I got quite a few questions I
20 want to ask you.

21 Now, we're talking about the '97 ignition,
22 so I'll stick with it. Where exactly was you
23 bossing at the time of that event?

24 A. On Headgate 3.

1 Q. Describe where the location of that in
2 relation to the longwall to me.

3 A. Well, you got the tailgate side and then
4 you got the longwall. Then we was driving -- which
5 the longwall would be on Headgate 1. So I was the
6 second panel down from where the longwall was
7 mining.

8 And Benny Presley was driving Headgate 2
9 and I was driving 3. We was driving two headgate
10 sections at the same time, trying to stay ahead of
11 the longwall.

12 Q. Okay. And the longwall the ignition
13 occurred, the longwall was near the mouth; is that
14 correct?

15 A. As far as I can recall. Well, it hadn't
16 been too long mining. I don't know. It might have
17 been half way back from the panel. I don't know
18 for sure.

19 Does it have a date in '97?

20 Q. I don't think that's actually on this
21 map. I think it was a farther --

22 A. Okay. Because it's sealed off now.

23 Q. -- that way. Yeah, it's been sealed off.
24 Okay.

1 Do you recall what time of the day that
2 that occurred?

3 A. It was soon as we got out on the section.
4 It was probably around about 8 o'clock or something
5 in the morning, the morning hours, early morning
6 hours of the shift.

7 Q. Okay. Now, did you actually feel the
8 ventilation change on your unit?

9 A. Oh, I felt the concussion. I mean, it
10 kind of reminds you of a roof fall, but it was a
11 little bit different. It came in and came out.
12 Like forced and then sucked back out, the pressure
13 did.

14 Q. So the pressure -- you had air movement,
15 then, on the unit?

16 A. Yes.

17 Q. Could you just tell it by curtains moving,
18 or how could you tell?

19 A. You could just -- the pressure, you could
20 just feel the pressure standing there. But nothing
21 to push you down, but you could tell, you know,
22 concussion, like a roof fall, or gush of air and it
23 would be gone. A little while later, another big
24 gush of air and another big gush of air.

1 Q. So you physically felt it standing there.
2 It's not just a matter of you seen --

3 A. Plus, you know, you could hear it. It
4 does something to your ears, like a vacuum, you
5 know.

6 Q. Okay. So when you actually -- you say you
7 felt or heard a concussion, like a roof fall?

8 A. Yeah.

9 Q. Then did you feel the air change
10 immediately, or was there some delay?

11 A. It was just like as soon as that happened,
12 it was still again, and then it did it again, and
13 then still again, and three times we felt the
14 concussions off of it.

15 Q. Okay. Did you talk to anybody that was
16 actually out on the longwall that day?

17 A. I talked to Rick Hodge after I got home.
18 Rick, his nickname is Smurf. I called him because
19 we was friends, and I talked to him about it.

20 Q. Okay. What did he tell you?

21 A. He just told me that when they cut through
22 on the tail side of the wall, there was a flame and
23 stuff. And then when they was going back down to
24 the mantrip, they hurried up and put their self-

1 rescuers on, and they was walking to the mantrip.

2 It was like a hazy cloud on top of them,
3 all down around where the mantrip was, and they got
4 on it rode on outside, come on outside.

5 Q. Okay.

6 A. But he said all we -- I think one guy got
7 some burns, but I can't remember back. One of the
8 guys got some burns from the flame when it was
9 ignited.

10 Q. Do you know how long the mine was down
11 after that?

12 A. Just a few days. It wasn't long. Just
13 over the weekend deal, I think.

14 Q. Okay. You said earlier that you started
15 work at UBB in '95?

16 A. '95.

17 Q. What did you do prior to '95? Where did
18 you work?

19 A. I worked at Maben Energy.

20 COURT REPORTER: At where?

21 THE WITNESS: Maben Energy. M-a-b-e-n
22 E-n-e-r-g-y, energy.

23 Q. When did you start there and leave there?

24 A. I started there in '83 and left there in

1 2000 -- I mean, in '95 there, April '95.

2 Q. So '83 to '95?

3 A. Uh-huh.

4 Q. What jobs did you do there at Maben
5 Energy?

6 A. I just run equipment, which I would fill
7 in and boss some. I had my bossing papers so they
8 let me boss there.

9 Q. But you made your bossing papers while you
10 was working there?

11 A. No, I had worked at Bonnie mine years ago,
12 prior to Maben Energy.

13 Q. When did you start there at Bonnie mines?

14 A. It was back in about '79, which I got laid
15 off there and was out of work 18 months before I
16 got hired on with Maben Energy.

17 Q. So you started your mining career in '79?

18 A. No, '75 is when I actually started. But
19 back in those days, you go to work and if they
20 would throw some water out and everybody left. A
21 lot of striking going on. Nothing good for the
22 coal miners.

