



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Glenn Ullman

Date: August 17, 2010

Case:

Printed On: August 25, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

CONFIDENTIAL STATEMENT UNDER OATH
OF
GLEN ULLMAN

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Tuesday, August 17, 2010, beginning at 5:00 p.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

A P P E A R A N C E S

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MATTHEW N. BABINGTON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

BARRY KOERBER, ESQUIRE
West Virginia Office of Miners'
Health, Safety and Training
1615 Washington Street East
Charleston, WV 25311

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

ERIK SHERER
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

1 A P P E A R A N C E S (cont.)

2

3 JOHN O'BRIEN

4 Safety Inspector

5 West Virginia Office of Miners' Health,

6 Safety and Training

7 Welch Regional Office

8 891 Stewart Street

9 Welch, WV 24801-2311

10

11 CELESTE MONFORTON, MPH, DRPH

12 West Virginia Independent Investigation

13 2100 M. Street, NW

14 Suite 203

15 Washington, DC 20037

16

17 DAVID J. HARDY, ESQUIRE

18 Allen, Guthrie & Thomas, PLLC

19 500 Lee Street, East

20 Suite 800

21 Charleston, WV 25301

22 COUNSEL FOR PERFORMANCE COAL

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S (cont.)

BRIAN ABRAHAM, ESQUIRE

Abraham and Ilderton, PLLC

115 Prosperity Lane, Fountain Place

Logan, WV 25601

PERSONAL REPRESENTATIVE

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Babington	8
5	DISCUSSION AMONG PARTIES	9 - 12
6	CONTINUED OPENING STATEMENT	
7	By Attorney Babington	12 - 16
8	STATEMENT	
9	By Mr. Farley	16 - 17
10	WITNESS: GLENN ULLMAN	
11	EXAMINATION	
12	By Mr. Sherer	17 - 33
13	EXAMINATION	
14	By Mr. Farley	33 - 45
15	RE-EXAMINATION	
16	By Mr. Sherer	45 - 46
17	RE-EXAMINATION	
18	By Mr. Farley	46 - 47
19	RE-EXAMINATION	
20	By Mr. Sherer	47 - 49
21	RE-EXAMINATION	
22	By Mr. Farley	49 - 51
23	EXAMINATION	
24	By Ms. Monforton	51 - 52
25		

I N D E X (cont.)

1		
2		
3	RE-EXAMINATION	
4	By Mr. Sherer	52 - 54
5	RE-EXAMINATION	
6	By Mr. Farley	55
7	EXAMINATION	
8	By Attorney Abraham	56 - 58
9	RE-EXAMINATION	
10	By Mr. Farley	58 - 59
11	CLOSING STATEMENT	
12	By Attorney Babington	59 - 60
13	CERTIFICATE	61
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBIT PAGE

PAGE

NUMBER	DESCRIPTION	IDENTIFIED
One	Subpoena	10*
Two	Return Receipt	11*
Three	Ellis Portal Fan Map	59*
Four	Bandytown Fan Map	59*

* Exhibit not attached

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BABINGTON:

4 My name is Matt Babington. Today is
5 August 17th, 2010. I'm with the Office of the
6 Solicitor, U.S. Department of Labor. With me is Erik
7 Sherer, an accident investigator with the Mine Safety
8 and Health Administration, MSHA, an agency of the U.S.
9 Department of Labor. Also present are several people
10 from the State of West Virginia, and I ask that they
11 state their appearance for the record.

12 MR. FARLEY:

13 I'm Terry Farley with the West Virginia
14 Office of Miners' Health, Safety and Training.

15 MR. O'BRIEN:

16 John O'Brien with the West Virginia
17 Office of Miners' Health, Safety and Training.

18 MR. KOERBER:

19 Barry Koerber. I'm the Assistant
20 Attorney General assigned to represent the West
21 Virginia Office of Miners' Health, Safety and
22 Training.

23 MS. MONFORTON:

24 And I'm Celeste Monforton with the
25 Governor's independent team.

1 -----

2 GLENN ULLMAN, HAVING FIRST BEEN DULY SWORN, TESTIFIED
3 AS FOLLOWS:

4 -----

5 ATTORNEY KOERBER:

6 Sir, would you please state your full
7 name for the record and spell your last name?

8 A. Okay. It's Glenn Thomas Ullman, Jr., U-L-L-M-A-N.

9 ATTORNEY KOERBER:

10 And would you please state your address
11 and telephone number?

12 A. [REDACTED]

13 [REDACTED])

14 ATTORNEY KOERBER:

15 And sir, do you have an attorney or
16 personal representative with you here today?

17 A. Yes.

18 ATTORNEY KOERBER:

19 And who is your attorney?

20 A. Brian ---

21 ATTORNEY ABRAHAM:

22 Abraham.

23 A. --- Abraham.

24 ATTORNEY KOERBER:

25 Okay. Mr. Abraham, would you state your

1 name for the record and the firm you're with?

2 ATTORNEY ABRAHAM:

3 Brian Abraham, A-B-R-A-H-A-M. The firm

4 is Abraham and Ilderton, I-L-D-E-R-T-O-N, and I

5 represent him.

6 ATTORNEY KOERBER:

7 He's your client?

8 ATTORNEY ABRAHAM:

9 Yes.

10 ATTORNEY KOERBER:

11 Okay. Mr. Ullman, are you appearing here

12 today as a result of receiving a subpoena?

13 A. Yes.

14 ATTORNEY KOERBER:

15 Is this a copy of the subpoena you

16 received?

17 A. Yes.

18 ATTORNEY KOERBER:

19 I would like that to be Exhibit One.

20 (Exhibit G. Ullman One marked for

21 identification.)

22 ATTORNEY KOERBER:

23 And is this a copy of the return receipt

24 signed by you?

25 A. Yes.

1 ATTORNEY KOERBER:

2 Okay. I'd like that to be Exhibit Two,
3 please.

4 (Exhibit G. Ullman Two marked for
5 identification.)

6 ATTORNEY KOERBER:

7 And sir, under the statute that gives the
8 director authority to issue subpoenas compelling
9 witnesses to appear at interviews, there is a \$40 a
10 day witness fee that goes along with that, together
11 with mileage at the rate of 15 cents per mile and
12 tolls so long as you go through in your personal
13 vehicle and pay for the tolls out of your own pocket.
14 In order to receive that money, I need you to fill
15 certain documents, one of which requires you to
16 present your Social Security number.

17 If you would like to fill out those forms
18 and receive that money, you can do so at the end of
19 this interview. If you choose not to fill out those
20 forms, you can decline the money, but you need to make
21 your decision on the record here now.

22 A. I decline.

23 ATTORNEY KOERBER:

24 Okay. Thank you, sir.

25 ATTORNEY BABINGTON:

1 I also note, Mr. Ullman, that you have
2 another individual with you today. Would that
3 individual please identify himself for the record?

