

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

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5
6 **IN RE:**

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

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14 The interview of **ROBERT ROLAND HALE** taken upon
15 oral examination, pursuant to notice and pursuant
16 to the Federal Rules of Civil Procedure, before
17 Nichelle N. Drake, Professional Reporter and Notary
18 Public in and for the State of West Virginia,
19 Thursday, February 24, 2011, at the National Mine
20 Health & Safety Academy, 1301 Airport Road, Beaver,
21 West Virginia.

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1 MR. TUCKER: My name is Bill Tucker. I'm
2 the administrator with the Office of Miners'
3 Health, Safety & Training. Today is February 24,
4 2011.

5 I would like for the other parties at the
6 table to identify themselves.

7 MR. SCOTT: I'm John Scott with the West
8 Virginia Office of Miners' Health, Safety &
9 Training.

10 MR. BABINGTON: I'm Matt Babington. I'm
11 an attorney with the Department of Labor.

12 MR. CRIPPS: Dean Cripps with MSHA.

13 MR. MAGGARD: Jasey Maggard with MSHA.

14 MR. BECK: Jim Beck with the Governor's
15 Independent Team.

16 MR. TUCKER: Mr. Hale, we appreciate you
17 coming in today. And we've got a court reporter
18 here. They're with Johnny Jackson & Associates,
19 and it takes them about three days to turn the
20 transcripts around, okay, so Friday, Monday,
21 Tuesday; so around Wednesday. If you choose, you
22 can go in and review your transcripts, make any
23 corrections. They'll have a sheet called an errata
24 sheet that you can make corrections to if you

1 choose. You can go with your attorney and do
2 that. It's not something you have to do. You have
3 the right to do that if you choose. Of course, you
4 can't take the transcript with you or anything.
5 It's just something for you to make corrections
6 on.

7 Just to let you know, we can take a break
8 any time you need one. Just let us know for
9 whatever reason. We'll be glad to do that.

10 We'd ask that you not discuss your
11 testimony with anyone outside the interview room
12 here other than your attorney. That's just
13 protecting the integrity of the investigation.

14 At this time, I'll turn it over to Matt
15 Babington please.

16 MR. BABINGTON: Mr. Hale, I'm going to
17 provide you with a copy of a letter to you from
18 Norman Page, MSHA's lead investigator. It
19 basically describes some of the background and
20 protocols for the interview, and if you recall, we
21 provided you a similar letter when you came and
22 spoke to us initially. It's pretty much the same,
23 same details.

24 MR. TUCKER: At this time, I would like to

1 ask the court reporter to swear in the witness.

2 MR. McCUSKEY: You said you want him to go
3 ahead and look that over first?

4 MR. BABINGTON: Yeah, if you'd like to
5 look it over, if you have any questions --

6 THE WITNESS: I don't remember seeing
7 this.

8 MR. BABINGTON: Off the record.

9 (Off the record.)

10 MR. TUCKER: Mr. Hale, would you state
11 your name --

12 THE COURT REPORTER: I haven't sworn him
13 in yet.

14 MR. TUCKER: That's fine. I'm in a big
15 hurry.

16 ROBERT ROLAND HALE, DEPONENT, SWORN

17 MR. TUCKER: Let's try that again. If you
18 don't mind, can you state your full name and spell
19 your last.

20 THE WITNESS: My name is Robert Roland
21 Hale, H-A-L-E.

22 MR. TUCKER: And can you state your
23 address and telephone number.

24 THE WITNESS: [REDACTED]

1 [REDACTED]
2 MR. TUCKER: Do you have an attorney here
3 with you today?

4 THE WITNESS: Yes.

5 MR. TUCKER: I'd ask that your attorney
6 identify himself and who he's with.

7 MR. McCUSKEY: My name is John McCuskey.
8 I'm an attorney with Shuman, McCuskey & Slicer
9 Charleston, West Virginia, and I'm counsel for
10 Mr. Robert Hale.

11 MR. TUCKER: What was your job title at
12 UBB on April 5th?

13 THE WITNESS: I was one of the third shift
14 maintenance foremans.

15 MR. TUCKER: In those duties, would you
16 sometimes do permissibility on equipment?

17 THE WITNESS: Yes, sir.

18 MR. TUCKER: And fill out books?

19 THE WITNESS: Yes, sir.

20 MR. TUCKER: Okay. So we have another
21 individual here at the table with us. I'd ask that
22 he identify himself and who he's with and who he
23 represents.

24 MR. PENCE: Chris Pence with Allen,

1 Guthrie & Thomas. I represent Performance Coal
2 Company.

3 MR. TUCKER: There's a couple other people
4 here. I'd ask that they identify themselves and
5 who they're with.

6 MR. McCUSKEY: J.B. McCuskey, Shuman,
7 McCuskey & Slicer.

8 MR. HESS: Leland Hess with MSHA.

9 MR. TUCKER: Thank you.

10 I've got a couple documents here. One is
11 the subpoena that you originally received and the
12 other is the affidavit of service. Do you
13 recognize those?

14 THE WITNESS: Yeah, this looks similar to
15 the one I got, but I've never seen this before.

16 MR. TUCKER: Whose name is on that?

17 MR. McCUSKEY: He probably wouldn't have
18 seen that.

19 MR. BABINGTON: That's going to be the
20 affidavit for the process server, so Mr. Hale would
21 not have seen that document. So this is just from
22 the process server.

23 MR. TUCKER: Okay. We'd like to enter
24 these as Exhibit A and Exhibit B.

1 MR. BABINGTON: We'll mark the subpoena as
2 Hale Exhibit 1 and the affidavit of the process
3 server as Hale Exhibit 2.

4 (Exhibit Nos. 1 and 2 marked for
5 identification.)

6 MR. TUCKER: One other thing mentioned
7 before we get started, for people like yourself who
8 come in and participate in an investigation like
9 this, you're protected against being discriminated
10 against for being here today. Okay. If you go
11 back on the job and anytime you feel like you're
12 being discriminated against for being here, I'm
13 going to give some information on people to
14 contact, the board of appeals. They're the ones
15 that hear those type of cases.

16 If that were to occur, you have 30 days
17 from the time that it occurs to notify this board.
18 You can do that informally, just send in a letter,
19 handwritten letter, however you choose to do it.

20 Also I'm going to give you a business card
21 for Johnny Jackson & Associates, the court
22 reporter's information if you need to contact them
23 if you can. I'll also give you one of my cards if
24 something happens after this interview, if you have

1 any problems, whether it be discrimination or if
2 you happen to think of something maybe that we
3 didn't ask you that comes to mind that may be
4 helpful, just some contact information when you
5 leave.

6 MR. BABINGTON: Bill, can I say one more
7 thing before you start?

8 MR. TUCKER: Please

9 MR. BABINGTON: Mr. Hale, just a couple
10 reminders. With the court reporter here, there's
11 going to be obviously a transcript. There's a
12 couple things to keep in mind. One is you will be
13 asked yes or no questions and try to remember to
14 affirmatively answer yes or no rather than uh-huh
15 or uh-uh or shaking your head or nodding your head
16 or anything like that.

17 The second thing is, as much as possible,
18 wait for the interviewer to complete asking his
19 question before you start answering and I would ask
20 that the interviewers to wait for the witness to
21 finish answering his question before you ask
22 another one. That way, we don't have people
23 talking over each other and, again, it makes for a
24 cleaner transcript.

1 Finally, we have maps in front of us; and
2 if we end up using any of the maps and you're
3 trying use it to describe where things are, try to
4 be as descriptive of what you're pointing at when
5 you're pointing at certain things. It's easy to
6 get in the habit of saying we were here and then we
7 were here. If you could try to describe the
8 location as much as possible, that will help. And
9 we'll jump in and help you as the interview goes
10 on.

11 Thank you, Bill.

12 MR. TUCKER: Thank you.

13 We'll get started with the questioning in
14 just a minute.

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. Just going back maybe a couple weeks prior
18 to April the 5th, when you arrived -- You worked
19 the midnight shifts; is that correct?

20 A. Yes.

21 Q. When you arrived on the section, what
22 would be a typical shift for you once you get at
23 the end of the track on the section? The best you
24 can remember, how about describing that to us.

1 A. Once we got to the end of the track, we
2 would get whatever we needed to do, whatever our
3 job was entailed to do that night and we'd go to
4 the longwall face and begin our work.

