

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

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

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

9
10
11
12
13
14
15 The interview of **TOMMY D. ESTEP**, taken upon
16 oral examination, before Jenny Marmol, Court
17 Reporter, and Notary Public in and for the State of
18 West Virginia, Tuesday, March 1st, 2011, at the
19 Mine Academy, 1301 Airport Road, Beaver, West
20 Virginia.

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

24 (304) 346-8340

APPEARANCES

1
2 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**
3 **Barry L. Koerber, Assistant Attorney**
4 **General**
5 **1615 Washington Street, East**
6 **Charleston, WV 25311**
7 **(304) 558-1425**

8
9 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**
10 **Bill Tucker**
11 **1615 Washington Street, East**
12 **Charleston, WV 25311**
13 **(304) 558-1425**

14 **U.S. DEPARTMENT OF LABOR**
15 **Office of the Regional Solicitor**
16 **Pollyanna Hampton, Esquire**
17 **1100 Wilson Boulevard**
18 **22nd Floor West**
19 **Arlington, VA 22209**
20 **(202) 693-9389**

21 **U.S. DEPARTMENT OF LABOR**
22 **Mine Safety and Health Administration**
23 **Dean Cripps**
24 **302 W. Main**
Benton, IL 62812
(618) 439-4355

U.S. DEPARTMENT OF LABOR
Mine Safety and Health Administration Coal
Mine Safety and Health, District 6
Jasey Maggard
1301 Airport Road
Beaver, WV 25813
(304) 256-3522

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

APPEARANCES (Continued)

GOVERNOR'S INDEPENDENT INVESTIGATION PANEL

James Beck

[REDACTED]
[REDACTED]
[REDACTED]

ALLEN, GUTHRIE & THOMAS, PLLC

Bob Allen, Esquire
Laidley Towers, Suite 800
500 Lee Street
Charleston, WV 25301
(304) 345-7250

Also Present:

Leland Hess, and David Steffey, MSHA

EXAMINATION INDEX

TOMMY D. ESTEP

BY MR. TUCKER	12
BY MR. CRIPPS	20
BY MR. MAGGARD	31
BY MR. BECK	59
BY MR. TUCKER	64
BY MR. CRIPPS	67
BY MR. MAGGARD	74
BY MR. CRIPPS	86
BY MR. TUCKER	88
BY MR. MAGGARD	89
BY MR. TUCKER	92
BY MR. BECK	94

EXHIBIT INDEX

Exhibit	Page
1 Subpoena	9
2 Affidavit of Service	9
3 Production Report	24
4 P.m. Report	24
5 Performance UBB Longwall	73
6 Production Report	75
7 Longwall 30 Minute Report	83
8 3/29/2010 Production Report	83
9 4/2/2010 Production Report	88
10 January 20th, 2010, p.m. Report	86

1 MR. KOERBER: Good afternoon. My name is
2 Barry Koerber. I'm the Assistant Attorney
3 General.

4 I'm assigned to represent the West
5 Virginia Office of Miners' Health, Safety and
6 Training.

7 Today is March 1, 2011.

8 Beginning at my left, I'm going to ask the
9 parties on the left side of the table to identify
10 themselves and who they are with.

11 MR. TUCKER: Bill Tucker, with the West
12 Virginia Office of Miners' Health, Safety and
13 Training.

14 MR. MAGGARD: Jasey Maggard, with MSHA.

15 MR. CRIPPS: Dean Cripps, MSHA.

16 MS. HAMPTON: Polly Hampton, attorney with
17 the Department of Labor.

18 MR. BECK: Jim Beck, with the Governor's
19 Independent Team.

20 MR. ALLEN: Bob Allen, representing the
21 company.

22 THE WITNESS: Tommy Estep.

23 MR. KOERBER: Okay.

24 THE WITNESS: Oh, sorry.

1 MR. KOERBER: I'm like the conductor.
2 You've got to follow my lead.

3 The court reporter here today is with
4 Johnny Jackson & Associates.

5 Johnny Jackson & Associates is a court
6 reporter firm in Charleston West Virginia.

7 For her benefit, we would ask that you say
8 "yes" and "no" and not "uh-uh, uh-uh."

9 THE WITNESS: Right.

10 MR. KOERBER: And for her benefit, I'm
11 going to ask you to please wait until the question
12 is finished before you answer, and I'm going to ask
13 the interviewers to please let you finish your
14 answer before they ask the next question so we
15 don't have people talking over each other.

16 THE WITNESS: Okay.

17 MR. KOERBER: Johnny Jackson & Associates
18 is working under a three-day turnaround, as far as
19 putting the words that are spoken in here today
20 onto paper.

21 Which three days from now would put us
22 through Friday, which would mean come Monday
23 morning, the transcript will be available for
24 review.

1 If you desire to review your transcript,
2 you can contact Johnny Jackson & Associates, and
3 I'm going to give you their business card, anytime
4 Monday of next week or within a couple weeks after
5 that, where you can call, set up an appointment,
6 and you would go to their office in Charleston,
7 they would put you in a conference room where you
8 will have privacy.

9 You can be there by yourself, or you can
10 bring your attorney, if you choose to have an
11 attorney, and review your transcript. And you
12 would be given an errata sheet where you could make
13 any corrections that you find in the transcript.

14 That is your option. It is your right to
15 do it, but it is your choice as well. You are not
16 required to do it, but you certainly have the
17 option, and I'll give you this card here in a
18 moment.

19 I'd also like to mention that if you want
20 to take a break for any reason whatsoever, just say
21 you want to take a break and we're out of here.

22 **THE WITNESS:** Okay.

23 **MR. KOERBER:** I would ask that you not
24 discuss the interview with people outside of this

1 room after the interview is over, other than with
2 your personal attorney, if you choose to have one,
3 and the purpose of that is just to protect the
4 integrity of the investigation.

5 And at this point in time I would ask the
6 court reporter to administer the oath.

7 TOMMY D. ESTEP, DEPONENT, SWORN

8 MR. KOERBER: And, sir, would you please
9 state your full name for the record and spell your
10 last.

11 THE WITNESS: Tommy Dean Estep, E-s-t-e-p.

12 MR. KOERBER: And your address and
13 telephone number.

14 THE WITNESS: [REDACTED]

15 [REDACTED]
16 MR. KOERBER: Are you expecting your own
17 personal attorney to be here with you today?

18 THE, WITNESS: No.

19 MR. KOERBER: And, sir, are you appearing
20 here today as the result of receiving a subpoena?

21 THE WITNESS: Yes.

22 MR. KOERBER: This is a copy of that
23 subpoena that I'm going to ask to be made as Estep
24 Exhibit 1.

1 (Exhibit No. 1 marked for
2 identification.)

3 And this is a copy of the Affidavit of
4 Service, signed by the process service, showing
5 service on your wife on the 23rd day of February
6 and.

7 I'm going to ask that be Estep Exhibit 2.

8 (Exhibit No. 2 marked for
9 identification.)

10 MR. KOERBER: We also have three gentlemen
11 sitting in the back. I would ask at this time they
12 identify themselves and who they're with.

13 MR. WATKINS: I'm Tim Watkins, with MSHA.

14 MR. HESS: Leland Hess, with MSHA.

15 MR. STEFFEY: I'm David Steffey, with
16 MSHA.

17 MR. KOERBER: Sir, I'm also going to give
18 you Bill Tucker's business card.

19 Bill Tucker is the gentleman seated to my
20 left. He is our lead accident investigator for the
21 West Virginia Office of Miners' Health, Safety and
22 Training.

23 In the event you would think of something
24 after the interview is over that you would think

1 would be helpful to the investigation, please feel
2 free to contact Mr. Tucker.

3 I'm also going to give a memorandum
4 containing the address for the West Virginia Board
5 of Appeals.

6 The West Virginia Board of Appeals is the
7 administrative agency that is charged by statute
8 with hearing coal miner discrimination cases.

9 West Virginia Code 22A-1-22 provides
10 protections to coal miners from being discriminated
11 against for participating in interviews such as
12 this.

13 If you would find that you've been
14 discriminated against for participating in this
15 interview, this is the agency where you would lodge
16 your complaint.

17 The complaint does not have to be anything
18 elaborate. It can just be a handwritten letter
19 explaining what happened.

20 I would want to caution you that, under
21 the statute, you only have 30 days from the day of
22 the discriminatory action to file your complaint
23 with the Board of Appeals at the address here on
24 this piece of paper.

1 So with that, I'm going to give you the
2 memorandum and the two business cards I spoke about
3 earlier.

4 And I am going to ask Mr. Tucker to begin
5 the interview.

6 MS. HAMPTON: If I could just say --

7 MR. KOERBER: Oh, I'm sorry. I'm sorry.
8 Polly has one thing she would like to add as well.

9 MS. HAMPTON: Before we got started, I
10 handed you a letter on behalf of MSHA's Accident
11 Investigation Team.

12 Did you have any questions for me about
13 the content of that letter?

14 THE WITNESS: No, I do not.

15 MS. HAMPTON: Okay. I would like to point
16 out that there is contact information in that
17 letter for Norman Page, who is the lead
18 investigator for the MSHA Accident Investigation
19 Team.

20 And if you leave here today and you think
21 of something else that you think is important for
22 us to know as we conduct the investigation, or
23 anything else that you think is important, please
24 feel free to contact us.

1 THE WITNESS: Okay.

2 MR. KOERBER: And just for the record,
3 also, please state your job title that you
4 possessed at UBB on April 5th, 2010.

5 THE WITNESS: I was electrician on one of
6 the coal crews on the longwall.

7 MR. KOERBER: Okay. And did you supervise
8 anybody?

9 THE WITNESS: I was an hourly electrician,
10 but I was somewhat considered a chief electrician
11 on that crew. I had just kind of been put with
12 that crew in that position.

13 MR. KOERBER: Did you do electrical
14 examinations and record those examinations in the
15 electrical examination books?

16 THE WITNESS: Yeah, occasionally, but most
17 of the -- it was kind of split up between -- there
18 was two electricians on each longwall crew, and it
19 was kind of split up between the two of us.

20 EXAMINATION

21 BY MR. TUCKER:

22 Q. Mr. Estep, I'd like to start off just by
23 again thanking you for being here today. I have
24 got a couple questions to get started, and then

1 we'll pass you around here a little bit. There's a
2 couple here at the table that will have some
3 questions for you.

4 From reviewing your last transcript, I
5 understand the last shift you worked was Saturday
6 before the explosion; is that correct?