23 Q. Okay. So you started in '75?

24 A. Yeah, '75.

1 Q. Okay. And so you've run -- tell me what
2 equipment you've run in mines.

3 A. I've run miners, shuttle cars, scoops,
4 bolters, roof bolters, everything, about everything
5 in the mines, motors.

6 Q. Okay. And have you fire bossed?

7 A. Yeah, fire bossed.

8 Q. And you've section foreman?

9 A. Yes.

10 Q. Okay. And you've filled in as mine
11 foreman?

12 A. Mine foreman, yeah.

13 Q. Okay. So you're a pretty experienced coal
14 miner, then?

15 A. Yes, uh-huh.

16 Q. Do you think -- I don't know the best way
17 to say this. Did that hurt you in Chris
18 Blanchard's eyes, do you think, all the experience
19 you had in coal mining?

20 A. Oh, yes.

21 Q. How so?

22 A. I think that, you know, he'd rather have
23 somebody he could tell what to do, because he
24 couldn't get everything I knowed out of my mind,

1 you know, as far as the laws and things, you know,
2 the way I feel.

3 I don't know really how he might have
4 felt, but that's what some of the older bosses
5 thought, because we talked about it at different
6 times.

7 Q. You said earlier you left around 2001,
8 left UBB, and then you came back in '07.

9 A. Uh-huh.

10 Q. What did you do in that time period that
11 you was gone from UBB?

12 A. I section bossed for Patriot Coal, and I
13 worked for a little company called Banner Coal just
14 for a short while, but the mines was too bad. I
15 left there and went to Patriot down there.

16 Q. But you stayed in coal mining most of that
17 time?

18 A. Coal mining, yes.

19 Q. All of that time?

20 A. Yeah. Section boss, yeah.

21 Q. Okay. I want to jump ahead to 2007, the
22 last time that you was bossing.

23 Explain to me, best you know, what the
24 management structure was there, who was in charge?

1 A. Okay. 2007, okay, well, I was working at
2 another mines that Massey had in the mines, worked
3 out, then they brought Rick Hodge down, the
4 superintendent. Wendell Wills was the
5 superintendent, but they replaced him with Rick
6 Hodge and brought Bill Harless down as mine
7 foreman.

8 Q. So now does the mine foreman report to the
9 superintendent?

10 A. Yes, uh-huh.

11 Q. Who did Rick Hodge report to?

12 A. Rick Hodge was superintendent. He, more
13 or less, to Blanchard, Chris Blanchard.

14 Q. And Blanchard was the president?

15 A. Uh-huh. Which James Hancock was the
16 president. They had James Hancock in like he was
17 taking care of performance, but really Blanchard
18 was ovetop of Hancock, James Hancock.

19 Q. Was there anyone between Rick Hodge and
20 Blanchard?

21 A. Just James Hancock.

22 Q. Hancock?

23 A. Yeah.

24 Q. Okay. So then you reported to, what's the

1 name, Bill?

2 A. Bill Harless.

3 Q. Bill Harless?

4 A. Uh-huh.

5 Q. And so when you're underground on your
6 section running coal, is Bill Harless the guy that
7 would be your supervisor?

8 A. To me, that's how I felt, that he was my
9 supervisor.

10 Q. Okay. But yet you said earlier that there
11 was times when actually Blanchard would come down
12 on your unit?

13 A. Yeah. And Barry Hale, yeah.

14 Q. Okay. Where did Barry Hale fit in here?

15 A. He was over all production, Barry Hale
16 was.

17 Q. At UBB?

18 A. All of Massey. He was over all of them.

19 Q. Okay. So was he over Blanchard?

20 A. He was up there high. I don't know
21 exactly what his title was, but I think he would be
22 overtop of Blanchard.

23 Q. Okay. So there are upper management more
24 than just UBB, then?

1 A. Uh-huh.

2 Q. So you had actually had Barry Hale and
3 Blanchard actually your unit?

4 A. Yes, uh-huh.

5 Q. And giving you instructions about how to
6 increase production?

7 A. Yes, uh-huh.

8 Q. Okay. In your mining career, is that
9 something normal you see, people that high within
10 the company actually on the unit directing the work
11 force?

12 A. No, uh-uh, no.

13 Q. That's not common?

14 A. No, usually most people, like Holmer
15 Wallace, he was my superintendent one time, he'd
16 come, bring you off to the side and tell you some
17 things he seen. He said, but you're the section
18 foreman here, you ought to tell your men instead of
19 me tell your men.

