

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

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15 The interview of **KEVIN W. MEDLEY**, 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 29th, 2011, at the
19 Mine Academy, 1301 Airport Road, Beaver, West
20 Virginia.

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

 (304) 346-8340

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

Barry L. Koerber, Assistant Attorney
General

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

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

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

U.S. DEPARTMENT OF LABOR

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

U.S. DEPARTMENT OF LABOR

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

U.S. DEPARTMENT OF LABOR

Mine Safety and Health Administration
Jasey Maggard
3837 South U.S. Highway 25 E
Barbourville, KY 40906
(606) 546-5123

SHUMAN, McCUSKEY & SLICER

Chris J. Sears, Esquire
1411 Virginia Street, East
Charleston, WV 25301
(304) 345-1400

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APPEARANCES (Continued)

**GOVERNOR'S INDEPENDENT INVESTIGATION PANEL
James Beck**

[REDACTED]

[REDACTED]

**ALLEN, GUTHRIE & THOMAS, PLLC
Rob Akers, Esquire
Laidley Towers, Suite 800
500 Lee Street
Charleston, WV 25301
(304) 345-7250**

Also Present: Norman Page and Tim Watkins

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1 MR. KOERBER: Let's go on the record.

2 My names is Barry Koerber.

3 I'm an assistant attorney general, and I
4 am assigned to represent the West Virginia Office
5 of Miners' Health, Safety and Training, and I'm a
6 member of the State's Accident Investigation for
7 the UBB accident.

8 Today a March 29th, 2011.

9 Beginning at my left, I would ask that the
10 individuals on the accident investigation teams
11 identify themselves and who they're with.

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

15 MR. MAGGARD: I'm Jasey Maggard, with
16 MSHA.

17 MR. CRIPPS: I'm Dean Cripps, with MSHA.

18 MR. WILSON: Bob Wilson, Office of
19 Solicitor, working with MSHA.

20 MR. BECK: Jim Beck, Governor's
21 Independent Team.

22 MR. KOERBER: And we also have a court
23 reporter here today who will be transcribing what's
24 said today. She's with Johnny Jackson &

1 Associates.

2 For her benefit, I would please ask that
3 you say "yes" and "no" and not "uh-huh" and
4 "uh-uh," and answer verbally and not nod your
5 head.

6 And I would also ask that you wait until
7 the question is asked before you begin your answer,
8 and we'll ask the interviewers to wait until you
9 finish your answer before they ask the next
10 question so we don't have two people talking over
11 one another.

12 That's so that the court reporter will
13 have a little bit easier go as far as transcribing
14 anything.

15 Johnny Jackson & Associates is operating
16 under a three-day turnaround as far as putting to
17 paper what is said today.

18 So since today is Tuesday, three business
19 days would put us through the end of Friday.

20 So come next Monday morning, if you
21 desire, you or you and your attorney can contact
22 Johnny Jackson & Associates and schedule a time
23 where you would go into their office and review
24 your transcript of today.

1 You do not have to do it on Monday, but we
2 would ask that within a two- or three-week period
3 of time after Monday, you can make the arrangements
4 to go into Johnny Jackson's and review your
5 transcript, if you so desire.

6 MR. SEARS: Barry?

7 MR. KOERBER: Yes, sir.

8 MR. SEARS: Along those lines, we would
9 also like to have the opportunity to review for the
10 purpose of making corrections, the first
11 transcript, which I'm not sure how to arrange that
12 because it's my understanding it was done by a
13 different court reporter

14 MR. KOERBER: True. That will be
15 something that Bob and I will work on.

16 MR. SEARS: Thank you.

17 MR. KOERBER: Getting back to my train of
18 thought.

19 MR. SEARS: Sorry.

20 MR. KOERBER: If you choose to review your
21 transcript at Johnny Jackson & Associates, you will
22 have to go to their office. I'm going to give you
23 their business card which has the address and
24 telephone number.

1 They will put you in a conference room.
2 You will have privacy to review your transcript,
3 but you will not be permitted to take a copy home
4 with you.

5 You'll have to review it there. They'll
6 give you an errata sheet, and whatever changes that
7 are necessary, you would make those changes on the
8 errata sheet. Your attorney, I'm sure, can explain
9 more about that to you.

10 I would also like to just mention that if
11 for any reason whatsoever you want to take a break,
12 just say so and we'll take a break.

13 We would ask that you not discuss your
14 interview with people outside of this interview
15 room, other than with your attorney. And the
16 reason for that is to protect the integrity of the
17 investigation.

18 Bob may have something he wants to add at
19 this point in time, and if so, he has the floor.

20 MR. WILSON: All right. Thank you, Barry.

21 Just on behalf of MSHA, I want to thank
22 you for coming in again here today to answer our
23 questions.

24 I do have a letter, concerning your

1 appearance here today, from Norman Page, MSHA's
2 lead accident investigator.

3 So if you should think of any additional
4 information after today that you would like to
5 provide to the investigation team, you can contact
6 us at the information provided in the letter, and
7 I'll give that to you at this time. Thank you.

8 MR. KOERBER: I would ask that the court
9 reporter administer the oath at this time.

10 KEVIN W. MEDLEY, DEPONENT, SWORN

11 MR. KOERBER: Sir, would you please state
12 your full name and spell your last name.

13 THE WITNESS: Kevin Wilson Medley,
14 M-e-d-l-e-y.

15 MR. KOERBER: And would you please state
16 your address and telephone number?

17 THE WITNESS: My address is [REDACTED]

18 [REDACTED] . My phone number is

19 [REDACTED]
20 MR. KOERBER: And do you have an attorney
21 with you here today?

22 THE WITNESS: I do.

23 MR. KOERBER: And I would ask your
24 attorney to identify himself and his firm.

1 MR. SEARS: Chris Sears with Shuman,
2 McCuskey & Slicer.

3 MR. KOERBER: Okay. And Mr. Medley is
4 your client?

5 MR. SEARS: He is.

6 MR. KOERBER: Mr. Medley, as of April 5th,
7 2010, where were you employed?

8 THE WITNESS: I was employed at UBB.

9 MR. KOERBER: Okay. And what was your job
10 title?

11 THE WITNESS: My job title was assistant
12 longwall coordinator.

13 MR. KOERBER: And we have another attorney
14 sitting at the table. At this time, I would ask
15 that he identify himself, his firm and his client.

16 MR. AKERS: My name is Rob Akers. I'm
17 with Allen, Guthrie & Thomas in Charleston, West
18 Virginia, and I'm here on behalf of Massey.

19 MR. KOERBER: And we have two other people
20 in the back of the room. I would ask that they
21 identify themselves and who they're with.

22 MR. WATKINS: Tim Watkins, with MSHA.

23 MR. PAGE: Norman Page, with MSHA.

24 MR. KOERBER: Mr. Medley, are you here

1 today as the result of receiving a subpoena?

2 THE WITNESS: Yes, I am.

3 MR. KOERBER: This is a copy of that
4 subpoena, and I'm going to ask that to be Medley
5 Exhibit 1.

6 MR. SEARS: Is that a copy of the subpoena
7 that you received?

8 THE WITNESS: I'm not sure of it. I
9 thought that code number was different.

10 MR. KOERBER: The code number?

11 THE WITNESS: Yes. West Virginia Section
12 Code. That may be the same one.

13 MR. KOERBER: I will represent that it is.

14 MR. WILSON: Do you have the subpoena with
15 you?

16 THE WITNESS: It's in my truck, yes, sir

17 MR. KOERBER: Did it subpoena you to be
18 here on March 2nd, 2011 --

19 THE WITNESS: It did.

20 MR. KOERBER: -- at 8:00 am?

21 THE WITNESS: It did.

22 MR. KOERBER: And you appeared on that
23 day, did you not?

24 THE WITNESS: I did.

1 MR. KOERBER: And after discussions off
2 the record, you wanted to have an attorney; is that
3 correct?

4 THE WITNESS: Yes, sir.

5 MR. KOERBER: And then, did we go on the
6 record and mutually agree that you would come back,
7 pursuant to this subpoena, at some later date after
8 you obtained an attorney?

9 THE WITNESS: We did.

10 MR. KOERBER: Chris, do you have any
11 objection about the subpoena?

12 MR. SEARS: Well, I mean, to the extent
13 that he wasn't sure whether or not that's the
14 subpoena, I mean, that would be the only issue.

15 MR. KOERBER: Okay. Let's mark that as
16 Exhibit A or 1.

17 (Exhibit No. 1 marked for
18 identification.)

19 MR. SEARS: I think there's no -- any
20 dispute that he received a subpoena.

21 MR. WILSON: I think the only dispute was
22 the code number.

23 Do you want to write that down and then
24 you can check it after the interview, and then if

1 there's a problem, let us know?

2 MR. SEARS: Sure. You're talking about
3 the West Virginia code?

4 THE WITNESS: Yes.

5 MR. SEARS: Okay.

6 MR. KOERBER: And this document, I'm sure
7 you have not seen. This is the Affidavit of
8 Service from the process server showing he served
9 you on the 23rd day of February at the Peabody
10 Circle address in Naoma. I'm going to ask that be
11 Exhibit 2.

12 MR. SEARS: Is that correct?

13 THE WITNESS: I have not seen that piece
14 of paper.

15 MR. SEARS: But is that information
16 right?

17 THE WITNESS: That is right, yes, it is.

18 MR. KOERBER: Okay. I would ask that that
19 be Exhibit 2.

20 MR. SEARS: That's where you received the
21 subpoena?

22 THE WITNESS: Yes.

23 (Exhibit No. 2 marked for
24 identification.)

1 MR. KOERBER: Mr. Medley, not only am I
2 going to give you Johnny Jackson & Associates's
3 business card, as I spoke about earlier, I'm also
4 going to give you Mr. William Tucker, who is seated
5 to my left, his business card as well.

6 If there would be anything that you would
7 think of after the interview is over that you
8 believe would be beneficial to the investigation
9 team to know and you would like to contact
10 somebody, Mr. Tucker would be the person to
11 contact, and his contact information is on this
12 business card.

13 I'm also going to give you a memorandum,
14 which contains the address of the West Virginia
15 Board of Appeals.

16 The West Virginia Board of Appeals is the
17 administrative tribunal that hears, among other
18 things, coal miner discrimination cases.

19 Under 22A-1-22, coal miners are protected
20 from discrimination for participating in interviews
21 such as this.

22 If you would find that you have been
23 discriminated against for participating in this
24 interview, this is the agency that you contact, and

1 your attorney, I'm sure, could help you file the
2 complaint.

3 I would caution you, however, that under
4 the code, you only have 30 days from when the
5 discriminatory event occurs to file your complaint
6 with the agency.

7 So I'm going to give you this stuff now.

8 And I will pass it off to Dean to start
9 the interview.

10 EXAMINATION

11 BY MR. CRIPPS:

12 Q. Okay, Kevin, I read through your first
13 transcript, so I'm going to try not to go over any
14 of the stuff that you went over the first time, if
15 I can help it at all, but there's quite a bit of
16 information I want to clarify and quite a few more
17 questions that I have for you.

18 I would like to start -- if you would,
19 please, just give me a -- your work background, how
20 long have you been in the mines, places you worked
21 and some of the jobs that you have done?

22 A. I've been in the mines about 32 years.
23 Most of my work had been in Kentucky. I worked in
24 Tennessee. I have been superintendent, section

1 foreman, dead work foreman.

2 When I went to work for Massey, I became a
3 setup foreman on the longwall. I was a fill-in
4 longwall foreman also, just take peoples' place if
5 they were off.