5 Q. Okay. Normally, would your shifts overlap
6 where the evening shift would still be up on the
7 section?

8 A. Yes. Yes.

9 Q. So would they typically still be producing
10 coal when you got there?

11 A. Most of the time, no. We met them in the
12 travel way.

13 Q. Okay. You say most of the time.
14 Occasionally, would they maybe be finishing the
15 paths or bringing the shear to the head or
16 something when you arrived up on the longwall face?

17 A. They could have been. If that was the
18 case, we'd leave our tool boxes waiting on them to
19 leave, just to stop, you know, producing coal.

20 Q. So you would just use that time to get
21 parts --

22 A. Right.

23 Q. -- and supplies and what you needed for
24 your shift.

1 A. Yeah.

2 MR. McCUSKEY: Wait until he finishes,
3 please.

4 Q. So would you typically have a conversation
5 with the evening shift when they were coming off if
6 they had any problems that came up? Is that
7 something that they would discuss with you?

8 A. Yes. Usually, yes, they would tell us if
9 we had any problems.

10 Q. Okay. And that usually would come -- Like
11 yourself being a maintenance man, would you usually
12 talk to the electrician or talk with the boss or
13 both?

14 A. Usually the electrician on the evening
15 shift would come to us and tell us if he had any
16 problems. That's what we dealt with was on the
17 maintenance end of it.

18 Q. Okay. So now the evening shift is gone
19 and you're starting your shift. What -- Is there
20 certain things you'd normally do first in routine
21 if there's nothing out of the ordinary that came
22 up? Just kind of describe how your shift would
23 go.

24 A. I don't know what to --

1 Q. As far as what your job duties were, what
2 you would actually do, what jobs you would perform
3 on a normal basis as far as any major breakdowns
4 and stuff?

5 A. Usually we had a list on a piece of yellow
6 paper just like that right there that our
7 maintenance chief outside would want us to do, and
8 we would work on PMs on that list, you know,
9 whatever. If you see there was anything big, you
10 know, we'd get started on that first if something
11 was going to take a long time. That's what we
12 would start on.

13 Q. All right. Would you normally part of
14 your job assignment would be -- usually include
15 like bitting up the shear?

16 A. Yes, we bitted the shear every night.

17 Q. Okay.

18 A. Sure did.

19 Q. Now, what kind of shape were the bits in
20 usually? Can you recall on a -- normally what kind
21 of shape they'd be in when you started changing
22 bits out?

23 A. No, I don't know. I didn't replace the
24 bits the last shift that I worked. Those got

1 replaced right at the end of our shift. We had
2 some pretty big jobs going, so one of the
3 electricians that worked with me and the shield
4 technician, one of his guys worked on biting the
5 shear for me because we were finishing up on what
6 we were doing, getting everything cleaned up. They
7 were biting up; but as far as any other time, I
8 don't recall. I don't remember.

9 Q. Okay.

10 A. I don't know.

11 Q. You don't recall specifically. I
12 understand the cutting had gotten stuff a good bit
13 harder recently because they encountered more
14 sandstone.

15 A. Yes, it was pretty tough to cut.

16 Q. I just wondered if you noticed any
17 difference in the condition of the bits once they
18 got into those tougher conditions?

19 A. No. I mean -- No. No.

20 Q. Okay. What about water sprays as you're
21 changing the bits, what would you do with the water
22 sprays?

23 A. Normally we didn't do anything to the
24 water sprays, you know. If we seen some out, we

1 would find some and replace them; but that was it.
2 We normally didn't do anything to the sprays.

3 Q. Okay. You mentioned if you'd see some
4 out, was that a common occurrence or would that be
5 like one or two days a week you may find a bit out
6 or kind of -- What would you expect when you're
7 changing bits out as far as water sprays?

8 MR. McCUSKEY: You said bit.

9 MR. TUCKER: Right.

10 MR. McCUSKEY: I just want to make sure.

11 MR. TUCKER: Yeah. I appreciate that. I
12 was trying to cover for myself there.

13 Q. But the water sprays, as far as you
14 noticed them out, how often would you notice those
15 missing?

16 A. Some of them were out pretty often. I
17 don't know if they were -- I don't know. Some of
18 them were out pretty often.

19 Q. Okay. How are the water sprays -- Can you
20 just describe how they're actually installed in the
21 shear, what holds them in?

22 A. They're installed by a staple that you
23 push in, and you take a hammer and put a staple
24 through them and the staple locks them in place.

1 Q. Okay. Would you ever notice parts of the
2 staple being broke off and still inserted in the
3 shear and just the bit missing or would just
4 everything would be gone? Or the spray, I'm
5 sorry. I did it again.

6 A. I didn't notice any staples being broke
7 off myself. No, I didn't notice it. No.

8 Q. Okay. What's -- what would you estimate
9 to be the most sprays that you ever saw missing?

10 A. Two or three.

11 Q. Now, if I understand right, you worked the
12 Saturday before Easter; is that correct?

13 A. Yes.

14 Q. Okay. And you're midnight so you would
15 work Friday night and that would put you off
16 Saturday morning, right?

17 A. Yes. Yes.

18 Q. Did the longwall production crew, did they
19 mention anything to you that night about any
20 particular problems that they may have been having?

21 A. Not that I can recall, no.

22 Q. Did you happen to notice any strange smell
23 that night, the last night you worked?

24 A. No.

1 Q. Any type of eye irritation, anything like
2 that?

3 A. No.

4 Q. You mentioned the -- Reading over your
5 transcript, you mentioned in your last interview
6 about a conversation with Jack Roles about a pin
7 for the ranging arm, the job that day shift had
8 done on replacing that pin, said the pin had backed
9 out.

10 A. Yes.

11 Q. Do you recall that?

12 A. Yeah, I think they had trouble with the
13 ranging arm that day.

14 Q. Have you ever yourself helped replace the
15 pin when it had came out?

16 A. I don't know. I know we put pins in
17 putting the shear together, but I can't -- I don't
18 know if I had one back out or not. They have
19 backed out before, but I can't say that I been in
20 helping them, no.

21 Q. Okay. I just -- I'm just going to follow
22 up and ask what your knowledge was as far as how
23 that procedure took place. Do you have anything to
24 share with us on that?

1 A. No, not really. That can be done probably
2 however, whatever electrician is working on it, the
3 way he wants to do it I guess. I'm assuming that
4 if it backed out, it -- the cap come off of it or
5 it could have backed out to the inside. I don't
6 know. I wasn't there.

7 Q. The cap that's on it, I guess that's a cap
8 to help keep it in place so it doesn't back out.
9 Is it bolted on?

10 A. The inside one, yes.

11 Q. The inside one. And the outside cap, how
12 is it attached?

13 A. It's got a plate welded over it.

14 Q. Okay. So then if you're putting it back
15 on, then naturally you're going to have to --
16 before the job is completed, you're going to have
17 to weld that cap back on; is that correct?

18 A. Yes. Yes.

19 MR. TUCKER: Okay. I'm going to turn it
20 over -- I appreciate your bearing with me on the
21 questioning. I'm going to turn it over to Dean.

22 EXAMINATION

23 BY MR. CRIPPS:

24 Q. Robert, again, thanks for coming in and

1 helping us out and answering questions for us. I
2 read over your previous transcript so I'm not going
3 to try to ask you the same questions if I can help
4 it. But I do have some things I need to clarify if
5 you bear with me a little bit.

6 I understand you worked for Massey a
7 couple different times?

8 A. I worked for Massey one other time. I
9 started with Massey in 1999 and worked with them
10 until 2006.

11 Q. When did you come back to Massey?

12 A. In August of 2008.

13 Q. Okay. And where did you go to work for
14 them at?

15 A. At Logan's Fork.

16 Q. Logan's Fork. What did you do there at
17 Logan's Fork?

18 A. I was an outby electrician with -- I
19 helped them do whatever they needed done outby
20 with -- I worked with a guy named Delbert Bailey.

21 Q. Was that on the longwall?

22 A. It mainly had to do with longwall stuff,
23 but we wasn't always on the longwall.

24 Q. Did you work on the operating face at

1 Logan's Fork?

2 A. No.

3 Q. Had you worked on an operating longwall
4 face prior to Logan's Fork?

5 A. Yes.

6 Q. Where was that?

7 A. At several different places.

8 Q. What jobs did you do on those faces?

9 A. I was a jack setter one time first; and
10 then I became a shield tech, worked on longwall
11 shields; and then I got certified, and then I
12 worked as an electrician after that.