4 ATTORNEY HARDY:

5 David J. Hardy from the law firm of Allen
6 Guthrie and Thomas.

7 ATTORNEY BABINGTON:

8 And who are you --- are you representing
9 the witness?

10 ATTORNEY HARDY:

11 No, Mr. Abraham's representing the
12 witness. I'm here on behalf of Performance Coal.

13 ATTORNEY BABINGTON:

14 Okay. And what is the basis or what's
15 the justification for you being present during this
16 particular interview?

17 ATTORNEY HARDY:

18 I'll incorporate by a reference the
19 correspondence that I've sent to Derek Baxter and
20 Robert Wilson about Performance's position with
21 respect to attending these interviews.

22 ATTORNEY BABINGTON:

23 Okay. All members of the Mine Safety and
24 Health Accident Investigation Team and all members of
25 the State of West Virginia Accident Investigation Team

1 participating in the investigation of the Upper Big
2 Branch Mine explosion shall keep confidential all
3 information that is gathered from each witness who
4 provides a statement until the witness statements are
5 officially released. MSHA and the State of West
6 Virginia shall keep this information confidential so
7 that other ongoing enforcement activities are not
8 prejudiced or jeopardized by a premature release of
9 information. This confidentiality requirement shall
10 not preclude investigation team members from sharing
11 information with each other or with other law
12 enforcement officials. Team members' participation in
13 this interview constitutes their agreement to keep
14 this information confidential.

15 Government investigators and specialists

16 have been assigned to investigate the conditions,
17 events and circumstances surrounding the fatalities
18 that occurred at the Upper Big Branch Mine-South on
19 April 5th, 2010. The investigation is being conducted
20 by MSHA under Section 103(a) of the Federal Mine
21 Safety and Health Act and the West Virginia Office of
22 Miners' Health, Safety and Training. We appreciate
23 your assistance in this investigation.

24 You may have your personal attorney

25 present during the taking of this statement or another

1 personal representative if MSHA has permitted it, and
2 you may consult with your attorney or representative
3 at any time. Since this is not an adversarial
4 proceeding, formal Cross Examination will not be
5 permitted. However, your personal legal
6 representative may ask clarifying questions as
7 appropriate.

8 Your identity and the content of this
9 conversation will be made public at the conclusion of
10 the interview process and may be included in the
11 public report of the accident, unless you request that
12 your identity remain confidential or your information
13 would otherwise jeopardize a potential criminal
14 investigation. If you request us to keep your
15 identity confidential, we will do so to the extent
16 permitted by law.

17 That means that if a judge orders us to
18 reveal your name or if another law requires us to
19 reveal your name or if we need to reveal your name for
20 other law enforcement purposes, we may do so. Also,
21 there may be a need to use the information you provide
22 to us or other information we may ask you to provide
23 in the future in other investigations into and
24 hearings about the explosion. Do you understand?

25 A. Yes.

1 ATTORNEY BABINGTON:

2 Do you have any questions?

3 A. No.

4 ATTORNEY BABINGTON:

5 After the investigation is complete, MSHA

6 will issue a public report detailing the nature and

7 causes of the fatalities in the hope that greater

8 awareness of the cause of accidents can reduce their

9 occurrence in the future. Information obtained

10 through witness interviews is frequently included in

11 these reports. Since we will be interviewing other

12 individuals, we request that you not discuss your

13 testimony with any person aside from a personal

14 representative or Counsel.

15 A court reporter will record your

16 interview. Please speak loudly and clearly. If you

17 do not understand a question asked, please ask the

18 interviewer to rephrase it. Please answer each

19 question as fully as you can, including any

20 information you've learned from someone else.

21 I'd like to thank you in advance for your

22 appearance here. We appreciate your assistance in

23 this investigation. Your cooperation is critical in

24 making the nation's mines safer.

25 After we've finished asking questions,

1 you'll have an opportunity to make a statement and
2 provide us with any other information that you believe
3 to be important. If at any time after the interview
4 you recall any additional information you believe
5 might be useful, please contact any of us at the
6 contact information provided.

7 Finally, any statements given by miner

8 witnesses to MSHA are considered to be an exercise of
9 statutory rights and protected activity under Section
10 105(c) of the Mine Act. If you believe any discharge,
11 discrimination or other adverse action is taken
12 against you as a result of your cooperation with this
13 investigation, you're encouraged to immediately
14 contact MSHA and file a complaint under Section 105(c)
15 of the Act. Terry?

16 MR. FARLEY:

17 Mr. Ullman, on behalf of the Office of
18 Miners' Health, Safety and Training, I want to inform
19 you that the West Virginia Mine Safety Regulations
20 also provide protection against discrimination for
21 participating in these type interviews. I'd like to
22 pass along some contact information for the West
23 Virginia Board of Appeals. It's a body which hears
24 appeals --- hears complaints from miners regarding
25 discrimination. Now, should you have any problems,

1 you can contact the Board at that address. Now, I
2 would caution you that you need to file your claim
3 within 30 days of the event.

4 A. Okay.

5 MR. FARLEY:

6 Also, you have my business card. Okay.

7 EXAMINATION

8 BY MR. SHERER:

9 Q. The first thing I want to do is thank you for
10 coming down here this afternoon, Mr. Ullman.

11 A. You're welcome.

12 Q. We're investigating the circumstances and the
13 conditions and the practices that surround this
14 explosion, and there's really two reasons we're doing
15 that. The first one is the families and the loved
16 ones and the coworkers of the 29 miners deserve some
17 closure. The second reason is we want to prevent this
18 type of disaster in the future, so any help you can
19 give us is greatly appreciated.

20 A. Okay.

21 Q. Roughly how many years of mining experience do you
22 have, Mr. Ullman?

23 A. Approximately six years.

24 Q. Six years. When did you start with the Massey
25 organization?

1 A. That's who I've worked for six years, is Massey.

2 Q. Okay. The entire six years?

3 A. Yeah, I left for maybe two or three days and came
4 back.

5 Q. Okay. When did you first start working at Upper
6 Big Branch?

7 A. It was in '04, 2004.

8 Q. Okay.

9 A. I'm thinking the month of November.

10 Q. Okay. So virtually your entire mining career has
11 been at Upper Big Branch?

12 A. Yes.

13 Q. Do you have any Federal or State certificates?

14 A. I have assistant mine foreman and a shot fireman
15 certificate.

16 Q. Okay. What was your job description immediately
17 prior to the explosion?

18 A. Fire boss.

19 Q. Fire boss. Did you have a particular part of the
20 mine that you were responsible for?

21 A. I walked all the belts and power centers,
22 chargers, pumps, things like that.

23 Q. Throughout the entire mine?

24 A. On the Ellis side.

25 Q. On Ellis side.

1 A. Yes.

2 Q. All the belts?

3 A. There was two men. It would be two men on a 12-
4 hour shift.

5 Q. Okay. Did you have some way to split it up with
6 the other gentleman on your shift?

7 A. Yeah, he would walk --- we would rotate. I would
8 walk the inby into the mines and he would walk the
9 outby, and then the next ---