20 But a lot of times they tell your men to
21 do other things than what you had instructed them
22 to do.

23 Q. By "them," you mean Blanchard and Barry
24 Hale?

1 A. Uh-huh.

2 Q. Or other members of upper management?

3 A. Uh-huh.

4 Q. So they would actually come on the unit
5 and give your hourly people --

6 A. Yeah.

7 Q. -- instructions?

8 A. There was also another guy there, his name
9 was called -- he was -- what's his name -- Burke,
10 Michael Burke. Have you ever heard the name Mike
11 Burke.

12 Q. Burt?

13 A. Mike Burke, B-u-r-k-e, Mike Burke.

14 Q. No, don't think I have.

15 A. They had brought him down there. Barry
16 Hale left him there to try to supervise in between
17 Rick Hodge and him, and he, more or less, come in
18 to check everything out. And he harassed my people
19 all the time.

20 Q. He harassed them?

21 A. Uh-huh, stayed on them all the time --

22 Q. While they was on --

23 A. With the stopwatch. He'd intimidate them
24 with his stopwatch?

1 Q. So he'd actually come on the unit and
2 intimidate your people?

3 A. Uh-huh.

4 Q. By people, I mean your hourly employees
5 that work for you.

6 A. Uh-huh, yes, he would.

7 Q. Okay. That would affect the morale of
8 your people?

9 A. Absolutely. They hated it there.
10 Especially at the end of the shift, they definitely
11 hated it, because the phone would always flash and
12 tell them they had to work over.

13 Q. And so normally -- we'll discuss that.
14 You mentioned hot seating earlier?

15 A. Uh-huh.

16 Q. Explain what that is.

17 A. You'd run coal until the next crew got
18 underground.

19 Q. Okay. So on a day that you did not hot
20 seat, at the end of the shift what normally
21 happened?

22 A. Usually the scoop man would run the rock
23 duster across the face and dust the section.

24 Q. Okay. Where would the rest of the crew

1 be?

2 A. We'd go in the fresh air in the intake
3 until he got done, and then we come over to the
4 mantrip and head on outside.

5 Q. So you would go outside before the next
6 crew arrived on the section?

7 A. Oh, yes. Well, yeah, we'd be outside
8 before they came in, yeah.

9 Q. Okay. So when you hot seated, that means
10 you stayed in and continued production until the
11 next crew arrived?

12 A. Until the next crew arrived, yes.

13 Q. And so how much longer of a shift did that
14 make?

15 A. Well, it would probably be an hour in
16 between shifts, but then it take you another 35 to
17 45 minutes to get outside waiting for clearance, so
18 it would make it about two hours you would end up
19 being late.

20 Q. So if your production was down for the
21 day, then a lot of times you would have an extra
22 two hours that everyone was required to work?

23 A. Yes.

24 Q. Okay. And you say Chris Blanchard kept

1 track of the daily production?

2 A. Yes, he did.

3 Q. Okay. Do you feel that by hot seating and
4 him calling out, did that encourage the people on
5 the crew to take shortcuts to increase production?

6 A. That probably kind of worked to that point
7 of view, you know, so they would have more
8 production before the end of the shift so they
9 wouldn't have to work over.

10 Q. When you was told to hot seat, those
11 orders came from Chris Blanchard?

12 A. Come from -- yeah. Yes, sir.

13 Q. When you rock dusted on the section, you
14 talked earlier about using the super bags, I think
15 you've called them. Explain that process to me.

16 A. Well, you would -- they got a slinger
17 duster you put on the bucket of the scoop, and then
18 they used a forklift to lift the bags up and they
19 would cut them and dump the dust into the scoop
20 bucket.

21 And then the scoop operator would bring
22 the scoop to the section and start on the return
23 side and come across the faces and up each entry
24 until he got to the intake side, which that would

1 keep them out of the dust.

2 Q. Okay. The slinger duster you're talking
3 about, is that like an auger that fit on front of
4 the scoop bucket?

5 A. Yeah, it's an auger that fits in front,
6 and it throws the dust out.

7 Q. Okay. The super bags, where would they be
8 located?

9 A. Outby the section at the supply hold.

10 Q. How many bags would fit in one bucket,
11 scoop bucket?

12 A. Well, you could get four to five in it,
13 but most of the time you just use two.

14 Q. And so they would be cut open and just the
15 loose dust then dumped into the bucket of the
16 scoop?

17 A. Yes.

18 Q. And then what? Did you feed the dust to
19 the auger with the --

20 A. With the blade.

21 Q. With the blade of the scoop bucket?

22 A. Yeah.

23 Q. Okay. And how far would two bags of dust
24 go?

1 A. It would do the section really good. It
2 would lighten it up real good.

3 Q. By "the section," you're talking, what,
4 seven entries?

5 A. Yeah, seven entries come across it, seven
6 entries, for probably two breaks. Two breaks, so
7 that would be, like, 100 foot centers, that would
8 be 200 foot in each entry. So it would probably
9 cover around about -- we would have to do some
10 figuring on that.

