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(304) 243-2513**

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

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**EXAMINATION INDEX**

**THOMAS GARY YOUNG**

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**EXHIBIT INDEX**

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1 Notebook	47

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

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

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

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

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

19           MR. SHERER: Erik Sherer, with MSHA.

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

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

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

3 MR. PAGE: Norman Page, MSHA.

4 MR. VANCE: Jerry Vance, MSHA.

5 MR. CAUDILL: Steaven Caudill, MSHA.

6 MR. BROWN: Alvin Brown, MSHA.

7 MR. MAGGARD: Jasey Maggard, MSHA.

8 MR. WATKINS: Tim Watkins, MSHA

9 MR. WILSON: Bob Wilson, with MSHA.

10 MR. GODSEY: John Godsey, MSHA.

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

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

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

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

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

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

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

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

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

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

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

5           THE WITNESS: Yes.

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

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

12          THE WITNESS: Okay.

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

18          THE WITNESS: I understand.

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

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

24                 Government investigators and specialists

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

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

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

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

17 THOMAS GARY YOUNG, DEPONENT, SWORN

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

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

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

1           **A.**

(b) (7)(C)

(b) (7)(C)

2  
3           **MR. KOERBER:** And are you expecting an  
4 attorney or some other personal representative to  
5 be with you here today?

6           **THE WITNESS:** No.

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

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

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

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

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

1 cases involving coal miners.

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

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

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

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

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

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

23

24

## EXAMINATION

1  
2 BY MR. SHERER:

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

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

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

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

19 A. Yes.

20 Q. What was your job description up there?

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

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

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

2           Q.    Okay.

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

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

6           A.    It was tough.

7           Q.    I imagine.

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

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

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

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

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

18          A.    Mountaineer Labor Solutions.

19          Q.    Mountaineer Labor.

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

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

24          Q.    2010?

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

3           Q.    That's close enough.

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

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

9           Q.    Okay.  Six months.

10                   Were you working there prior to  
11 Thanksgiving?

12           A.    It was right around then.

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

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

19           Q.    Sure.

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

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

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

3           Q.    Okay.  Sure.

4           A.    June/July, something like that.

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

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

10          Q.    Okay.

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

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

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

17          Q.    Either one.

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

20          Q.    Okay.

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

23          Q.    Okay.  Take some time off?

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

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

5 Q. That's good.

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

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

11 THE WITNESS: Sure. Sorry.

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

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

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

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

7 Q. Sure.

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

10 A. They would just tell me.

11 Q. Okay. Who did you work for?

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

13 Q. Okay.

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

15 Q. Like a white board or something?

16 A. Yeah, we would have notes.

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

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

21 Q. Okay.

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

24 Q. Okay.

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

4           Q.    Okay. So he was your supervisor?

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

7           Q.    Sure.

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

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

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

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

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

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

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

5 Q. Okay. Sure.

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

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

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

14 Q. Oh, okay. Sure.

15 Now, did you always dust --

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

18 Q. Okay. About ten loads.

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

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

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

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

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

13          A.   Uh-huh.

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

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

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

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

1           Was there anything like that in effect?

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

4           Q. Okay. Sure.

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

7           Q. Okay. Sure.

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

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

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

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

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

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

24          Q. Sure.

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

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

6           A.    Right.

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

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

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

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

21          Q.    Okay.

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

24                   THE WITNESS:  Pin, run the bolter.

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

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

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

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

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

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

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

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

1 Q. Okay.

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

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

6 Q. How was it a mess?

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

12 Q. Sure.

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

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

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

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

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

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

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

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

14 Q. Okay.

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

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

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

23 Q. Oh, okay.

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

1 know, he was there for day shift.

2 Q. Okay.

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

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

11 Q. Okay. Sure.

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

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

17 A. Yeah.

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

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

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

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

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

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

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

15           A.   My hands.

16           Q.   Okay.  I've done that.

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

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

1 a good compressor on it?

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

6 Q. Now was that a permissible wedge?

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

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

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

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

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

1 was done using it.

2 Q. Oh, okay. Okay.

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

5 A. Like pressure relief valves?

6 Q. Uh-huh.

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

8 Q. Good.

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

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

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

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

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

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

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

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

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

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

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

24 Q. That's tough.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11           Q. Uh-huh.

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

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

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

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

24           So there for the first little bit, I sat

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

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

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

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

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

19 Q. So it was pretty dark?

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

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

1 the belt crew.