6 And then I moved to the longwall
7 coordinator's position at Rockhouse Energy in
8 Kentucky.

9 Q. So how long have you actually been a
10 longwall foreman?

11 A. I've been on the longwall about nine
12 years.

13 Q. Okay. And was that all with Massey?

14 A. Yes, sir.

15 Q. What exactly is a setup foreman? What did
16 you do as a setup foreman?

17 A. When we were getting ready to set the
18 longwall up in a new area on a new panel, we
19 constructed it. It was basically a construction
20 foreman.

21 Q. Okay. So the nine years you talked about
22 of longwall bossing, did that include that setup
23 foreman period?

24 A. Yes, sir.

1 Q. Okay. How long was you actually a foreman
2 on the production section?

3 A. I don't want to say. It's been on again,
4 off again several times, and I don't -- I really
5 can't tell you.

6 Q. Okay. On April 5th, you was working as a
7 production foreman --

8 A. Yes, I was --

9 Q. -- on April 5th of '09?

10 A. Yes, sir.

11 Q. Or 010, I'm sorry -- or 2010.

12 Now as I understand from your previous
13 testimony, you had moved from being a face boss to
14 being a longwall coordinator sometime earlier at
15 UBB?

16 A. No, sir.

17 Q. Okay. So had you been on the face boss
18 the whole time you was at UBB?

19 A. No. No, I had not. I had been a setup
20 foreman at UBB, and then I had been listed the
21 whole time as a longwall -- assistant longwall
22 coordinator. That was my official title.

23 But during that time, I was a setup
24 foreman, an outby dead work foreman, and then

1 production foreman.

2 Q. Okay. So you say you also act as the
3 superintendent of mines?

4 A. I have in Kentucky.

5 Q. As part of that job, superintendent, does
6 that involve ventilating the mine?

7 A. We -- well, yes, I did. Yes, I had
8 ventilation duties.

9 Q. Okay. When did you first come to UBB?

10 A. When -- I came to UBB when the longwall
11 left Logan's Fork and came back there.

12 Q. Okay. I've talked to a lot of guys that
13 have worked at UBB and then left and went to
14 Logan's Fork and then come back.

15 A. I have not worked at UBB prior to the
16 longwall coming back to it.

17 Q. So when the longwall came back to UBB,
18 what did you do when you first came to UBB?

19 A. When I first came to UBB, I was setup
20 foreman.

21 Q. Okay. And so the longwall was in the
22 process of being set up when you came there?

23 A. When -- yes, sir. Yes, sir.

24 Q. Okay. And did you work underground

1 immediately, or did you work on the surface?

2 A. Underground.

3 Q. Okay. Setting up the longwall?

4 A. Yes, sir.

5 Q. Okay. I want to kind of -- I'm going to
6 jump around quite a bit on you, so if I get to
7 asking questions that confuse you, just tell me to
8 slow down a little bit and I sure will.

9 A. Okay.

10 Q. I've got a document here that's labeled
11 UBB 30-minute report. Do you know what the
12 30-minute call out actually is for the longwall?

13 A. You'll have to explain what you mean by
14 what it actually is.

15 Q. As we understand, every 30 minutes someone
16 from the longwall calls a report to the surface,
17 informs someone on the surface about the status of
18 the longwall?

19 A. Yes, sir.

20 Q. Are you familiar with that report?

21 A. During the time that I was the longwall
22 production foreman my headgate man called it out,
23 and he was to call it out every 30 minutes, tell
24 the outside how far we had mined, and if we'd had

1 any more breakdowns, any more downtime.

2 Q. You say your headgate man made that call?

3 A. Yes, sir.

4 Q. Who did he call and talk to?

5 A. Most of the time, dispatchers.

6 Q. Okay. The information that the headgate
7 man relayed outside, how did he obtain that
8 information?

9 A. He would get it from me, or he would take
10 it off of the computer.

11 Q. Okay. What computer are you talking
12 about?

13 A. There's a box at the headgate, and it
14 shows a face profile. That face profile, he can
15 look at it and tell when shields are pulled in and
16 he can -- he judges where the shear is at off of
17 that.

18 Q. Okay. So the computer you're talking
19 about is actually the shield controller?

20 A. Yes, sir.

21 Q. And it shows the position of the various
22 shields along the face?

23 A. Yes, sir.

24 Q. And from that computer, the headgate man

1 can determine which shields have been pulled and
2 where the pan has been pushed; is that correct?

3 A. Yes, sir.

4 Q. And so from that information, he could
5 then ascertain the location of the shear?

6 A. Approximate location.

7 Q. Okay. Because the location of the shear
8 is not on that computer; is that correct?

9 A. No, sir, it is not.

10 Q. Okay. So is it fair to say that when he
11 called out the report, he could be off by a few
12 shields as far as the location of the shear?

13 A. He could be off several shields, yes, sir.

14 Q. Okay. When he would report the downtime,
15 would you generally give him the downtime to call
16 out and report?

17 A. I would give him some of it. He could
18 also -- he could also judge that, because at times
19 when, if we broke down, the line would go off.

20 Q. By "line," you mean the face conveyer?

21 A. The face conveyer, yes, sir.

22 Q. Okay. Did he normally record the time it
23 went off in any way, do you know?

24 A. Part of the time he would keep that down

1 for his personal usage, as far as calling these
2 reports out.

3 Q. Do you know -- did he always make the call
4 right at the half hour, or was it sometimes a few
5 minutes before or after?

6 A. No, sir. No, sir. He got in trouble
7 quite a bit.

8 Q. Well, what did he get in trouble for?

9 A. Because he'd make it three or four minutes
10 late. Some of the people that we had outside, and
11 it's not management, some of the dispatchers, some
12 of them got pretty tore up about you calling it out
13 late.

14 Q. And so what would happen if he was late?

15 A. They'd just called him and balled him out.

16 Q. Do you know why they would get a little
17 upset if he was late?

18 A. He had -- the outside people, I think, had
19 to fax that and they had a certain time they wanted
20 it turned in.

21 Q. Okay. Have you ever seen the report put
22 down on paper out on the surface?

23 A. As far as this being wrote down outside?

24 Q. Yes.

1 A. Yes, sir.

2 Q. Okay. Is this the form that you've seen
3 before --

4 A. No, sir.

5 Q. -- the one that's in front of you?

6 A. No, sir.

7 Q. What did the form look like that you would
8 see?

9 A. I don't see it anywhere. It mostly just
10 had slots for number of passes where the shear was
11 located, which way the shear was -- its direction,
12 which way it was cutting, and then it would have a
13 few lines for jotting down what kind of downtime
14 they might have had.

15 Q. Okay. Let me draw your attention to this
16 form that's right here in front of you.

17 A. Okay.

18 Q. If you would -- what this is, this is
19 actually a copy of the 30-minute call out record
20 that, during our investigation we requested from
21 Massey and this was provided to us.

22 If you would, look right here. Does this
23 appear to be, like, the information that would be
24 called out as part of the 30-minute call out?

1 Here again, this is actually the 30-minute
2 call out report from the day shift on April the
3 5th.

4 MR. SEARS: If you're not going to make
5 this an exhibit, could we at least designate on the
6 record the Bates stamp so there's no --

7 MR. CRIPPS: We can make it an exhibit.

8 MR. WILSON: We'll mark it Medley 3.

9 (Exhibit No. 3 marked for
10 identification.)

11 MR. SEARS: That way there's no confusion
12 later on.

13 MR. CRIPPS: Sure.

14 MR. WILSON: K. Medley 3.

15 BY MR. CRIPPS:

16 Q. Okay. Let's go back. Starting here at
17 7:30, the 7:30 call out, does that appear to be the
18 type of information that would be called out on the
19 30-minute call out report?

20 A. Yes.

21 Q. Okay. If you'll notice here, between 7:30
22 and 8:00, at 7:30 it shows point two passes. At
23 8:00 point six passes.

24 How about explaining to me how the number

1 of passes is actually determined and how you count
2 a pass?

3 A. A tenth of a pass is 17 shields. So as
4 you go across the face, you go 17 shields, you've
5 got a tenth.

6 Q. Okay. So the, okay, point two then to
7 point six is four times 17?

8 A. Yes, sir.

9 Q. And that's how you would --

10 A. Yes, sir.

11 Q. Okay. Now, if you look here at this
12 report, there's a line here that says, Picked shear
13 up at 34. What does that mean?

14 A. That's where they started mining coal.

15 Q. So the shear was parked at No. 34 shield?

16 A. It would have been at No. 34 probably,
17 yes.

18 Q. Okay. And then so -- then says, Going to
19 the tail. So that would be the actual direction
20 the shear --

21 A. Yes, sir.

22 Q. -- would have been cutting?

23 A. Yes, sir.

24 Q. And then the eight feet per minute.

1 That's the speed that the shear is cutting at?

2 A. Yes, sir.

3 Q. Okay. I'm going to ask you to look at
4 this a little bit more.

5 At 9 o'clock, they're showing that they
6 have one pass. If they started at 34, explain to
7 me what all involved or how far they would have
8 progressed to get one pass in.

9 A. To have got one pass in, they would cut to
10 the tail and cut out, shuffled in. And the shuffle
11 would have been their other point two, to make it
12 come to a total of one.

13 Q. Okay. The shuffle is counted as point two
14 passes?

15 A. We usually counted it as point two.

16 Q. Okay. So when he's at 34 and he just cuts
17 out at the tail the first time, then that's going
18 to be the point eight?

19 A. That would have been the point eight, yes,
20 sir.

21 Q. Okay. Then he cuts the shuffle out?

22 A. Yes, sir.

23 Q. And heads back towards the head?

24 A. Yes.

1 Q. Once he heads back to the head after the
2 shuffle, that's an additional point two?

3 A. The actual shuffle would have been the
4 next pass, but that would have calculated to his
5 one when he cut that shuffle out.

6 Q. Okay. And so the headgate man that makes
7 the call out then, would he necessarily know where
8 in the shuffle that they are right at 9 o'clock
9 when he makes the call out?

10 A. No, sir. No, sir.

11 Q. So that would be an estimate on his time
12 based on --

13 A. It would.

14 Q. -- based on the -- what shields have been
15 pulled in?

16 A. Yes, sir.

17 Q. Okay. Going on across --

18 MR. SEARS: Wait for him to finish his
19 question before answering.

20 THE WITNESS: Okay.

21 Q. At 10:30, it says -- actually, let me back
22 up. It says, 10 o'clock, shear on the head, one
23 point -- I think that says one point eight passes.

24 And then at 10:30 it says, Two passes, shear on the

1 head, getting ready to bit.

2 It looks like in these two instances, the
3 shear is at the head both times, but yet they pick
4 up point two passes.

5 Do you understand that, or can you explain
6 that to me?

7 A. Yes.

8 Q. Can you explain what that means?

9 A. The shuffle, the way you shuffle a
10 longwall in, you will cut that, and you may end up
11 back at the head with that shear to do your bits.

12 Q. Okay. So from looking at this, in your
13 experience does it appear like at 10:30 that they
14 had completed the shuffle and had stopped to set
15 bits on the shear?

16 A. Yes, sir.

17 Q. Okay. Is that the way your shift normally
18 do it? Would they cut the shuffle out, and then
19 stop to set bits?

20 A. Yes, sir.

21 Q. Okay.

22 MR. WILSON: Dean, just for the record,
23 you all understand the terminology, but there's
24 people reading the transcript may not understand

1 what a "shuffle" means.

2 Could you maybe explain what that means
3 for a lay person?

4 THE WITNESS: The longwall, as it
5 advances, or, depends on who you talk to, as it
6 retreats, it's cutting into a solid block of coal.

7 And when it cuts across the face and cuts
8 out, then for it to move forward again and start
9 cutting a new pass, the shields push the pan line
10 forward and make the shear cut into the face, and
11 that's called the shuffle.

12 The actual bow in the pan line, some
13 called it a snake, but that's what a shuffle is, to
14 cut it into the new face.