10 Q. Okay.

11 A. --- the next time we flip-flop, flip-flop.

12 Q. So you truly did walk all the belts?

13 A. Yes.

14 Q. That's a lot of walking.

15 A. About five miles, six miles. See, if we could do
16 it two fire boss runs in one shift.

17 Q. Okay. And that was at --- what shift was that?

18 A. We worked 6:00 in the evening to 6:00 in the
19 morning.

20 Q. Okay.

21 A. It was a lot of work.

22 Q. When you were walking the belts, how did you
23 record any problems that you saw? Did you have a
24 notebook?

25 A. Yeah, I always had a notebook I kept on me, and I

1 would write any violation or anything that had already
2 been taken care of down in my book, and I would carry
3 it over in the fire boss books when I went outside.

4 Q. Okay. Do you still have a copy of that notebook?

5 A. If I do, if they haven't took it out of my locker,
6 I had a copy at the Ellis punch-out, not the entire
7 time I fire bossed, but you know, just the last
8 notebook that I've used.

9 Q. Okay. We'd like to get a copy of that. If you
10 could, we would certainly appreciate to get a copy of
11 that notebook.

12 A. Okay.

13 Q. Now, when you came out after fire bossing ---.
14 Well, first of all, I guess you probably called out
15 your pre-shifts?

16 A. My first run I would call out and the second run I
17 would take in.

18 Q. When you called that out and then somebody copied
19 it down --- I assume another foreman or fire boss or
20 somebody.

21 A. Yes.

22 Q. And you went out and you checked that and assigned
23 it. Did you ever notice any major differences from
24 what you called out?

25 A. Nothing major, just small things, sometimes.

1 Maybe they just forgot to write down --- they'll say
2 the tail would need cleaned, but I wouldn't add it
3 on ---

4 Q. Okay.

5 A. --- add it onto that.

6 Q. Okay. Who did you work for?

7 A. Everett Hager was my superintendent, and on that
8 side of the mountain Terry Moore was the mine foreman
9 at the time.

10 Q. Okay. When you first started --- well, first of
11 all, when did you first start fire bossing?

12 A. Well, I was the hoot owl third shift foreman. And
13 I kind of didn't get along with the president, so I
14 asked to be stepped down.

15 Q. Okay.

16 A. I don't know the exact dates, but it was about
17 eight months prior to the explosion I started fire
18 bossing.

19 Q. Okay. So roughly sometime last fall?

20 A. Yes.

21 Q. When you started fire bossing, who told you how to
22 do it? Did you receive any instruction?

23 A. Yes, we would go --- like, they would send you
24 with an experienced fire boss for a couple shifts to
25 show you what to do and where to go and how to fill

1 your books out and stuff like that.

2 Q. Okay. When you're doing your fire boss run, if
3 you find a miner problem --- let's say you got a bad
4 roller or something --- what do you do about it?

5 A. I would shut the belt off and drop the roller ---

6 Q. Okay.

7 A. --- and start the belt back up.

8 Q. Would you put that in your book?

9 A. I wouldn't put it on my pre-shift. I would put it
10 on my on-shift if I'd done that.

11 Q. Okay. What about if you're walking the belt and
12 you see a lot of float dust on the belt. What would
13 you do about that?

14 A. I would put it in my fire boss book and pass it to
15 my foreman that it needs cleaned and dusted or
16 whatnot. Like, I would have a third shift foreman
17 come in and that would be the person at that time that
18 I would tell. During your shift this belt needs to be
19 dusted.

20 Q. Okay. Have you ever written up an area of the
21 belt that needed dusted?

22 A. Yes, several times.

23 Q. Did you notice next time you were at that same
24 location whether it had been dusted?

25 A. Sometimes it did, sometimes it hadn't.

1 Q. Okay. So it would go at least 24 hours without
2 getting dusted?

3 A. Yeah, sometimes.

4 Q. How common was that?

5 A. In my opinion, it was lack of help. They didn't
6 have enough men.

7 Q. Okay. Do you know a gentleman named Mike Dickens?

8 A. Yes, very well.

9 Q. Who is that, please?

10 A. He's an electrician. He was on One section, the
11 third shift.

12 Q. Okay. Do you talk to Mr. Dickens often?

13 A. Yeah.

14 Q. Do you recall telling him that you ran into some
15 area that had five percent methane?

16 A. I had ran into it in a return up on this headgate
17 right here.

18 Q. On the 21 Headgate?

19 A. Yeah.

20 Q. Okay.

21 A. There was a pump in there that I had to fire boss
22 and I went over, which I haven't had to fire boss in a
23 long time, because it's behind, you know --- it was
24 back that way, but they was ---. I don't remember
25 exactly what it was, the percentage, but I recorded

1 it. I'm sure I did, because I always record my stuff
2 like that.

3 Q. Do you recall roughly when that was?

4 A. I don't think the longwall started pulling off
5 yet. I think that they was still driving the section,
6 I believe.

7 Q. Okay. So would it have been sometime last summer?

8 A. Yes, probably.

9 Q. Do you know if they had completed the headgate out
10 to the Bandytown fan?

11 A. They hadn't made it that far, no.

12 Q. Okay. So they were still ---?

13 A. They were probably close to it, but I don't know.

14 Q. Still driving?

15 A. Uh-huh (yes).

16 Q. When you found that five percent methane, what'd
17 you do?

18 A. I reported it, called it out and reported it. And
19 the foreman --- the foreman told me it was in the
20 return and that's where it was supposed to go.

21 Q. Okay. Who was that foreman?

22 A. I'm thinking Terry Moore was on this shift at the
23 time, because he was on evening shift at that time.

24 Q. Okay. Did he do anything?

25 A. Not on my knowledge.

1 Q. Okay. Thank you. Did you ever find any other odd
2 concentrations of methane?

3 A. Nothing --- nothing major, no, I haven't.

4 Q. Okay. Anything over one percent?

5 A. No.

6 Q. Okay. What sort of methane detector did you
7 carry?

8 A. Solaris.

9 Q. Solaris. In the month or so prior to the
10 explosion did the alarm on that Solaris ever go off?

11 A. No. It might've went off for --- you know,
12 bending over and smothering it out or something, but
13 not for methane.

14 Q. Okay, sure. Now, working the, what'd I call the
15 afternoon shift, I guess, afternoon, nightshift, did
16 you work Sunday night prior to the explosion?