7 A. I'm not sure exactly what day it was. The
8 day the accident happened, that was my first day
9 back from three days off. So what would that have
10 been? Three days prior.

11 Q. So it may have been Thursday or Friday,
12 not necessarily Saturday --

13 A. Yeah

14 Q. -- but a couple of days prior to Easter
15 there?

16 A. Well, I know the accident happened on the
17 5th. Was that a Monday?

18 Q. That was on a Monday.

19 A. Okay.

20 Q. So three days prior to that?

21 A. Yeah, I was off Saturday and Sunday.

22 Q. Okay. On your last shift there, was you
23 at the tail area? Can you recall being at the tail
24 area during your shift?

1 A. Yeah.

2 Q. Okay.

3 A. Most of the time traveled the -- traveled
4 with the shear as they were cutting.

5 Q. You pretty much stayed right with them for
6 the biggest part?

7 A. Yeah.

8 Q. While they was making their pass?

9 A. Most of the time, unless something else
10 was happening elsewhere that I needed to be there,
11 I most of the time stayed with the shear.

12 Q. Had the cutting recently gotten harder
13 toward the tail?

14 A. Yeah.

15 Q. They cut more rock on top and bottom in
16 that area?

17 A. Yeah, it was mostly, mostly the top.

18 Q. Okay. What effect was that having on your
19 bits, the harder cutting?

20 A. It was wearing them out quicker.

21 Q. Having to change them out more often?

22 A. Uh-huh.

23 Q. Is that something you would normally help
24 with?

1 A. A lot of times, yeah.

2 Q. Changing bits?

3 A. Yeah.

4 Q. So you're real familiar as far as the
5 process of changing the bits?

6 A. Yes.

7 Q. Would you mind just explaining how you
8 would go about that? Once you made the decision
9 you're going to bit up, what takes place after
10 that?

11 A. Once we decide we needed to bit up, the
12 shear would back, back and forth there a couple
13 times to clean up, and then we'd normally cut the
14 line off the end and pull the pan line back, and
15 then pull two or three shields in on each end over
16 top of the drums and bit up from there.

17 Q. Okay. What about the water? Would
18 anybody else have to do anything, other than people
19 right there at the shear?

20 A. What do you mean? What about the water?

21 Q. I mean is that something you all turned
22 off, or did you have to holler and get somebody to
23 turn the water off?

24 A. We hollered at the headgate man and had

1 him turn the water off. He had all the controls
2 for anything like that up there.

3 Q. Is that basically all the involvement the
4 headgate man had was -- what would you holler and
5 ask him to do?

6 A. Just let him know turn the water off when
7 we were ready to set bits.

8 Q. Okay. When you was setting bits, would
9 you do anything else as far as check sprays or
10 anything like that?

11 A. Yeah, always tried to make sure they were
12 all in and as many of them working as possible.

13 Q. Okay. If you -- you say see if they were
14 all in. So occasionally would you find the sprays
15 that worked loose and were missing?

16 A. When it was -- if the shear was bouncing a
17 lot and stuff, we would occasionally lose one, like
18 just the little sprays, the inserts in the drums.

19 Q. Okay. Is that typically all just the
20 insert of the sprays?

21 A. Yeah, just the spray itself. It presses
22 down in there, and a staple holds it in.

23 Q. What's the most you think at any one time
24 you saw out on the sprays yourself?

1 A. It's really hard to say. I don't know.
2 I'm not going to give a number, because I really
3 honestly don't recall any specific number of any
4 sort. That just kind of tended to vary.

5 Q. When you were around the shear, though, if
6 sprays was out while they were cutting, could you
7 pretty much tell by the water pattern that you had
8 sprays missing?

9 A. Yeah. Instead of a spray, you'd actually
10 have a -- you would actually get a steady stream of
11 water coming out of the hole. It was a half-inch
12 hole.

13 Q. By that, most of the time you could tell,
14 prior to bitting up, that you was going to need
15 some sprays to replace?

16 A. Yeah.

17 Q. Was those always pretty accessible?

18 A. Oh, yeah.

19 Q. Did you keep some with you?

20 A. Most of the time I kept some in my pocket.

21 Q. So by that, would you say it's fairly
22 common or not? I mean, as far as, say, a normal
23 week, five-day week, how many days would you expect
24 to change sprays?

1 A. The biggest thing with them was just
2 making sure they were working. If they had some
3 stopped up, I would put new ones in and then clean
4 the old ones I took out and stick them back in my
5 pocket. I just always tried to keep some with me.

6 Q. Okay. When you're cutting on the tail and
7 cutting that much rock, I guess you would have a
8 good bit of dust where the shear is cutting rock.

9 Could you tell -- how did it move away
10 from the shear? Did it clear out fairly quickly or
11 kind of what direction, when you was down around
12 the tail area?

13 A. Down around the tail area it cleaned up
14 pretty quick. It would always suck it right off
15 the tail.

16 Q. Which way would it travel when it would
17 suck it off the tail, typically?

18 A. It's supposed to suck it right off the
19 tail and back towards the gob. But the couple
20 times there that, like, when we was having the air
21 trouble, you could notice right about the time that
22 we shut down over the ventilation trouble.

23 But for the most part, it sucked it into
24 the gob, right where it was supposed to go.

1 Q. Okay.

2 A. But I mean, I will clarify, I mean, like,
3 myself -- and once again, I don't recall ever
4 really being right there, right at the tail drive
5 with the shear, because there was always a lot
6 going on while they were cutting, jacks being
7 pulled in right there, right at the shear and
8 everything, so there was never really room for me
9 to be right there with them right at the tail.

10 Q. So a lot of times you would be on up the
11 jack line a little ways?

12 A. Yeah.

13 Q. Do you recall anything unusual or out of
14 the way the last week prior that you worked that
15 kind of stands out in your mind at all?

16 A. No, I do not.

17 Q. No unusual smells?

18 A. No.

19 Q. Ever have any eye irritation, anything
20 like that?

21 A. No.

22 MR. TUCKER: I appreciate it. I'll let
23 one of these other fellows here ask you some
24 questions.

EXAMINATION

1
2 BY MR. CRIPPS:

3 Q. Okay. I got some things I want to ask you
4 and kind of clear up after I read your first
5 transcript.

6 I would like to back up, probably a couple
7 years probably.

8 As I understand, you was working at UBB,
9 and then the longwall crew and some of the
10 equipment left and went to Logan's Fork; is that
11 correct?

12 A. Uh-huh.

13 Q. Do you recall when you actually went to
14 Logan's Fork?

15 A. No, I do not.

16 Q. Do you know what year it was?

17 A. No, I do not.

18 Q. Okay. When you was at Logan's Fork, what
19 did you do there?

20 A. I was -- most of the time there, I wasn't
21 even on the longwall face. I was the set up
22 foreman. I built the long walls.

23 Q. Okay. When did you leave Logan's Fork and
24 come back to UBB?

1 A. That, I can't give an exact time either.
2 It's all been so long ago. I don't really know
3 exact times.

4 Q. Do you recall if you came back before the
5 longwall started operating at UBB?

6 A. I really -- I couldn't give a correct
7 answer on that either. I don't remember if I was
8 there before they started up or not.

9 Q. Okay. What jobs have you performed on
10 this longwall with UBB on this particular face?

11 A. At the time right prior to the accident?

12 Q. Well, from time to time you come back from
13 Logan's Fork up until the accident, have you always
14 been the electrician on the running crew?

15 A. No, not always.

16 Q. Okay.

17 A. Just trying to make a little bit more
18 sense of, kind of, times there and exactly what I
19 did when, but it's kind of --

20 Q. Well, if it helps, the longwall started up
21 running somewhere around September of '09 is when
22 it actually went into production.

23 A. Okay. Yeah. Before the longwall started
24 up, I did come back before the longwall started up

1 because I helped with the set up.

2 When I left Logan's Fork, I come back to
3 Performance, and, well, like I said, before it
4 started up.

5 Q. Okay.

6 A. I kind of helped set up there, too, but
7 once the longwall did start running, I was pretty
8 much electrician on one of the coal crews since
9 then.

10 Q. Okay. I'm going to show you a couple
11 documents. You said in your first interview and
12 earlier in this interview that you thought Thursday
13 was your last shift that you worked.

14 Do you recall working on Saturday, which
15 would be the 1st -- I'm sorry, the 3rd. It would
16 have been the 3rd. Do you recognize this document
17 here? Do you know what this is?

18 A. Yeah, it's a production report.

19 Q. Okay. Do you see when it's dated right
20 there?

21 A. You're right, the 3rd.

22 Q. What is the date of that?

23 A. The 3rd.

24 Q. Okay. And I see there's two names listed

1 there towards the top. Could you read them?

2 A. Yeah, it's Kevin Medley and then myself.

3 Q. Okay. So by that being there, does that
4 indicate to you that perhaps you worked on that
5 shift?

6 A. Oh, yeah, it obviously does. I don't
7 recall it because, I mean, oh, golly, it's been a
8 year ago.

9 Q. I understand. I'm just trying to get all
10 the facts correct here, and if this will help you
11 remember a little bit, that's what it's for.

12 This other document I just showed you, do
13 you recognize what this is?

14 A. Yeah, that's one of my p.m. sheets.

15 Q. Okay. Do you fill these out every shift
16 that you work?

17 A. Yeah.

18 Q. Okay. Does this look like a sheet that
19 you filled out?

20 A. Yeah, that's mine.

21 Q. Okay. Is that dated 4/3 of 2010?

22 A. Yeah.

23 Q. Okay. So by looking at this sheet, did
24 you -- in fact, are these your initials here?

1 A. Yeah.

2 Q. And the narrative that's at the bottom
3 here, did you write that?

4 A. Yeah.

5 Q. So by looking at these two documents, do
6 you feel like you did work on the 3rd?

7 A. Yeah, I did, but I just -- like I said,
8 It's been a year ago. I just didn't recall exact
9 days off. I just knew that I didn't work Sunday,
10 and honestly had just forgot.

11 Q. Okay.

12 A. Because that's the schedule we were on is
13 a six and three. I didn't ...

14 MS. HAMPTON: I'm going to mark the
15 production report as Exhibit 3 and the p.m. as
16 Exhibit 4.

17 (Exhibit Nos. 3 and 4 marked for
18 identification.)

19 Q. I want to use this, the p.m. sheet that
20 you turned in here, just to -- perhaps if it will
21 jog your memory a little bit.

22 Down here at the bottom, can you read what
23 you wrote right here about --

24 A. Yeah, Left section -- you want me to read

1 that?

