

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

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

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

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15 The interview of GLEN T. ULLMAN, JR., taken
16 upon oral examination, before Jenny Marmol, Court
17 Reporter, and Notary Public in and for the State of
18 West Virginia, Tuesday, September 20th, 2011, at
19 3:00 p.m., at the Mine Academy, 1301 Airport Road,
20 Beaver, West Virginia.

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

2 Today is September 20th, 2011.

3 My name is Barry Koerber. I'm the
4 assistant attorney general, and I'm assigned to
5 represent the West Virginia Office of Miners'
6 Health, Safety and Training's UBB Accident
7 Investigation Team.

8 We have several members of the Accident
9 Investigation Teams, to my left. I would ask at
10 this time that they identify themselves.

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

14 MR. BABBINGTON: Matt Babbington, I'm an
15 attorney with the U.S. Department of Labor.

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

18 MR. CAUDILL: Steve Caudill, Mine Safety
19 & Health Administration.

20 MR. KOERBER: We also have a court
21 reporter with us here today. She is with the court
22 reporter agency, Johnny Jackson & Associates. I'm
23 going to give you their business card at the end of
24 the interview -- well, actually, I'm going to give

1 you this business card just momentarily.

2 Johnny Jackson & Associates is working
3 under a three-day turnaround, as far as taking the
4 words that are spoken here today and putting them
5 on paper.

6 Three days would put us through the end
7 of -- the close of the business day on Friday.

8 So come Monday morning, if you or you and
9 your attorney would like, you can call Johnny
10 Jackson & Associates and ask to have an appointment
11 where you would go to Johnny Jackson's office and
12 review your transcript if you desire.

13 And the purpose of the review would be
14 whatever you wanted. But one of the things that
15 you would be given is an errata sheet, that if you
16 found any mistakes in the transcript, you could
17 note the errors on the errata sheet.

18 That is your choice, but I'm going to give
19 you the business card so that if you do choose
20 you'll know how to get in contact with them and the
21 address is here.

22 The transcript won't be ready until
23 Monday, and you're not required to call on Monday,
24 but I would ask that you call within a couple or

1 three weeks if you desire to review your
2 transcript. Don't wait a year down the road, if
3 you would, please. Try to do it within a couple,
4 three weeks.

5 Also, if you do choose to review your
6 transcript, you'll have to go to the office.
7 They'll put you in a conference room where you and
8 your attorney, or you as an individual, would have
9 privacy to read the transcript and review it at
10 your -- for however long it took, but you would not
11 be permitted to take a copy home with you. Okay?

12 THE WITNESS: Okay.

13 MR. KOERBER: Also, just to assist the
14 court reporter, I would ask that you say the words
15 "yes" and "no" and not "uh-huh," "uh-uh" or shake
16 your head.

17 I would ask you to please allow the
18 question to be finished before you begin your
19 answer, and I'm going to ask that the interviewers
20 allow you to finish your answer before they begin
21 the next question so we don't have people talking
22 over each other.

23 Also, if for any reason whatsoever, you
24 want to take a break, just say so and we'll take a

1 break.

2 THE WITNESS: Okay.

3 MR. KOERBER: Okay. No problem whatsoever
4 any reason whatsoever.

5 We request that you not discuss your
6 testimony with anybody outside of this room other
7 than your attorney.

8 THE WITNESS: Okay.

9 MR. KOERBER: And the purpose of that is
10 to protect the integrity of the investigation.

11 At this time, Matt may have something to
12 add, and if so, he can.

13 MR. BABBINGTON: Thank you, Barry.

14 Mr. Ullman, thank you for coming in and
15 talking with us today.

16 I have a letter here addressed to you from
17 Norman Page, our lead accident investigator, MSHA's
18 lead accident investigator, basically describing
19 the background of this interview process and also
20 contact information in case there's additional
21 information you would like to provide at another
22 time.

23 Thank you, Barry.

24 MR. KOERBER: Not only am I going to give

1 you Johnny Jackson's business card, I'm also going
2 to give you Bill Tucker's business card.