17 A. Sunday night. No, that was my shift off.

18 Q. Okay. What was the last shift you recall working?

19 A. Saturday I did a --- I had to do a fire run that
20 night, because the belts was going to be idle. And I
21 done a fire run and I think my shift ended at maybe
22 3:30 in the morning ---

23 Q. Oh, jeez.

24 A. ---- because when they stopped running, you know,
25 I didn't have to fire boss for dayshift. I sent them

1 my fire runs.

2 Q. Okay, sure. Which part of the run did you cover
3 on that last fire run?

4 A. I really don't want to answer, because I don't
5 remember.

6 Q. Okay. Do you think it was out toward the Ellis
7 Portal or was it ---?

8 A. It was either inby in or the outby in. There was
9 two of us, and I don't recall which one of us done
10 that that night.

11 Q. Who was the other gentleman on the ---?

12 A. Billy Campbell, William Campbell.

13 Q. Okay.

14 A. And the section bosses fire run their belts.

15 Q. Okay. And then do you recall who those section
16 bosses were?

17 A. Brandon Bowling --

18 Q. Okay.

19 A. --- and Brian Collins.

20 Q. Okay.

21 A. That was just for the Ellis side. I don't recall
22 who was done the south side.

23 Q. Sure, uh-huh (yes). Well, obviously the Ellis
24 side is of most concern to us right now.

25 A. Yes.

1 Q. Do you recall anything unusual that night?

2 A. No, nothing.

3 Q. Okay. Do you recall smelling anything unusual?

4 A. No.

5 Q. Anything that smelled like kerosene?

6 A. No.

7 Q. Do you recall anything that burned your eyes?

8 A. No.

9 Q. Okay. Where were you when you first heard of the
10 explosion?

11 A. I was home.

12 Q. What was the first thought that went through your
13 mind?

14 A. I was just in shock, I guess.

15 Q. Okay. In your opinion, and that's all I'm asking
16 for is an opinion, what do you think caused this
17 explosion?

18 A. I don't know what caused the explosion. I don't
19 think that any mistake caused it. If there was enough
20 methane to cause an explosion that big, the people
21 that I know that was working the day, I think, had
22 enough common sense not to be running in that type of
23 methane, but that's just my opinion. I don't know
24 enough about it to really ---

25 Q. Okay.

1 A. --- to give an answer on it. It's just a personal
2 opinion.

3 Q. Sure. Have you spoken with anybody about the
4 explosion since it happened?

5 A. No, the only people I've spoken to is two Massey
6 lawyers.

7 Q. Okay. Where are you working now?

8 A. At Round Bottom.

9 Q. Okay. Any of the UBB crew up there?

10 A. Yes.

11 Q. You ever --- you haven't spoken with them
12 about ---?

13 A. I mean, we talk about it, but it's just opinions
14 from one to the other. Nobody really knows.

15 Q. Okay. Have you been back to UBB since the
16 explosion?

17 A. I've been to the bathhouse.

18 Q. Okay. Now, when you were doing your last few fire
19 boss runs, what condition do you think the rock dust
20 was in?

21 A. I can't really remember what the condition it was
22 in at the time.

23 Q. Okay. Do you ever get out of the belt entry and
24 go over in the returns or the intakes?

25 A. The only reason I would is if there was a pump or

1 something I had to get.

2 Q. Okay. Was there any pumps over in those areas?

3 A. There wasn't any return pumps on the Ellis side.

4 Up in the Ellis Portal they was a couple in the

5 neutral, a couple pumps.

6 Q. Okay.

7 A. They had, yeah, two pumps.

8 Q. Okay.

9 A. Up near Ellis Five belt.

10 Q. Okay. When you went over and checked those pumps,
11 what condition was the rock dust like around there?

12 A. It was always wet.

13 Q. Was it white? Was it gray?

14 A. It was gray from --- I guess rock dust and water
15 mixed and just real white --- or real gray looking
16 from the water kind of dulling it out, I guess.

17 Q. Okay. What about along the belt structure? Was
18 there any float coal dust that you recall?

19 A. Yeah, there was sometimes. Yes.

20 Q. Do you recall the last couple times you did a fire
21 boss run, did you notice any float dust?

22 A. I can't remember.

23 Q. Okay. Did you ever have any reason to go down in
24 the tailgate of the longwall?

25 A. I think they had men working down there at one

1 time, and they had us to go pre-shift it for, like, a
2 work area.

3 Q. Okay. Do you recall about when that was?

4 A. It was close to the explosion.

5 Q. And what was the conditions like down there as far
6 as rock dusting in your ---?

7 A. Not good, not bad.

8 Q. Not good, not bad. Kind of so-so?

9 A. Yeah.

10 Q. Did you ever get up in this --- I think this was
11 the Two section, they called it, the rooms at the end
12 of the current longwall panel?

13 A. The only rooms I've ever had to get was inby the
14 Glory Hole area.

15 Q. Okay.

16 A. They was all the way up in the faces.

17 Q. Okay. When is the last time you were up at the
18 Glory Hole?

19 A. Probably at eight o'clock that Saturday shift,
20 because I always --- I had to fire boss these
21 rooms ---

22 Q. Oh, okay.

23 A. --- on every eight-hour shift.

24 Q. Okay. We're calling this the Eight North area.

25 Is that what you call it?

1 A. Yeah.

2 Q. Okay. What condition was that in?

3 A. Deserted. I mean, nobody's been there in a long
4 time, just fire bosses walking through it, so they're
5 fire bosses' rooms.

6 Q. Okay. What about the rock dust up there?

7 A. It was all right.

8 Q. Okay. Did you smell anything funny up there?

9 A. No.

10 Q. Okay. Did you notice if the puddles up there were
11 bubbling?

12 A. No.

13 Q. Okay. Was there some --- if you ran into a belt
14 head or transfer point that had gobbled out or
15 something and you weren't able to clean it up, how did
16 you get that work done?

17 A. There were several times I'd shut the belts off to
18 get it clean, and the crews would have to come and
19 help clean it.

20 Q. Okay. Did you ever get any bad feedback about
21 that?

22 A. A few times I have.

23 Q. Okay.

24 A. But they wasn't there whenever it was gobbled out,
25 so they more or less just trying to find out if it was

1 bad enough to shut the belts down.

2 Q. Okay. When was the last time you shut a belt
3 down?

4 A. Not long before the explosion. I mean, it gobbled
5 off quite a bit.

6 Q. Okay. Was there any particular place that gobbled
7 out?

8 A. Ellis Five Tail would gob out a lot on the Four
9 North Head.

10 Q. Any particular reason for that?

11 A. The way the belt head was, it was sitting at an
12 angle.

13 Q. Oh, gee.

14 A. Just having problems figuring out how to fix it, I
15 guess.

16 Q. Okay. Do you recall if there was some
17 construction going on around the transfer from the 22
18 Headgate section to the Seven North belt?