2 Q. Yeah, what's it say?

3 A. Left section a little early to get
4 everything locked up outside for holiday. Water
5 turned off at mouth of section.

6 Q. Okay. When you left that evening, do you
7 by any chance remember where the shear was
8 located?

9 And if it helps, I'll jog your memory.
10 The first shift back was the first shift after
11 this, and they changed the headgate cowl on the
12 shear.

13 A. For them to do a job like that, it would
14 have pretty much almost had to have been on the
15 head.

16 Q. And it was at the headgate. I just
17 wondered if you recalled it being there.

18 I guess the next question I have, do you
19 recall if the shear was left parked at the
20 headgate, did your crew pull shields in over the
21 shear to leave it parked there?

22 A. Yeah, we always -- anytime it was going to
23 be sitting, we always did, always tried to. Once
24 again, I don't recall how many was pulled in or

1 whatever.

2 Q. But if the wall was going to be idle for a
3 few shifts, you would pull the shields in over the
4 shear?

5 A. Yeah, if at all possible we'd try to pull
6 some in over it.

7 Q. And why is that?

8 A. Just to keep any rock from falling on the
9 shear, like, especially where they had a job like
10 that to do when they came back, didn't want any
11 rock laying there to keep them from doing that job.

12 Q. In that condition with those shields
13 pulled in over the shear, does that make it
14 difficult to walk up and down the pan line?

15 A. Yeah, it does.

16 Q. Okay. And explain to me why that is.

17 A. Well, when the shields are pulled in,
18 you've probably got a foot between the hoses and
19 the back of the pan line.

20 Q. Okay.

21 A. Because when the shields are being pulled
22 in, you're pretty much getting prepared to be able
23 to push the line out for the next cut, is the
24 reason for the shields coming in.

1 Q. Okay. Very good. Thank you.

2 I understand that you was underground the
3 day of the 5th, the day of the explosion, when the
4 explosion occurred?

5 A. Yeah.

6 Q. Do you recall what time you got there that
7 day?

8 A. No, I don't recall exactly what time I got
9 there. I always tried to get there -- so I would
10 have time in case I needed to gather up any parts
11 or anything like that, I tried to allow myself 15,
12 20 minutes to do that.

13 So I just -- just assuming it was like any
14 other day, I would probably have been there around
15 2:30.

16 Q. Okay. If you recall specifically, tell
17 me, and if you don't, just tell me in general what
18 you would normally do when you get there for your
19 shift on afternoon shift. Do you go to the
20 bathhouse and change clothes first?

21 A. Yeah. Yeah, always.

22 Q. Then what do you do next?

23 A. I would come upstairs where the longwall
24 office was at, and most of the time I asked Kevin

1 because most -- Kevin Medley, being the production
2 boss, I would ask him if the -- because most of the
3 time by the time I got there, he had done talked to
4 somebody on the face to get a fire boss report, the
5 pre-shift, and they would normally tell him if we
6 needed to bring anything. And from there, if we
7 needed anything, I would gather my parts up.

8 Q. On the 5th, do you recall if you was
9 upstairs in the office when Kevin received that
10 call from the longwall?

11 A. I do not, do not recall if I was or not.

12 Q. So you don't remember Kevin talking to the
13 longwall at all that day?

14 A. No, I do not.

15 Q. Okay. Do you recall anybody talking to
16 the longwall while you was up there?

17 A. No. No, I do not.

18 Q. Do you recall seeing Jack Roles when you
19 got to the mine or before you went underground?

20 A. If I remember correctly, I think he -- I
21 think he had just got outside, if I remember
22 correctly. I'm not going to swear to that. I
23 don't know.

24 Q. Okay. He had just got out when you

1 arrived there or when you went upstairs?

2 A. I don't know exactly what time. I'm just
3 pretty sure I remember, like, when I did go
4 upstairs, he was up there. I'm pretty sure.

5 He and some others and -- I couldn't even
6 begin to remember who he was with. They just came
7 out.

8 Q. Okay.

9 A. Which was nothing out of the ordinary, it
10 was just pretty much an every day occurrence. He
11 would try to -- if he was underground, he would try
12 to get out before the crew coming on came
13 underground, so he could tell us anything if he
14 needed to.

15 Q. Okay. Did you talk to him that day?

16 A. No, I don't recall talking to him at all
17 that evening.

18 Q. Okay. Did you know that the ranging arm
19 hinge pin had been out, and they was down most of
20 the day repairing it?

21 A. I don't recall that at all. I know we had
22 trouble, but I don't recall exactly what days and
23 -- that had all taken place.

24 Q. Okay. Did you carry a methane detector

1 with you underground?

2 A. Yeah.

3 Q. Do you recall what type it was?

4 A. I don't recall the exact type.

5 Q. Would it have been a Solaris?

6 A. Solaris. That's it.

7 Q. When you carried it, did you have a pouch
8 on your belt you carried it in?

9 A. I normally just clipped it right here on
10 my bibs.

11 Q. Okay. So the Solaris had the silver clip
12 on the back of it?

13 A. Yeah.

14 Q. And it would clip to your bibs?

15 A. Right.

16 Q. Okay. Where did you charge it?

17 A. Outside, or I had a charger at home. I
18 would sometimes keep it in my bucket. If I didn't
19 put it on the charge outside, I would take it home
20 and charge it.

21 Q. If you charged it at the mine, did you
22 ever have occasion where you got there the next day
23 and it wasn't there?

24 A. Oh, yeah.

1 Q. What would you do on those days?

2 A. I would borrow one from somebody, or get
3 another one that was on the charge.

4 Q. Where did you calibrate your detector?

5 A. They had a place for them upstairs in what
6 we called the "fire boss room" to calibrate it.

7 Q. It was there at the Ellis portal?

8 A. Yeah.

9 Q. Where is that detector at now?

10 A. It was left at UBB.

11 Q. Okay. You left it there after you left
12 the mine?

13 A. Yeah, yeah.

14 Q. Where did you leave it, do you recall?

15 A. At the Ellis portal.

16 Q. On the charger?

17 A. On the charger, yeah.

18 Q. Okay. When did you leave it there?

19 A. The day of the explosion. When we left,
20 pretty much everybody left all their stuff.

21 MR. CRIPPS: Okay.

22 EXAMINATION

23 BY MR. MAGGARD:

24 Q. Did you have your name on that spotter?

1 A. No, I don't think I did.

2 Q. Did anyone ask you to -- where your
3 spotter was at or anything, talk to you about the
4 spotter that you had?

5 A. No. Any specific day you're referring to?

6 Q. After the accident, did anybody contact
7 you saying, hey, we need your spotter?

8 A. No.

9 Q. Did you enter -- did they have a
10 calibration log up there where you calibrated your
11 methane spotter?

12 A. Yeah, they did, but the best I recall,
13 myself, I had never had personally calibrated one
14 there. Because it seemed like every time that I
15 ended up with a different one, it was never time,
16 never due to be calibrated, because they were
17 always swapped around so much where they were left
18 on the charge or mine office.

19 Q. Did you ever have a day that your spotter
20 was dead or whatever, somebody else was using it
21 that you couldn't locate a spotter, didn't have a
22 spotter to take underground?

23 A. I don't really recall any days that I
24 would go underground without one.

1 Q. Never happened to you before?

2 A. To be honest, not that I recall because I
3 always try to have one.

4 Q. Tell me -- I know that it was brought up.
5 What kind of exams did you do? What equipment did
6 you examine?

7 A. Best of my knowledge, about the only thing
8 that I ever took care of on that particular panel,
9 the things that I was responsible for putting in
10 the books was mostly, like, the thing -- all
11 electrical equipment and stuff at the mule train,
12 which is the power centers outby.

13 Q. Did you ever examine anything else?

14 A. Not really that I recall. I think that
15 was about the biggest thing on my list was the mule
16 train.

17 Q. Okay. On the mule train, did you examine
18 the pumps on the mule train?

19 A. Yeah.

20 Q. Okay. Did you ever examine the headgate
21 box?

22 A. I'm sure at some point in time I have, but
23 I really don't recall if that was on my list of
24 permissibility items or not.

1 Q. The reason I'm asking this is because I
2 did see a record that you had examined it at least
3 four times in the records?

4 A. Okay.

5 Q. So I just wanted to clarify it for the
6 record.

7 A. That's what I said. I mean, I'm sure at
8 some point in time I had, I just don't recall if
9 that was on my permissibility list or not.

10 Q. Had you ever -- on that headgate box, had
11 you ever worked inside, ever had to work inside the
12 box?

13 A. During set up, but I don't recall ever
14 having the headgate box opened after we started up.

15 Q. Had you ever had to work on the emergency
16 stops, switches on that box?

17 A. On the --

18 Q. On the headgate box.

19 A. On the headgate box, I don't ever recall
20 having to work on any.

21 Q. What about on the shear? Have you ever
22 had to work on E-stop on the shear?

23 A. I'm sure I have, but I don't -- on that
24 particular longwall panel, I don't recall ever

1 working on it.

2 But, I mean, I know I've worked on E-stop,
3 but that particular shear, I don't recall if I had
4 or not.

5 Q. You don't recall if they've ever been
6 damaged or anything, even if you didn't work on it,
7 like somebody else might had worked on it?

8 A. I do recall the red knob getting ripped
9 off of it. And if I remember right, I think the
10 biggest thing was there it bent the shaft and
11 couldn't put another knob on it. I think maybe
12 hoot owl had replaced the whole switch.

13 But as far as myself, I don't recall ever
14 working on it.

15 Q. Was that your shift that it got damaged,
16 or was that a different shift?

17 A. Different shift. I don't recall at any
18 time it being damaged on my shift.

19 Q. Okay. But had you seen that it was
20 damaged or you just heard that it was damaged?

21 A. I don't recall even seeing the damage.

22 Q. As far as examinations go, if I understand
23 you correct, it was just electrical exams that you
24 did?

1 A. Yeah.

2 Q. Is that correct?

3 A. Yeah.

4 Q. No other examinations you had to do?

5 A. No.

6 Q. Okay. Who was responsible on the section
7 for the rest of the exams? Who did the dates,
8 times and initials on the face?

9 A. On our crew, it was Kevin Medley, the
10 production boss.

11 Q. Did anybody else have to do that, say, if
12 Kevin wasn't there?

13 A. I don't even remember exactly who was on
14 our crew. But I do recall a time or two that --
15 one that comes to my mind, I think was on our crew
16 at some point in time was -- I don't even remember
17 his last name, Mike -- Mike Webb.