15 And when you cut it into the new face,
16 then you have to cut it back out on the tail the
17 second time to start pulling your shields in to
18 advance your pan line to the face again.

19 MR. WILSON: Thank you.

20 THE WITNESS: Does that ...

21 MR. WILSON: Yeah, that gives some
22 explanation. I think it's one of those things
23 where you have to see it to fully understand it,
24 but I think it gives some explanation.

1 THE WITNESS: I was looking for a piece of
2 paper so I could draw it.

3 MR. CRIPPS: You explained it better than
4 I could.

5 BY MR. CRIPPS:

6 Q. I'm going to proceed on along a little bit
7 here.

8 Once again, this is the actual 30-minute
9 call out report from the day shift on April the
10 5th.

11 And what I'd like to do is from --
12 basically it's starting at 11 o'clock, it says they
13 lost the B-Lock in the tail ranging arm, and so
14 consequently it appears that -- and they're still
15 at two passes.

16 So it appears to me from 10:30 through
17 11:00 to 11:30, on up to 12:00 to 12:30, they're
18 still showing two passes.

19 In your opinion, by them still showing two
20 passes, does that mean that they were down that
21 entire period?

22 A. Yes, sir.

23 Q. And we go on across over to 1:00, and
24 still at 1:30, we're still showing two passes.

1 Once again, at 1:30, does it appear like
2 they would have been down still?

3 A. Yes, sir.

4 Q. Okay. Look over here at 2 o'clock, if you
5 would, please, and you see now that they have two
6 point two passes shown at the 2 o'clock call out.

7 What does that mean to you?

8 A. The only thing it means to me is at 2
9 o'clock, they had two point two passes.

10 Q. At 1:30 they had two passes, and at 2
11 o'clock they had two point two?

12 A. Yes, sir.

13 Q. So in that half hour period, is it
14 reasonable that they mined with two passes, between
15 1:30 and 2:00?

16 A. Yes, sir.

17 Q. Okay. From 2:00 to 2:30, at 2:30 it shows
18 that it has two point four passes?

19 A. Yes, sir.

20 Q. In your appearance, does it indicate they
21 were actually mining coal in that 30-minute period
22 there?

23 A. Yes, sir.

24 Q. Okay. At 2 o'clock, the call out shows

1 that the shear was at 65 going to the tail. At
2 2:30, it's at 115 going to the tail. That's
3 roughly, what, 50 shields that they mined.

4 Is that a reasonable amount of production
5 in 30 minutes to go 50 shields?

6 A. It is.

7 Q. Okay. Is it -- based on what you said a
8 little earlier about the headgate man looking at
9 the shields and determining where the shear is, I
10 see two point two passes at 2:00 and two point four
11 at 2:30. That's point two passes, which what you
12 said a while ago would be 34 shields?

13 A. Yes, sir.

14 Q. But yet they're showing 50 shields that
15 they actually mined?

16 A. Yes, sir.

17 Q. Do those seem to contradict or is that
18 reasonable, in your estimation, due to what you
19 said about the headgate man sometimes estimating
20 the location of the shear?

21 A. I'd say that it would be partly because of
22 his estimation of the face and where the shear
23 would be at.

24 Q. Okay. We know that right now the shear is

1 at the tailgate of the longwall. Have you been
2 informed of that, or had anybody told you that?

3 A. I had found that out here.

4 Q. Okay. The shear is sitting on the
5 tailgate, and we're figuring somewhere around 3
6 o'clock is when the explosion or the accident
7 occurred.

8 115 to the tailgate, that's about 60
9 shields to travel in that 30-minute period?

10 A. Yes, sir.

11 Q. Does that appear a reasonable amount of
12 production to you?

13 A. Yes, sir.

14 MR. CRIPPS: Okay. Thank you. I
15 appreciate that.

16 (Whereupon an off the record
17 discussion was held.)

18 EXAMINATION

19 BY MR. MAGGARD:

20 Q. One question on this call out. When
21 they're filling it outside, is it handwritten, is
22 it they're filling in the blanks handwritten, or is
23 it typed in?

24 A. It's -- what they are putting down on that

1 is not typed in, no, sir. So it's handwritten.

2 MR. MAGGARD: Okay. That's all I have on
3 that.

4 EXAMINATION

5 BY MR. CRIPPS:

6 Q. Okay. I want to jump to the 5th of
7 April. As I understand, you was going to be
8 working afternoon shift on April the 5th?

9 A. Yes, sir.

10 Q. Your previous interview you said you
11 arrived at the mine you thought somewhere 2:00 p.m.
12 for the afternoon shift. When you arrived at the
13 mine, did you talk to Jack Roles?

14 And I'll remind you, in your earlier
15 interview I think you said you did talk to Jack.

16 A. I think he was there, yes.

17 Q. Okay. Do you remember that conversation
18 or any conversations you had with Jack?

19 A. The conversation that I had at that time
20 was just that they had been down that day.

21 Q. And did he tell you what they had been
22 down for?

23 A. Yes.

24 Q. What did he say?

1 A. They had -- he told me that they had lost
2 a pin in the ranging arm.

3 Q. Okay. Had he actually been on the face?

4 A. I cannot tell you that. I do not know.

5 Q. Okay. He didn't tell you that, or you
6 don't recall if he told you that?

7 A. I can't recall if he told me that.

8 Q. Okay. Did he tell you if the wall was
9 back running?

10 A. I think that the time that I saw him, yes,
11 he said they were running again.

12 Q. Okay. Did he tell you if they were having
13 any other problems on the wall that day?

14 A. No, sir.

15 Q. Did he mention anything about having any
16 problems with methane?

17 A. Not on the wall.

18 Q. Did he say anything about having problems
19 with methane anywhere else?

20 A. He did not tell me that, no.

21 Q. Okay. Did he say anything about having
22 any problems with ventilation on the longwall?

23 A. No, sir.

24 Q. When you was on the surface on April the

1 5th before you went underground, in your earlier
2 interview you said that you had talked to the
3 longwall and took the fire boss report?

4 A. Yes, sir.

5 Q. Did you take that from Rick Lane?

6 A. I did.

7 Q. So you did talk to Rick the day of the
8 accident?

9 A. Yes, sir.

10 Q. Okay. Let me -- bear with me just a
11 second, Kevin.

12 What I've got, this is a copy of the fire
13 boss report, or out in Illinois we call it the
14 examiner's report.

15 Do you recognize this page?

16 A. Yes, sir.

17 Q. Is this appear on the -- there's a line
18 that says, Report received by, it says, Kevin
19 W. Medley. Is that your signature?

20 A. That is my signature.

21 Q. Also, is this your signature at the bottom
22 of the page?

23 A. Yes, sir.

24 Q. Okay. And it says the report by whom and

1 it says, Rick Lane. Did you fill that line out?

2 A. Yes, sir.

3 Q. Okay. And it says that the time here is
4 2:40?

5 A. Yes, sir.

6 Q. Okay. What exactly does that time mean?

7 A. That is the time that I received that
8 report.

9 Q. So you would have actually talked to Rick
10 at 2:40?

11 A. Yes, sir.

12 Q. In your first, your earlier interview, you
13 said that you had talked to Rick, and you thought
14 it was around 2:30?

15 A. Yes, sir.

16 Q. But with this right here, would it have
17 been closer to 2:40 in your opinion?

18 A. If that's what's on the report, yes, sir,
19 it would have been 2:40.

20 Q. Okay. How do you determine the time to
21 write down on this line?

22 A. On my watch.

23 Q. So you look at your watch --

24 A. Yes, sir.

1 Q. -- when you get the call?

2 A. Yes, sir.

3 Q. And the information that is on this page,
4 did you fill out all of this information?

5 A. Yes, sir.

6 Q. Where did you receive this information
7 from?

8 A. I received it on the line -- on the
9 telephone from Rick Lane.

10 Q. Okay. I probably should have asked that a
11 little bit better. So Rick -- this is the actual
12 information that Rick told you over the phone?

13 A. Yes, sir.

14 Q. And then you just recorded it in the fire
15 boss book?

16 A. Yes, sir.

17 Q. Okay. And so you talked to Rick around
18 2:40 and got this information.

19 What did you do after you talked to Rick
20 that day?

21 MR. CRIPPS: I'll tell you what, if we
22 just -- we'll go ahead and put this as an exhibit
23 also.

24 MR. WILSON: Marking this as K. Medley 4.

1 (Exhibit No. 4 marked for
2 identification.)

3 A. After I took that report, I talked to my
4 men some, just general talk, not really anything
5 but general talk. And then we got ready and
6 started to the mantrip.

7 Q. Where were you at when you got the call
8 from Rick?

9 A. At the Ellis portal, upstairs in the
10 longwall office.

11 Q. Okay. And so was your crew there with you
12 in the longwall office?

13 A. Yes, sir, part of them were.

14 Q. Okay. After the 2:40 call to Rick Lane,
15 did you talk to anyone else on the longwall?

16 A. No, sir.

17 Q. Did you talk to anyone else underground,
18 period?

19 A. No.

20 Q. Do you know of anyone else talking to the
21 longwall?

22 A. No, I cannot say that. I don't know of
23 it.

24 Q. Okay. You're not aware of anybody?

1 A. I'm not aware of it.

2 Q. Okay. That's fine.

3 Are you aware of any calls made to the
4 longwall outside to anyone else?

5 A. No.

6 Q. Okay. And so are you aware of a 30-minute
7 call out being made at 3 o'clock from the
8 longwall?

9 A. No.

10 Q. You didn't hear the headgate man call the
11 dispatcher before you went underground?

12 A. No, sir.

13 Q. Okay. Have you talked to anybody since
14 the accident to indicate that there would have been
15 a 3 o'clock call out?

16 A. No.

17 Q. Okay. When you left to go to the mantrip,
18 about what time did you actually leave the longwall
19 office to go to the mantrip?

20 MR. SEARS: If you can remember.

21 A. I can't. I cannot tell you what time it
22 was.

23 Q. Okay. On your normal shift -- let me ask
24 this. What time did your shift actually start?

1 A. The shift started at 3 o'clock.

2 Q. And so by shift starting, what exactly
3 does that mean?

4 A. That we start underground.

5 Q. Is that when your men's time actually
6 started?

7 A. That's when I started their time, yes,
8 sir.

9 Q. Okay. And so you would leave the office
10 at 3 o'clock?

11 A. Usually we tried to be going in the portal
12 at 3 o'clock.

13 Q. Okay. And by going in the portal, you
14 walked into the mouth of the mine a short distance
15 to get to the mantrip; is that correct?

16 A. Yes, sir.

17 Q. And so you would try to be at the portal
18 by 3 o'clock?

19 A. Yes, sir.

20 Q. And was that pretty normal?

21 A. Yes, sir.

22 Q. Okay. Have any reason to believe that
23 April 5th was any different?

24 A. Not really.

1 Q. Okay. Do you know if any of the guys on
2 your crew may have went underground a little bit
3 before 3:00?

4 A. No.

5 Q. I guess I should ask that better. You
6 don't know, or you don't recall if they did?

7 A. To the best of my knowledge, they did not.

8 Q. Okay. Explain to me what happened when
9 you got underground on April the 5th?

10 A. We proceeded to our mantrip. The men
11 started getting on the mantrip. You'll have to
12 bear with me.

13 Q. That's fine. If you need a break, we'll
14 take a break, Kevin.

15 A. We put our stuff on the mantrip. We had a
16 telephone hanging there beside it. I went to the
17 telephone to call for the road.

18 I had my radio on my bib pockets, but some
19 reason I went to the telephone that day to call for
20 the road.

21 I paged and called a dispatcher one time
22 and did not receive an answer. I started to page
23 again.

24 And about that time, dust and air hit me

1 in the face, and I immediately went into the break
2 right beside where the phone was and told my men to
3 get off the mantrip.