19 A. They was when they was putting that belt --- that
20 extension in on the belt head.

21 Q. Okay. Did you examine that area?

22 A. Yes.

23 Q. Were they finished with that construction?

24 A. They had just started running that belt, I
25 believe ---

1 Q. Oh, okay.

2 A. --- not long before the explosion.

3 Q. Do you recall roughly how long before the
4 explosion?

5 A. A couple weeks, maybe.

6 Q. Okay. Any particular problem you can remember
7 with that belt?

8 A. No.

9 Q. Okay. Did you actually see that belt operate?

10 A. Yes.

11 Q. Okay. How about the section belt coming off of
12 the 22 Tailgate? Did you examine it?

13 A. Yes.

14 Q. What sort of condition were those belts in?

15 A. If I recall, they needed cleaned. They was rock
16 dusted, I believe.

17 Q. Okay. Were the belt entries generally --- were
18 the roofs meshed above the belt entries?

19 A. They was and then they stopped doing it.

20 Q. Okay. Do you recall about where they stopped
21 doing that?

22 A. I'm thinking Four North, somewhere in that.

23 Q. Okay.

24 EXAMINATION

25 BY MR. FARLEY:

1 Q. Mr. Ullman, I want to clarify a few things, so I
2 may be jumping around, so bear with me. According to
3 our certified mail receipt, you would've received your
4 subpoena for this interview about August 10th; is that
5 correct?

6 A. Uh-huh (yes).

7 Q. Okay. Now, since you received your subpoena, has
8 any representative from Performance Coal, Upper Big
9 Branch Mine or Massey Coal Services contacted you
10 about this interview?

11 A. Other than me getting in touch with him, I think I
12 was the only one. I was offered. I was given a form
13 or something with a number on it if I wanted to have a
14 representative with me, a lawyer with me, that I had
15 that right.

16 Q. Okay. All right. Now, who provided you with that
17 document?

18 A. I can't remember his name. He was Chris something
19 and he was one of the Massey lawyers ---

20 Q. Okay.

21 A. --- that had talked to me prior to that.

22 Q. Okay. You mentioned a notebook in which you
23 recorded your findings during your examinations at UBB
24 on the belts.

25 A. Yes.

1 Q. Now, do you actually have that notebook in your
2 possession?

3 A. No.

4 Q. Do you have it at home?

5 A. If it's still there, it would be in my locker at
6 the Ellis punch-out.

7 Q. If it still exists, it would be ---

8 A. Yes, I mean I've ---

9 Q. --- in your locker at Ellis?

10 A. --- not been up there since the explosion.

11 Q. Okay. All right. Now, I hate to be redundant
12 here, but I missed something earlier. You indicated
13 that the latter part of 2009 that you had asked to
14 step down to beltman fire boss --- and I'm sorry, what
15 was your position prior to that?

16 A. Just shift foreman.

17 Q. Okay.

18 A. I was just a foreman over third shift.

19 Q. Okay. Now, when you encountered the methane in
20 the return at the --- what now is the --- what is now
21 the existing longwall headgate entries last year
22 around five percent, now, when you encountered the
23 methane, did your alarm on your detector go off?

24 A. Yeah, as soon as I opened the man door. Yeah.

25 Q. Okay. Now, when you opened the man door, did you

1 stop at that point ---

2 A. Yeah, I ---

3 Q. --- or did you go on through?

4 A. --- stopped, because I've never been around
5 methane and it's --- I ain't used to my detector going
6 off and it startled me and I just backed out.

7 Q. Okay. So you didn't go through the door, then?

8 A. No.

9 Q. Okay. Since that time last year at UBB have you
10 had any kind of a similar experience ---

11 A. No.

12 Q. --- at any time where your detector went off ---

13 A. No.

14 Q. --- in that manner? During your time at the Upper
15 Big Branch Mine, have you been in the area behind the
16 longwall toward the Bandytown fan?

17 A. No, not since the longwall has started running, I
18 haven't. I was up in that area whenever they was
19 driving it.

20 Q. Okay. But not since the longwall has been up?

21 A. Right.

22 Q. Okay. In the Eight North area --- Erik asked you
23 about that. When you were in the Eight North area,
24 did you travel all the way to the faces at the ---

25 A. Yes.

1 Q. --- far end there?

2 A. Yes.

3 Q. Now, when was the last time you were there?

4 A. Probably on that last shift, that Saturday that I
5 worked, because I have to fire boss them rooms every
6 eight hours.

7 Q. Okay. Now, are these faces ---? I understand
8 that --- I've been told that this map is not entirely
9 correct as it depicts the ---

10 A. Uh-huh (yes).

11 Q. --- faces in Eight North. I'm told that there are
12 ventilating controls extending into the places; ---

13 A. They are.

14 Q. --- is that correct?

15 A. They are now, yes. They wasn't finished. He had
16 had a foreman. The new third shift foreman was
17 building a permanent, stop ventilating the air to go
18 around, you know. And he hadn't got all the rooms
19 finished yet.

20 Q. Okay. Well, what kind of permanent
21 ventilating ---?

22 A. Kennedy, Kennedy Stoppings.

23 Q. Okay. All right. Now, prior to April 5th, you
24 had 12-hour shifts at that point?

25 A. I got to leave early that night.

1 Q. Okay. But prior --- but your normal routine was a
2 12-hour ---

3 A. Yes.

4 Q. --- shift; is that right?

5 A. Yes, yes.

6 Q. Now, do I understand that you would've made two
7 exams during that ---

8 A. Yes.

9 Q. --- 12-hour shift?

10 A. Yes.

11 Q. Now, would one of them have been essentially an
12 on-shift and the other one a pre-shift?

13 A. No, I would do a --- I would fire boss at eight
14 o'clock for the hoot owl.

15 Q. Okay.

16 A. And then from 11:00 to 3:00 I would work on
17 whatever I found or whatever they'd tell me to work
18 on. And then from 3:00 a.m. to 6:00 a.m. I would
19 pre-shift the mines for dayshift.

20 Q. Okay. I got you. I asked you earlier if since
21 the time that you receive ---- if anyone from --- any
22 representative of Performance Coal, Upper Big Branch
23 Mine or Massey Coal Services had contacted you after
24 you received your subpoena, and you indicated you
25 received a document from the attorney. Did you

1 receive the document after August 10?

2 A. It was after I received it, because I asked his
3 opinion and he wouldn't give me an opinion. He just
4 gave me that paper. I asked him if he thought I need
5 to have an attorney.

6 Q. Okay.

7 A. And he just told me --- he just gave me the paper.

8 Q. Thank you. Can I ask you to take one of the
9 colored markers and mark your area of responsibility
10 prior to April 5th in terms of the belts you examined?

11 A. Well, like I said, there was two of us and we
12 would just take turns ---

13 Q. Okay.

14 A. --- on which end we did.

15 Q. If you would, please, maybe mark the alternate
16 routes in different colors if you would, please. Mark
17 one in pink there and the next one in whatever color.
18 We need another map.