2 Q. Sure.

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

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

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

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

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

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

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

21 Q. Sure.

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

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

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

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

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

13          Q. Okay.

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

16          Q. Just the production crew?

17          A. Yeah.

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

20          A. Oh, yeah.

21          Q. Why was that?

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

23          Q. They're paying the bills?

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

1 Q. Sure.

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

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

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

9 Q. Sure.

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

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

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

17 A. Yeah.

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

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

21 Q. Okay.

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

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

3 Q. Okay. Sure.

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

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

9 A. Not a lot.

10 Q. You ever put any dust down there?

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

13 Q. Okay.

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

19 Q. Sure.

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

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

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

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

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

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

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

16          A. What do you mean?

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

19          A. Right.

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

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

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

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

5           Q. It's been a long time.

6           A. Yeah, it has been a while.

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

9           A. A lot of doors in that mine.

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

12          A. Yeah.

13          Q. How common was that?

14          A. How come?

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

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

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

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

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

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

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

9 That was in recent days before the  
10 explosion.

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

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

15 A. I would imagine the superintendent.

16 Q. So it would have been Gary May?

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

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

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

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

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

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

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

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

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

19 A. Usually, yeah.

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

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

1 pulled a lot of track out of that mine.

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

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

5 A. From them?

6 Q. Yeah, uh-huh.

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

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

14 A. What do you mean?

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

17 A. Yeah.

18 Q. Okay.

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

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

24 A. Went to work.

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

4 A. A map.

5 Q. Showed you a map?

6 A. Yeah.

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

9 A. At UBB you mean?

10 Q. Yeah, uh-huh.

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

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

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

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

22 A. Yes.

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

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

4           Q.   Okay. Good.

5                   And then --

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

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

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

12          Q.   Did you ever do that?

13          A.   I think once.

14          Q.   Once?

15          A.   I believe we walked out once.

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

17          A.   I really don't.

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

21          A.   At the retraining session you mean?

22          Q.   Uh-huh.

23          A.   Yeah.

24          Q.   Did you do it any besides that

1 retraining?

2 A. I don't think so.

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

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

7 Q. Yeah.

8 A. Yeah.

9 Q. Okay.

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

13 Q. Was there smoke in there?

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

18 Q. Oh, okay.

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

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

24 A. As far as?

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

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

10          Q.   What problems would you notice with air?

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

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

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

24          A.   No.

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

3 A. In the shower.

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

6 How did you find out about it?

7 A. A phone call.

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

10 A. I appreciate it.

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

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

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

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

22 Q. Have you seen this notebook before?

23 A. It's mine.

24 Q. Good. Tell us about this notebook.

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

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

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

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

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

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

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

1 too.

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

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

10 Q. What does that mean?

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

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

20 Q. Okay.

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

24 THE WITNESS: Right. That happened a lot.

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

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

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

12          Q.    What did you mean by that?

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

15          Q.    Okay.

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

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

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

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

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

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

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

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

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

20 Q. Okay.

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

24 Q. Now, we understand there were several

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

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

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

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

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

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

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

15 EXAMINATION

16 BY MR. TUCKER:

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

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

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

23 Q. Okay.

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

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

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

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

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

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

12 A. Okay. Because I knew -- actually knew his  
13 parents. I just can't remember. (b) (7)(C)

14 (b) (7)(C)

15 (b) (7)(C)

16  
17 I can't remember.