4 They -- one boy came all the way to me and
5 asked me what was going on, and I told him I wasn't
6 sure.

7 At the time, the amount of time that the
8 dust and the air had hit us, I told him that we had
9 one hell of a rock fall or that we had had an
10 explosion.

11 And I told him, stay in the break. I told
12 him -- I first told him to get his rescuer on. My
13 spotter was not going off. I didn't have any
14 problem with CO at that time.

15 I looked around and actually was going to
16 get my spotter out -- or, I'm sorry, my rescuer
17 out. Behind the mantrip there was three of my men
18 down out of the dust. I turned around to the boy
19 that was with me, and I just told him lets get out
20 of here.

21 At that time he told me that he didn't
22 have a hat on, it had blown his hat off or
23 something had happened to his hat. He told me that
24 he didn't have a hat on. And I think I told him

1 something to the effect of to hell with the hat, we
2 can get you another one. And we started back
3 outside.

4 As we went out, the other men jumped and
5 run with us, and one of their hats flew off. There
6 was a statement made, I said something about there
7 was a hat right here in front of me. I didn't know
8 if it was Dustin's or not, and the other boy told
9 me it was his hat.

10 I had told Dustin -- I had to shine him a
11 light to be able to see to get outside, and we went
12 back outside.

13 Q. Okay. So you said you was standing at the
14 -- or you had went to the -- it's the mine page
15 phone?

16 A. Yes, sir.

17 Q. To call the dispatcher?

18 A. Yes, sir.

19 Q. But you did not get ahold of the
20 dispatcher?

21 A. No, sir.

22 Q. Okay. And so you was standing at the
23 phone when things started happening?

24 A. Yes, sir.

1 Q. Did power go off?

2 A. Yes, sir.

3 Q. Did lights go off?

4 A. Yes, sir.

5 Q. Okay. And the phone you're talking about,
6 is it near where the mantrip was on charge?

7 A. Yes, sir, it was.

8 Q. Okay. So you was not in the mantrip?

9 A. No, sir.

10 Q. Do you normally drive the mantrip in?

11 A. Yes, sir.

12 Q. Okay. And so the mantrip wasn't moving or
13 tramping --

14 A. No.

15 Q. -- at the time of the explosion?

16 A. No.

17 Q. Okay. So you did not use your radio to
18 talk to the dispatcher, you used the mine phone?

19 A. At that time I did not.

20 Q. Okay. In the past, prior to April the
21 5th, which would you use to talk to the dispatcher
22 to get the road?

23 A. To be truthful, most of the time my radio.

24 Q. Okay. Do you recall, is there reason why

1 you used the mine phone on that day?

2 A. I have no idea.

3 Q. Okay. I want to back up to Saturday,
4 April the 3rd.

5 As I understand, you worked second shift
6 on the longwall on Saturday, April the 3rd; is that
7 correct?

8 A. Yes, sir.

9 Q. Do you remember any problems that stand
10 out in your mind on that shift at all?

11 Specifically what I'm looking at is
12 anything with any methane or any ventilation
13 problems?

14 A. No, sir, we had not had any trouble with
15 ventilation that night.

16 Q. Okay. Let me -- I've got another document
17 here. Do you -- and it's titled Longwall
18 Production Report. Do you recognize this document?

19 A. Yes, sir.

20 Q. What do you recognize it as?

21 A. It would be the production report of my
22 shift on the 3rd.

23 Q. Did you fill out one of these sheets every
24 shift you worked?

1 A. Yes, sir.

2 Q. Did every production foreman fill one out?

3 A. They were -- that was a requirement, yes,
4 sir.

5 Q. And you filled this sheet out when?

6 A. Some of it we would fill out underground.
7 When we got outside, we would finish it up if there
8 was anything to be finished on it.

9 Q. Okay. Does this appear to be your
10 production report for the evening shift on the 3rd
11 of April?

12 A. Yes, sir.

13 Q. Okay. And how do you determine that that
14 is your report?

15 A. It's got my name on it, not signed, but
16 the way that I usually put it on a report.

17 Q. Okay. Then does it also have the date on
18 there?

19 A. Yes, sir, it does.

20 Q. And does it have the shift that you
21 worked?

22 A. Yes, sir, evening shift.

23 Q. Evening shift. Actually, I think it says
24 EVE?

1 A. EVE, that's the way we wrote it down most
2 of the time.

3 Q. Okay. I want to draw your attention right
4 over here to this area where it says, Head feet
5 total and tail feet total. Do you see those two
6 numbers?

7 A. Yes, sir.

8 Q. Do you see there's 13 beside head feet
9 total and 23 besides tail feet?

10 A. Yes, sir.

11 Q. What do those two numbers mean?

12 A. That means that we was swinging the tail.

13 Q. Okay. Explain that to me.

14 A. A longwall -- a longwall is just like a
15 miner. You steer it. So you -- if one end gets
16 ahead of the other and your line is straight, it
17 will start walking to the opposite direction.

18 And you either have to advance the tail or
19 the head, or you advance -- to make it go the way
20 you want it to go, you advance the head or the tail
21 to steer it.

22 Q. So on this particular shift here, it
23 appears that the tail was advanced more than the
24 head?

1 A. Yes.

2 Q. And so which direction would you have been
3 trying to steer the longwall?

4 A. If it was -- if both ends of the line were
5 straight at that time, I would -- by this
6 indication, I would have been trying to steer it to
7 the head.

8 Q. Who makes that decision of when to take
9 more footage off of one end or the other and try to
10 steer it?

11 A. Usually the foreman.

12 Q. That would be --

13 A. Me.

14 Q. -- you?

15 A. Yes, sir.

16 Q. Does the longwall coordinator or
17 superintendent or anybody in management ever make
18 those decisions?

19 A. Yes, sir.

20 Q. Do you recall on this particular day that
21 anybody gave you any instructions, as far as to cut
22 off of the tail?

23 A. I cannot recall that, no.

24 Q. Okay. Let me show you another report

1 also.

2 MR. KOERBER: Let's mark that one as
3 Exhibit 5.

4 (Exhibit No. 5 marked for
5 identification.)

6 MR. WILSON: Mark the Longwall Production
7 Report as Exhibit K. Medley 5.

8 MR. CRIPPS: That's another production
9 report. That's from the day shift on the 3rd.

10 MR. WILSON: Exhibit 4 was for the evening
11 shift.

12 MR. CRIPPS: Exhibit 5 was for the --

13 MR. WILSON: Yes, 5 was for the evening
14 shift and 6 was for the day shift.

15 (Exhibit No. 6 marked for
16 identification.)

17 BY MR. CRIPPS:

18 Q. The second sheet I've got out here, Kevin,
19 it's also a Longwall Production Report, and the
20 date on it is 4/3, and it says, Day, beside shift,
21 and so this is for the day shift on Saturday, April
22 the 3rd?

23 A. Yes, sir.

24 Q. The line on the top beside foreman, it

1 says, M. Webb. Do you know who that is?

2 A. Mike Webb.

3 Q. And who is he?

4 A. He is the other crew foreman.

5 Q. So he would have been the section foreman
6 on day shift?

7 A. On that date, yes, sir.

8 Q. On that date.

9 And this is the day shift on Saturday the
10 3rd?

11 A. Yes, sir.

12 Q. And this is the second shift on Saturday
13 the 3rd?

14 A. Yes, sir.

15 Q. So these are back to back shifts. Do you
16 agree with that?

17 A. Yes.

18 Q. If you'll notice here on the line where it
19 says, Head feet total and tail feet total, it looks
20 like you cut 10 feet off the head and 23 off the
21 tail.

22 A. Yes, sir.

23 Q. Explain that to me, if you would.

24 A. Basically the same as mining. We were

1 steering the face around. That's, I mean, at times
2 -- to steer the face on the longwall, you may have
3 to get one end ahead or behind 30 foot to make it
4 show up and let it go, and apparently we just both
5 advanced it 23 foot.

6 The tail may have been behind, and we was
7 swinging it to straighten the line back up.

8 Q. Okay. Do you recall, in the shifts prior
9 to this, had you moved the whole face towards the
10 tail for any reason?

11 A. I do not recall that.

12 Q. Okay. But with the footages that you see
13 here, it looks like in those two shifts the head
14 was mined 23 feet and the tail was mined 46 feet?

15 A. Yes, sir.

16 Q. With those totals, does it appear to you
17 like you was trying to move the longwall back
18 towards the headgate?

19 A. I will not say that we were moving it back
20 toward the headgate. We may have been stopping it
21 from moving to the tailgate.

22 Q. Okay. That's fair enough. I understand.

23 We also have head start, head finish, tail
24 start, tail finish --

1 A. Yes, sir.

2 Q. -- and there's numbers beside them.

3 What are those numbers?

4 A. They hung spads. The engineers put up
5 spads. Well, I call it spads. They put up tags on
6 the tail and the head, and they were marked. Like
7 54 plus 42, that would be 5400, 42 foot.

8 Q. That is the actual location of the face --

9 A. Yes, sir.

10 Q. -- itself?

11 A. Yes, sir.

12 Q. So I'm going to look here at your
13 production report for the evening shift on the 3rd,
14 and it shows the head finishes 54, 65, and the tail
15 finishes 54 plus 69?

16 A. Yes, sir.

17 Q. Does that indicate that the tail is four
18 feet farther outby than the head?

19 A. Yes, sir.

20 Q. That's what that means?

21 A. (Witness nods.)

22 Q. Okay. Let me go back here to -- on the
23 day shift, on the 3rd, it says the head start was
24 54, 42, and the tail start was 54 plus 23.

1 If I do my math right, then that indicates
2 that the tail would have been 19 feet in by the
3 head --

4 A. Yes.

5 Q. -- at the start of the shift?

6 A. Yes.

7 Q. Okay. How did you, you and the other
8 bosses, acquire these numbers?

9 A. On the head, we measured them because we
10 were able to get to them. So much at the time on
11 the tail, because of conditions on the tail, rock,
12 the top being bad, getting bad, we didn't measure
13 those on the tail. We figured them.

14 A longwall normally takes about -- or a
15 shear, I'm sorry, a shear takes about three
16 and a half foot on the pass.

17 So if it -- if the top was bad on the
18 tail, we would figure a cut out and a shuffle as
19 being seven foot.

20 Q. Okay.

21 A. It was not always that accurate on the
22 tail.

23 Q. Okay. Down here at the bottom of Mike's
24 report it says -- he's got a notation there,

1 Dropped head to even out the face.

2 A. Yes.

3 Q. What exactly does that mean?

4 A. You could do the same thing by -- if you
5 take a wedge, you take a wedge, then you cut out,
6 you cut from, like, mid face to the tail, shuffle
7 in, come back.

8 If you take the second wedge, then you
9 would take, like, from mid face, you would turn
10 right around, come back to the tail, cut it again,
11 shuffle in and come back.

12 If you go all the way to the head at that
13 time, then you just cut -- that's one pass. That's
14 a pass, full pass.

15 Q. Okay.

16 A. If you drop a place, you may cut -- excuse
17 me. On this report here, you can tell that Mike,
18 on this line, the fourth line -- I'm sorry, the
19 sixth line down, the first entry into that is T-8.

20 He cut from the tail to No. 8 Shield. He
21 did not cut all the way out on the head. And he
22 turned around then and went back, and that's called
23 dropping the head.

24 That has the same effect as wedging to

1 swing your face by dropping one end or the other.
2 Sometimes you can gain that direction turn a whole
3 lot quicker.

4 Q. Okay. So if you or Mike or the other
5 foreman was actually going to drop the head on a
6 pass and the shear is down on the face somewhere,
7 and if a person was to walk up to the headgate,
8 what would be the condition of the pan line and the
9 shields in the headgate area?

10 Would they be pulled? Would they be
11 back? Would the pan be against the conveyer, or
12 the face, or would it be back?