18 I do recall Kevin sending him to do fire
19 bossing on the belts outby, like if they were short
20 a fire boss outby or something like that.

21 But for the most part, Kevin, he didn't --
22 I don't recall him ever missing while I was on the
23 crew with him.

24 Q. I don't know if -- what I'd like to do is

1 kind of just let you run us through a normal shift,
2 the type of work you would have to do during a
3 normal shift.

4 Talk about how you arrived to the section,
5 what you do to -- before you all start running.
6 Just take me through a normal day.

7 A. Pretty much a normal day, when we'd arrive
8 at the end of the track, we have a safety meeting
9 at the mantrip. It normally lasted 10, 15
10 minutes.

11 That was something Kevin was good about.
12 He never failed to have a safety meeting or go over
13 the issues that Jack had told him about outside
14 before we left. That's when Kevin would go over
15 with all of us is when we got to the section with
16 the mantrip.

17 From there, pretty much everybody would
18 head up through there. I would kind of lag behind
19 a little bit, looking over everything at the mule
20 train as it went by, making sure all the pumps were
21 running and make sure pressure was good on the
22 emulsion and the water, change and clean filters if
23 need be.

24 Then from there, go on up to the tool cars

1 and normally -- well, like, from the mule train,
2 pretty much, if there was anything going on in the
3 face, we would always -- the other electrician that
4 was with me, which was Dustin Ross, if he needed to
5 go on up to the face and help with anything, either
6 one of us would, whichever, we kind of split up
7 from there.

8 One of us would go to the face, then one
9 of us would stay at the mule train, take care of
10 any of low pressure issues or anything like that
11 there.

12 Then from there, like I said, as we passed
13 tool cars, we would stop there and get any extra
14 tools we thought we may need to take to the head
15 drive. We usually kept a box of tools up there, so
16 we didn't have to run all the way back to the cars
17 if we had anything happen, normally just stuff to
18 change cutter shafts or anything like that.

19 And kind of just proceed down the line
20 there, looking over things. If there is any busted
21 hoses or things like that, make sure all the face
22 lights were working and replace any light bulbs or
23 whatever, just kind of whatever needed done.

24 Q. So you said that sometimes you and Dustin

1 would rotate going on the face and stuff?

2 A. Yeah.

3 Q. Did you all work together a lot?

4 A. Oh, yeah, for the most part we always
5 tried to stay together. It was easier to work
6 together than it was one person trying to work.

7 Q. Give us some normal examples of, you know,
8 if they asked one of you to go on the face with
9 them. As you were going in, what kind of things
10 would they ask you to do to start out on the
11 shield?

12 A. Well, a lot of times if there would be a
13 cutter shaft get broke as the other crew was coming
14 off the face, they would just leave it and tell us
15 we needed one as we was going on the face, stuff
16 like that. Normally nothing major.

17 Or if they were a -- if the crew that we
18 was coming in behind already started on bits or
19 something like that, we would, at least one of us
20 would go up and try to make sure the shear was
21 serviced, which in -- like as far as any of the
22 greasing, and check with the operators and see if
23 they had any sprays out, stuff like that. We tried
24 to ...

1 Q. How often was you having to add sprays to
2 the shear?

3 A. Well, like I said, that's something -- I
4 just kept them in my pocket for when we needed
5 them. I can't really specify any big major need
6 for them. That was just kind of a habit I got
7 into, kept them in my pocket to where -- if we did
8 need them.

9 Q. I know you had said that you seen a spray
10 missing before and you seen more flow, is that what
11 you said, coming out of the portal?

12 A. Yeah, it's real obvious when you got one
13 missing. Instead of just a mist, you'll have a
14 good steady, half-inch stream of water.

15 Q. Have you never noticed more than one out,
16 how it would look?

17 A. Again, as I recall, I can't really give
18 any specific number on ever seeing any more than
19 one or anything out. Normally when we seen one
20 out, the operator would holler if they needed a
21 spray and we'd get it in there.

22 Q. So basically what you guys did is wait for
23 the operator to tell you when he needed sprays?

24 A. Yeah, because he was the one right there

1 looking at it at all times, so he would know it
2 before we would.

3 The operators we had were pretty good
4 about letting us know as soon as we needed them.
5 We didn't want to run without them because
6 obviously it didn't lessen the water pressure on
7 the others and affected dust.

8 Q. Would that cause more clogging if they was
9 more out, or do you know?

10 A. Probably would.

11 Q. When you -- give us an example what you
12 would do if they told you that, I need a couple
13 sprays up here. What would be your role in
14 correcting that?

15 A. Get them the sprays and get them right up
16 there to them. Like I said, normally if I didn't
17 have any in my pockets, we just kept them scattered
18 out in the shield tips across the face.

19 There was little holes up in the canopies
20 that you could easily stick, like, shield parts and
21 just real small stuff up in so we'd have it when we
22 needed it.

23 Q. So your job would be to replace them or
24 just bring them the parts and stuff?

1 recall, my golly, it's been a year ago, I don't
2 recall exact numbers, but the best that I recall,
3 it was always around, say anywhere from 350 to 400
4 pounds of pressure going to the shear.

5 Q. So did you check the pressure at the shear
6 every day?

7 A. There was, I mean, there was days that it
8 didn't get checked, but for the most part, yeah, it
9 did get checked. Because it was real easy to tell
10 when you didn't have enough water pressure at the
11 shear.

12 Let me clarify this again. Like I said,
13 that particular gauge that I'm referring to at the
14 headgate, that gauge was right in the shear water
15 line when it left the head.

16 There was no other -- you had one line,
17 and it was a two-inch line, went straight to the
18 shear, and there was nothing else to T off of it.

19 Q. Just for the record to clarify, the gauge
20 you're talking about is over at the headgate box?

21 A. Yeah.

22 Q. Is that correct?

23 A. Uh-huh.

24 Q. Now --

1 A. And once again, our headgate operator,
2 which was Kenny Woodrum, he was real good about
3 letting us know when water pressure was getting a
4 little bit low.

5 And from there, we would always, anytime
6 that water was getting low, we would go change the
7 water filters, which was called water socks. You
8 had a sock that went over, like, a basket.

9 Q. Okay. When was the last time you had to
10 change a sock? Was it weeks prior, days prior,
11 months, how was it -- what do you recall?

12 A. I don't really recall any specific times.
13 Normally when we had water trouble would be when
14 the water creek was muddy, we were picking up a lot
15 of mud out of the creek.

16 But any real close days prior to the
17 incident, I don't remember having to change them
18 real often.

19 Q. Okay. Did they always use socks for the
20 water filtration system?

21 A. Yeah, it was used, but we didn't always
22 have to use socks. Just trying to think. I think
23 right there, right at last, we had finally got what
24 we called well water hooked up. And we weren't

1 even using water out of the creek for the -- I
2 don't -- I'm not going to swear to anything. I
3 don't recall exactly.

4 The well water was all used for the
5 emulsion mix, is what it was used for. I was about
6 to tell you wrong. The well water wasn't even used
7 for spray water.

8 Q. How would you know that you needed to
9 start using socks? What would happen to -- if you
10 wasn't using socks, when would you know that you
11 had to start using them?

12 A. Pretty much when we started losing water
13 pressure and getting a lot of mud and the debris in
14 the baskets.

15 Just using the socks made it easier to --
16 quicker to change, open up the filter housings,
17 which there was four filter housings, open up one,
18 jerk the sock off, and spray it off a little bit
19 and put a new one back in there. Then turn that
20 one back on and go to the next one.

21 Q. Did you ever have times that the emulsion
22 tank got low when you were on the fresh water?

23 A. Yeah -- well, no, no, not on the fresh
24 water. Well, I said no, but, yeah, there

1 occasionally was times when we would -- like you
2 would -- you had a pump outside, too, that pumped
3 the water for the well water and that would just
4 pump from outside in a two-inch line.

5 And anytime that that pump outside would
6 go off, we'd loose -- you'd still have water flow,
7 but you wouldn't have good volume, and we'd just
8 use it quicker in the shields in the emulsion tank
9 quicker than what that two-inch line could supply.

10 So, yeah, there was occasionally times we
11 would lose jack pressure because of that.

12 Q. When the emulsion tank got low and, say
13 the water tank wasn't working, what would you all
14 have to do to get emulsion water to run your
15 shields and stuff?

16 A. Normally, it was a quick fix unless there
17 was a line busted. Just holler outside and have
18 somebody put the power back in on that pump
19 outside.

20 Q. Okay. Then --

21 A. Which is right beside the bathhouse.

22 Q. Had you ever had times that you couldn't
23 do that, that you had to swap over to river water
24 or do something else for the emulsion system?

1 A. I don't recall how -- I mean, I'm assuming
2 that most questions you're asking me is real close,
3 right prior to the accident.

4 But right prior to the accident, I don't
5 recall having to use river water any.

6 Q. But you had in the past?

7 A. Yeah.

8 Q. What was the reason for going to the fresh
9 water for the emulsion system, what was going on?

10 A. Because it was putting a lot of dirt in
11 the system, in the jacks. And it's not a real, I'd
12 guess you'd say, forgiving system as far as dirt.

13 Something the size of a grain of sand
14 would gob up the solenoid and keep it from working.

15 Q. When you did check pressure on the shear,
16 how would you do that?

17 A. In a spray block over on the face side,
18 use a gauge we had rigged up with a hose on it and
19 then a staple lock fitting to just unplug that
20 spray block and then plug that gauge into that hose
21 that went to a spray block.

22 Q. Which portion of the shear was this spray
23 blocking?

24 A. Normally the one we used was -- well,

1 anytime I ever checked it, it was on the one -- on
2 the -- over on the face side on the head end of the
3 shear, is the one I always used.

4 Q. How was you instructed to -- that that was
5 the correct place to check a pressure gauge
6 reading? Who told you that was the place to do it
7 at?

8 A. Just pretty much anybody that ever told me
9 to take a pressure reading. I don't really
10 recall. Even inspectors, that was where they
11 wanted to check it at.

12 Q. Had you received any kind of specialized
13 training taking pressure readings or anything on
14 the shear?

15 A. No.

16 Q. What kind of pressure was you looking for?

17 A. It changed so often. The best I recall, I
18 think in that current a plan, I think it was 90.
19 If I recall right, I think it was 90 PSI. I know
20 it was 90 at one time. I don't know if that was
21 what it was at the time of the accident or not.