19 A. Yeah, this is running out here.

20 MR. SHERER:

21 Yeah, we actually have one under this
22 that may be more appropriate. Okay. Now, this
23 doesn't get the development section, but it does go
24 all the way out to the Ellis Portal. We're going to
25 need both of them.

1 ATTORNEY BABINGTON:

2 Okay. Oh, you're not ---?

3 MR. SHERER:

4 Yeah, let's mark this one up.

5 A. This is the Ellis Five belt; right? Which entry
6 is the belt entry, this one? Do you want me to mark
7 the whole thing?

8 BY MR. FARLEY:

9 Q. Yeah, just mark it. Don't worry about it. This
10 is your map to mark. We've got plenty of maps.

11 WITNESS COMPLIES

12 A. The head area, Number Five Head.

13 BY MR. FARLEY:

14 Q. Okay. Now, try to indicate where the first run
15 ends and the second one starts up.

16 A. The first run would end at Five Tail ---

17 Q. Okay.

18 A. --- a mile for me.

19 Q. All right.

20 A. The second ---. Want me to go ahead and do
21 this, ---

22 Q. Sure.

23 A. --- my second run?

24 Q. Sure. That's fine.

25 WITNESS COMPLIES

1 A. My second run, I just ---.

2 ATTORNEY BABINGTON:

3 Are we going to need that one again or
4 should we just ---?

5 MR. FARLEY:

6 I don't think we need it right now. We
7 may refer to it, but I don't think we'll need it.

8 OFF RECORD DISCUSSION

9 A. Those are the belts.

10 BY MR. FARLEY:

11 Q. Okay. Can you also mark other areas that you were
12 responsible to examine?

13 A. Okay.

14 ATTORNEY BABINGTON:

15 Is that on that same ---? Should we use
16 the same highlighter for that?

17 MR. FARLEY:

18 No, just use a different one. It'll be
19 color coded here.

20 ATTORNEY BABINGTON:

21 Just to note that --- so the first run
22 you highlighted with a pink highlighter?

23 A. Yes.

24 ATTORNEY BABINGTON:

25 And then the second run you highlighted

1 with a blue highlighter?

2 A. Yes.

3 ATTORNEY BABINGTON:

4 And you're about to mark these other

5 areas with a green highlighter.

6 A. Now, these rooms, like I said, they had --- some
7 of them had stoppings in them. I can't remember which
8 ones was finished and which ones wasn't.

9 BY MR. FARLEY:

10 Q. Okay. That's fine. You examined what would've
11 been the ---

12 A. Yeah, these rooms.

13 Q. --- faces in the abandoned or the idle Eight North
14 section?

15 A. Yes.

16 Q. Okay.

17 MR. SHERER:

18 Can I ask a question?

19 MR. FARLEY:

20 Sure.

21 MR. SHERER:

22 You drew these faces, these entries out.

23 A. Uh-huh (yes).

24 MR. SHERER:

25 Was this butted off close to this

1 crosscut the way it was shown on this map?

2 A. Some of them was drove up further than others.

3 This one here was flush. This one here was maybe ten
4 feet in, and then this one, maybe 20, 20, 20 inby, 25.

5 MR. SHERER:

6 Okay. Thank you. Any other areas that
7 you examined?

8 A. Not on this side, no, not at the time that I was
9 fire bossing this side. This was it. There was a
10 power center right in this area.

11 BY MR. FARLEY:

12 Q. Maybe draw a line out from that and identify it,
13 if you would, please.

14 A. Okay.

15 WITNESS COMPLIES

16 MR. SHERER:

17 One more question.

18 MR. FARLEY:

19 Yeah.

20 MR. SHERER:

21 When you marked up the map from Ellis
22 Portal, ---

23 A. Uh-huh (yes).

24 MR. SHERER:

25 --- were there any other areas on that

1 map that you also had to examine?

2 A. No, not at the time --- not at that time. There
3 used to be rooms, but they had finished the stoppings
4 in those rooms.

5 MR. SHERER:

6 Okay. Thank you.

7 BY MR. FARLEY:

8 Q. Did you have enough time to adequately examine
9 your area of assignment?

10 A. That's all the time I had. I mean if I started
11 --- if I did not start my fire boss run exactly 3:00
12 a.m., I wasn't done by 6:00.

13 Q. Okay. Same on both ends?

14 A. Yes.

15 Q. Okay. Now, I assume that means you were walking
16 continuously?

17 A. Yes. The only places --- I would walk on my
18 belts, but I would have a ride waiting on me to go get
19 these rooms, and I would take a ride down the track
20 entry to go to the rooms.

21 Q. Okay.

22 A. Which the track ended right here. There was a
23 fall, so we had to get off the ride and walk ---

24 Q. Okay.

25 A. --- right here.

1 Q. You're pointing to about, what ---

2 ATTORNEY BABINGTON:

3 160 Break?

4 A. 160 Break.

5 BY MR. FARLEY:

6 Q. --- 160 Crosscut in Eight North?

7 A. Yes.

8 MR. FARLEY:

9 Okay. I don't think I have anything

10 else.

11 MS. MONFORTON:

12 I don't have anything.

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. I got one question. Mr. Ullman, you say you had
16 exactly three hours.

17 A. Uh-huh (yes), yes.

18 Q. And you gave indication you had to work hard to
19 make it at three hours.

20 A. Yes.

21 Q. What if you found a problem?

22 A. Then I was late and they didn't come underground
23 if it was on my time, so I didn't --- I did not call
24 my report out until I was finished or I didn't put it
25 in the book until I was 100 percent finished with my

1 examination.

2 Q. Do you feel that you were able to give an adequate
3 examination?

4 A. Sometimes. Most of the time I was, but sometimes,
5 like I was telling my lawyer, I asked for help several
6 times and was given excuses.

7 Q. Who'd you ask for help?

8 A. Chris Blanchard.

9 Q. Any specific reason you asked for help?

10 A. Just so that we aren't on such a tight schedule,
11 getting everything done, getting our fire bossing done
12 for that shift or for hoot owl.

13 Q. What was Mr. Blanchard's response to you?

14 A. I don't recall exactly what he said, but 90
15 percent of the time it was sarcasm or his way, the
16 reason he thinks that nobody else is right.

17 Q. Did Mr. Blanchard ever walk those belts with you?

18 A. No.

19 MR. SHERER:

20 Okay. Thank you.

21 ATTORNEY BABINGTON:

22 Terry, anything?

23 RE-EXAMINATION

24 BY MR. FARLEY:

25 Q. Were there any pumps in the Eight North area?

1 A. I don't recall if they was.

2 MR. FARLEY:

3 Okay.

4 ATTORNEY BABINGTON:

5 Before we close out, let's take a quick

6 five-minute break and then we'll come back on and

7 close it out. Off the record.