13 Q. When -- when did you come back to -- when
14 did you come to UBB?

15 A. Just the last time?

16 Q. Yes.

17 A. I'm thinking somewhere around June.

18 Q. That would be June of '09?

19 A. Yes, June of '09. Yes.

20 Q. What did you do when you come to UBB?

21 A. We were outside working on longwall
22 shields for a good amount of time.

23 Q. Okay. Do you know when you went
24 underground?

1 A. When the longwall started up somewhere
2 after Labor Day. After it got fired up and
3 running, I stayed outside from June to then working
4 on shields until they got everything set up.

5 Q. When you went underground, did you go --

6 A. No. I'm sorry. That's not true. I went
7 in a just a little bit prior to that because they
8 hadn't got it running yet. We were doing some -- a
9 little bit of hose work on the shields getting, you
10 know -- because sometimes things get bursted in
11 transport, and that's what we were doing there at
12 last.

13 Q. Okay. When you went underground, did you
14 go underground working third shift?

15 A. Yes.

16 Q. Was you in the position that you was in
17 the day of the explosion?

18 A. I was maintenance foreman the day of the
19 explosion.

20 Q. When did you take that maintenance foreman
21 job?

22 A. When they started the longwall up, I
23 think.

24 Q. Okay. So they started the longwall

1 somewhere around the first of September '09?

2 A. Somewhere after Labor Day I'm thinking,
3 yeah.

4 Q. Okay. Where are you working at now?

5 A. I'm back down at Logan's Fork.

6 Q. Okay. What are you doing there?

7 A. I'm an electrician on the miner section.

8 Q. Are you still the boss or you just an
9 hourly electrician?

10 A. They still have me salary, but I work --
11 I've got a boss. They've got another guy in the
12 chief spot or the foreman spot.

13 Q. Have you been underground at UBB since the
14 explosion?

15 A. No, sir, I haven't.

16 Q. Okay. Just to clarify, you worked the
17 midnight shift of April the 5th, correct?

18 A. Yes.

19 Q. As I understand, you and your crew changed
20 the head gate cowl on the shear?

21 A. Yes.

22 Q. And in doing that job, you used oxygen
23 acetylene torches?

24 A. Yes, sir, we did.

1 Q. Do you know, was any torches used anywhere
2 else down the face of that shift?

3 A. No, sir, they wasn't.

4 Q. I understand the shield techs worked on
5 shields from the head gate all the way to the
6 tail.

7 A. That's probably true.

8 Q. Do you know if they used any torches?

9 A. I'm positive that they didn't.

10 Q. Okay. And so the only torches that were
11 used that night to your knowledge was at the head
12 gate?

13 A. Yes, sir.

14 Q. Okay. What about the welder? Was any
15 welding done anywhere on the face that night?

16 A. The same place that the torches was being
17 used, the welder was used.

18 Q. What did you use the welder for?

19 A. We tacked the nuts on the cowl bolts.

20 Q. So the bolts and nuts that hold the cowl
21 onto the shear --

22 A. You have to tack them to keep the nuts
23 from backing off.

24 Q. Did you guys change or add any flights to

1 the conveyor chain that night?

2 A. Yes, sir, we did.

3 Q. And where did you do that work?

4 A. At the same place we changed the cowl.

5 Q. Did that involve using the welder?

6 A. Yes, sir, it did.

7 Q. What did that entail?

8 A. Basically the same thing as a cowl bolt.

9 It's got three bolts that come up through the
10 flight and up. You tack them up on all three bolts
11 to keep them from backing off.

12 Q. When you say tack the nuts, that means
13 you're tack, welding the nut?

14 A. Right. Correct.

15 Q. So was the welder or any welding done
16 anywhere else on the face that night?

17 A. No.

18 Q. Okay. You said in your previous
19 transcript that you had a multigas detector with
20 you --

21 A. Yes.

22 Q. -- that you carried.

23 A. Yes.

24 Q. Did you have that with you every shift?

1 A. Yes, sir, I had it right there at me.

2 Q. What type was that?

3 A. It was Solaris.

4 Q. Okay. Where did you charge that at?

5 A. I think I took it home with me. I've got
6 a charger at home. I took it home.

7 Q. We've talked to several people that took
8 it home and some left them there at the mine to
9 charge, but you took yours home with you?

10 A. Yeah.

11 Q. Where is it now?

12 A. I don't know.

13 Q. Okay. Did you turn it in after the
14 explosion?

15 A. No. I think I left it in my tool box that
16 night and forgot it.

17 Q. Okay. Your tool box up on the --

18 A. On the longwall, yes.

19 Q. On the longwall section?

20 A. Yes.

21 Q. Okay. So there's a possibility it could
22 still be in your longwall box?

23 A. Possibility.

24 Q. Where did you calibrate your detector?

1 A. Out in the office at the mine site, on the
2 UBB site.

3 Q. Okay. Did you keep records of calibration
4 of that detector?

5 A. Yes. It was -- they had a log book that
6 they kept outside.

7 Q. Was it automatic or did you manually have
8 to fill out the log book?

9 A. It -- I think they had both. I think they
10 had a book that you wrote -- whose detector it was
11 and the number off of it and the date it was
12 calibrated, and I also think they had the
13 printout. I'm not sure. I know the one at Logan's
14 Fork does.

15 Q. Okay.

16 A. I don't know exactly on that. I'm not
17 sure.

18 Q. Okay. That's fine.

19 You portaled at UBB; is that correct?

20 A. That's correct.

21 Q. The pre-shift books for the longwall,
22 where were they kept?

23 A. Pre-shift as in like fire boss?

24 Q. Yes.

1 A. They were on the Ellis side I believe.

2 Q. If -- Bear with me. I'm out from Illinois
3 and some of the terminology I use is a little
4 different.

5 A. Okay.

6 Q. We don't have fire bosses in Illinois. We
7 have exam person.

8 A. Okay.

9 Q. So if you don't understand something I'm
10 asking, speak up and I'll try to correct myself.

11 So did you normally look at the pre-shift
12 books before you went underground on your shift?

13 A. No, sir, I didn't.

14 Q. Okay. Do you know who would look at them
15 on your shift?

16 A. Larry Brown was the first shift boss. Him
17 and Keith -- or Keith Stanley. Those -- they would
18 have been the ones that took care of that.

19 Q. Did they portal at Ellis?

20 A. Yes.

21 Q. Do you know Shannon Dickens?

22 A. Yes.

23 Q. Do you know Danny Laverty?

24 A. Yes.

1 Q. Myself and Jasey and John down there spent
2 a lot of time with those guys on the longwall face
3 and a lot of questions we're going to be asking you
4 is specific to the longwall conditions that we've
5 seen since we've been down there.

6 You mentioned to Bill that you guys would
7 look at the sprays and replace missing sprays. Did
8 you ever check water pressure on the shear?

9 A. We didn't very often, no.

10 Q. So you didn't normally do it, say, every
11 morning before the day shift come in?

12 A. No, we didn't.

13 Q. Okay. Do you know what your requirements,
14 your ventilation plan, were as far as how many
15 sprays you had to have working and how much
16 pressure you had to have on the shear?

17 A. I don't know right off. I don't remember
18 anymore. I don't know.

19 Q. Okay.

20 A. It's been way too far back.

21 Q. Okay.

22 A. Working on miners now.

23 Q. A little different than a longwall, isn't
24 it?

1 A. Yeah.

2 Q. On the night of the 5th, do you recall who
3 actually changed the bits on the shear?

4 A. Yes. Mike Medelly, Steve Gration and
5 another boy I don't remember his name. He hadn't
6 been there long.

7 Q. Okay. Would it have been Blake Accord?

8 A. Yes.

9 Q. Does that sound familiar?

10 A. Yes.

11 MR. McCUSKEY: Excuse me. You mentioned
12 the night of the 5th. Is that what you meant?

13 MR. CRIPPS: I meant --

14 MR. McCUSKEY: The 5th was when the
15 explosion --

16 MR. CRIPPS: The midnight shift of the
17 5th --

18 THE WITNESS: That would have been our
19 5th, yes.

20 MR. CRIPPS: Midnight shift --

21 MR. McCUSKEY: I just wanted to make sure
22 we were clear on that.

23 Q. Did you understand that I meant your
24 midnight shift that you worked on the 5th?

1 A. Yes. Yes.

2 Q. I guess that's probably the early morning
3 of the 5th.

4 A. Yes. It confuses a lot of people on
5 the -- hoot owl confuses a lot of people.

6 Q. You mentioned that you had talked to Jack
7 Roles briefly after the explosion. Did he give you
8 any indication when they was working on the shear,
9 on the day shift, the 5th, where the shear was
10 actually located?