22 Q. Who was responsible for the -- checking
23 that?

24 A. Just me or Dustin, either one, whoever was

1 around at the time when it need -- came time to
2 check it.

3 Q. Okay. Did anybody else check it on your
4 shift?

5 A. Not that I recall. I don't remember
6 anybody else ever ...

7 Q. Did you check it -- I'm still kind of -- I
8 might need to listen real good.

9 Did you say you didn't get to check it
10 every day?

11 A. I don't really recall a time that we
12 didn't ever check it, but ...

13 Q. Did you date, times and initial anything
14 after you checked?

15 A. No.

16 Q. Tell me what -- if the pressure changed in
17 various ways, it wasn't 90, it was something else,
18 what would that tell you about the system?

19 A. That normally tells us we needed to go
20 change the filters or clean the filters.

21 Q. Okay. And the filters you're talking
22 about is on the sock filters we've already
23 mentioned?

24 A. Yeah.

1 Q. Okay. So if the pressure goes up, what's
2 that tell you? Does that indicate that the filters
3 need changed?

4 A. No. Normally if it goes way up, that will
5 normally indicate that we've got a basket with a
6 hole blowed in it because of too much water
7 pressure, and need to go back in there and put it
8 in.

9 Q. Okay. So the pressure readings are what
10 you use to determine -- I guess with the head gauge
11 and the one on the shear, it told you to go and
12 change -- do something with the filter system?

13 A. Yeah.

14 Q. Okay. Would that also entail opening and
15 closing a bypass valve on the pump discharge?
16 Would you ever have to do anything with that?

17 A. No. Right before the incident, like I
18 said, I don't recall having to -- the only thing
19 that bypass valve would do, that bypass controlled
20 the either well water or river water going to the
21 emulsion system.

22 But like I said, really, right before the
23 incident, I don't recall having to even use the
24 bypass valve to dump river water into the emulsion

1 system.

2 Q. And you said that anytime, and you correct
3 me if I'm wrong, but anytime that you've had
4 clogged sprays, you would replace them? Is that
5 what you said?

6 A. If I had some in my pocket I would hurry
7 and stick some new ones in there so that would be
8 less time they'd be down over a spray.

9 Then I'd clean the ones that I just took
10 out and stick them back in my pocket, so I always
11 had some -- that's something I tried to always keep
12 with me.

13 Q. If you didn't have any with you, what
14 would you do? You would clean them?

15 A. Yeah, I'd clean them, but most of the time
16 there was always some nearby somewhere. There was
17 an no way of backing it up in the head -- right in
18 the head drive or some in shield tips or
19 somewhere.

20 Q. How would you clean the sprays? How do
21 you do that?

22 A. I would normally take a tip cleaner and
23 gouge them out and clean the dirt out of them.

24 Q. Okay. And what's the most you ever had to

1 clean at one time.

2 A. Well, I said right before the incident, I
3 don't recall having much trouble with them at all.

4 Q. Had you any trouble in the months prior?

5 A. Oh, yeah, definitely, yeah. Like I said,
6 any -- because we hadn't been on the river water
7 very long. When we first started up that panel, it
8 was a constant fight with water.

9 Q. Let's talk about -- did you say sometimes
10 that you did help with bits from time to time; is
11 that correct?

12 A. Yeah.

13 Q. Okay. Tell me how you -- how do you set
14 up that? How do you set up the shear? What do you
15 have to do to set bits?

16 A. The whole process?

17 Q. The whole process.

18 A. Like I said, the shear normally backs back
19 and forth a couple times in the area where we're
20 going to set bits to clean up as much gob as
21 possible, give the operators a little better place
22 to stand.

23 And then once they got cleaned up,
24 somebody will shut the line off, and then when we

1 shut the line off, holler at the headgate operator
2 and tell him to turn the water off.

3 Q. Shutting the line off. How do you do
4 that?

5 A. There's a box placed on the canopy of
6 every eighth shield with magnets that -- it's
7 called the control.

8 It's got a little button on the left side,
9 just a little toggle switch that turns the line off
10 and on, and then on the other side, it's got a
11 little toggle switch you push to talk to the
12 headgate operator.

13 Q. Okay. So you would turn that off and then
14 you would -- would you always have to call the
15 headgate operator to get him to shut the water off?

16 A. Yeah. Yeah, he's the only one that had
17 control of the water.

18 Q. Okay. So that was -- is that the only two
19 things you had to do to get the pan -- get the
20 line turned off to set bits?

21 A. Well, we would always make sure the E-stop
22 was in on the shear, killed the power on the shear
23 once the operator started.

24 Q. Would you always --

1 A. I did forget to mention that a while ago.

2 Q. Okay. Would you always hit that E-stop?

3 A. For the most part, anytime I was over
4 there, I would always -- I would always try to hit
5 it.

6 Q. Okay. On the last day or two of the
7 accident, did you have to hit the -- before the
8 accident, did you help them set bits?

9 A. I don't really recall if I did or not.

10 Q. Okay. What about welding on the face?
11 What would you all normally do when you done any
12 kind welding on the face?

13 A. Well, it's -- anything there's any welding
14 to be done, we'd always, I mean, myself, I always
15 had the fire extinguishers with me just in case I
16 caught anything, any of the hoses or anything like
17 that on fire, because there was hoses everywhere.

18 I always get my stuff, the air set up, and
19 then I always make sure -- I never did it without a
20 spotter. That was for certain, but then kill the
21 power on the face.

22 Because if you didn't kill the power on
23 the face, welding, it would screw with the MSUs,
24 the computers on the shields. Anytime you would

1 weld with power on, it would screw with them.

2 Q. How would you kill the power on the face?

3 A. Holler at the headgate operator and have
4 him kill it.

5 Q. Okay. And how would he normally kill it?

6 A. He had several different ways up there to
7 do it. He could either pull the disconnects down
8 there at the -- well, he had disconnects for the
9 shear in the tail drive, or he could just hit -- he
10 had two little buttons there that he could hit the
11 vacuum breaker, and that took out everything.

12 He also had a big E-stop on the gate box,
13 but he didn't ever use that one for that, because
14 that killed the power all the way to the mouth of
15 the section, that one did.

16 Q. When you say "mouth of the section," where
17 are you referring to?

18 A. Well, not necessarily the mouth of the
19 section, to the nearest splitter is where it killed
20 it to.

21 Q. So we would be outby by the mule train and
22 kill it, too.

23 A. Yeah.

24 Q. When is the last time anybody tested that,

1 do you recall? Have you ever tested it?

2 A. I never had to because that's something
3 that was always tested on hoot owl because of that
4 reason. That was part of their checks, to the best
5 of my knowledge. That was something that they
6 always took care of.

7 Q. Getting back on the sprays, do you recall
8 what type of sprays they had at the mine that they
9 were using on the -- that you carried every day?

10 A. I don't recall the exact size of them, but
11 it was just the little silver inserts with one hole
12 in them, had a little plastic cap on the back of
13 them to kind of disperse the water, make it a finer
14 mist.

15 Q. Was that the same sprays you was talking
16 about the whole machine, or was there any other
17 different types of sprays?

18 A. Yeah, there was different sizes, but that
19 was pretty much the same style of spray you used on
20 the whole shear.

21 But some of them on some of the spray
22 blocks were the twist in. It used a -- I think it
23 was a half-inch socket. I think it was the three-
24 ended bit. I don't recall which ones used that

1 type of spray.

2 Because once again, that was something --
3 like, those types of sprays, that's something
4 mostly that was part of hoot owl's checks to clean
5 and check those.

6 That was something we very seldom had to
7 fool with because they pretty much always worked
8 because that was also -- they had to work, because
9 that was also part of the cooling system for the
10 shear through those particular spray box.

11 Q. Do you recall ever being involved with
12 checking the fire suppression on the shear?

13 A. I think maybe when -- during set up, I
14 think maybe I was around when it was checked once,
15 just to make sure it worked.

16 But that was something else to the best of
17 -- the best of my knowledge, that was something
18 else that was part of hoot owl's checks, to check
19 the fire suppression.

20 Q. So as far as fire suppression, checking
21 for clogs, sprays, that was basically miners, and
22 that was basically hoot owl's job?

23 A. Say that again.

24 Q. As far as looking for clog sprays or fire

1 suppression, that was basically hoot owl's job; is
2 that correct?

3 A. Pretty much. The only time we fool with
4 them was when we seen one not working, we would
5 replace it. Not working or gone, we would replace
6 them.

7 Q. Did you ever have any problems with the
8 methane monitors on this shear?

9 A. The only problems I ever really recall
10 having with it was maybe having to replace the --
11 maybe a sniffer. Other than that, I don't recall
12 really doing any work to it.

13 Q. Did you ever have any problems with the
14 cable being damaged?

15 A. I don't really recall having any.

16 Q. When you replace a sniffer, what do you do
17 to check the methane monitor?

18 A. Just normally use a calibration kit, make
19 sure it's reading right.

20 Q. Do you have your own calibration kit?

21 A. No. There was one left at the headgate
22 for everybody use.

23 MR. MAGGARD: Okay. I'm good for now.

24 Thank you.

EXAMINATION

1
2 BY MR. BECK:

3 Q. Tommy, if you had one or two sprays out of
4 a drum, three or four, could you still operate that
5 shear?

6 A. Depending on how much incoming water
7 pressure we had.

8 Q. Would it still run, though?

9 A. Yeah, yeah.

10 Q. Would the system, the spray system, be
11 affective with a couple sprays missing?

12 A. Now, once again, if we had good incoming
13 water pressure, that wouldn't really affect the
14 pressure much. But, yeah, it would affect it.

15 Q. So are you saying -- what I'm asking is,
16 would it be an effective system as far as doing
17 what it's supposed to do, or would it be somewhere
18 less effective or not effective at all?

19 A. With one or so sprays out, it probably
20 would be more affective if we had good water coming
21 up there, because those sprays made the water such
22 a fine mist that it was just pretty much deluded so
23 much by the dust that ...

24 Q. Okay. Was there a problem with the

1 availability of Solarises at Upper Big Branch?

2 A. To the best of my knowledge, I don't
3 really recall any.

4 Q. Everybody that wanted a Solaris on any
5 given shift could get one?

6 A. I didn't try to keep track of everybody
7 else. It was my responsibility to make sure I had
8 one and most of the time I had one.