3 Bill Tucker is the gentleman seated beside
4 me. He's the lead investigator for the state.

5 If anything comes up after the interview
6 that you would like to add, our contact person is
7 Mr. Tucker.

8 I'm also going to give you, and I think
9 you've already gotten this in the past when you
10 were here before, but I'm going to give you a memo
11 containing the address to the Board of Appeals,
12 which is the administrative agency that hears coal
13 miner discrimination cases.

14 If you believe you have been discriminated
15 against because of participating in this interview,
16 this is the agency that you file the complaint
17 with.

18 THE WITNESS: Okay.

19 MR. KOERBER: I would caution you that
20 under the statute, you only have 30 days from the
21 day of the discriminatory event to file your
22 complaint.

23 Also, we have a couple of other people in
24 the back. They are also members of the Accident

1 Investigation Team.

2 I'm going to ask at this time that they
3 state their name and who they are with.

4 MR. VANCE: Jerry Vance, with MSHA.

5 MR. PAGE: Norman Page, with MSHA.

6 MR. KOERBER: And I'm going to give you
7 this stuff here right now.

8 I would ask the court reporter to swear in
9 the witness and I'm going to get to you here in a
10 moment.

11 GLEN T. ULLMAN, JR., DEPONENT, SWORN

12 MR. KOERBER: Sir, for the record, would
13 you please state your full name and spell your last
14 name.

15 THE WITNESS: Glen Thomas Ullman, Jr., and
16 the last name is U-l-l-m-a-n.

17 MR. KOERBER: And would you please state
18 your address and telephone number?

19 THE WITNESS: (b) (7)(C)

20 (b) (7)(C)

21 MR. KOERBER: Do you have an attorney with
22 you here today?

23 THE WITNESS: Yes, sir.

24 MR. KOERBER: I would ask that he identify

1 himself and his firm.

2 MR. ABRAHAM: Brian Abraham, with the firm
3 Abraham & Ilderton in Logan, West Virginia.

4 MR. KOERBER: Mr. Abraham, Mr. Ullman is
5 your client; correct?

6 MR. ABRAHAM: That's correct.

7 MR. KOERBER: Mr. Ullman, on April 5th,
8 2010, who was your employer?

9 THE WITNESS: I worked at Upper Big Branch
10 for Massey Energy.

11 MR. KOERBER: What was your job title on
12 April the 5th, 2010?

13 THE WITNESS: Fire boss.

14 MR. KOERBER: And as a fire boss, you fill
15 out examination books; correct?

16 THE WITNESS: Yes.

17 MR. KOERBER: We also have another person
18 seated at the table, and I would ask at this time
19 for him to identify himself, his firm, and his
20 client.

21 MR. AKERS: Ryan Akers, with Guthrie &
22 Thomas in Charleston, and I'm here on behalf of
23 Massey.

24 MR. KOERBER: Mr. Ullman, are you

1 appearing here today as a result of receiving a
2 subpoena?

3 THE WITNESS: Yes.

4 MR. KOERBER: Okay. And you received that
5 in the past; correct?

6 THE WITNESS: Yes.

7 MR. KOERBER: Okay. Normally I would
8 offer that as an exhibit at this point in time, but
9 somehow I neglected to put that in my bag this
10 morning. So we're not going to do that.

11 At this point in time, I'm going to turn
12 it over to Mr. Tucker to begin the interview.

13 EXAMINATION

14 BY MR. TUCKER:

15 Q. I appreciate you coming in. I want to ask
16 you a few questions to get started here.

17 One thing I noticed on your first
18 interview, you talked about a notebook that you
19 kept on the Ellis side --

20 A. Yes.

21 Q. -- in your locker, and you said that you
22 would get it and provide us a copy of that. Did
23 you ever find it?

24 A. I tried to find it, and they had done

1 taken everything out of the lockers so I never did
2 get it. I don't have a clue where it's at.