11 Usually about two breaks you would dust
12 with it all the way across the section.

13 Q. How thick did you put the dust on, or
14 would that put the dust on?

15 A. Usually about a quarter of an inch, pretty
16 good. But sometimes it would be less than that.

17 Q. Okay. When you were bossing, did you fill
18 out production reports every day?

19 A. Yes.

20 Q. Would you list rock dusting on your
21 production report?

22 A. Sometimes I did. And I put two super dust
23 bags down.

24 Q. Okay. Did you ever put that you dusted

1 when you, in fact, had not dusted?

2 A. No.

3 Q. Okay. On your production reports, was you
4 ever encouraged by anyone in management not to list
5 anything that occurred on the unit?

6 A. As far as downtime and stuff? Sometimes.

7 Q. Say, for instance, you went in and had low
8 air.

9 A. Oh, no, they never told me nothing like
10 that. Hadn't been told nothing like that.

11 Q. Okay. So you wasn't told not to list a
12 hazard on your production report?

13 A. Uh-uh.

14 Q. When you was bossing, did you do the
15 pre-shift exam for the oncoming shift?

16 A. Yes, uh-huh.

17 Q. Was you ever instructed by management not
18 to report any hazards in the pre-shift exam?

19 A. No, I never was told that. Not from
20 management, no.

21 Q. Are you aware of anybody ever being told
22 that?

23 A. Not right off.

24 Q. Do you know Jack Roles?

1 A. Yes, I know Jack.

2 Q. How do you know Jack?

3 A. Just where he worked on the longwall and I
4 talked to him outside the mines. You know, just
5 meet him in the mornings at the bathhouse, talk to
6 him and he would talk to me some.

7 Then I had been on the longwall before,
8 too. You know, I used to fire boss so I used to go
9 across the longwall and go down the tail side of
10 the wall and I would meet him on the longwall
11 sometimes.

12 Q. Okay. Was Jack with you in '97 when you
13 was working on this overcast?

14 A. I can't recall if any of the longwall guys
15 was with us or not, but whoever the foremen was
16 that day, they was with us.

17 I just told you the ones that I really
18 know, that I could recall, which the two men that
19 was left behind and -- you want me to call their
20 name out?

21 Q. No, that's okay. I think you mentioned
22 them earlier so that's fine.

23 MR. CRIPPS: Okay. That's all.
24

EXAMINATION

1
2 **BY MR. CAUDILL:**

3 **Q.** Have you spoke to anyone since the
4 incident that maybe you worked with or used to work
5 with about the accident that happened at Upper Big
6 Branch mines?

7 **A.** Which one?

8 **Q.** April 5th, 2010.

9 **A.** Well, I've got friends, but not really
10 trying to find out anything. No, just more or less
11 trying to let it go, because I had a lot of good
12 friends got killed in it, so it was pretty
13 devastating to me, too. Went to several of their
14 funerals.

15 **MR. CAUDILL:** I don't have any other
16 questions.

17 **MR. WILSON:** Since you've been working for
18 MSHA, did you do any inspection work at UBB?

19 **THE WITNESS:** No, I've never been there
20 since the day I left. Been fortunate on that.

21 **MR. WILSON:** If there are no further
22 questions, on behalf of MSHA and the Office of
23 Miners' Health, Safety and Training, I want to
24 thank you for coming in and answering questions

1 today and your cooperation and support to the
2 investigation.

3 We request that you not discuss your
4 testimony with anyone.

5 After questioning other witnesses, we may
6 call you if we have any follow-up questions. And
7 if you think of anything that you would like to add
8 to the record, please contact us with the
9 information that you were provided.

10 Before we go off the record, is there
11 anything else that you would like to tell us or
12 anything that you would like to add to the record?

13 THE WITNESS: No, not at this time.

14 MR. WILSON: Then again, I thank you for
15 your cooperation in this matter, and we'll go off
16 the record.

17 (Interview concluded.)
18
19
20
21
22
23
24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of DENNY HUGHES was duly taken by me and
6 before me at the time and place specified in the
7 caption hereof.

8 I do further certify that said proceedings
9 were correctly taken by me in stenotype notes, that
10 the same were accurately transcribed out in full
11 and true record of the testimony given by said
12 witness.

13 I further certify that I am neither attorney
14 or counsel for, nor related to or employed by, any
15 of the parties to the action in which these
16 proceedings were had, and further I am not a
17 relative or employee of any attorney or counsel
18 employed by the parties hereto or financially
19 interested in the action.

20 My commission expires the 6th day of March
21 2019.

22 Given under my hand and seal this 23rd day of
23 June 2011.

24 -----
Jenny Taylor
Notary Public