13 A. The pan line would be against the face.

14 Q. And so when they're cutting, they would
15 just stop before they got all the way to the head
16 and turn around and go back?

17 A. Not really. Because to try to keep the
18 face looking reasonably straight, you wanted it
19 straight, you had to cut -- you dropped your
20 shields in or out, stepped them, stepped them in or
21 out.

22 So you wouldn't come to one point and just
23 stop. You would try to step it in or out. If you
24 couldn't do that, at times you had to leave that

1 open like that, and then you would step in going
2 back to cut in.

3 And when you made your pass all the way
4 across the face, that would correct that stepped
5 out place in the face.

6 Q. Okay. And the reason I ask the -- right
7 now, the face at UBB --

8 A. Yes, sir.

9 Q. -- up at the headgate, and maybe you know
10 this because there has been several people, you
11 know, up there with us during our investigation,
12 but the shields -- the shear is at the tailgate?

13 A. Yes, sir.

14 Q. But the shields and the pan line are both
15 back up at the headgate. The shield has never been
16 pulled in, the pan has never been pushed over it.

17 Do you have any thoughts of why that might
18 be?

19 A. No. No, I do not.

20 Q. You've never seen them take a wedge cut or
21 drop the head off by doing it like that?

22 A. I do not recall it.

23 Would you explain to me again how you said
24 that the head was?

1 Q. Okay. Take a cut out at the head and do
2 your shuffle?

3 A. Yes, sir.

4 Q. When the shear takes off to the tail --

5 A. Yes, sir.

6 Q. -- you have a wide -- a gap between the
7 pan line and the face; is that correct?

8 A. Yes, sir.

9 Q. And you have to pull the shields in?

10 A. Yes.

11 Q. And then push the pan. Is that normal?

12 A. Yes.

13 Q. Okay. It appears like the shear cut out
14 at the head and then mined to the tail, but both
15 shields were pulled in at the headgate and the pan
16 was not pushed over?

17 A. I can't tell you why that that would be
18 like that, no.

19 Q. Okay. Bear with me here. I had some more
20 I need to talk to you about your shift on April the
21 3rd, and I'll get my notes here.

22 Tell you what, I'm going to take break and
23 give somebody else a chance to talk a little bit.

24 MR. TUCKER: Just a thought, a quick

1 follow-up on that, Dean.

2 By that not being pulled up like that,
3 then would you consider that unusual up on the
4 head?

5 THE WITNESS: Yes.

6 MR. TUCKER: Okay.

7 Do you have anything, Jasey?

8 MR. MAGGARD: I got a few questions.

9 EXAMINATION

10 BY MR. MAGGARD:

11 Q. I understand that you didn't go out into
12 this tail hardly any; is that correct?

13 A. We had a place in the tail that we were to
14 take an air reading if the top would allow it.

15 Q. Okay. There's a stopping on this map
16 right here that's, you know, outby the longwall
17 face. Who was responsible for removing that
18 stopping or --

19 A. Foreman on the longwall.

20 Q. Okay. And who would that normally be?

21 A. Dependent upon the shift.

22 Q. So that would be a job that you would have
23 to do?

24 A. I would do that at times, yes, sir.

1 Q. Okay. And when you would remove that
2 stopping, how much of it would you remove
3 normally? How did you go about that? How did you
4 know what to do?

5 A. It could be completely open, my
6 understanding, after we passed the break above it,
7 and we had to go out, take a sledgehammer and just
8 beat it out.

9 Q. Okay. Are there -- would you normally
10 remove the whole stopping or sometimes just part of
11 it?

12 A. Most of the time just part of it.

13 Q. Okay. And what was the reason for just
14 removing part of it?

15 A. Most of the time because we got tired.

16 Q. Okay. And when you removed that stopping,
17 did you ever notice any kind of changes in methane
18 or anything unusual that were going on on the tail
19 side of the longwall?

20 A. No, sir.

21 Q. Did you ever notice that -- you said once
22 you passed this crosscut, and this one is showing a
23 regulator on it --

24 A. Yes.

1 Q. -- where would you normally go -- how
2 quick after you passed this, this crosscut right
3 here, how quick would you go and remove a portion
4 of that stopping?

5 A. We tried to come down here and take that
6 stopping out, or part of that stopping, as soon as
7 we passed the outby corner of that inner break.

8 Q. When you passed this corner right here,
9 how quick was it falling out inby you back toward
10 Bandytown?

11 A. I cannot tell you that. I don't know.
12 Reasonably, I can't answer that.

13 Q. Okay. Say you were coming over to this
14 tail, was it very often that you would see that it
15 had already caved in when you entered the tail to
16 work on that stopping?

17 A. When I come out, that back break has been
18 opened several times.

19 Q. Has there been times that it hasn't been?

20 A. Yes, sir.

21 Q. Would you have problems on the tail side
22 of the longwall when it had caved in, as far as air
23 flowing direction?

24 A. No. When that break in behind us caved

1 in, I have not had trouble out of the ventilation
2 or methane.

3 Q. Okay. I noticed in your last interview
4 that you -- the headgate operator, you mentioned
5 that he had seen point three percent.

6 A. Yes, sir.

7 Q. Was that on the tail?

8 A. Yes, sir.

9 Q. How long ago, prior to April the 5th, do
10 you recall that that possibly could have been?

11 A. I think that that was a prior time that I
12 was up bossing the face. I cannot tell you how
13 long that was.

14 Q. Okay. When you -- say if you had methane
15 accumulating in here, or anywhere across the face,
16 would you ever have to use any kind of curtains or
17 anything to sweep out an area around the pan line
18 or anything like that?

19 A. No.

20 Q. So you never had to do that?

21 A. We have not, on normal running like this,
22 when you first start a face up, to maintain your
23 air a lot of the times you have to put up curtain.

24 Q. But prior to April the 5th, you don't

1 remember ever having to -- any kind of methane you
2 had to sweep out of the area?

3 A. No.

4 Q. I noticed you did carry a Solaris every
5 day?

6 A. Yes.

7 Q. And that Solaris, was it turned in to the
8 company to have the data downloaded from the
9 instrument?

10 A. I'm pretty sure it had.

11 Q. Okay. And it was -- and I looked at that,
12 and, you know, I noticed that you were pretty good
13 about doing calibrations, and you also put it in
14 the log like you were supposed to, and that was a
15 good thing.

16 But I noticed in your last interview that
17 you said that you had only seen maybe point one
18 percent or something real low as far as a methane
19 reading on that Solaris?

20 A. Lately, that was some of the highest ones
21 I had got, yes.

22 Q. I also had seen on March the 20th that you
23 had a reading and an alarm of one point one
24 percent. Do you ever recall getting an alarm?

1 A. One point one percent, no, sir.

2 Q. Okay. And that was toward the end of the
3 shift. I think you guys were working evening shift
4 that night?

5 A. I know when that might have been.

6 Q. Okay. Could you help me out on that?

7 A. I had a bleeder on the face and it was in
8 the water hole. I stuck my Solaris right down to
9 it.

10 Q. Okay. Was that in the walkway or where
11 was --

12 A. It was in the walkway.

13 Q. Was it close to the tail end or mid face,
14 or do you recall where it was at?

15 A. No. No, I do not.

16 Q. Okay. I noticed that -- we talked to some
17 of your crew that worked on the longwall, and that
18 one of your shear operators had mentioned that
19 there was some pop offs and some fire valves that
20 he had seen when cutting with the shear. Do you
21 remember ever seeing any of those?

22 A. I never saw one, no.

23 Q. Okay. And did you ever remember the guys
24 on your crew mentioning it?

1 A. Yes, sir.

2 Q. Do you remember when that was or when the
3 last time --

4 A. That had been a long time ago.

5 Q. Okay. Was that on this panel?

6 A. No, sir.

7 Q. Okay. How many had they seen, do you
8 recall? Was that happening --

9 A. I cannot tell you that. The only time
10 that it was ever even mentioned to me, my
11 understanding, it happened one day and they told me
12 about it the next. I didn't even know about the
13 first time.

14 Q. Okay. Do you recall where they said it
15 was happening at?

16 A. No.

17 Q. Okay. As far as -- could you kind of walk
18 me through, like, a normal day. Say, let's start
19 with a day shift, what you normally have to do when
20 you arrive on the section? What's the normal
21 process for a production foreman like yourself?
22 What do you do on a normal shift?

23 Just start me out from when you come
24 inside and --

1 face from there, meet the other crew, either there
2 or sometimes we would go all the way on to the face
3 and meet them.

4 Usually I stop at the tool boxes, put up
5 my lunch bucket. Went on up, check the emergency
6 phone, check the curtains at the break out by the
7 face to make sure they were up, then would go
8 through the break going into the face and start
9 producing coal.

10 Q. Okay. Would you -- later on in that shift
11 you would do a pre-shift for the evening shift; is
12 that correct?

13 A. Yes, sir.

14 Q. Tell me what all that entailed?

15 A. We would go across and check, out to the
16 mule train, check for hazards, loose rock, come to
17 the face. Depending upon where I was when I
18 started, I may start at the tail or I may start at
19 the mule train, go across the face.

20 If I was on the tail, I would check my
21 areas there, take my air readings, come across the
22 face, go out on the head, take my air readings
23 there, check the emergency phone again, check my
24 curtains, check the area down to the push pull

1 device on the monorail.

2 Usually didn't go beyond that, because
3 that was not -- that was outby on the tailpiece.
4 That was a belt examiner's area at the check. That
5 was usually where the extent of my men's work would
6 be.

7 Go down the roadway to the mule train,
8 check the chargers, power centers and in that area.

9 Q. Okay. And when you took your air
10 readings, where would you take those at?

11 A. Had to take one at 160 Shield, No. 9
12 Shield, on the intake end of the longwall, then you
13 had a couple of places, MPA and MPB.

14 MPB was at the tail end of the wall. MPA
15 was at the curtains on the head end of the wall.

16 Q. Okay. So you would get -- let's say on
17 the intake of the wall, was that one entry that
18 you would have to take a reading, or how would you
19 get it?

20 A. I took it in the open crosscut going into
21 the wall.

22 Q. Okay. Did you ever add or subtract air
23 coming up the belt line?

24 A. We checked it periodically. If I had

1 enough air going in on the face to make my, you
2 know, to be legal, then I didn't add or check
3 anything as far as the belt line.

4 Q. Okay. The MP point on the tail, would you
5 take an air reading there?

6 A. We were supposed to check and see if it
7 was flowing into the gob.

8 Q. Okay. And how would you check that to see
9 that it was going into the gob?

10 A. Just the feel of the air.

11 Q. Okay. Would you ever use a smoke tube or
12 anything?

13 A. Didn't keep a smoke tube with me, but a
14 handful of rock dust throwed up in there, a lot of
15 times it will tell you what it's doing.

16 Q. As far as doing dates, times and initials
17 at points along your route during the exam, where
18 would you put dates, times and initials?

19 A. Usually on the tail drive at 160, 20
20 shields, stepped out from there to the head. No. 9
21 Shield, usually somewhere in that break, tried to
22 mark up there on the stage loader, down on the
23 cable hangers on the monorail. And usually at the
24 chargers and the power centers, we had date boards.

1 Q. Okay. Say you were in production, you
2 were doing your -- you had finished your exam, the
3 next crew come on was there anything that -- how
4 would that work? How would change out normally go
5 for you guys?

6 A. They just come up to the equipment. They
7 would have their -- or to the shear. They would
8 have their packman and they would come to us. We'd
9 turn our packman off and go off the face, they
10 would start up.

11 Q. So you would be cutting, and you would see
12 those guys normally, and you would stop and turn
13 your packmans off --

14 A. Yes.

15 Q. -- and they would turn theirs on and
16 start?

17 A. Pick the shear back up.

18 Q. Start back up where you left off?

19 A. Yes, sir.

20 Q. Let me ask you about problems, if you had
21 -- first let me ask you this. The drums on the
22 shear, we understand that they were changed
23 recently. Do you recall when that was?