8 SHORT BREAK TAKEN

9 ATTORNEY BABINGTON:

10 Erik?

11 MR. SHERER:

12 Okay.

13 RE-EXAMINATION

14 BY MR. SHERER:

15 Q. Mr. Ullman, a couple things here. You were
16 talking about how you had a limited amount of time to
17 do your examinations, your pre-shift examinations.
18 How many times did you keep the crew from coming
19 underground?

20 A. Dayshift I usually was okay, because I would have
21 a couple hoot owl bosses, you know, like the longwall
22 boss, which is Abraham and Keith Stanley. But my
23 second run, I would have --- they would help me.

24 Q. Okay.

25 A. They would get the longwall belt.

1 Q. Sure.

2 A. Or whoever --- whatever the boss was up here,
3 which I think was Kyle Anderson at the time, he would
4 get his belt on the second run or the dayshift.

5 Q. Okay.

6 A. On my first run, though, there was quite a few
7 times the hoot owl was late, maybe five, six times in
8 my knowledge. I'd keep them outside for thirty or
9 forty minutes until I was finished.

10 Q. Okay. That's five or six times over about an
11 eight-month period?

12 A. Yeah.

13 Q. So not quite one a month?

14 A. Yes.

15 Q. Okay. Do you recall the last time that you kept
16 one of the shifts out prior to the explosion?

17 A. I can't recall, no.

18 Q. Okay. Now, you said you were complaining to Mr.
19 Blanchard about that. Did any of the other fire
20 bosses, to your knowledge, complain about being
21 rushed?

22 A. I don't think so. I guess I'm a little more
23 mouthy than they are. Maybe they was just job-scared
24 to say anything or whatnot. I really didn't care.

25 Q. Okay, sure. I understand. I think I asked this

1 before about Mr. Blanchard's response to you. And you
2 said most the time he was sarcastic. Do you know why
3 he was sarcastic?

4 A. I honestly don't know why he is the way he is, but
5 I'm --- I would never be that type person.

6 MR. SHERER:

7 Okay. Thank you. Have anything, Matt?

8 RE-EXAMINATION

9 BY MR. FARLEY:

10 Q. Okay. You mentioned that you had stepped back
11 when you became a fire boss. You also mentioned that
12 you had a disagreement with the president.

13 A. Uh-huh (yes).

14 Q. Was that also Mr. Blanchard?

15 A. Yes.

16 Q. What was the nature of that disagreement?

17 A. Just the way he talked to me, the notes he would
18 send me. We called them nasty notes, what the coal
19 miners called them, but I just got tired of being
20 talking to like I was a child. And if they --- I had
21 actually quit over it, because they wouldn't let me
22 step down, and that's what it took for me to step
23 down, was to quit. And they convinced me to coming
24 back as an hourly employee.

25 Q. Okay. Now, when I was asking you about your time

1 you mentioned that you were off for a few days. Was
2 that when you quit?

3 A. Yes.

4 Q. Okay. Now, these nasty notes, were you the only
5 person that got them?

6 A. No. Anybody that bosses for Chris Blanchard will
7 tell you the same thing.

8 Q. Do you feel that these nasty notes --- do you
9 think they interfered with the people that bossed at
10 this mine? Does it bother them?

11 A. I mean it upsets them, yes. It ticks them off.

12 Q. Did it ever influence you to take any shortcuts?

13 A. No.

14 Q. Okay.

15 A. Because like I stated, I don't --- I didn't care
16 if he fired me or not; I was going to do my job, to
17 the best of my knowledge.

18 Q. Sure. That's commendable. Now, you also said
19 that you're a little mouthier than most people. Do
20 you think other people were intimidated by these nasty
21 notes?

22 A. I'm sure they was.

23 Q. Have you heard any specific instances where
24 they've been influenced?

25 A. I do, but I can't recall what they were over. I

1 mean, I just --- I know people talked about it.

2 MR. FARLEY:

3 Okay. Thank you.

4 MS. MONFORTON:

5 May I ask a follow-up on the ---

6 MR. FARLEY:

7 Sure.

8 MS. MONFORTON:

9 --- the nasty note issue?

10 MR. FARLEY:

11 Sure.

12 EXAMINATION

13 BY MS. MONFORTON:

14 Q. What form did the nasty note take? Was it, you
15 know, something they'd left in your locker or is it
16 something they ---?

17 A. No, he would write ---. You know, if I would not
18 get a job completed that shift, the next shift I'd
19 come in and have a ---. Instead of him coming to me
20 like a man and talking about it, he would leave a note
21 on the board, some sarcastic note for all my men to
22 see, and --- you know, just I would feel belittled.

23 Q. Like on a bulletin board or a whiteboard ---

24 A. Yeah.

25 Q. --- he would leave that?

1 A. Or he would leave them --- sometimes he would
2 leave them in a notebook, so ---.

3 MS. MONFORTON:

4 Okay. Thank you.

5 MR. FARLEY:

6 Okay.

7 RE-EXAMINATION

8 BY MR. SHERER:

9 Q. How many times did you complain about not having
10 enough time to do your fire bossing?

11 A. Several times. I don't recall exactly how many,
12 but several.

13 Q. Okay. When is the last time, if you recall, prior
14 to the explosion that you complained about that?

15 A. It was probably a while before, because I kind of
16 just give up on it, really, because it wasn't getting
17 nobody to take any action on it.

18 ATTORNEY ABRAHAM:

19 Can I ask you to maybe clarify this for
20 him? I think you've kind of melted two time frames
21 together, you know, maybe it's the way he's telling
22 it. If I understood, his testimony is the time he had
23 the issue with the boss and quit was before when he
24 was the mine foreman, not the fire boss.

25 MR. SHERER:

1 Uh-huh (yes), yes.

2 ATTORNEY ABRAHAM:

3 And I think it's confusing.

4 BY MR. SHERER:

5 Q. Yeah, I'm referring to specifically to when you
6 were a fire boss and you didn't have enough time to
7 complete your fire boss runs. And you responded that
8 you'd kind of given up on that prior to the explosion;
9 is that correct?

10 A. Yeah, and I don't know exactly how far from the
11 explosion it was, but this was just something that
12 would come up if I seen him at the mines, which was
13 not very often.

14 Q. Okay, sure.

15 ATTORNEY BABINGTON:

16 But I guess this, those complaints you
17 made to Blanchard were made after you came back to the
18 mine ---

19 A. Yes.

20 ATTORNEY BABINGTON:

21 --- as a fire boss and before the
22 explosion?