18 Q. Okay. That's all right.

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

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

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

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

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

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

5 Q. Okay.

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

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

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

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

18 A. I really don't.

19 Q. Okay.

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

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

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

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

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

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

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

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

15 A. Yeah.

16 Q. On the midnight shift?

17 A. Yeah.

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

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

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

23 A. Right.

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

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

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

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

6 A. Yes, sir.

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

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

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

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

17 Q. Anybody with you that comes to mind?

18 A. Not while I was dusting, no.

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

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

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

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

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

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

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

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

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

18 Q. Okay.

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

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

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

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

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

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

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

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

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

1 COURT REPORTER: You were going to what?

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

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

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

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

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

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

23 A. Yeah.

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

1 talking about, the air --

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

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

7 MR. SHERER: 78 break is right here.

8 THE WITNESS: I knew it was a split.

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

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

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

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

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

3 A. Yes.

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

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

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

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

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

22 A. Yes.

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

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

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

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

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

11 A. No, he was coming in.

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

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

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

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

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

1           A.    Right.

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

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

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

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

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

13          A.    No.

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

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

19          Q.    All right.

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

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

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

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

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

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

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

1 the buggy and --

2 A. Yes.

3 Q. What section did you work on?

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

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

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

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

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

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

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

6 A. No.

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

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

13 Q. Okay.

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

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

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

22 COURT REPORTER: The what crew?

23 MR. TUCKER: Pumping crew.

24 A. Not that I recall.



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

4             Q.    What color was the duster?

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

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

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

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

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

13            Q.    Was it new?

14            A.    The duster?

15            Q.    Uh-huh.

16            A.    No, it was old.

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

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

22                    That's you there, the first one?

23            A.    Yes.

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

1           A.    Clifton Stover.

2           Q.    Who is that?

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

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

6           A.    Yes.

7           Q.    There you go.  And Dustin's -- that would  
8 make his                   (b) (7)(C)

9           A.               (b) (7)(C)

10          Q.    Yeah.

11          A.    Yeah, I'm pretty sure that was his       (b) (7)(C)

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

14          A.    Yes.

15          Q.    Do you remember when that was?

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

17          Q.    Okay.

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

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

23          A.    Yes.

24          Q.    Is that your handwriting?

1           A.    Yes, sir.

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

3           A.    In this?

4           Q.    Uh-huh.

5           A.    Yes.

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

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

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

12          A.    I used to work for Dowell Schlumberger.

13          Q.    Okay.

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

18          Q.    Okay.

19          A.    So that's where I learned.

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

21          A.    Yeah, I understood how it worked.

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

24          A.    Probably considering I see just below

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

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

4 A. Yes, sir.

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

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

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

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

14 Q. Okay.

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

18 Q. Okay. Okay.

19 A. Because --

20 Q. A couple of days?

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

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

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

5 A. His name?

6 Q. Uh-huh.

7 A. No, sir.

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

9 A. Yes, sir.

10 Q. Do you know why he left?

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

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

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

15 Q. He was with the previous duster?

16 A. Yes, sir.

17 Q. He was a red hat?

18 A. Yes.

19 Q. Would he carry a spotter?

20 A. No.

21 Q. So who would have the spotter?

22 A. I did.

23 Q. Where did you get it?

24 A. From inside.

1 Q. Was it calibrated?

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

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

6 A. Right.

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

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

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

14 A. That's what I was told.

15 Q. Who would have mentioned that to you?

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

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

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

1 orders on that.

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

5 A. Just like black type.

6 Q. Black tape?

7 A. Uh-huh.

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

11 A. Yes.

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

13 A. Right.

14 Q. Would that cause the motor to overheat?

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

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

22 Q. Right.

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

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

3 A. What do you mean?

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

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

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

10 A. No.

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

13 A. Just to put it on thick.

14 Q. Put it on thick? Okay.

15 A. Yeah. I mean, just dust.

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

19 A. I don't understand your question.

20 Q. Why were you rock dusting?

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

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

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

1 reasons that you --

2 Q. For safety?

3 A. Yeah.

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

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

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

11 A. Just by looking at it.

12 Q. Eyeball?

13 A. Yeah.

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

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

22 A. I mean, I was everywhere.

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

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

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

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

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

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

16          Q.    The coal dust, yeah.

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

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

22          A.    That was probably it.

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

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

2 A. Oh, it was before that.

3 Q. Okay.

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

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

10 A. Yeah.

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

17 A. Can you repeat that one more time?

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

20 A. Right.

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

24 A. Right.

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

3           A.    Right.

4           Q.    How long would that take?

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

6           Q.    Okay.  But give me an average.

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

10          Q.    Exactly right.

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

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

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

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

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

1           A.    It seems like about 6:00.

2           Q.    So you would have to leave?

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

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

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

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

17          Q.    Right.

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

22          Q.    Okay.

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

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

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

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

10 A. No.

11 Q. Did they contact the contractor?

12 A. Yeah.

13 Q. Did that person give you a slip?

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

17 Q. Right.

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

21 MR. MCATEER: No other questions.

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

24 (Break.)