11 A. No, he didn't -- he didn't really tell me
12 where the shear was located, no.

13 Q. He did mention to you that the shear had
14 been down?

15 A. It had been down, yeah.

16 Q. If they -- To work on the ranging arm pin
17 on the shear, would they have to pull some shields
18 in over the top of the shear?

19 A. Yes.

20 Q. Why would that be?

21 A. To not expose yourself out, you know, with
22 open top, you know, that -- It depends. I don't
23 know which pin was backed out either.

24 Q. It was the face side pin on the tail gate

1 arm.

2 A. I would have wanted a shield pulled in,
3 you know, if I was working on it. Yes. Yes.

4 Q. Okay. When you changed the cowl blade on
5 the shear, on the midnight shift on the 5th, about
6 how long did it take you?

7 A. I'm going to guess two hours, took us
8 approximately two hours.

9 Q. When you get outside, do you fill out any
10 type of a maintenance report and write down the
11 amount of time it took for each job that you did?

12 A. No, I didn't.

13 Q. Is there a certain time that's allotted
14 for each particular job that you do?

15 A. Not like that I wouldn't think.

16 Q. Okay. So if -- if it would have took you
17 three hours instead of two hours, would anybody
18 have been questioning you about that?

19 A. No.

20 Q. Okay. So your knowledge, there was no set
21 time schedule for all the different types of jobs
22 that you had to do?

23 A. No. PM work's got time allotments, but
24 you can't go by that either. Sometimes things just

1 take longer than other things. I mean, that's coal
2 mining.

3 Q. What do you call PM work?

4 A. Preventive maintenance.

5 Q. Is that what you guys do on your shift?

6 A. Well, if we had PM sheets there, yes, we
7 would work on PM's, changing oil and things of that
8 nature.

9 Q. Was those similar to the PM shifts that
10 the production crew electricians filled out every
11 day?

12 A. Yes.

13 Q. And I see that there's time allotment for
14 each of those jobs?

15 A. Yeah, those have time allotments. Like I
16 said, you can't really go by that. Sometimes you
17 can't get all of them done. Those time allotments
18 I believe are if everything is good. If everything
19 is good, that's how long it would take you to check
20 it. If it ain't, it don't.

21 Q. Everything is good every day, isn't it?

22 A. Not always, no.

23 Q. Okay.

24 A. Some things require work.

1 Q. I understand. You mentioned that earlier
2 that you do some of the electrical exams on the
3 longwall?

4 A. Yes, sir.

5 Q. Okay. Do you ever check the head gate
6 controller?

7 A. I can't say that I haven't. I don't think
8 that was part of our permissibility. I can't say
9 I've never done it.

10 Q. Do you understand what I mean by the head
11 gate controller?

12 A. You're talking about the gate box?

13 Q. Yes. That's right. I knew there was
14 another name.

15 A. Terminology.

16 Q. I knew there was another name but I
17 couldn't recall it right offhand. The gate box.

18 Do you ever check the E-stop switch on the
19 gate box?

20 A. I can't say I have. No.

21 Q. Do you know what the E-stop switch should
22 do if it is operated?

23 A. It should knock the power to the power
24 center.

1 Q. And kill all the power on the face?

2 A. Yes.

3 Q. Okay. Do you have any idea when it was
4 last checked?

5 A. No, I don't.

6 Q. Okay. Do you recall -- do you remember
7 any of your guys being in that head gate box prior
8 to the explosion?

9 A. No.

10 Q. We found a diode across the incoming 480
11 volt circuit inside that box. Do you have any idea
12 when that diode may have been put in there?

13 A. No, I don't.

14 Q. Do you have any reason why it may have
15 been put in there?

16 A. No, I don't.

17 Q. Do you know what having that diode between
18 the ground and pilot waters, what that would do?

19 A. No, I don't.

20 Q. Are you familiar with what the diode is
21 that I'm talking about?

22 A. I just know that it lets current go one
23 way.

24 Q. It's a terminating diode for the ground

1 monitor. Are you familiar with that?

2 A. Yeah.

3 Q. Okay.

4 MR. BABINGTON: I'm sorry. Was that a yes
5 or a no to whether you were familiar with that?

6 THE WITNESS: I'm going to say no.

7 MR. McCUSKEY: I think he was just
8 acknowledging what he said, and your style is a
9 good style of questioning; but try to make sure if
10 you're just saying this is the way it is, you can
11 either agree or not agree or say you don't know;
12 but we want to be careful on that.

13 MR. BABINGTON: Yeah. I didn't understand
14 exactly what your response was.

15 MR. CRIPPS: I'll try to do better.

16 MR. McCUSKEY: You're doing fine.

17 Q. Do you recall changing the shear cable a
18 couple three weeks prior to the explosion?

19 A. Yes, we did change the shear cable out.

20 Q. Was you on the shift that actually changed
21 it out?

22 A. Yes, I believe I was.

23 Q. Okay. Do you recall what part you played
24 or what function you did when the cable was

1 changed?

2 A. Me and two or three other guys were down
3 putting the water line and the cable inside the
4 bretby closing the --

5 THE COURT REPORTER: Inside the what?

6 THE WITNESS: The bretby.

7 THE COURT REPORTER: Thank you.

8 MR. McCUSKEY: We'll get the spelling
9 later.

10 MR. BABINGTON: We have it permanently on
11 the board.

12 MR. McCUSKEY: Oh, you do.

13 THE WITNESS: Yeah, I seen it when I came
14 in.

15 MR. CRIPPS: You don't know how many
16 transcripts that I've read that I'm reading
17 Brittany in there.

18 THE WITNESS: Who's Brittany.

19 Q. As I understand by reading the transcript
20 and talking to other people that the cable was
21 replaced from mid-face to the shear?

22 A. Yes.

23 Q. A splice was made in the cable at
24 mid-face?

1 A. Yes, that's how it's done.

2 Q. And then the cable was entered into the
3 junction box on the front of the shear?

4 A. Yes.

5 Q. Did you participate in either of those
6 functions?

7 A. No.

8 Q. Okay. Do you know who entered the cable
9 into the shear?

10 A. I think Chad did and somebody else was
11 with him, but I don't remember. That's it. I
12 don't -- Chad, that I can remember.

13 Q. Chad Neil?

14 A. Chad Neil and somebody else was helping
15 him, but I don't remember.

16 Q. Okay. I noticed in some of the electrical
17 records that I reviewed that you had signed that
18 you had checked permissibility on the shear.

19 A. Yes, I probably did.

20 Q. Do you recall testing the E-stop switch on
21 the shear?

22 A. Yes.

23 Q. Do you ever know of it not working?

24 A. We had one one time that didn't work, but

1 it was replaced.

2 Q. Was that on this section at UBB?

3 A. I'm going to say yes, but I -- Yes.

4 Q. Okay. Do you recall any particulars about
5 it, why it didn't work?

6 A. No.

7 Q. Okay. Was you the one that found that it
8 did not work?

9 A. No.

10 Q. Do you know who found it?

11 A. No, I don't.

12 Q. Was it on your shift that it was found?

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

14 Q. Okay. Was it on perhaps on the afternoon
15 shift that they found it?

16 A. Could have been on production. I don't
17 know.

18 Q. Okay.

19 A. I don't know when it was found.

20 Q. But did you actually participate in
21 changing the switch?

22 A. No, I didn't.

23 Q. Do you know who did that?

24 A. Shannon changed it out because I think he

1 was telling how big of pain it was to change.

2 Q. So he said to you it was a tough job?

3 A. He said the E-stops are tough to change.

4 If you ever have to change one, they're tough.

5 Q. But to your knowledge, the switch had not

6 been jumpered out or bypassed when it was found

7 defective?