3 Q. So you did actually go back to the mines?

4 A. Well, I didn't go to Ellis, but I had
5 asked, you know, several people at the mines about
6 getting our stuff, and everything was already taken
7 at the time. So we didn't get any -- other than
8 our boots and hard hat and belts, that's about all
9 we got probably.

10 Q. Okay. Have you asked anybody that may
11 have got your notebook to provide it to you?

12 A. No. I really don't know who went through
13 the lockers. I don't have no idea.

14 Q. One other thing we talked about when it
15 come to fire bossing in your first interview,
16 sometimes you would be maybe running late, and you
17 said that there was several occasions that you held
18 up the oncoming shift?

19 A. Yes.

20 Q. Is that while you were fire bossing or
21 while you was shift foreman?

22 A. As I was fire boss. I didn't do a lot of
23 fire bossing when I was a shift foreman, just on
24 occasion.

1 Q. I mean, when you was shift foreman, did
2 any fire bosses call out to you that they weren't
3 done and you would have to hold up the crew before
4 they could get in?

5 A. When I was shift foreman they were pretty
6 well staffed well on the fire bosses.

7 Q. Okay. Do you know of any instances where
8 the men went in the mines before it was cleared,
9 before all the fire boss reports were called out?

10 A. To my knowledge, no, I don't.

11 Q. So when you say you held them up, would
12 you call outside and talk to someone and say, you
13 know, you wasn't done or would they --

14 A. Yes.

15 Q. How did that work? Who would you call?

16 A. If I would be walking belts or something
17 and they would be running late, I'd just stop
18 somewhere in between and holler and talk to a
19 superintendent or something, let them know that I
20 was running a few minutes late, but I'd call my
21 report out as soon as I was finished.

22 Q. As far as you know, they held them
23 outside?

24 A. Right. Yes.

1 Q. On your fire boss runs, one of the things
2 I guess you would look for would be rock dusting?

3 A. Yes.

4 Q. Mainly, what areas did you fire boss again
5 in the mine?

6 A. At the time of the explosion, I fire
7 bossed from Ellis punch out inby towards the
8 longwall, and up in the old north mains area there
9 was a pump way up in the face, all that areas and
10 the belts and stuff.

11 Q. Okay. So when you was up, say, up in 8
12 North, did you walk the same entry up, or do you
13 walk up one way and come back a different way? How
14 would you do that?

15 A. When I would walk my belts, I would walk
16 in the first time -- I had to do it twice a shift.
17 I'd walk in the first time, and then I'd walk out
18 the same time I fire bossed.

19 Q. As far as on your belts?

20 A. Yes. And when I would get, you know, up
21 in that old north mains, the track would go up in
22 there, and there wasn't no running belts up in
23 there. It was just a pump and a D-box at the end
24 of the track. So I would just ride the track up to

1 that box and then I'd walk up to the pump, which is
2 up in the face.

3 Q. Okay. So you would ride most of the way
4 up there?

5 A. For the pump, yes.

6 Q. Okay. Did you pay any attention -- I know
7 you was mainly going to that pump instillation just
8 to check it and the D-box, but did you pay any
9 particular attention to the cross-cuts and the
10 other entries up in that area?

11 A. Yeah, I would check for bad top and things
12 like that, yeah.

13 Q. What about as far as rock dusting? Did
14 you pay particular attention to that?

15 A. It was pretty decent. I mean, it wasn't
16 dusted a lot, a lot of the times, but, I mean, it
17 wasn't bad. My --

18 Q. Just wondering when -- I'm sorry.

19 A. My floor was, you know, a little dark, but
20 the ribs and top wasn't bad at all.

21 Q. When you were in areas like that, would
22 you pay as close attention to the dust as, say, you
23 would on a conveyer belt line? Would you look at
24 that differently?

1 A. Yeah, probably would, yes.

2 Q. So when you're making the belt line, would
3 you pay more attention to the rock dusting in that
4 particular entry than, say, the others?