9 Well, not even say most of the time. I
10 had one.

11 Q. You portalled at Ellis portal; right?

12 A. Yeah.

13 Q. Who else there portalled on your shift?
14 Miner crews?

15 A. Yeah. The longwall, then the -- I'm not
16 one, maybe two, miner section crews.

17 Q. Okay. Did you know pretty much everybody
18 on your shift?

19 A. Oh, yes.

20 Q. Was there anybody on your shift that was
21 assigned as a rock dust crew, to rock dust the
22 mine?

23 A. I don't have a clue at all. I couldn't
24 give the answer on that one way or the other,

1 because, like I said, I was on the longwall. I
2 never had any dealings to do with anything outby at
3 all, ever.

4 Q. What I'm asking is, you said you knew most
5 everybody on your shift?

6 A. I didn't know their job assignments. I
7 knew them, I didn't know their job assignments.

8 Q. Did you ever see --

9 A. There was -- you know how many people was
10 there. There was several hundred. I knew most of
11 the people at the Ellis portal on our shift, but as
12 far as that, there was people there that I had
13 never seen before.

14 Q. Did you ever see a rock dust crew on your
15 shift?

16 A. No, I didn't. That I can honestly answer,
17 no, I did not.

18 Q. Okay. Now, you traveled in by mantrip; is
19 that right?

20 A. Yeah.

21 Q. To your section?

22 You had to go through a number of sets of
23 doors to get to a longwall; right?

24 A. Yeah.

1 Q. Did you ever see one of the doors or both
2 of the doors left open when you arrived at them?

3 A. As far as leaving them open, no, I don't
4 recall seeing any left open at all.

5 Q. Did you ever see any that were damaged
6 that wouldn't close completely?

7 A. I do recall a couple times seeing the
8 doors just inby 78 break damaged and wouldn't close
9 all the way.

10 Q. Okay. And did you ever express, or do you
11 know of anyone that ever expressed any concerns
12 about the ventilation system at Upper Big Branch?

13 A. I don't really recall any. For the last
14 month or so there, ventilation was a big issue. Of
15 course, you heard it. That was pretty much all you
16 heard.

17 But I'm not going to recall or -- I don't
18 recall any specific remarks by any specific
19 person. I don't really ...

20 Q. Were you ever on the longwall when you
21 lost air?

22 A. Yeah. I think right about the time that
23 we were having the big ventilation, the big trouble
24 with ventilation, I'm pretty sure the first time

1 that the inspectors came and shut it down when they
2 found the air going the wrong way on the tail, I'm
3 am pretty sure I was there that day. I'm not going
4 to ...

5 Q. That's when inspectors shut it down,
6 right, is that what you're saying?

7 A. Yeah. We had good air on the face, but
8 they shut it down over the air going the wrong way
9 on the tail side outby.

10 Q. Were you ever on the face when inspectors
11 arrived that you didn't have good air?

12 A. I don't recall ever having to shut down
13 over too little of an amount of air. I mean, we
14 pretty much, best that I recall, we always had --

15 The best that I recall, anytime that I was
16 there, we always had the right amount of air that
17 we needed to run.

18 Q. One last question. Do you recall how many
19 bits are on each drum?

20 A. No, I do not. I can't remember the exact
21 number.

22 Q. Was there a water spray for each bit?

23 A. Yeah.

24 Q. Okay.

1 A. Yeah.

2 Q. Do you know how many of these sprays had
3 to be working in order for the system to be in
4 compliance?

5 A. At the time, I could have given you
6 everything in that dust control plan pretty much
7 word to word. But right now, I've dealt with so
8 much other stuff, I mean, this has been a year ago.
9 And I've dealt with so much other stuff between
10 then and now that, no, I can't give you an exact
11 number of what it needed.

12 MR. BECK: That's all I have.

13 MR. TUCKER: I've got a couple more.

14 EXAMINATION

15 BY MR. TUCKER:

16 Q. Where are you working now?

17 A. At Brown Bottom.

18 Q. Brown Bottom?

19 A. Yeah, it's up around ...

20 Q. Had you ever worked on any other longwall
21 panels at UBB?

22 A. At UBB?

23 Q. Other than the current longwall panel?

24 A. I've pretty much been at UBB just about

1 every longwall panel there. I think I started
2 there on the -- if I recall, I think it was
3 Headgate 4, maybe, is when I started there.

4 Q. Do you recall the water system on the
5 other panels? Did they use river water on those
6 panels?

7 A. Yeah, sure did.

8 Q. Okay. So you had issues with the muddy
9 water and dirt being in the water on previous
10 panels you've had to deal with?

11 A. Oh, yeah.

12 Q. You mentioned -- made a comment earlier
13 about sometimes maybe a cutter shaft being broke on
14 the longwall there, you would have to work on it.

15 A. Uh-huh.

16 Q. How often would that happen?

17 A. That's something -- kind of varied when we
18 were in hard cutting. That was something at least
19 once a shift when we were in hard cutting.

20 Because if the operator, if they would
21 leave the -- if for any reason they'd turn the
22 shear off to check their bits or anything like
23 that, when they started the drum back up, if they
24 would either leave the drum in the top or leave it

1 in the bottom where it wasn't against anything when
2 they'd start the shear back up, if it was found
3 against anything, a lot of times it would break a
4 shaft to start back up.

5 Q. Okay. So recently you mentioned you've
6 encountered some hard cut down in the tail area?

7 A. Oh, yeah.

8 Q. So you changed several cutter shafts, say,
9 in the last two or three weeks?

10 A. Oh, yeah, that was pretty much an every
11 shift thing. At least once every shift.

12 Q. I have one other question, just out of
13 curiosity.

14 After your last interview with us, did
15 anybody interview you concerning your interview
16 with us, talk to you about it?

17 A. No.

18 Q. Other than just normal coworkers?

19 A. No.

20 MR. TUCKER: Okay. That's all I have for
21 now. I appreciate it.

22 MR. CRIPPS: Can we take just a couple
23 minute break?

24 (Break.)

1 MR. TUCKER: Back on the record, Tommy.

2 EXAMINATION

3 BY MR. CRIPPS:

4 Q. Tommy, do you recall, did you ever float
5 out any of the operators for lunch?

6 A. Yeah, I occasionally did.

7 Q. Which operators did you float out?

8 A. Most of the time, shear operators.

9 Q. You have operated the shear some?

10 A. Yeah.

11 Q. Okay. I showed you this p.m. sheet a
12 little earlier. I notice on all the different
13 items, there's a time associated with it. Can you
14 explain the significance of the times?

15 A. What do you mean "significance of the
16 times"?

17 Q. Well, like for this top line, it says 20
18 minutes. The second line 20 minutes. What does
19 that mean?

20 A. Just really, just estimated time that it
21 shouldn't take no more than to do those checks.

22 Q. Do you have any knowledge of where those
23 times come from or how they were derived?

24 A. No idea.

1 Q. Okay. Do they have any significance to
2 you?

3 A. No, I never really paid any attention to
4 the times. I just checked them, then checks to the
5 best of my knowledge and kind of, like I said,
6 pretty much didn't go by the times.

7 Q. Okay.

8 A. A lot of times it takes more than that. A
9 lot of times it don't take as long as that. It's
10 -- I kind of never did understand the times on
11 there myself.

12 MR. ALLEN: What exhibit was that one?

13 MR. CRIPPS: Pardon me?

14 MR. ALLEN: What exhibit number was that
15 one?

16 MR. CRIPPS: 4

17 Q. I want to talk to you just a little bit,
18 if you recall the day of the accident.

19 I understand you was inside of the mine.
20 Was you on the mantrip, or do you recall?

21 A. I was on the mantrip.

22 Q. Do you recall where Kevin was?

23 A. I think he may have been driving that day.

24 Q. Do you recall if he had called in and got

1 the track or got the road?

2 A. Yeah, we always got the road. Anytime a
3 mantrip pulled out, that was something that was
4 always done -- that was always done at UBB, because
5 it was such a big mines, you had to.

6 Q. Okay. When you called from the mantrip to
7 get the road, did you use the mine phone or a
8 radio?

9 A. He probably used his hand held radio.

10 Q. Do you recall specifically the day of the
11 accident if he used the radio or the phone?

12 A. I don't recall specific.

13 Q. Okay. Tommy, I've got some documents
14 here, some records, and maybe it will help you
15 recall these things. You have a little -- some
16 trouble recalling a lot, so let me -- this is
17 a p.m. sheet here. Do you recognize that?

18 A. Yeah, that's mine.

19 Q. Okay. Are these your initials here on
20 the p.m. sheet?

21 A. Yeah.

22 Q. Could you read the narrative at the bottom
23 for me, please, and explain what it means?

24 A. Added five gallons of oil to tail end

1 ranging arm, had no water on either drum, cleaned
2 several and stopped right back up. Removed eight
3 on each end. Ran like that the rest of the shift
4 to try to flush the drums. Told third shift.

5 Q. Explain that to me. What actually
6 happened there?

7 A. That's obviously about the time we were on
8 river water, muddy water, and trying to get all
9 the -- may have even been after a time that they
10 had changed the drums. So I think the drums had
11 been changed shortly before that, too.

12 Q. Okay. So does that indicate that you
13 removed eight sprays from each drum?

14 A. Yeah.

15 Q. And then you ran the shear in that
16 condition for the rest of the shift?

17 A. Yes, only to add water. I wasn't going to
18 run it with no water.

19 Q. Explain that to me what you mean, not
20 having any water?

21 A. Didn't want to run the shear with no water
22 on the drums.

23 Q. Would that be because the sprays were
24 stopped up?

1 A. Not really -- you're not really clarifying
2 there.

3 Q. Okay.

4 A. Of course the sprays are stopped up.
5 There would be no water on the drums because the
6 sprays were stopped up, yeah.

7 Q. Okay. So, then, by removing the sprays,
8 you would have water flowing through the drums?

9 A. Yeah.

10 Q. Okay. What's the significance or
11 importance of having water on the drums?

12 A. It coals the dust.

13 Q. Okay. So with the eight sprays missing on
14 each end of the drum, would that effectively settle
15 the dust?

16 A. There was no amount of water that would
17 settle the dust, but, yeah, it did help the dust.

18 Q. If the sprays were stopped up because you
19 were on river water, is this a common occurrence,
20 then, to try to get water on the shear?

21 A. Yeah.

22 Q. You said you reported to third shift.
23 What would they then do?

24 A. They would then do the same thing. Take

1 them out again, try to clean them and try to -- by
2 actually us running that like that with sprays out,
3 that would only flush the drums and make the water
4 better, make it possible to get all the sprays
5 working back on the shear again.

6 Q. So for instance, on your shift, had you
7 replaced all the sprays instead of removing the
8 sprays, what would have been the result?