24 A. No, sir, I do not.

1 Q. Would it be months prior or weeks prior,
2 or do you recall?

3 A. I can't even recall that. I cannot tell
4 you.

5 Q. Did your shift have any -- perform any
6 work when that was done as far as changing out the
7 drums?

8 A. I do not recall that either.

9 Q. Okay. But do you recall that the drums
10 were changed on this panel?

11 A. I know they had been on this panel, yes.

12 Q. Okay. Do you know if they were having any
13 problems out of the old drums that were removed
14 from the shear?

15 A. I'm sure we were having a problem or we
16 wouldn't have changed the drums.

17 Q. Yeah, I was just wondering if you knew
18 what problems they were having. Were they worn
19 out? What was --

20 A. Probably were. They probably were worn
21 out.

22 Q. Okay. And what problems happened when the
23 drums get worn?

24 A. They'll throw bits, break bits.

1 Q. Anything else that happens when they get
2 worn?

3 A. No. I've not seen anything else, or don't
4 know of anything else, no.

5 Q. Okay. Will they throw any sprays out when
6 they're worn?

7 A. I don't know. I don't know if they do or
8 not.

9 Q. Okay. Have you -- what's the most number
10 of sprays you ever seen missing out of a drum when
11 you set bits?

12 A. I didn't. I didn't see any missing. We
13 set our -- we put our sprays back in. If a spray
14 come out, we put it in.

15 Q. Do you recall the most number you ever
16 seen out, or is it just a --

17 A. One.

18 Q. Okay. And do you know why it come out?

19 A. No. No, I do not.

20 Q. Was working on sprays something that you
21 done or something that shear operators would do or
22 electricians would take care of?

23 A. Shear operators and the electricians.

24 Q. Okay. Was that something they done

1 regularly or just when they need them?

2 A. If they saw a spray out, they were to
3 replace it. Then to actually, what you'd say, work
4 on them, usually when it was bit up time.

5 Q. Okay. And normally, I noticed some of the
6 call out reports, you know, they would show that
7 you bit up twice during a shift.

8 A. Yes.

9 Q. I think in your last interview you maybe
10 had some occurrences you had to bit up more than
11 twice?

12 A. Yes, sir.

13 Q. Was a couple times a shift pretty normal
14 as far as bitting up?

15 A. It really just depended on the conditions
16 you were cutting in. If you had real hard, you
17 know, sandstone, you may bit up four or five, six
18 times.

19 But I wouldn't say that during the time --
20 during this time, I wouldn't say that two times
21 bitting up in a day would be abnormal.

22 Q. Okay. Say if you needed to bit up and
23 you would cut out on the tail, would you normally
24 wait until the shuffle was completed before you

1 would bit up, or when would you do it on the tail
2 side?

3 A. Usually it was the same thing. I mean,
4 same as on the head.

5 Q. Okay. And when you say "same as on the
6 head," could you explain that?

7 A. We'd usually cut out and shuffle in, and
8 then we would set bits.

9 Q. When they change the drums, which I know
10 you don't recall when that was, did you have any
11 kind of problems with the new drum?

12 A. A lot of the times new drums will have
13 some rust problems inside of them, and I guess it
14 was standard practice to pop a few sprays, try to
15 run a little bit, bounce them and then try to put
16 them back in.

17 Q. Okay. I think some of the guys had
18 mentioned that there was probably some problems
19 with slag from new drums?

20 A. Uh-huh.

21 Q. Does that make sense? Is that a
22 reasonable statement?

23 A. Rust and slag usually would be -- you
24 would be having trouble with your bits stopping --

1 or your sprays stopping up.

2 Q. Okay. And if you had that problem, how
3 would you cure it?

4 A. The only thing we ever did was try to let
5 them flush out, pull a few sprays and run them,
6 like I said, bounce them.

7 If they would get, you know, if they got
8 to where they would clean out, put the sprays back
9 and run, stop again, clean them out, just whatever
10 you had to do to make it through, and then let the
11 owl try to do something for them, if the could.

12 Q. How many sprays would you take out when
13 you was running into clogging problems?

14 A. A lot of times you'd take sprays out and
15 clean them, put them back. If you left them out to
16 try to open them up, you wouldn't take over two or
17 three out at a time.

18 Q. Okay. You might help me here. We have a
19 maintenance report --

20 A. Yes.

21 Q. -- that was done on your shift, and it was
22 -- this was actually on March the 1st.

23 And if you could read this handwritten
24 part right here, this was done by Tom Estep on your

1 shift. If you could read that for me, I would
2 appreciate it.

3 MR. SEARS: Is that your handwriting?

4 MR. MAGGARD: That's Tom Estep.

5 A. Added five-gallon oil to tail end ranging
6 arm. Had no water on either drum. Cleaned several
7 and stopped right back up. Removed eight on each
8 end. Ran like that rest of shift to try and flush
9 drums. Told third shift.

10 Q. So if you notice on this day, he removed
11 eight on each drum?

12 A. Uh-huh.

13 Q. Okay. Had that -- was that happening a
14 lot to you guys, as far as sprays clogging up at
15 UBB?

16 A. No. No, I wouldn't say it was happening a
17 lot.

18 Q. So during a -- I notice, you know, when we
19 were doing this investigation, we had seen a lot of
20 problems with -- they had a lot of mud problems, I
21 think, in the water system.

22 And had you ever noticed anything like
23 that when they were unclogging sprays or changing
24 filter baskets out?

1 A. Changing filter baskets. I've seen them
2 changed, and changing them constantly, I mean.

3 On the car that they're on, you would
4 have, like, five filters. You would change a
5 filter, put it in, change the next filter, put that
6 one in, right down the line. When you got No. 5,
7 you went back to No. 1 and started over again, just
8 like that.

9 Q. Did you ever recall them using socks and
10 then later on quit using socks? How did they use
11 socks for the filter baskets?

12 A. I don't understand exactly what you're
13 asking me.

14 Q. Okay. You've got a metal basket; right?

15 A. Yes, sir.

16 Q. Okay. Overtop of this basket sometimes
17 they place a sock?

18 A. Yes.

19 Q. An additional sock?

20 A. Uh-huh.

21 Q. And when -- on April 5th we didn't find
22 any socks -- or after -- during the investigation.

23 I was wondering if you knew when they used
24 socks, or if they didn't normally use socks for

1 those baskets?

2 A. As far as I know, we always used socks in
3 the baskets. I've never known of them taking them
4 out.

5 Q. Okay. Did you notice different types of
6 weather conditions, say, rainy days, maybe during a
7 weekend that they had more trouble with the water
8 filters on the section?

9 A. After we had had flood conditions on the
10 river, we did at times have more problem right
11 after that.

12 Q. Okay. Is that the reason that they went
13 to a fresh water supply for the emulsion water?

14 A. I think it was.

15 Q. Do you remember when they started trying
16 to use fresh water for that?

17 A. I cannot tell you when they actually
18 started trying to use the emulsion. They had
19 worked on it for a pretty good while.

20 Q. Was it on this panel, or had they tried it
21 on a previous panel?

22 A. As far as I know, this was the only panel
23 I was on at UBB, so this would have been the only
24 panel I knew of them trying it.

1 Q. As far as checking water pressure on the
2 shear, who would have done that work?

3 A. That would have been done at bit up. That
4 would have been your mechanics, one of them.

5 Q. Would he normally do it every day or a
6 couple times a week?

7 A. He was -- it was set up to do it every
8 shift.

9 Q. Do you know if he did it every shift?

10 A. I cannot tell you that. I do not know.

11 Q. Okay. As far as the sprays, the way they
12 were spraying the evening shift of April 3rd, what
13 could you say about it? Was you having problems
14 with the sprays clogging up on April 3rd?

15 A. I was not aware of it if they was. Nobody
16 had told me.

17 Q. Had you watched the shear operate and --

18 A. I had been around the shear at times

19 Q. Did they change out any sprays during that
20 shift that you know of?

21 A. I don't recall it.

22 Q. I know this is March the 1st, but do you
23 recall that they may have had to take some sprays
24 out because of the drums clogging up, because of

1 slag or mud or anything else, that evening on April
2 3rd?

3 MR. WILSON: April 3rd or March 1st?

4 MR. MAGGARD: April 3rd. This is March
5 1st. They've had to do this before. I'm asking
6 him if they had to do it on April 3rd.

7 A. I do not recall it, no.

8 MR. WILSON: Do you want to mark that as
9 an exhibit? This is the March.

10 MR. CRIPPS: March 1st Maintenance Report.

11 MR. WILSON: March 1st Maintenance Report,
12 and mark that K. Medley 7.

13 (Exhibit No. 7 marked for
14 identification.)

15 Q. Kevin, when a spray gets clogged, have you
16 ever had to clean them yourself?

17 A. Have I ever cleaned them?

18 Q. Yeah.

19 A. I have.

20 Q. Okay. And when you clean a spray, how do
21 you do that? What do you have to do?

22 A. You have to take it apart and use a piece
23 of wire or tip cleaner, clean it out, put it back
24 together.

1 Q. Okay. Have you ever taken any out that
2 you didn't have to take apart, that the insert was
3 already removed?

4 A. No, not that I recall.

5 Q. Okay. Had you ever noticed that the --
6 how would you describe a spray pattern out of a
7 spray? Would it shoot a straight stream, a thin
8 stream on a lot of them, or would it --

9 A. It would spread out.

10 Q. Would it be like a cone, some of them, or
11 how did it look, or did it vary per spray with
12 different sprays?

13 A. It varied because of the type of spray
14 that you used.

15 Q. Okay. Let's just talk about the drums.
16 Did it vary on the drums and the ranging arms?

17 A. I don't recall. It may have.

18 Q. Okay. When you -- if you could recall
19 back when you had problems flushing out the drums
20 and you had to remove sprays, did you notice how
21 the water was flowing through the drum, how it was,
22 when you were cutting, how it -- the water sprays?
23 Would it kind of throw it out toward the bottom?

24 A. Sometimes when you first started up, it

1 would just -- it would just, more or less, trickle
2 out, and then as you run that drum just a minute it
3 would start spraying out.

4 MR. MAGGARD: Have we got a picture of
5 that?

6 MR. CRIPPS: Certainly.

7 Q. This is a picture of the tail drum at
8 UBB. And if you notice, you can see some of the
9 missing sprays on this drum where there's big
10 streams of water that look like, you know, that
11 look like a water hose without the nozzle on it,
12 you know, big wide streams.

13 Would that be something that you would see
14 if you had sprays out?

15 A. The more sprays you had out, the more that
16 it would do that.

17 Q. Okay. And with sprays out, would you be
18 able to have pressure on the drum as far as what
19 the plan would require?

20 A. I don't know that.

21 Q. When the guys -- when you did see them
22 take pressure readings on the shear, where would
23 they take that at?

24 A. I think they had a block on the front side

1 over on the shear that they could hose up in.

2 Q. Did you ever see them take a pressure
3 reading on the drums?

4 A. I don't recall that.

5 Q. I know I'm going to switch gears a little
6 bit here just for a minute.

7 How long would it take you --

8 MR. KOERBER: Let's mark that picture as
9 Exhibit 8.

10 MR. MAGGARD: Thank you.

11 (Exhibit No. 8 marked for
12 identification.)

13 Q. How long would it take you to ride in on a
14 mantrip to the longwall section from the Ellis
15 portal?

16 A. From Ellis portal it would have been about
17 45 minute, maybe 50.

18 Q. Could you estimate how long it would take
19 to walk from the longwall section to Ellis portal?

20 A. Hour and a half, maybe two hours.

21 Q. Just for clarification, you talked about
22 maybe doing an escapeway drill from the longwall
23 and you traveled the primary, and you did a fire
24 drill for the tailpiece, I believe.