8 A. No.

9 Q. Have you ever come in on your shift and
10 found any of the methane monitors bypassed?

11 A. No.

12 Q. Have you ever had to replace or repair
13 either of the monitors?

14 A. Not on my crew we didn't change the
15 methane monitor.

16 Q. Okay. And I guess I'm assuming that you
17 know I'm talking about the methane monitor on the
18 shear and the methane monitor that's at the tail
19 gate --

20 A. Yes.

21 Q. -- correct?

22 Okay. Also in checking the shear, did you
23 ever check the fire suppression on the shear?

24 A. Yes, sir, I've checked the fire

1 suppression.

2 Q. Tell me how the fire suppression
3 functions.

4 A. The fire suppression it functions with --
5 It's got a shut-off valve on each end of the shear
6 and you manually open the valve to let the sprays
7 spray on top of the shear.

8 Q. So it's a water system?

9 A. It's a water system, yes, sir.

10 Q. Do you recall when the last time you
11 checked it?

12 A. No, sir, I don't.

13 Q. Okay. The condition we found them -- when
14 we found the shear, the manual valve on the head
15 gate end of the shear to operate the fire
16 suppression is missing, it's completely gone. Do
17 you have any idea when that would have happened?

18 A. No, I don't.

19 Q. On the tail gate end of the shear, are you
20 familiar with the location of that valve?

21 A. Yes, sir.

22 Q. There had been a hook, a piece of metal
23 welded over that particular valve to where it's not
24 accessible. Do you have any idea when that would

1 have happened?

2 A. Not over the valve, no. I know there were
3 hooks welded on it, but not over the valve.

4 Q. What were the hooks on there for?

5 A. To hold the door shut.

6 Q. And that's what we seen. But the
7 condition of the shear now, the hook is welded
8 directly over the valve making it inaccessible.

9 A. It didn't used to be that way.

10 Q. You don't have any idea when that would
11 have happened?

12 A. No.

13 Q. When you say you had checked the fire
14 suppression on the shear, do you think you checked
15 it sometime on this panel?

16 A. Yes.

17 Q. Okay. And when you checked it, did the
18 fire suppression function?

19 A. Yes, sir, it did.

20 Q. In your time here at UBB when you've been
21 working on the face, have you ever had to leave the
22 face due to the rock dust coming in on you?

23 A. No, not that I can recall.

24 Q. Okay. Do you know if there's a rock dust

1 crew on the third shift?

2 A. At that time, I don't know. There used to
3 be. We got -- we got dusted outby -- dusting outby
4 one time I think so.

5 Q. Do you recall where they was dusting at
6 that time?

7 A. Maybe the longwall belt. I don't know for
8 sure.

9 Q. Okay. Do you recall when that would have
10 been?

11 A. No, sir, I don't.

12 Q. Okay. Was it quite a while prior to the
13 explosion?

14 A. I can't say for sure. I don't know.

15 MR. CRIPPS: That's fine. I'm going to
16 take a break and turn it over to Jim if he has
17 anything.

18 EXAMINATION

19 BY MR. BECK:

20 Q. Just to clarify, you portaled at the Upper
21 Big Branch portal?

22 A. Yes.

23 Q. And where did the production crews portal
24 at?

1 A. They portaled at the Ellis.

2 Q. Okay. And when you traveled in from the
3 Upper Big Branch side, did you ever find doors left
4 open or doors that wouldn't close?

5 A. Not that -- Not none left open. We -- The
6 only -- We had one set of doors that had a little
7 bit of damage on the bottom corner that I recall
8 that didn't quite shut all the way, but that's the
9 only thing.

10 Q. Okay. Did the midnight shift ever produce
11 coal?

12 A. No.

13 Q. Never? Not even to start it up?

14 A. No, we didn't.

15 Q. And you said that the spray was held in by
16 a staple lock?

17 A. Yes.

18 Q. What would cause a spray to end up
19 missing?

20 A. I don't know.

21 Q. And you said that your shift didn't check
22 the water pressure very often on the shear.

23 A. No.

24 Q. Who did -- I mean who was responsible for

1 that, do you know?

2 A. Production crews are supposed to check it
3 before the startup of each shift.

4 MR. BECK: Okay. That's all I have right
5 now.

6 EXAMINATION

7 BY MR. SCOTT:

8 Q. Mr. Hale, I've got a couple of things to
9 clarify. Bill was asking you about the ranging arm
10 pin that they had replaced on day shift of the
11 accident. You mentioned there was two different
12 plates. One plate that was bolted on and one plate
13 that had to be welded on.

14 A. Yes, sir.

15 Q. Now, if the plate had come loose it was
16 bolted on, if the pin had backed out that way,
17 would they had have to use torches or a welder to
18 repair that or are those bolts just bolted in place
19 and torqued or are they tack welded or just bolts
20 on that end?

21 A. It's just bolts. It's what we call a
22 B-lock.

23 Q. B-lock. So it's possible --

24 A. It's called a B-lock.

1 Q. So it's possible --

2 A. You just got to keep torquing it.

3 Q. I didn't mean to interrupt. It's possible
4 that the day of the accident they may not have had
5 to use torches or welder if that is the plate that
6 came off and the pin went that direction?

7 A. Yes, it's possible that they didn't have
8 to.

9 Q. But if it was the other plate on the other
10 end, then that plate was welded on?

11 A. Yes, the outside -- the coal side facing
12 us -- the coal side of the shear had a metal plate
13 that had to be welded around.

14 Q. And you don't know exactly which way the
15 pin went that day?

16 A. No, I don't.

17 Q. Thank you. Did the -- Who -- You said
18 that you had like a yellow sheet with your PMs and
19 your work orders. Who provided that to you at each
20 shift?

21 A. Danny Laverty.

22 Q. Danny Laverty would leave that for the
23 third shift?

24 A. Yes.

1 Q. And also I was talking about the water
2 sprays. You said occasionally there would be two
3 or three sprays out or something and they were held
4 in with staple locks. When the sprays were
5 missing, do you recall if the staple locks were
6 also missing each time a spray was missing or did
7 you ever find staple locks in but just no sprays?

8 A. The time that I checked it there's just
9 been -- everything's missing.

10 Q. Staple lock and the spray?

11 A. Yes.

12 Q. And do you remember if there were
13 generally more sprays missing on the tail drum or
14 the head drum or just about the same or you didn't
15 pay any attention?

16 A. I don't know.

17 Q. Didn't pay any attention.

18 A. I didn't pay any attention. No, I don't.

19 MR. SCOTT: That's all I have.

20 EXAMINATION

21 BY MR. TUCKER:

22 Q. I've got just a couple. You had talked
23 about having discussion with Mr. Roles about the
24 work that they did on the ranging arm pin, and I

1 know that's been a while; but can you recall any
2 problems he may have mentioned that they had that
3 day where maybe it took longer than normal or any
4 difficulties they had out of the norm?

5 A. No. Basically all we talked about is that
6 pin came out or come backed out and they were down
7 putting a pin back. That's basically the extent of
8 the conversation. That's all we really talked
9 about.

10 Q. Do you still have a key to your tool box
11 at UBB?

12 A. I don't know if I do or not. If I do, I
13 don't know where they're at.

14 Q. If you can look for that and find it, we
15 would like to have that key. And could you
16 describe specifically where that tool box is
17 located?

18 A. It -- No.

19 Q. Can you give us -- If you can't describe
20 specifically, can you give us a general description
21 of where your tool box is located?

22 A. It was sitting with all the other tool
23 boxes that was in the -- would be in the track
24 entry, the mule train entry.

1 Q. Okay.

2 A. I'm wanting to say two, three breaks out
3 by the face maybe in the track entry the best that
4 I can remember.

5 Q. Okay. That's good enough. And like I
6 said, I would request that you look for that key
7 and see what you can find --

8 MR. McCUSKEY: We'll see if we can.

9 Q. -- and provide it to us?

10 MR. McCUSKEY: How should I do that if we
11 find it? To Bill?

12 MR. TUCKER: That would be fine or it
13 doesn't matter as long as one of us get it. If you
14 could get it to us, we would appreciate it.

15 MR. McCUSKEY: There should be a way to
16 break it off of there.

17 MR. TUCKER: We've done it before, but it
18 would save us a little bit of trouble.

19 MR. McCUSKEY: Must be a big old lock.

20 MR. TUCKER: It's not that big of a deal
21 to actually get in it without the key but --

22 MR. McCUSKEY: We'll see if we can find
23 it.

24 MR. TUCKER: Then we know we're getting in

1 the right tool box.