9 A. Stopped right back up because of the dirty
10 water.

11 Q. That's because of the river water that you
12 was using?

13 A. Yeah.

14 Q. Okay. How many times do you recall having
15 to take sprays out and run it that way to try to
16 flush the drums out?

17 A. I don't really recall.

18 Q. When the shear was running with those
19 eight sprays missing on each end, was it obvious?
20 Could you tell that the sprays were out by just
21 observing the water pattern?

22 A. Yeah, you'd have all kinds of water on the
23 drums.

24 Q. Would you note --

1 A. Just in really excessive amounts of water.

2 Q. But you said the rest of the sprays were
3 stopped up. So I guess there would be no mist of
4 sprays coming out of the drum; is that correct?

5 A. I ain't going to say all of them were
6 stopped up, but I'm sure there was probably some
7 there stopped up.

8 This was just the -- try to flush the dirt
9 out of the drums to keep this from being a
10 reoccurrence to get all the sprays to work and
11 mist.

12 Q. Okay. So if -- how do I want to say
13 this. So it's possible that the shear could be
14 running with several sprays out of the drum to
15 flush the drum out, flush mud out of the drum?

16 A. Yeah.

17 Q. Okay.

18 MS. HAMPTON: I'm going to mark that
19 exhibit as Exhibit No. 5. And just so it's clear,
20 this document is labeled Performance UBB longwall,
21 Monday March, 1st 2010.

22 (Exhibit No. 5 marked for
23 identification.)

24 Q. Is there a certain reason you picked eight

1 as the number of sprays to take out of the drum?

2 A. No specific reason. I just felt that was
3 a -- well, I can't tell you what I felt was the
4 reasoning at that time. That was a year ago.

5 Just guessing, that's a sufficient amount
6 to go all the way around that drum so you have got
7 good water all the way around the drum.

8 Q. Okay. Do you recall, on that particular
9 day, what point in the shift you took the sprays
10 out? Early in the shift, mid shift?

11 A. No idea.

12 MR. CRIPPS: Okay.

13 EXAMINATION

14 BY MR. MAGGARD:

15 Q. What is a good day, as far as running the
16 shear, number of passes, what do y'all consider a
17 good day?

18 A. At that time, well, once again, that was a
19 year ago. I don't really recall what we were
20 running at that time.

21 But a good day for the last few years that
22 longwall had been running, seven, eight passes.
23 That was a decent day.

24 Q. What about 6.8? Would that be a good day?

1 A. That would be fair, yeah.

2 Q. I think this is the production report for
3 the day that you had the problems with the drums.
4 And if you notice, right here is the total number
5 of passes. Do you see that?

6 A. Yeah.

7 Q. And what does it say?

8 A. 6.8.

9 MR. MAGGARD: I'd like to put this in as
10 an exhibit as well.

11 MS. HAMPTON: This is Exhibit No. 6.

12 (Exhibit No. 6 marked for
13 identification.)

14 MR. ALLEN: What is the date on that one?

15 MS. HAMPTON: This is for March 1st, 2010,
16 the same day as the p.m.

17 Q. How did you learn that that was a good
18 method of flushing of drum?

19 A. I mean, that's pretty much a common sense
20 issue there. You have got a big old steel drum
21 that needs some water running through it to flush
22 the mud out of it.

23 Q. Did anybody tell you to remove the sprays
24 and run it that way that day? Did you have any

1 discussions with anybody about removing those
2 sprays?

3 A. Once again, that was a year ago. I don't
4 recall what exactly came about that day in any way.

5 Q. Has anybody trained you that that's a good
6 method of flushing a drum?

7 A. Oh, yeah.

8 Q. Who trained you on that?

9 A. A lot of who trained me in a lot of ways
10 on set up and stuff was Delbert Bailey.

11 Q. These maintenance reports, let's pull back
12 that exhibit over there that we was talking about.

13 Let me ask you this. Who reviews your
14 maintenance report?

15 A. It would either be Delbert Bailey or Danny
16 Laverty.

17 Q. After this one was reviewed, did anybody
18 tell you, mention anything that the shear, that was
19 a good way to flush the drums? Did they say
20 anything to you?

21 A. No.

22 Q. So you never heard anything back on this?

23 A. No.

24 Q. Did you work the next day after the hoot

1 owl, you reported this to the hoot owl?

2 A. I would have to look at an old schedule to
3 tell you that. I have no idea.

4 Like I said, we were on a six and three
5 schedule. That may have been my first day back,
6 that may have been the last day there. I have no
7 idea.

8 Q. Let's skip back on this -- well, let me
9 ask you a few more questions here. Do you know
10 what type of sprays they were using, what size they
11 were?

12 A. No, I don't. I don't recall what size any
13 of them were.

14 Q. Did you have sprays that you could tell a
15 difference, that they were different?

16 A. Yeah.

17 Q. What did you see different in, let's say,
18 the staple lock spray?

19 A. They were all three and eight sprays, and,
20 like, we used a three eight staple. But as far as
21 what made the spray different was the whole size
22 that the water came out of.

23 Q. Okay. Do you know what sizes the hole
24 size was of the sprays you were using?

1 A. Like from -- there's a number specified on
2 each of those sprays, like to be able to order a
3 spray.

4 But as far as to tell you exactly what
5 size sprays were in that shear at that time, I have
6 no idea.

7 Q. Did you ever have to order any sprays?

8 A. No.

9 Q. Who would do that? Who would order
10 sprays?

11 A. If we seen we needed sprays, we would tell
12 Danny Laverty, and he would get ahold of Greg Clay,
13 which was the purchasing agent.

14 Q. When you went to get sprays, where would
15 you get them from that you carried around?

16 A. Most of the times the ones I kept with me,
17 there was always a bucket of them sitting at the
18 head drive.

19 And I would just pick up a few out of that
20 bucket occasionally and stick them in my pocket, so
21 I didn't have to make a trip all the way back
22 across the face, or wherever we had any shield
23 tips, or whatever, to look for them.

24 Q. Okay. So you have seen different size

1 holes in the sprays. Did anybody tell you which
2 one you was supposed to be using?

3 A. No.

4 Q. Did you ever have to take the nylon
5 portion or the plastic portion out of a spray to
6 clean it?

7 A. Yeah.

8 Q. And how often would you have to do that?

9 A. Well, you'd have to take that nylon off to
10 clean the mud out from behind it every time you
11 cleaned them.

12 Q. Did you ever see sprays that had the nylon
13 missing?

14 A. Occasionally I would find one that had it
15 missing, yeah.

16 Q. Was that -- how often was that?

17 A. Usually about every other time or two
18 you would go to clean the sprays and the drums,
19 you'd find one or two with the nylon missing.

20 Q. Okay. Now, I want to get back on this
21 E-stop. Now I have -- I found a 30-minute call out
22 report that reported the E-stop was down. There
23 was downtime for 43 minutes, and it was on 3/29.

24 MR. MAGGARD: Could you find that for me,

1 please?

2 Q. Okay. This is a call out report. It was
3 given to us by Performance Coal. It has PCC-MSHA
4 00070362 is on the bottom of the sheet.

5 And at 9 o'clock it shows that the shear
6 E-stop was replaced. Let's see here. Says 20 --
7 there was 25 plus 11 minutes right here of
8 downtime. Can you see that?

9 A. Which one?

10 Q. Right here, starting at 9 o'clock.

11 A. Uh-huh.

12 Q. Okay. Do you recall that? Was that on
13 your shift?

14 A. Once again, I have no idea. I'd have to
15 see the --

16 MR. MAGGARD: Do we have a production
17 report for that?

18 Q. This production report says, on Line 4, it
19 says, Shear E-stop, and it's got a total delay of
20 43 minutes. Can you see that on this sheet?

21 A. Yeah.

22 Q. Can you tell me whose shift that was?

23 A. Obviously mine. You have the report
24 there.

1 Q. Can you clarify for the record what
2 happened that day with that E-stop? Is that
3 refreshing your memory?

4 A. Do you remember exactly what you was doing
5 a year ago on that day?

6 Q. I'm hoping this will be helpful to you.

7 A. I don't. I mean, I really don't.
8 Obviously, right there, with these words on this
9 report, I replaced the E-stop in the shear.

10 Q. How did you replace it that quick in 43
11 minutes?

12 A. That's not real quick. I mean, it's a
13 simple E-stop switch.

14 Q. Okay. Tell me how do you get into the
15 panel? What do you have to do to get in the panel?

16 A. That particular panel head where the
17 E-stop switch is at, you remove all the bolts from
18 around that panel lid, then just lay that back and
19 the switch is right there on top.

20 Q. How much bolts is in that panel, do you
21 recall?

22 A. I'm going to say approximately -- I don't
23 recall no exact number, but I'm going to say
24 approximately 20 maybe.

1 Q. Did you have to lock and tag the circuit
2 out on that day?

3 A. Yeah.

4 Q. So you -- as far as removing the E-stop
5 and removing 26 bolts, taking the lid off, removing
6 the E-stop, replacing it, and putting those 20-some
7 bolts, I forget what you said, 20-some bolts back
8 in, removing your lock and tag, can you get that
9 done in 43 minutes?

10 A. Yeah. If the shear is on the headgate,
11 that's not a problem.

12 Q. Now, we also found a diode that was
13 attached to the shear cable.

14 A. Uh-huh.

15 Q. Would you know anything about that diode
16 being on the -- inside the XP enclosure where the
17 cable enters the shear?

18 A. No, no idea. I've never -- now that, I do
19 know, I've never fooled with the diode in that
20 shear at all.

21 Q. Have you ever fooled with a diode in the
22 gate box?

23 A. Not that I recall.

24 Q. Okay. Let me try to refresh your memory.

1 MR. MAGGARD: Okay. I need the January
2 20th maintenance report.

3 MS. HAMPTON: Before we pull out more
4 documents, let me mark these ones.

5 MR. MAGGARD: Thank you.

6 MS. HAMPTON: I'm marking the longwall
7 30-minute report from March 29th as Exhibit 7.

8 MR. ALLEN: That's the document 362?

9 MS. HAMPTON: Yes. And the production
10 report from the same date of March 29th, 2010, I am
11 marking as Exhibit 8.

12 (Exhibit Nos. 7 and 8 marked for
13 identification.)

14 Q. Okay. This maintenance report is January
15 the 20th. Does that look like your maintenance
16 report that you would have filled out for that day?