5 A. Well, that and track entries. I pay a lot
6 of attention to it.

7 Q. When you were walking the belts, and I
8 know you walked them twice --

9 A. Yes.

10 Q. -- in your shift, you had 12-hour shift;
11 is that correct?

12 A. Yes.

13 Q. When you were walking in the belt entries,
14 did you ever go over into the cross-cuts and pay
15 any particular attention as far as the dusting?

16 A. I'd go into the cross-cuts as I was
17 passing through, yes.

18 Q. Is that something you would write up quite
19 frequently?

20 A. Yeah, I was pretty stern on my rock
21 dusting. Whenever I would fire boss, I definitely
22 would report it. And if I got the time, I would
23 try to work on it.

24 Q. So in between your runs, you would go back

1 a lot of times maybe -- or would you go back, in
2 fact, and do some of the rock dusting yourself?

3 A. I would rock dust and cleaned what I did a
4 lot of when I fire bossed.

5 Q. Did you just hand dust, or did they
6 scatter rock dust out and you hand dust, or how did
7 you do that?

8 A. Well, if I was going to dust the belts I
9 would have a machine duster, but sometimes I would
10 hand dust heads and tails, places like that. If I
11 cleaned a place, I would try to hand dust it before
12 I left.

13 Q. So that was mainly at the heads and tails
14 that you would --

15 A. Hand dust.

16 Q. -- typically apply rock dust by hand?

17 A. Yes.

18 Q. The rest of the belt line, which there's
19 large areas in between the head and tail --

20 A. Right.

21 Q. -- who would you rely on to rock dust
22 those areas?

23 A. At the time the shift foreman was Shawn
24 Walker. I reported stuff like that to him, and he

1 would try to get a crew up with the machine duster,
2 if he could, and they would rock dust the belt with
3 a machine.

4 Q. Did they do that on your shift?

5 A. Yes, third shift.

6 Q. And I know it's a long time to remember
7 back, but can you recall is that something they
8 would do one or two nights a week, or do you have
9 any --

10 A. At the time, I really can't remember if
11 they had a dust crew. I know that they always had
12 a dust crew. But at that time, I'm not sure if
13 they had a permanent dust crew that did all the
14 dusting or not. I'm not sure.

15 MR. TUCKER: That's all I have for right
16 now. I appreciate it.

17 EXAMINATION

18 BY MR. MAGGARD:

19 Q. As far as the dust crews go -- let me --
20 let's step back a little bit.

21 When you first started at Upper Big
22 Branch, what was you doing when you first started?

23 A. I was a red hat. I just worked outby.

24 Q. Okay. And what other types of jobs did

1 you have before you became, like, a shift foreman?

2 A. Just construction work, belt moves, rock
3 dust, belt splices, things like that.

4 Q. And as far as rock dust, was you on the
5 rock dust using the track-mounted duster?

6 A. Yes.

7 Q. What shift was you doing that on?

8 A. Third shift.

9 Q. Okay. And how long ago was that prior to
10 April the 5th that you was on the rock dust area?

11 A. Probably -- I don't know -- seven, eight
12 years, something like that.

13 Q. Did they have more than one shift that had
14 a rock dust crew?

15 A. Evening shift dusts sometimes. They
16 didn't have a permanent crew, they just had an
17 outby crew and they would help out sometimes.

18 Q. What about closer to April 5th, did they
19 have anybody on evening shift running rock dusting
20 crew?

21 A. I don't really want to state on it because
22 I ain't really sure.

23 Q. When did you become a shift foreman? I
24 understand you was a shift foreman maybe eight

1 months prior to --

2 A. Yeah, I did it for about two years, and
3 decided I just step down, just my choice.

4 Q. Where was you a shift foreman at?

5 A. UBB.

6 Q. Was it a section --

7 A. No, the whole hoot owl.

8 Q. Was it third shift?

9 A. Yeah.

10 Q. What kind of duties would a third shift
11 foreman have at UBB on third shift?

12 A. I would just mainly hand out jobs to all
13 the other men, make sure things got done, checked
14 on everybody, just made sure everything I had them
15 doing was getting done. I just run around checking
16 on different jobs I had going on.