2 EXAMINATION

3 BY MR. MAGGARD:

4 Q. Let me just get a little clarification on
5 that welded cover that goes over the B-lock. That
6 was a piece that you all added to the machine that
7 the machine probably didn't come with. Am I
8 correct or wrong about that?

9 A. I'm thinking that they -- JOY provides a
10 cover for that. Sometimes those covers get lost.
11 They come off. And they have to be put back on.
12 And most of the time if that happens, we just get a
13 piece of metal and cut a round piece out and we'll
14 tack it back overtop of the -- you know, over the
15 pin to keep it from backing out.

16 Q. As far as the machine being able to run,
17 would you have to put that piece on after the
18 B-lock's been torqued and tightened?

19 A. No, you wouldn't have to.

20 Q. Okay. So you could leave it off and still
21 be able to run as long as the B-lock was on it?

22 A. Yes.

23 Q. Okay. The methane detector that you said
24 you left in the tool box, did you have it labeled

1 with your name on it or do you recall?

2 A. I don't recall if my name was on it or
3 not.

4 Q. Okay. Do you recall the highest
5 concentration of methane you ever read with that
6 detector since you were at UBB?

7 A. I haven't read any with that detector.

8 Q. Okay. How do you charge -- do you have a
9 charger on the section if you leave it in your tool
10 box and you can't take it home and charge it?

11 A. Sometimes there's one left on the mule
12 train.

13 Q. Okay. So as far as calibration records, I
14 guess you would -- the only place you would have
15 entered a manual handwritten record would have been
16 at UBB since you portaled there?

17 A. Yes. I never was on the Ellis side.

18 Q. Had you received any instructions on when
19 you had to calibrate the detector and any
20 instructions about the log from anyone?

21 A. It -- Well, it has to be calibrated once a
22 month and I would usually just look at the date on
23 the -- the Solaris, it tells you the last
24 calibration date, the last date that it was

1 calibrated.

2 Q. Do you believe that you entered all the
3 calibrations for that detector in the log every
4 time you calibrated it?

5 A. Actually, I was shown how to calibrate
6 that by a fire boss. He was actually the one that
7 calibrated it for me.

8 Q. And who was that?

9 A. I think it was Harley Taylor. He done it
10 the first time. You've got to punch some kind of
11 numbers in on it the first time you calibrate it.

12 Q. Do you recall when you got that detector?

13 A. I don't.

14 Q. Had anyone said that -- mentioned to you
15 that you weren't entering your calibration records
16 in the cal log that said anything that you were
17 doing wrong as far as the calibration that you're
18 aware?

19 A. No. No.

20 Q. You said you do permissibility across the
21 face. Did you -- I'm curious about one thing. How
22 do you do permissibility on the lighting circuit?

23 A. On the lighting circuit?

24 Q. (Nods head.)

1 A. I can't remember the last time I done the
2 lighting circuit. You gauge all the boxes, all the
3 light boxes, check the cable that's looped from
4 shield to shield, make sure the lights are burning,
5 replace any bulbs if there was any bulbs blown or
6 damaged or whatever. That's basically all I can
7 remember about it.

8 Q. Had anyone trained you on how to do
9 permissibility on the lighting circuit?

10 A. Not really.

11 Q. Could you tell me where the boxes are that
12 you done permissibility checks, can you remember
13 where they were located?

14 A. Not -- I'm thinking they're at every 20
15 shields. I think the first one was in No. 3 shield
16 or may have been 5 shield. I can't remember.

17 Q. You're correct. It was three shield for
18 the start.

19 So what you're saying is three, twenty-
20 three, all the way down?

21 A. Should have been, yes.

22 Q. Okay. Did you do anything as far as a
23 breaker test, monitor test or anything like that
24 when you did permissibility?

1 A. On the --

2 Q. Lighting circuit.

3 A. No, sir, I didn't.

4 Q. And also involved in that lighting circuit
5 is the E-stop circuit. You said you never tested
6 the E-stop circuit normally?

7 A. On the lighting?

8 Q. Of the gate box.

9 A. No, I never did test the E-stop on the
10 gate box. No.

11 Q. So I think that -- I know you probably
12 went over your transcript today before.

13 MR. McCUSKEY: May I interject here. We
14 got the transcript at eight o'clock and it's pretty
15 long. It was 100 pages, and he never really got a
16 change to look at it. I've looked at it.

17 MR. MAGGARD: Well, I'll refresh --

18 MR. McCUSKEY: J.B. McCuskey is looking at
19 it, but --

20 MR. MAGGARD: I'll refresh his memory.

21 MR. McCUSKEY: But I want to make sure
22 it's clear that he cannot probably speak to what he
23 said from having reviewed it today.

24 Q. You said that you couldn't remember the

1 last time you went across the face?

2 A. That's probably true.

3 Q. We have a record that you did a
4 permissibility check of the lighting circuit on
5 April 1st. Would that -- Would it be safe to say
6 that that may have been your last day --

7 A. May have been.

8 Q. -- across the face?

9 A. May have been, yes.

10 Q. And do you recall -- did you do anything
11 else across the face when you did the lighting
12 circuit? Did you do any other checks?

13 A. I don't know. I don't know what I done on
14 April 1st. Hell, I can't remember last week.

15 Q. I know it's hard. Do you do any dates,
16 times and initials anywhere on the section?

17 A. No.

18 Q. Okay. Who's responsible for that?

19 A. The foremans.

20 Q. And who are they that would do that?

21 A. Larry Brown, Keith Stanley.

22 Q. Okay. Thank you. You do some checks
23 outby as well; am I correct or you did prior to the
24 accident?

1 A. Yes. Yes.

2 Q. What would you -- What kind of electrical
3 exams did you do outby with the face there?

4 A. Specifically as in --

5 Q. Let's start in the mother drive area.

6 A. We would check the fire suppression and
7 the -- we would make sure all the strings was off
8 the -- what they'd call it the -- umbrella sprays.
9 We would clean those once a week.

10 Q. And was the strings on the sprays --
11 You're talking about the sprinkler system, correct?

12 A. Correct.

13 Q. And was that a constant problem, was the
14 sprinklers?

15 A. We cleaned them once a week.

16 Q. And what was causing that problem?

17 A. I don't know.

18 Q. Was the belt rubbing or anything that you
19 know of?

20 A. I don't know if it was or what. I don't
21 know.

22 Q. But these were strings from -- that come
23 from the conveyor belt that you were removing; am I
24 correct?

1 A. Yes.

2 Q. Okay. When you do electrical exams, do
3 you also look for accumulations of combustible
4 materials?

5 A. Yes. Off the power boxes and such.

6 Q. Okay. Is it just only electrical
7 equipment or is it within the area that you examine
8 that you look for that?

9 A. Just on all the boxes, you know, wherever
10 there's a box.

11 Q. So if you was doing an electrical
12 examination record and you found accumulations
13 either inside the box or -- would you also write
14 anything down as far as accumulations being outside
15 of the box, you know, in a record that that may be
16 a hazardous condition?

17 A. You're saying like on the ground or ribs
18 or anything like that, no.

19 Q. Okay.

20 A. I never have wrote that, no.

21 Q. Would -- Have you seen times that you've
22 had to relay to the belt examiner or someone else
23 that you've seen accumulations, let's say, around
24 the mother drive area?

1 A. I can't say that I have told anybody that,
2 no.

3 Q. Okay. Have you seen conditions in that
4 area that may have not have been pristine, I should
5 say, but may have been close to being needing some
6 attention provided to that?

7 A. Not at the mother drive, no.

8 Q. Can you remember when you came outside on
9 April the 5th that morning, do you remember --
10 recall if you discussed anything with anyone
11 outside?

12 A. I didn't see anyone outside.

13 Q. Okay.

14 A. Which usually just the maintenance crew
15 over there. The only reason we're portaled over
16 there is the warehouse. That's where the parts
17 was. They were eventually going to portal us at
18 Ellis too.

19 Q. So you never talked to anybody, let's say,
20 on day shift and told them that the -- that
21 anything was ready to run?

22 A. I may have talked to Danny Laverty. I
23 don't know if I did that morning or not. We
24 usually talk on the phone from the longwall. He

1 usually calls up to the longwall, but I don't
2 remember if we talked that morning or not.

3 Q. I know you worked on the cowl or I guess
4 it was the head gate cowl; is that correct?

5 A. Yes.

6 Q. And then the flights on the conveyor
7 chain. Would you have relayed information like
8 that or any additional information to Danny about
9 the unit being ready to run?