## EXAMINATION

1  
2 BY MR. BABBINGTON:

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

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

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

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

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

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

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

1 Q. So that was --

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

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

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

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

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

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

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

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

1 sit there.

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

7 Q. I understand.

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

11 A. Yeah.

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

14 A. Everett something.

15 Q. Everett Hager?

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

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

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

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

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

16 A. No.

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

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

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

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

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

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

14 A. No, that's me.

15 Q. Okay.

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

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

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

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

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

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

11 A. Yes.

12 Q. Did you call --

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

15 Q. Okay.

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

18 Q. Did you ever call Gary May?

19 A. Yeah.

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

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

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

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

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

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

16 Q. Is there any --

17 A. They took my motor again.

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

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



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

4 A. Okay.

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

7 A. Like Gary May?

8 Q. Uh-huh.

9 A. Yeah.

10 Q. Okay. Anybody else?

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

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

17 A. Not that I recall.

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

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

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

1 anything like that?

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

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

8 A. And change?

9 Q. Yeah.

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

12 Q. Any place in particular that you remember?

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

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

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

22 A. No, not while I was underground.

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

1           A.    What do you mean, like coworkers?

2           Q.    Yeah.

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

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

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

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

15           A.    What about them?

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

19           A.    Yeah.

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

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

1 son, we grew up together.

2 Q. Okay.

3 A. So, I mean ...

4 Q. Who was that?

5 A. Holmer Wallace.

6 Q. Holmer Wallace?

7 A. He just passed.

8 Q. Sorry to hear that.

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

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

15 Q. Sure.

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

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

23 Q. Okay. And then --

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

1 usually had one.

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

4 A. To my knowledge, yes.

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

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

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

11 A. I don't believe so.

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

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

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

1 Q. Okay.

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

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

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

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

13 A. No.

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

16 A. What do you mean?

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

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

21 Q. So they did like an annual refresher?

22 A. Yeah.

23 Q. Okay.

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

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

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

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

9 A. What is it now?

10 Q. AMS system, the CO monitors?

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

12 Q. Do you know who owns Mountaineer Labor?

13 A. Buzzard, I believe. Brian Buzzard.

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

16 A. The mine.

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

21 A. I'm pretty sure.

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

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

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

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

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

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

9 A. I believe so.

10 Q. Okay.

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

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

15 A. Yeah.

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

18 A. Like the little radio thing?

19 Q. Yeah.

20 A. Yeah.

21 Q. Okay.

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

24 Q. Did they train you on that?

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

4           Q. Okay. Sure.

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

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

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

14          A. Yeah.

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

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

17          Q. Okay.

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

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

24          A. Uh-huh.

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

3 A. The dust?

4 Q. Yeah.

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

8 Q. Did he ever connect those two?

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

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

17 A. Not that I recall.

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

20 A. On his first day?

21 Q. Uh-huh.

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

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

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

3 A. (Witness shakes head.)

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

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

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

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

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

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

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

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

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

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

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

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

3 Q. Sure.

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

7 Q. Okay.

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

13 Q. Just touch them up?

14 A. Just, you know, make sure it was good.

15 But then some other places, you know, it  
16 was wet or, you know, it was black.

17 Q. Sure.

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

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

21 A. Yes.

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

24 A. Yes.

1 Q. How did that happen?

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

4 Q. A derail?

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

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

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

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

13 A. The wheels falling off?

14 Q. Yeah.

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

18 Q. Okay.

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

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

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

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

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

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

11          A.    No.

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

14          A.    Not that I can recall.

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

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

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

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

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



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

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

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

9 EXAMINATION

10 BY MR. MCATEER:

11 Q. Just one or two questions.

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

14 A. You mean at the mine?

15 Q. At the mine.

16 A. Not that I can recall.

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

20 A. No.

21 Q. Okay.

22 A. You mean while I was working there?

23 Q. That's correct.

24 A. No.

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

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

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

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

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

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

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

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

1     anytime.

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

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

6                                   (Deposition concluded.)

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1 STATE OF WEST VIRGINIA, To-wit:

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

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

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

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

22 Given under my hand and seal this 2nd day of  
23 May 2011.

24 -----  
Jenny Taylor  
Notary Public