1 A. Yes.

2 Q. Okay. When you did the primary escapeway
3 drill, did you travel somewhere outby, or did you
4 all walk all the way to Ellis portal that day?

5 A. In the primary? Primary we traveled it.
6 We did not walk it all because our primary went
7 down the track from the power center to a location
8 on our track way. And we would ride to there and
9 get off, and then go from there in the walk.

10 Q. Okay. So the last escapeway drill that
11 you did, you actually walked the primary out from
12 where you got off the mantrip all the way outside?

13 A. Yes, sir, I believe we did.

14 MR. MAGGARD: Okay.

15 EXAMINATION

16 BY MR. TUCKER:

17 Q. Just got a couple follow-up questions
18 there. Jasey and Dean was pretty thorough,
19 answered a lot of the questions I had down
20 already.

21 Reading over your first transcript, Kevin,
22 and I know we've talked about it some today, about
23 the top, and you mentioned about hearing bumps
24 sometimes, which would be normal along the

1 longwall.

2 A. Uh-huh, yes.

3 Q. I know it's been a long time. But the
4 Saturday, you know, your last shift that you worked
5 there on production, just thinking back, does
6 anything stand out in your mind as far as the top
7 working unusually high up or anything, any type of
8 thing that would stand out in your mind that was
9 going on back in the gob?

10 A. Not really.

11 Q. Okay. You mentioned -- I know you had
12 some hard cutting there at the tail with your
13 cutting sandstone, getting your height --

14 A. Yes.

15 Q. -- cutting top and bottom.

16 So with that in mind, where you are having
17 to cut, you know, more top than normal, could you
18 tell, the time that you spent at the tail, could
19 you tell how your air was traveling from the shear
20 out into the tail? Did it seem to -- how would you
21 describe that, as far as the dust?

22 A. It was traveling from the face of the
23 longwall into the break behind us.

24 Q. Okay. Toward the gob?

1 A. Yes, sir.

2 Q. When you say "behind"?

3 A. Yes, sir.

4 Q. Okay. Did it seem to be pulling strong or
5 anything --

6 A. We had a normal air reading. I don't
7 think it was excessive pressure or anything like
8 that.

9 Q. Okay. Now you mentioned, you know, about
10 your MP readings, they hit on that a little bit,
11 out in the tail. Did you ever recall using an
12 anemometer for any type of readings, those MP
13 locations in the tail?

14 A. Yes.

15 Q. Can you recall roughly, you know, week or
16 whatever, the last time maybe you had done that,
17 that you can recall what type of reading you may
18 have got?

19 A. No. No, I cannot.

20 Q. Timewise, do you have any idea?

21 A. No, not right off.

22 Q. Okay. But within a couple weeks prior to
23 April 5th, as far as the -- any times that you may
24 have been in the tail entry, did the air seem to be

1 traveling in the way it should?

2 A. Yes.

3 Q. How would you describe the top in general,
4 as far as in the tailgate?

5 A. We had some problems at times, props were
6 broke up pretty bad, showing a lot of pressure, had
7 some localized top problems. We was cutting sand
8 rock. I mean, it was hard.

9 Q. So when you was in the sand rock, when you
10 was typically cutting a lot of rock, would you
11 expect the top and the tail maybe to be standing --
12 holding up a little better than normal?

13 A. It stood back behind the sump when we were
14 in sand rock.

15 Q. Since the cutting was so hard on the tail,
16 would that play any role or have anything to do
17 with the tail getting behind?

18 A. No.

19 Q. Okay. Reason I ask, I mean, I don't have
20 longwall experience. I've never actually worked on
21 a longwall. I know on a miner section a lot times
22 a crew compete on production, you may get a couple
23 easy cuts. And if the cutting is a little harder
24 on the tail, I just wondered if that ever played a

1 role in cutting toward the head a little more often
2 on a shift than the rest of production?

3 A. You had some bosses that would do that,
4 yes.

5 Q. Typically it's not -- sometimes maybe the
6 track is a little farther back on the longwall,
7 have trouble to -- do you all ever have, once you
8 ride your mantrip up to the end of the track, did
9 you ever have battery power drive that you would
10 use to go on up towards the face, or pretty much
11 just ride to the end of the track?

12 A. We road to the end of the track, and we
13 walked from there most of the time.

14 Q. Okay. Also, you know, we talked a little
15 bit last time about the situation with the water
16 being turned off and the disconnects pulled.

17 And, you know, we talked about any
18 scenarios in your mind that would -- you thought
19 maybe that it could have been, you know, been
20 having some type of a maintenance problem.

21 Is there anything that comes to your mind,
22 any particular type problems that you would have
23 that you would be -- would pull the power to be
24 working on?

1 A. No. The cable on the face, but that --
2 you wouldn't pull the whole longwall on that.

3 Q. I guess, you know, you've had a chance
4 this morning to look back over your transcript a
5 little bit.

6 And I know there's a possibility, maybe
7 even after your last interview, after you're
8 driving back down the road and you think -- well, I
9 know myself, a lot of times I'll think, well, maybe
10 I wish I would have said this, or, you know, think
11 of something maybe after you leave.

12 Is there anything that comes to your mind
13 as far as you think would be beneficial to the
14 investigation, maybe even something we hasn't
15 asked, but, you know, a couple things that come to
16 mind, you know, we talked about anything unusual on
17 the Saturday before. Does anything come to mind
18 since your last interview that maybe you thought of
19 since?

20 A. No, no.

21 Q. Okay. And as far as the call out with
22 Mr. Lane, I know we talked about that some already
23 today, but any comment or anything that was said
24 there that --

1 A. He didn't tell me any --

2 Q. -- seemed unusual?

3 MR. SCOTT: It's hard for her to take down
4 when you guys are talking on top of each other.

5 A. He didn't tell me anything about any
6 problems on the wall.

7 Q. Okay. And I know we hit on that, hit on
8 it a little bit, but as far as after you took your
9 call out and you spoke with Mr. Lane, did you
10 overhear or hear any calls coming from the longwall
11 to the outside or anybody from the outside trying
12 to call the longwall?

13 A. I don't recall anybody.

14 Q. One other question there. On the MP
15 points there in the tail when you were able to
16 check those, how many different locations in the
17 tail would you check?

18 A. The only place that the MPs ran across the
19 tail, there was -- I think there was five entries
20 across through there.

21 Q. And you checked all five entries?

22 A. A lot of the times we went all the way
23 across, yes.

24 Q. Okay. And did you take a gas test or --

1 A. I always had my gas tester with me, yes,
2 sir.

3 Q. Did it kind of just clip on, you just --

4 A. Yes.

5 Q. How did you carry your --

6 A. I carry mine on my bibs on top of them.

7 Q. So by having it like that, do you normally
8 just rely on that, or would you actually take it
9 off and take a reading?

10 A. At times I took it and raised it on up,
11 because it would hang a little lower than it
12 should.

13 MR. TUCKER: That's all I have for right
14 now. Thank you.

15 EXAMINATION

16 BY MR. BECK:

17 Q. I have just got a couple of clarifying
18 questions.

19 When you talked about having trouble with
20 the sprays plugging up because of rust or slag in
21 the drums, and you said that you would pop a few
22 sprays and then bounce them?

23 A. Uh-huh.

24 Q. What do you mean by "bounce them"?

1 A. In the normal cutting cycle, as the shear
2 would run, turning the drums, it would bounce.

3 Q. So you would be cutting coal or --

4 A. Cutting coal or sitting stationary.

5 Q. Do you know if this procedure that you
6 described was used by other longwall crews when
7 they encountered the same problem?

8 A. I do not know that, no.

9 Q. Okay. Was this procedure something that
10 was known to management on how you addressed this
11 problem? Do you know that?

12 A. I think that it was probably a standard.

13 Q. For the mine as a whole?

14 A. For the industry.

15 MR. BECK: That's all.

16 MR. WILSON: Just one thing. You made
17 reference to MPAs and MPBs.

18 THE WITNESS: PBs.

19 MR. WILSON: PBs?

20 THE WITNESS: Yes, sir.

21 MR. WILSON: Can you just explain for the
22 record what that stands for?

23 THE WITNESS: It's measuring point A,
24 measuring point B. You designate certain points,

1 and it's a place to take an air measurement to see
2 if the air is traveling in the proper direction.

3 MR. WILSON: All right.

4 EXAMINATION

5 BY MR. CRIPPS:

6 Q. Kevin, you mentioned to Jasey earlier
7 that, when you did your last open crosscut air
8 reading as part of your pre-shift, that if you had
9 the required quantity of air, you did not take an
10 air reading at the belt entry.

11 A. Right.

12 Q. Is that correct?

13 A. Yes.

14 Q. When you said "required quantity," what do
15 you mean by that?

16 A. At the time at UBB, we had 40,000.

17 Q. That was required by your ventilation
18 plan?

19 A. That is my understanding, yes, sir.

20 Q. And so if you had the quantity required by
21 your vent plan in the last open, then you would not
22 take one in the belt?

23 A. Right.

24 Q. Did you have occasions where you wouldn't

1 have the required quantity in the last open and
2 then had to take the belt reading?

3 A. I never did. We were above the
4 ventilation plan on how much air we were getting
5 there across the face.

6 Q. Okay. Did you ever take an air reading on
7 the belt line?

8 A. Yes.

9 Q. When you did, which direction was the belt
10 air going?

11 A. Inby.

12 Q. So the belt air was traveling to the face?

13 A. Yes, sir.

14 Q. Okay. The shear at UBB right now, the
15 tail drum has just cut out into the tailgate entry?

16 A. Yes, sir.

17 Q. In your experience, is that a place where
18 the shear would ever or normally be stopped to set
19 bits and work on water sprays?

20 A. Not to change bits, no, sir.

21 Q. If bits was going to be set at the
22 tailgate end of the longwall, where would it
23 normally be done?

24 A. You would -- I can't give you a definitive

1 answer on that. I would speculate 164 Shield.

2 Q. Okay. Would they normally pull shields
3 in --

4 A. Yes, sir.

5 Q. -- for the drums?

6 A. Yes, sir.

7 Q. With the tail drum out in the tailgate
8 entry, could you pull a shield in completely over
9 that drum in that position?

10 A. No. No, you should not have been able to.

11 Q. Okay. The -- could you walk out the
12 tailgate entry from the shield walkways at UBB?

13 A. Not without crawling across through the
14 face or crawling across the gob shield.

15 Q. Okay. By "gob shield," what do you mean
16 "gob shield"?

17 A. At the end of the line on the longwall,
18 there's a metal plate that's right at the gob side
19 of the tail drive, and it slides along beside us.
20 It helps to hold gob out of the shields that might
21 fall on the tail.

22 Q. Okay. Do you know how tall that gob
23 shield is?

24 A. I could only make a guess. I'd say it's

1 four and a half foot.

2 Q. Okay. Also down at the tailgate, Jasey
3 asked you earlier about hanging curtain along the
4 face.

5 A. Yes, sir.

6 Q. Do you recall ever hanging curtain from
7 the last two to three shields on the face?

8 A. No. From the last two to three shields on
9 the face?

10 Q. Yeah, like from 174 to 176, just hanging
11 curtains --

12 A. No, sir.

13 Q. -- on the shields?

14 A. No, sir, I do not remember that.

15 Q. So on April the 3rd, there was no curtain
16 hung down there?

17 A. No.

18 Q. Okay. And you don't recall ever seeing
19 curtain hung there on this face?

20 A. Not in that area, no, sir.

21 Q. What area had you recalled curtain being
22 hung?

23 A. Well, I made reference to it a while ago
24 that when we first started panel off, and it's not

1 fell in behind the face good, a lot of times you
2 have to run a curtain down the face there.