17 Q. So was the third shift guy, was third
18 shift foreman, was he responsible for directing the
19 rock dust crew, or was that done by a
20 superintendent or someone else?

21 A. The superintendent would leave you notes,
22 and you would just -- it's kind of like passed down
23 the chain. He would leave me notes. I would leave
24 -- I would get -- I mean, on what the note was, and

1 just hand everything out, prioritize it.

2 Q. And who would that have been when you was
3 the shift foreman, who was directing the rock dust
4 crew?

5 A. We had several. We had Gary May, we had
6 Rick Foster, and Homer Wallace.

7 Q. On April 5th, who was directing the rock
8 dust crews, do you know?

9 A. We had Everett Hager and Gary May and Rick
10 Foster.

11 Q. Out of those three, who was the one that
12 primarily done that?

13 A. Everett Hager was doing that.

14 Q. Could you kind of take us -- let's say --
15 I know you was talking about you and another
16 examiner, correct me if I'm wrong, was that Bill
17 Campbell that you usually run with him examining
18 the belt?

19 A. Well, we had, you know different -- we
20 worked, like, four on, three off schedule. I
21 worked with him sometimes. And then Stevie
22 Campbell was another fire boss with me.

23 Q. Okay. Kind of run me through, if you done
24 from the Ellis portal, how far inby you would go,

1 walking the belts, how you done that, where you
2 stopped at, and just take me through a whole shift,
3 like, the outby, from Ellis inby, and then from the
4 other point the other examiner would start and
5 inby?

6 A. I would start from Ellis punch out, and I
7 would normally come up to 6 North and go to 6
8 Tail. He would get the longwall belt and inby, and
9 then sometimes we would just rotate. You know,
10 we'd get tired of the same run and just rotate
11 everything once in a while.

12 Q. So if I understand this right, you
13 normally worked from 6:00 to 6:00; is that correct?

14 A. Yeah.

15 MR. KOERBER: You mean 6:00 A to 6:00 P?

16 MR. MAGGARD: 6:00 P to 6:00 A.

17 Q. And you do, what, two pre-shifts and an
18 on-shift; is that correct?

19 A. Yeah, I would start my first fire boss run
20 at 8 o'clock.

21 Q. Okay.

22 A. And my second would start at 3 o'clock.

23 Q. Okay. So let's say you done Ellis to the
24 tail of 6 North. The entry that you were

1 responsible for, did you just walk the belt entry?

2 A. I would fire boss the belts in. And when
3 I did the outby end of it, I would fire boss my
4 belts in on foot, and he would leave his ride up
5 here.

6 And I would get -- after I got finished
7 with my run, I would get that ride and I would fire
8 boss the track back outside, and I would fill the
9 fire boss books out before he came out.

10 Q. So as far as the pre-shift for day shift
11 on the belts, I understand you're riding the track
12 back out, how did you get the belt entry on the way
13 back out?

14 A. Well, I would make myself end up starting
15 outby every time I would -- my fire boss run
16 started, whatever I was doing, when it was time to
17 fire boss, I would be back out at the punch out to
18 start walking back in. I just kind of rotated
19 every time.

20 Q. So at the end of your shift, who did you
21 ride out with?

22 A. Well, the second run I would finish my
23 run, and his ride would be at the mother drive of
24 the longwall belt. I would go pick him up, up on

1 Headgate 22, and then we would go fire boss the
2 track on our way out and fill our books out.

3 Q. But as far as your pre-shift, the
4 pre-shift before owl shift, you called that out or
5 did you take it --

6 A. No, I took it to him. One of us did. If
7 he got the outby end, he took it out. If I got the
8 outby end, I took it out. Whichever one of us got
9 that end is the one that took it out.

10 Q. Where would you have to take -- would you
11 take any kind of methane measurements at certain
12 locations, how did that work?

13 Where did you take methane measurements,
14 and what was the highest concentration you ever
15 found in the belts?

16 A. I would take constant methane all the way
17 in. But in high places where we had fallen and
18 stuff, I would take them there and on the belts,
19 and anywhere I've never had any methane.