10 A. If I talked to him, yeah, I would have
11 told him what we done that night and what we would
12 have got done.

13 Q. So that would be a normal procedure?

14 A. Yeah, that's just about an everything
15 morning. There's some mornings I don't get to talk
16 to him. For whatever reason, I don't know.
17 Sometimes we don't but, yes, if I don't -- normally
18 we relay what we got done that night.

19 Q. So sometimes you may not. You said
20 sometimes you don't. Would that be like maybe once
21 a week or would that -- How often would that be?

22 A. Maybe, maybe once a week.

23 Q. Have you -- Has drums of that shear, had
24 they been changed out prior to April 5th or do you

1 recall?

2 A. I don't recall if they had or not.

3 Q. Had you ever done any work on the water
4 system as far as flushing it out or flushing
5 anything out on the section or --

6 A. No.

7 Q. You said you -- and I'll refresh you on
8 the transcript before, but you said you took a mine
9 tour when you came to UBB as far as your training
10 goes. I think the question was related to
11 training.

12 A. Okay.

13 Q. You did a mine tour. Now, you said that
14 today you probably didn't go underground for --
15 Clarify me here. Was it August or you started in
16 June and -- when was your -- Can you remember --

17 A. It was somewhere at the end of August or
18 around the first part of September. I don't know
19 exactly what day I went underground.

20 Q. Do you remember who took you in the first
21 day?

22 A. No.

23 Q. Did you -- On your first day, did you go
24 work on the shields?

1 A. We were finishing up on leaks and stuff up
2 on the shield, yes.

3 Q. So did you get a mine tour or did you go
4 work on the shears the first day underground?

5 A. I don't remember.

6 Q. I'm trying to clarify it from the
7 transcript.

8 A. I don't remember, no.

9 EXAMINATION

10 BY MR. SCOTT:

11 Q. I just want to clarify one thing. It may
12 have just been a misunderstanding of the questions
13 about the ranging arm pin on the B-lock side and
14 the other side. Is there a plate welded over the
15 B-lock side or just the other side?

16 A. Just the coal block side.

17 Q. Just the coal block side. So on the
18 B-lock side, there is no plate welded?

19 A. No.

20 Q. And these maintenance sheets that you
21 would have every night, would you turn them in into
22 somebody the next morning?

23 A. No.

24 Q. You didn't -- You just --

1 A. Just trash them.

2 Q. Just trash them.

3 MR. BABINGTON: It's been about a little
4 over an hour. Let's go ahead and take a five
5 minute break and come back to it. Off the record.

6 (Off the record.)

7 MR. TUCKER: We'll go back on the record.

8 EXAMINATION

9 BY MR. CRIPPS:

10 Q. I've got a couple more questions for you,
11 Robert, if you don't mind. The first couple I'll
12 just clarify a few things.

13 When you changed the cowl on the shear on
14 the midnight shift on April 5th, explain to me the
15 actual physical location of the shear, specifically
16 that cowl in relation to the face?

17 A. Okay. If you're familiar with the
18 longwall, the way it's set up, the shear was cut
19 all the way out to where it was trammed all the way
20 out to the head as far as it would go.

21 Q. Okay.

22 A. Right. Right here is the shear.

23 Q. Well, this is a picture -- this map here
24 is actually showing the shear on the tail.

1 A. On the tail.

2 Q. Right.

3 A. Okay. We'll just say right here is the
4 stage loader, this area right here. The shear
5 was -- the drum was in this area right here. The
6 cowl --

7 MR. McCUSKEY: You're pointing to which,
8 the tail, the head?

9 THE WITNESS: This one right here, this
10 cowl right here.

11 MR. McCUSKEY: Where was it?

12 THE WITNESS: Right here on the head.

13 MR. McCUSKEY: On the head.

14 THE WITNESS: On the head with the stage
15 loader going this way. We done all our work right
16 here in the, say, the L or the -- in that area
17 right there where we done it at.

18 Q. Approximately what shield would that have
19 been?

20 A. Three, two, three.

21 Q. Okay. Very good. So if I may, the head
22 gate drum on the shear would have been, I'll say,
23 out by the rib of the coal block?

24 A. Yes.

1 Q. And the cowl would have been flipped over
2 towards the head gate side of the drum?

3 A. In the stage loader side, yes.

4 Q. So the cowl was pretty close to being
5 actually in the stage loader chain?

6 A. Yes.

7 Q. Okay. Very good. When you added flights
8 to the conveyor chain, where exactly did that take
9 place?

10 A. The exact same place.

11 Q. Did you have to move the shear to add
12 flights?

13 A. Yes.

14 Q. Why is that?

15 A. They moved it back down out of the way
16 for, you know, we -- because there's a certain
17 section right there in the pan line where you have
18 to add the flights in because they go underneath
19 the race on each -- the other side to keep it out
20 of the pan line.

21 Q. And you say there's a certain place. Can
22 you describe that to me?

23 A. It's an open area right there where the
24 chains -- they kind of cross one another. I don't

1 know how to explain it to you.

2 Q. Is there like a slot in the sigma that the
3 flight will fit down in?

4 A. Yes.

5 Q. So it's difficult to install them further
6 towards the tail gate because the flights won't sit
7 down in the conveyor?

8 A. Yeah, it's much harder to do it that way.
9 I don't know if you could do it.

10 Q. Okay. So the area where the flights went
11 in and then as you said earlier, you welded the
12 bolts on was right near the stage loader.

13 A. Right at the same place.

14 Q. So that would have been approximately
15 No. 3 shield?

16 A. Yeah.

17 Q. Okay.

18 A. We didn't have to move any of our setup.
19 We done both jobs at the same place.

20 Q. Okay. And I'll say a lot of these answers
21 I already know. The people reading the transcripts
22 may not, so that's why we just want it to be a
23 little more specific on the area. I appreciate
24 that. Thank you.

1 The shear after you changed the cowl, you
2 said that the fellows trammed it back towards the
3 tail gate to set the bits; is that correct?

4 A. They trammed it back to about I'm going to
5 say approximately 15, 18 shields, something like
6 that, the tail drum would have been at. Just
7 guessing. I don't know exactly. I -- I never went
8 around that corner that night. I could see the
9 shear down there where they was going to set the
10 bits at. As far as where it was exactly sitting
11 between what shields and this other shield, I don't
12 know exactly.

13 Q. Have you ever set bits with that drum
14 extended out into the head gate entry?

15 A. No. No.

16 Q. Okay. Is that a normal practice to set
17 them, the bits, with the head gate drum out in the
18 tail -- in the head gate entry?

19 A. No.

20 Q. Why not?

21 A. I just -- It's just not. You always take
22 it back so we can pull shields in, you know, to
23 cover our backs whenever we set bits.

24 Q. Okay. So by taking back, you tram it back

1 towards the tail gate some distance to set bits on
2 it?

3 A. Yeah, tram it back, I don't know, 30, 40
4 feet, 50 feet back up the line because you have to
5 pull the line -- you have to pull the drums back
6 away from the face, right?

7 Q. Correct.

8 A. You have to pull it back away from the
9 face so you can turn --

10 MR. McCUSKEY: You don't get to ask him
11 questions.

12 THE WITNESS: He already knows I think.

13 A. But, yes, you have to put it back away
14 from the face and pull shields in, you know, to
15 protect yourself to set bits.

16 Q. Okay. Then what about if you need to set
17 bits at the tail gate? Have you ever set bits with
18 the tail drum extended out into the tail gate
19 entry?

20 A. No.

21 Q. And I'll -- and the reason I'm saying that
22 is I don't know if you're familiar with the
23 condition of the longwall that we found it in --

24 A. No.

1 Q. -- since the explosion. This picture
2 that's right here in front of you, this is actually
3 the longwall face and the position of the shear
4 right now; and that tail gate drum has cut out into
5 the tail gate entry. In your experience at UBB or
6 any of your experience on working on the longwalls,
7 have you ever seen anybody set bits with the tail
8 drum in that position?

9 A. No.

10 Q. Okay. Why is that?

11 A. It's -- it's the exact same reason as you
12 do it on the head. You have to get it back here to
13 where you can pull the pan line back away from the
14 face where you get the shield pulled in and turn
15 the drums, spin the drums to set the bits.