17 A. Yeah.

18 Q. Could you read me all this handwritten
19 portion on Page 2, please.

20 A. Replaced ram in 35 Shield, replaced last
21 50 foot of water line in Bretby, also loosened
22 clamp that pulled slack out of shear cable, put all
23 caps back on. Day shift needs to take in new
24 terminator for gate box.

1 Okay. That's not a diode. That's a
2 terminator for the control. That's not even
3 opening up the gate box in any way.

4 Q. Okay. That's --

5 A. What that is, is the control for the
6 lockout system, at the end of that line, there has
7 to be a terminator. Okay?

8 And I'll always, if I would have to use
9 that spare terminator at the gate box, I would
10 always replace it. That's what that is.

11 Q. The reason we've been asked is because we
12 did find a diode in the 480 circuit from the power
13 center to the gate box that was improperly
14 terminated, and we're trying to figure out how that
15 got there. Okay?

16 A. Where at?

17 Q. In the headgate control box.

18 A. I don't really -- I'll be honest. With
19 that gate box, anything in it, I'm not real
20 familiar with it. I didn't get to fool with it a
21 lot, so I'm not really understanding what you're
22 meaning there.

23 Q. Well, when you hit the -- there's a
24 emergency stop on the gate box. It's tied in to

1 kill the longwall starter, but it also is tied in
2 to kill 480 power that feeds the gate box.

3 The portion that de-energizes the headgate
4 box that would trip the power center breaker, that
5 portion was bypassed.

6 A. I --

7 Q. We're just trying to figure out how it
8 ever got that way. Okay.

9 Now we got talking about the shear and
10 changing bits, and when I was asking those
11 questions, you said you kill the line and you
12 talked about hitting a control box, lockout switch?

13 A. Uh-huh.

14 Q. And you talked about turning water off.
15 And then later on, you said that when you were
16 there, they would hit the E-stop. Okay?

17 A. Right.

18 Q. Now, we have removed the JNA system, okay,
19 from the shear. On the two shifts that you worked,
20 4/2 and 4/3, there was two entries that bits were
21 changed twice during each of those shifts, each of
22 those evening shifts.

23 A. Okay

24 MR. MAGGARD: If you could find that.

1 Q. Now, I'm going to tell you that with the
2 JNA recordings, there is no indication that the
3 power was removed from the machine.

4 Q. Could you tell me that sometimes, or is it
5 possible that they never hit the E-stop on the
6 shear every time that they changed bits?

7 A. Yeah, it's very possible.

8 Q. Had you ever forgotten to hit the E-stop
9 to de-energize the shear.

10 A. Myself, not that I recall, because that's
11 something I try to make a habit of because, I mean,
12 myself, being an electrician.

13 MS. HAMPTON: Let's mark the p.m. report
14 from January 20th, 2010, as Exhibit 9.

15 (Exhibit No. 9 marked for
16 identification.)

17 EXAMINATION

18 BY MR. CRIPPS:

19 Q. This is a production sheet from Friday the
20 2nd that Jasey just referred to, showing where it
21 set bits. What is the tram shaft on the tail end
22 of the shear?

23 A. Tram shaft on the tail end?

24 Q. Uh-huh.

1 A. There's a tram shaft on each end of the
2 shear and it's -- I don't really know. Have you
3 been around the shear?

4 Q. Yeah.

5 A. Okay. Right there where all the controls
6 are in the panels, and the box over to the right
7 side is, back in that compartment there, is a tram
8 motor.

9 You don't have to remove any covers to get
10 access to the tram motor. You just pop a little
11 snap ring out and pull a little cover off of there
12 and the tram shaft slides right out.

13 Q. So looking at this production sheet here,
14 does this -- do you recall did you change the tram
15 that evening?

16 A. I don't recall if I did or not.

17 Q. Who would normally change a broken tram
18 shaft on your crew?

19 A. It would either be me or the other
20 electrician, Dustin.

21 Q. Okay. If either one of you changed that
22 tram shaft then, would you have normally hit the
23 E-stop on the shear or de-energized it some other
24 way?

1 any other reasons?

2 A. No, I haven't.

3 MR. TUCKER: Okay. That's all I have.

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. Do you recall that a spray block on the
7 shear that had to be repaired, welded or on this
8 panel?

9 A. Not that I recall on this panel. I can
10 remember welding a hundred of them back on, but ...

11 Q. You never had to weld one?

12 A. Not that I recall. Like I said, I mean,
13 I've had to weld a hundred of them back on, but I
14 don't recall any on this panel.

15 Q. Do you ever recall on the -- maybe around
16 February the 15th that they had to do a repair on a
17 spray block? Did anybody ever tell you about that,
18 you come in on the evening shift and day shift had
19 repaired it?

20 A. I don't remember anything about it.

21 Q. Do you remember a cover being loose on the
22 tail side pump motor compartment?

23 A. Tail side pump motor compartment? No, I
24 do not.

1 Q. Don't remember who would have welded a
2 chain over it to hold it in place?

3 A. No.

4 Q. Let me ask you about those p.m. sheets.
5 How important was it to always fill those out?

6 A. A lot of people didn't even do them.
7 There was never really anything said about it. I
8 just kind of liked to let them outside know what I
9 had done.

10 Q. If you couldn't get to do the p.m. sheet,
11 would you normally leave it blank and turn it in?

12 A. I never -- I don't recall ever turning
13 mine in blank. If it was left blank, I just -- for
14 some reason -- a lot of times when we didn't run at
15 all, the p.m. sheets wouldn't get done. If that
16 ever happened, I just throwed mine away.

17 Q. Okay. What about -- I know Dustin. I
18 assume he was under your direction.

19 A. I guess you could call it that. I wasn't
20 really specified as no chief. I was still hourly
21 electrician, but, yeah, I was the more experienced
22 electrician on that crew.

23 Q. Do you recall what his p.m. sheet, what
24 was he responsible for, for any kind of a p.m.

1 sheet he filled out?

2 A. I have no idea.

3 Q. Okay. Would it be normal for him not to
4 fill one out?

5 A. Yeah, yeah.

6 Q. I noticed that there was several sheets,
7 and I just looked back in March up to the time of
8 the accident, and I noticed he didn't fill one out
9 on the 2nd of March, the 6th of March, the 9th of
10 March, the 10th of March, and he partially filled
11 one -- and the 17th, and he partially filled one
12 out on the 25th.

13 Would anybody get upset about not filling
14 out a -- for the end of maintenance sheet that many
15 times in one month?

16 A. To my knowledge, I don't guess there was
17 anything ever said about it.

18 Q. You know, we've talked about sprays, we've
19 talk about sizes, we've talked about taking sprays
20 out, we've talked about clogged sprays, we've
21 talked about problems with mud and stuff.

22 Do you feel that you were adequately
23 trained to do dust parameter checks?

24 A. To be honest, no, I don't.

1 MR. MAGGARD: That's all I got.

2 EXAMINATION

3 BY MR. TUCKER:

4 Q. Just a couple quick follow-ups there,
5 Tommy.

6 A. Okay.

7 Q. I just think about the issue of the having
8 problems with the sprays, the sprays stopping up,
9 and apparently you was having a lot of water
10 pressure problems that day.

11 Is that something that would be called
12 out, say, on a 30-minute report, or even just
13 called out to someone outside to just get some
14 advice on it?

15 A. About the only thing that would ever be
16 said about it, just let them know we were having to
17 occasionally stop to clean sprays, stuff like that,
18 let them know we were stopping.

19 Q. Okay. Do you recall anybody suggesting
20 that you take some sprays out and run it to help
21 with the issue of the clogged up sprays?

22 A. I ain't going to -- I mean, I can't
23 specify to any dates, but I, probably a time or
24 two, recall -- I can't even specify any names, but,

1 yeah, it would have either been Danny Lavery or
2 Jack Roles to tell us to take a few out and run
3 with them like that to try to flush them out or
4 something like that.

5 Q. Okay. So with that being said, if you had
6 a couple sprays out and you're running them, is
7 that something that would be of concerned to you,
8 raised as a concern?

9 A. Not really. Because I feel that -- like I
10 said earlier, the sprays, the fine mist that you
11 had there, it pretty much was just absorbed by the
12 dust.

13 I mean, I always felt that having more
14 water on there -- I mean, it plumb just submerges
15 that drum of water when you do have sprays out. It
16 normally helps the dust better.

17 Q. And just to get your opinion, if you would
18 offer it, what do you feel is the purpose of the
19 water on the shear?

20 A. Dust control.

21 Q. Is that the only thing in your mind?

22 A. I know where you're getting at. I mean, I
23 know some of your all's reports and all --

24 Q. I'm asking you for your opinion on water

1 on the shear?

2 A. I mean -- I will clarify. Just by reading
3 some of your all's reports and stuff, what your
4 guesstimations was on what caused it was the sparks
5 and this and that and there wasn't enough water.

6 The water I don't feel helped the -- like
7 occasionally when the bit would spark on the sand
8 rock, that water didn't affect it. Them bits would
9 spark when them sand rock was under water.

10 To the best of my knowledge, that was the
11 main purpose of the water on the shear is dust
12 expression.

13 MR. TUCKER: Okay. I appreciate it.
14 That's all I have.

15 EXAMINATION

16 BY MR. BECK:

17 Q. I just got one last question. Taking
18 sprays out of a shear drum and running it, was that
19 an accepted practice?

20 A. Pretty much, to be able to maintain, like,
21 when we was having a lot of water trouble, muddy
22 water, yeah, obviously, we would occasionally take
23 them out to -- take a spray out just to have -- to
24 be sure you've got some water on the shear.

1 Q. What I'm also wanting to know, was it
2 accepted practice that management at Upper Big
3 Branch knew happened; is that right?

4 A. Oh, yeah, absolutely. Myself, that's the
5 only reason I would do it, was because I was told
6 to do it to have some water on the shear.

7 MR. BECK: Okay. Thank you.

8 MR. TUCKER: All right. We've asked you
9 quite a few questions, and I guess at this point
10 nobody else has any other questions.

11 So I'd just like to, first of all, thank
12 you on behalf of everybody here and give you an
13 opportunity at this time, if there's a statement
14 you would like to make or something you would like
15 to say, you have that opportunity.

16 THE WITNESS: No. I'm done if you all
17 are.

18 MR. TUCKER: Okay. We're off the record.

19 (Interview concluded.)
20
21
22
23
24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Taylor, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of TOMMY D. ESTEP 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.

21 Given under my hand and seal this 3rd day of
22 March 2011.

23 -----
24 Jenny Taylor
Notary Public