3 Q. Okay. But then after the longwall is
4 advanced and you've had good falls behind you, do
5 you still have to hang curtain?

6 A. No, sir.

7 Q. Okay. In your travels out into the
8 tailgate entry that you just talked to Bill about,
9 do you recall the track entry on that end of the
10 longwall face?

11 A. There was an old track entry over in
12 there.

13 Q. Do you ever recall seeing any mantrips
14 traveling that trip?

15 A. Not behind the wall. I've seen them in
16 there. I've seen them in that area, but not inby
17 the wall.

18 Q. Okay. By seeing "them," you're seeing
19 mantrips, is that what you're referring to?

20 A. Yes, sir.

21 Q. Okay. Where do you see them?

22 A. Not -- I can't tell you. I don't know. I
23 remember seeing mantrips on that side of the wall,
24 but I can't remember where they were at.

1 Q. Okay. Did you ever be standing on the
2 face and look --

3 A. No.

4 Q. -- across there --

5 A. No.

6 Q. -- and see a mantrip going inby?

7 A. No, sir.

8 Q. Okay. Would you expect that that would be
9 something that would be done?

10 A. I don't believe it would be.

11 Q. Okay. Do you think it's -- is it legal to
12 do that?

13 A. As far as I'm concerned it would be.
14 Because once you got -- well, the mantrip is not
15 permissible for one thing. So when you got to that
16 point, you would be illegal.

17 Q. Okay. Let me just clear -- I think I
18 asked, would it be legal to take a mantrip inby and
19 you answered --

20 A. No, sir.

21 Q. Okay. I misunderstood your answer. I
22 asked the question wrong, but ...

23 Okay. To your knowledge, has anyone ever
24 taken a non-permissible mantrip inby the longwall

1 face?

2 A. No, sir.

3 Q. Your last shift on Saturday the 3rd, do
4 you recall where you left the shear at the end of
5 the shift?

6 A. On the head.

7 Q. Do you recall if you pulled any shields in
8 over the shear?

9 A. I was not on the face right at the time
10 that we stopped running, but I had told people to
11 pull shields in.

12 Q. Okay. Why was that?

13 A. Just for added protection in that area to
14 go ahead and pull those shields in. And sometimes
15 it helps to keep the top from riding in over the
16 shields over a day or two off.

17 Q. So did you normally pull shields in over
18 the shear at the end of every shift?

19 A. No, sir.

20 Q. Okay. So why did you on this particular
21 shift?

22 A. Because we had the next day off.

23 Q. Okay. Because the next day was Easter
24 Sunday?

1 A. Yes, sir.

2 Q. So to your knowledge, the shields were
3 pulled in over the shear?

4 A. Yes, sir.

5 Q. Okay. On March the 9th, your crew was on
6 day shift and you had a problem with air in the
7 tailgate entry of the longwall, that it was
8 reversed and going outby?

9 A. Yes, sir.

10 Q. Do you remember that occurrence?

11 A. Yes, sir.

12 Q. If you remember that day, was you running
13 that day when inspectors come in and found that
14 problem, or did you shut down due to low air?

15 A. I think we were running.

16 Q. Okay. When you did your air readings on
17 the face and you had low air --

18 A. Yes.

19 Q. -- what action would you take?

20 A. Shut it down, quit producing coal, work on
21 ventilation.

22 Q. If that occurred, would the headgate
23 operator make his call out and report that the
24 longwall was down due to ventilation problems?

1 A. Yes, sir.

2 Q. Have you ever had that occur?

3 A. Not on the face. I went in once and
4 thought the air was lower than what it normally
5 was. I checked it and it was low to what we had
6 had.

7 It was still legal. I could have run, but
8 I didn't let them run until I found out what the
9 problem was with the air.

10 Q. Did you have anybody from management or
11 from outside call and urge you to run?

12 A. It didn't take it long to fix it. It
13 wouldn't have mattered if they had have called.

14 Q. Why is that?

15 A. I wouldn't run.

16 Q. Okay. Had that ever happened to you
17 before? By "that," I mean someone call you and
18 urge you to run?

19 A. They, I guess I -- no, no. I don't think
20 -- I don't think they would have called me because
21 I'm head strong.

22 Q. Okay. If you had a ventilation problem at
23 the mine, and you've got lots of experience in
24 mines, who at UBB would you talk to about the

1 ventilation problem or ventilation question?

2 A. As far as their knowledge?

3 Q. Yes.

4 A. I didn't deal with any of the outside
5 management enough to really see that in them to
6 know who to ask. I don't know. I cannot tell you.

7 Q. Okay. And you was at UBB prior to this
8 longwall starting; is that correct?

9 A. I was there prior to this panel.

10 Q. Okay. So you come there, like, in May of
11 '09, or June of '09?

12 A. Right, right.

13 Q. So you was at the mine nearly a year --

14 A. Uh-huh.

15 Q. -- when the explosion occurred?

16 A. Yes.

17 Q. So being there about a year, was there
18 anybody at UBB that you had confidence in to ask a
19 question about the ventilation of that mine?

20 A. I don't really recall anybody that I would
21 say that I felt was real knowledgeable on
22 ventilation.

23 Q. Okay. When you was working as the outby
24 boss on the longwall, did you ever look at the

1 pre-shift books for the belt lines?

2 A. No.

3 Q. When you was on the -- face boss on the
4 longwall, did you look at pre-shift books for the
5 belt lines?

6 A. No, sir.

7 MR. CRIPPS: Okay. That's all I've got.

8 EXAMINATION

9 BY MR. MAGGARD:

10 Q. I know when we talked about you doing the
11 safety talks when you got to the section, and you
12 was going over portions of the roof control plan
13 and so forth, had you ever noticed any issues in
14 that tail entry as far as roof control goes, any
15 kind of problems with the plan or anything that you
16 were aware of that maybe you mentioned to higher
17 management or any concerns about how the tailgate
18 entry adjacent to the longwall was maintained?

19 A. Not as far -- no. Not as far as roof
20 control, no.

21 Q. Had you noticed that they were using one
22 row of props --

23 A. Yes, sir.

24 Q. -- in the tail entry?

1 Was that the way the plan --

2 A. I think that was the plan.

3 Q. The way it was laid out?

4 A. Yes, sir.

5 Q. Okay. And --

6 A. To my knowledge it was, because there was
7 not an adjacent panel next to us.

8 Q. Okay. And who set those props in the tail
9 entry?

10 A. They had some contractors that came in and
11 set them.

12 Q. Okay. And who was responsible for the
13 contractors setting those props? Who oversaw that?

14 A. I can't remember. I cannot remember.

15 Q. Okay. I think in your last interview you
16 remembered to say the intake doors that were added
17 on the longwall that, I guess were regulating
18 doors, had regulators in them?

19 A. Yes.

20 Q. Do you recall when that was installed,
21 when those doors were put in?

22 A. No, I cannot remember when it was. I
23 think it actually may have been on a day off. I
24 had a three-day period off, and when I came back

1 they was there.

2 Q. Did anybody tell you about that change,
3 explain it to you, why they were doing that?

4 A. No.

5 Q. On that change, was that change made after
6 the problems that you had on day shift on March the
7 9th with the air reversal, was that something that
8 was done after that or before?

9 A. I don't recall.

10 Q. You don't remember?

11 A. I don't know.

12 Q. Okay. As far as methane tests along the
13 face, did you all have a probe that you could reach
14 out to the face and take a gas check?

15 A. No. No, we did not.

16 Q. Okay. So let me ask you, like behind the
17 shields, did you ever reach back behind the shields
18 at any point and take a gas check?

19 A. No.

20 MR. MAGGARD: Okay. That's all I got.

21 EXAMINATION

22 BY MR. TUCKER:

23 Q. Just one more question. On Saturday --
24 and we talked a little bit last time about the fire

1 valve down the jack line?

2 A. Yes.

3 Q. But just to be clear, on your last shift
4 there on Saturday, did you have any fire hose
5 stretched down the face of the longwall?

6 A. No, sir.

7 MR. TUCKER: Okay.

8 MR. WILSON: For the record, Exhibit K.
9 Medley 7 is the maintenance report, and we marked
10 the photograph of the sprays as Exhibit K. Medley
11 8.

12 MR. KOERBER: Before we go off the record,
13 Mr. Medley, I'd like to give you the opportunity to
14 clarify anything, add anything, or make any
15 statements that you would like to make. The floor
16 is yours.

17 THE WITNESS: I believe I'll leave
18 everything where it's at.

19 MR. KOERBER: Thank you, sir, for coming,
20 and let's go off the record.

21 (Deposition concluded.)

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 deposition of KEVIN W. MEDLEY 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 31st day of
22 March 2011.

23 -----
24 Jenny Taylor
Notary Public

Shuman, McCuskey & Slicer PLLC
Attorneys at Law

1411 Virginia Street, East
Suite 200
P.O. Box 3953
Charleston, West Virginia 25339
Telephone 304.345.1400
Facsimile 304.343.1826

www.shumanlaw.com

1445 Stewartstown Road, Suite 200
Morgantown, West Virginia 26505
Telephone 304.291.2702
Facsimile 304.291.2840

jmccuskey@shumanlaw.com

John F. McCuskey
Direct Dial (304)720.8449

April 13, 2011

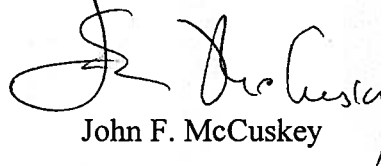
Barry Koerber, Esq.
Asst. Attorney General
WV Attorney General's Office
1615 Washington Street East
Charleston, WV 25311

Re: March 29, 2011 Interview of Kevin Medley

Dear Barry:

I have enclosed the deposition Errata Sheet reflecting those corrections and clarifications that resulted from Kevin Medley's review of the transcript of his UBB interview transcript of March 29, 2011 which testimony was taken by Johnny Jackson & Associates. I ask that you append the Errata Sheet to the original transcript and please notify me to confirm that the Errata Sheet and this letter are so appended. I also ask that you provide the Errata Sheet to each person who has been provided a copy of the transcript prior to your receipt of the Errata Sheet. Confirmation of the recipients of the Errata Sheet would also be appreciated.

Sincerely,



John F. McCuskey

JFM/mam
Enclosure

cc: Kevin Medley
Matthew N. Babington

WEST VIRGINIA
MINE SAFETY AND HEALTH ADMINISTRATION

IN THE MATTER OF:

THE INVESTIGATION OF THE APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE

ERRATA SHEET

I, KEVIN W. MEDLEY, have read the foregoing pages of my deposition given on MARCH 29, 2011, and wish to make the following, if any, amendments, additions, deletions, or corrections:

| PAGE NUMBER | LINE NUMBER | CHANGE AND REASON FOR CHANGE |
|-------------|--------------|--|
| <u>31</u> | <u>13-16</u> | <u>My understanding of the question was that between 1:30 and 2:00 it was reasonable that they would have mined "point 2" (2) passes rather than "two" (2) passes. I believe that it would be reasonable that they would have mined 2 passes during this half hour period but I do not believe it is reasonable that they would have mined 2 passes.</u> |
| <u>35</u> | <u>17</u> | <u>The more accurate response would have been "I Don't remember."</u> |
| <u>100</u> | <u>18</u> | <u>For the Purpose of clarification, when I said "yes" I was voicing my understanding of the hypothetical being posed as opposed to affirming any set of facts that may have existed.</u> <u>Kevin W. Medley</u> KEVIN W. MEDLEY |

STATE OF West Virginia

COUNTY OF Kanawha

The foregoing was subscribed and sworn to before me this 8th day of April, 2011. My Commission

Expires: Dec. 14, 2016

Carolyn R. Wise
Notary Public