23 A. Yes.

24 ATTORNEY BABINGTON:

25 So in that time period?

1 A. Yes. Like, he wasn't there at my times, you know.
2 Six o'clock in the morning, he usually wasn't at UBB,
3 but when it was is when I was ---

4 BY MR. SHERER:

5 Q. Okay.

6 A. --- complaining about this stuff.

7 Q. Okay. Thank you. Okay. Yeah. Now, we were
8 discussing rollers earlier, and you mentioned that
9 you'd drop them on your own --- if you were doing a
10 pre-shift run you found a bad roller, you could drop
11 them. I think you mentioned something about your on-
12 shift. Did you do the on-shifts and the pre-shifts at
13 the same time?

14 A. No. Like, say if this roller was bad on this
15 belt, I would shut the belt off and drop the roller
16 and start the belt back up, and then on my on-shift I
17 would --- me or another crew would go back and replace
18 the roller.

19 Q. Okay.

20 A. They had a roller crew there.

21 MR. SHERER:

22 Oh, okay. Thank you.

23 ATTORNEY BABINGTON:

24 Terry, anything else?

25 MR. FARLEY:

1 One.

2 RE-EXAMINATION

3 BY MR. FARLEY:

4 Q. The other fire boss belt man who rotated with you
5 during your shift, I don't think we got his name, did
6 we?

7 A. Yes.

8 Q. Did we?

9 A. William Campbell.

10 Q. William Campbell, I'm sorry. Right. Now, I
11 assume --- is it correct that Mr. Campbell had the
12 same difficulty you had in completing ---

13 A. Yes.

14 Q. --- completing the exam of the entire area?

15 A. Actually he was just a contractor.

16 Q. Okay.

17 A. He wasn't a Massey member.

18 MR. FARLEY:

19 Okay. Thank you.

20 ATTORNEY BABINGTON:

21 Celeste?

22 MS. MONFORTON:

23 No.

24 ATTORNEY ABRAHAM:

25 I have a clarification question.

1 ATTORNEY BABINGTON:

2 Uh-huh (yes).

3 EXAMINATION

4 BY ATTORNEY ABRAHAM:

5 Q. Glenn, when you went through the man door and you
6 said your methane detector went off, where were you
7 exactly in the mine when that happened? Could you
8 show us?

9 A. I was behind this longwall, and I don't know
10 exactly which break it is, but it was up in this area
11 here somewhere.

12 Q. Okay. That would be ---? How would you describe
13 that area, the tailgate, the headgate entry?

14 A. Yeah, this is the headgate entry for the longwall
15 now.

16 Q. Do you remember which entry you were in?

17 A. I don't know what entry it was, but it was one
18 entry over from the track.

19 Q. Okay.

20 ATTORNEY BABINGTON:

21 Okay. And it's the area inby the
22 longwall setup entries toward Bandytown fan; is that
23 right?

24 A. Yes, but at the time the longwall wasn't there
25 yet. This was driving, you know. It was driving this

1 panel up.

2 BY ATTORNEY ABRAHAM:

3 Q. Was that before or after the Bandytown fan was put
4 in line?

5 A. I think they was still driving. The Bandytown fan
6 wasn't put in line yet.

7 Q. Okay. But what methane level does your detector
8 go off?

9 A. It's one percent.

10 Q. Okay. When it went off, did you look at the
11 detector and ---?

12 A. By the time I looked at it, it was already up
13 there to what it was when I backed out.

14 Q. What was it?

15 A. I don't recall exactly what it was. It was nigh.

16 Q. Okay; because at one point I thought you said it
17 was five percent.

18 A. Well ---.

19 Q. One point I thought you said you didn't know, so I
20 wanted to clarify which it was.

21 A. They said that somebody told them five percent,
22 but I said that I didn't know exactly what it was.

23 Q. Do you know what it was doing when it went off?

24 A. No.

25 Q. But you just know it went off?

1 A. Yeah. Now, it was high, I know it was high, but I
2 don't know exactly what number it was. It startled me
3 and I backed out.

4 Q. Okay. Did it then --- did it just clear itself or
5 what happened?

6 A. Yeah, basically it cleared itself.

7 Q. Did you go back through the man door?

8 A. No.

9 Q. Okay. All right. Did you record that?

10 A. Yes.

11 ATTORNEY ABRAHAM:

12 Okay. That's all.

13 ATTORNEY BABINGTON:

14 Okay. anything else?

15 RE-EXAMINATION

16 BY MR. FARLEY:

17 Q. I think I asked you this earlier. When you opened
18 the door in this instance, you were just talking about
19 your detector went off? You did not go through the
20 door; is that correct?

21 A. I mean I probably half stepped through it ---.

22 Q. Then you stepped away ---

23 A. Yes.

24 Q. --- immediately; correct?

25 A. Yes, yes.

1 MR. FARLEY:

2 Thank you.

3 ATTORNEY BABINGTON:

4 Okay. Well, there was a couple documents

5 we marked up. Well, one is a copy of the subpoena

6 that Mr. Koerber provided at the beginning. That'll

7 be marked G. Ullman One. A copy of the return receipt

8 for the subpoena; that'll be G. Ullman Two. A copy of

9 the Ellis Portal fan that we marked up with your fire

10 boss route; that'll be G. Ullman Three.

11 (Exhibit G. Ullman Three marked for

12 identification.)

13 ATTORNEY BABINGTON:

14 And then a copy of the Bandytown fan map

15 with more markings about your fire boss routes;

16 that'll be G. Ullman Four.

17 (Exhibit G. Ullman Four marked for

18 identification.)

19 ATTORNEY BABINGTON:

20 On behalf of MSHA and the Office of

21 Miners' Health, Safety and Training, I want to thank

22 you for appearing and answering questions today. Your

23 cooperation is very important in the investigation as

24 we work to determine the cause of the accident. We

25 request that you not discuss your testimony with any

1 person aside from a personal representative. After
2 questioning other witnesses, we may call you if we
3 have any follow-up questions.

4 If at any time you have additional
5 information regarding the accident that you'd like to
6 provide to us, please contact us at the contact
7 information previously provided. If you wish, you may
8 now go back over any answer you've given during this
9 interview, and you may also make any statement that
10 you'd like to make at this time.

11 A. I don't have any statements.

12 ATTORNEY BABINGTON:

13 Okay. Well, thank you. And again, I
14 want to thank you for your cooperation in this matter.

15 A. Thank you.

16 * * * * *

17 CONFIDENTIAL STATEMENT UNDER OATH

18 CONCLUDED AT 5:56 P.M.

19 * * * * *

20
21
22
23
24
25

1 STATE OF WEST VIRGINIA)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Alison Salyards, a Notary Public in and
for the State of West Virginia, do hereby certify:
That the witness whose testimony appears in
the foregoing deposition, was duly sworn by me on said
date and that the transcribed deposition of said
witness is a true record of the testimony given by
said witness;
That the proceeding is herein recorded fully
and accurately;
That I am neither attorney nor counsel for,
nor related to any of the parties to the action in
which these depositions were taken, and further that I
am not a relative of any attorney or counsel employed
by the parties hereto, or financially interested in
this action.



Alison Salyards