16 Q. Okay. Are you familiar with the 30 minute
17 call-out on the production shifts?

18 A. 30 minute call-out?

19 Q. Yes.

20 A. No.

21 Q. What it is every 30 minutes the production
22 crews have to call outside to the dispatcher or the
23 warehouse guys and give them a down time and a
24 production report.

1 A. I thought it was every two hours. I
2 didn't know it was every 30 minutes.

3 Q. It's every 30 minutes.

4 A. A new one on me.

5 Q. The 30 minute call-out from the day shift
6 on April the 5th, their first call-out said that
7 they picked the shear up at No. 34 shield.

8 A. The first call out?

9 Q. Yes.

10 A. I don't -- I don't remember it being that
11 far down. I don't --

12 Q. Okay.

13 A. The tail drum may have been at 34. I
14 don't know. I don't remember it being that far
15 down. It didn't look like it was that far down.
16 Like I said, I can't say where the exact shield to
17 shield was. I just know it was back down out of
18 the way to where they could set bits.

19 Q. You said earlier that Larry Brown was the
20 person that looked at the pre-shift books.

21 A. Larry brown, he was the foreman up there
22 on the section.

23 MR. McCUSKEY: I think he gave two names
24 though.

1 A. Keith Stanley, he was Shannon's crew's
2 foreman.

3 Q. But Larry Brown was your foreman on
4 midnight shift of the 5th?

5 A. Right.

6 Q. As I understand, you had fire boss papers?

7 A. For now.

8 Q. You have mine foreman papers?

9 A. For now. Yes, sir.

10 Q. And so I'm going to assume that you
11 understand the responsibilities and requirements
12 that a fire boss and mine foreman have as far as
13 when it comes to examinations; is that correct?

14 A. Yeah. Yeah.

15 Q. Knowing that, would you expect that a
16 person looking at the pre-shift book would
17 acknowledge any hazards that would be listed on
18 that pre-shift book?

19 A. Yes. I would think, yes.

20 Q. You as a worker specifically going to work
21 on this longwall, if there was any hazardous
22 conditions listed on the pre-shift book on the
23 longwall, would you expect that Larry would see
24 that those conditions were corrected before you

1 guys worked in those conditions?

2 A. I'm sure they would. He would probably
3 let us know that those conditions were there, you
4 know, if he thought that anybody's safety would be
5 in danger.

6 Q. Okay. Let me ask that again. Would you
7 expect that he would do that?

8 A. Yes.

9 Q. Okay. Do you in fact know if he always
10 did do that?

11 A. As far as, what, looked at the books or --

12 Q. Corrected any hazardous conditions that
13 were listed on the books.

14 A. I can't answer for Larry. I mean, I don't
15 know if he had -- I don't know, you know. I'm sure
16 if he had them, he would.

17 MR. CRIPPS: Okay. Okay. That's all I've
18 got for now.

19 EXAMINATION

20 BY MR. BECK:

21 Q. I've got one. If I understand you
22 correctly, you started to go underground -- you
23 came to UBB in June of '09 and it would have been
24 sometime around late August, early September you

1 started to go underground?

2 A. Yes.

3 Q. And from that time frame until April of
4 2010 about seven months I guess it is were you
5 always on the midnight shift?

6 A. Yes.

7 Q. And would you say you were a regular
8 worker, worked your regularly scheduled shifts and
9 weren't off for any extended period of time?

10 A. No, I worked. Yeah.

11 Q. During that time, did you ever have any
12 visitors on the longwall face? By visitors, I mean
13 upper management, MSHA inspectors, state
14 inspectors, anybody like that?

15 A. I -- I don't know. I don't know if
16 anybody was there or not.

17 Q. Okay.

18 A. Not on the longwall that I can recall.

19 Q. And I think I heard you mention Jack
20 Roles' name.

21 A. Yes.

22 Q. And he was the longwall coordinator?

23 A. Yes.

24 Q. And who did he report to? Do you know?

1 A. I -- Maybe Chris Adkins. Well, Blanchard
2 I guess.

3 Q. And what was Blanchard's job?

4 A. He was the president of Performance.

5 Q. Did you ever see Blanchard on the longwall
6 on the midnight shift?

7 A. No, I didn't.

8 Q. Did you ever have any interacting with
9 him?

10 A. No.

11 MR. BECK: Okay. That's all.

12 EXAMINATION

13 BY MR. MAGGARD:

14 Q. I've got a quick question. When he was
15 talking about exams you did, was all your exams
16 electrical only?

17 A. As far as --

18 Q. On the longwall or outby or had you done
19 any other exams?

20 A. No. Just had to do permissibilities that
21 I can recall.

22 Q. Do you recall any things you had to do
23 when you found hazardous conditions during any of
24 your exams?

1 A. I wouldn't know that unless I looked at
2 the book. If I found something, I put it in the
3 book.

4 Q. We was talking about the mother drive.
5 Did you ever have to clean any of those boxes down
6 there at the mother drive, the starter box, the
7 power center?

8 A. Clean the tops of them.

9 Q. Just the tops. Never had to go inside the
10 box?

11 A. I never went inside of them.

12 Q. Okay. If you would have had to go in the
13 inside during the exam, would you have listed a
14 hazardous condition for, let's say, float dust?

15 A. Yes. Yeah.

16 Q. And what would -- would you put a
17 corrective action or -- if you found any?

18 A. I usually put what I find and what I did
19 or didn't do.

20 Q. Okay. So if there was a hazardous
21 condition, you'd put it in the electrical exam
22 record book. Would you also put it in a
23 maintenance report or anything like that?

24 A. I never done any maintenance reports so,

1 no.

2 MR. MAGGARD: Okay. Very good.

3 EXAMINATION

4 BY MR. TUCKER:

5 Q. One thing just to clarify something in my
6 mind. The comment was made about your -- receiving
7 your transcript this morning around eight o'clock.
8 Did you have an opportunity to look through your
9 transcript?

10 A. No.

11 Q. To read through it at all?

12 A. No.

13 Q. You were given copies, but you had an
14 hour. You could have looked through it if you
15 wanted, correct?

16 A. I just looked through the very first few
17 pages was it.

18 MR. McCUSKEY: He didn't get a chance --

19 A. I didn't get a chance to get --

20 MR. McCUSKEY: -- because I was bothering
21 him, asking him questions to get him ready for
22 today.

23 MR. TUCKER: Okay.

24 MR. McCUSKEY: And we would like that

1 opportunity to perhaps look since we're going to
2 have the opportunity to look at Transcript No. 2 as
3 you've indicated at Johnny Jackson's office. I
4 would like you to make Transcript No. 1 available
5 to do the actual review because he never got a
6 letter offering to do that before. I think some of
7 my clients did, but he wasn't my client.

8 MR. TUCKER: I thought that was the
9 intention to --

10 MR. McCUSKEY: It was, but there just
11 wasn't time.

12 MR. TUCKER: All right. We've asked you a
13 lot of questions and tried to pick your brain. Is
14 there anything that you can think of that maybe we
15 haven't asked that -- or any kind of statement you
16 would like to make that may help on this
17 investigation? At this time, I'll give you an
18 opportunity to make any type of statement that you
19 would like.

20 THE WITNESS: No. I would just like to
21 know what happened, you know. I'm just like
22 everybody else I would like to know what happened.

23 MR. MAGGARD: Can I ask one more
24 question?

1 MR. TUCKER: Sure.

2 MR. McCUSKEY: I get worried when a lawyer
3 says that, I've got just one more question.

4 EXAMINATION

5 BY MR. MAGGARD:

6 Q. After the accident, were you asked to
7 provide your Solaris to anyone?

8 A. Yes and I told them where it was too.

9 Q. Because, you know, if we would have been
10 aware of it a long time ago, but it was probably
11 underground, you'd think we would have found it,
12 but we'd appreciate that information.

13 MR. TUCKER: Off the record.

14 (The interview of ROBERT ROLAND HALE was
15 concluded.)
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24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Nichelle N. Drake, a Notary Public and
3 Professional Reporter within and for the State
4 aforesaid, duly commissioned and qualified, do
5 hereby certify that the interview of ROBERT ROLAND
6 HALE was duly taken by me and before me at the time
7 and place specified in 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
14 attorney or counsel for, nor related to or employed
15 by, any 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 19th day of July
21 2019.

21 Given under my hand and seal this 25th day of
22 February 2011.

23 _____
24 Nichelle N. Drake
Professional Reporter
Notary Public