20 Q. When you say "constant," is there certain
21 times that you look at your detector --

22 A. Yes.

23 Q. When did you do that?

24 A. Several times. Just a habit I got,

1 looking at my methane.

2 Q. Okay. I noticed in the books, and it's
3 not just you, but it's -- several people identified
4 similar conditions. Okay? And I'm going to give
5 you an example of one.

6 For instance, at 5 North belt from, like,
7 3/23, March the 23rd, all the way until the time of
8 the accident, there was a notation in there that
9 there was accumulations from Break 60 to the flow
10 through. Okay?

11 A. Uh-huh.

12 Q. And several people identified that
13 condition.

14 A. Okay.

15 Q. Can you tell me a little bit -- I know you
16 said that they were shorthanded on examiners and
17 stuff. Could you tell me a little bit of why a
18 condition would go that long being put in a
19 pre-shift book for the belt?

20 A. Neglect. I mean, nobody following up on
21 their job.

22 Q. Okay. If I was to tell you that, you
23 know, we've seen those conditions, and I've seen 16
24 inches of accumulations, the belt turning and the

1 -- signs that the belt had turned and accumulations
2 around a couple of rollers in that area, would that
3 surprise you?

4 A. It really wouldn't surprise me if it was
5 there. I don't remember that far back, but it
6 wouldn't surprise me, no.

7 Q. Who is responsible when you report a
8 condition like that? Who would you expect to take
9 care of that?

10 A. Well, I would expect the mine foreman to
11 get a crew to clean it up.

12 Q. Who was the mine foreman on Ellis Eagle?

13 A. On my side of the mines, I was on Ellis
14 side, and he was acting mine foreman, he just
15 started, you know, right before it was Terry --
16 can't remember Terry's last name, a black fellow.

17 Q. Would it be Moore?

18 A. Yeah, Terry Moore.

19 Q. Did you ever see him respond to any of
20 those conditions like that -- or what was Terry's
21 job? What was he doing as far as making resources
22 available to correct the condition?

23 A. At the time of the explosion, I think he
24 spent a lot of time working around where they was

1 driving through that new headgate.

2 They was working putting up five-foot belt
3 head and stuff in there at the time of the
4 explosion.

5 Q. I know you talked about -- you made
6 mention that -- you mentioned to maybe Chris
7 Blanchard that there was not enough examiners at
8 the mines?

9 A. Yes.

10 Q. Do you remember how many times that was
11 mentioned to him? And I'm sure it probably wasn't
12 just you, but could you maybe elaborate on that a
13 little bit?

14 A. It was several times we asked for help,
15 and not just me, like you said, every one of us was
16 asking for more people.

17 Q. Had any of the -- like Terry Moore or any
18 of the guys that were -- I assume he reviewed the
19 books, right, that you guys filled out?

20 A. Yeah.

21 Q. Would he go from time to time and look at
22 those areas?

23 A. I don't know if he did. I was third shift
24 so I really don't know.

EXAMINATION

1
2 BY MR. CAUDILL:

3 Q. You mentioned earlier as a third shift
4 foreman that you would prioritize your jobs?

5 A. Yes.

6 Q. You'd get a list from the superintendent
7 or whoever?

8 A. Yes.

9 Q. How did you prioritize them?

10 A. Well, at the time I was doing it, the
11 priority was we -- I would go through the fire boss
12 books and see things that had been in there that
13 needed to be corrected and taken out, and I would
14 start with that.

15 Then I would have, you know, rock dust.
16 And I had a crew at the time, so I always had
17 somebody dusting. And just belt splices and things
18 like that, we would just start at the --

19 Q. Was it -- I'm sorry. Was it third shift
20 foreman's job to prioritize these things, or was
21 the list given to you in an order?

22 A. Given to me in an order.

23 Q. Given to you in an order?

24 A. Yes.

1 Q. Do you recall where rock dusting fell on
2 that order?

3 A. It was at the top. I mean, we always rock
4 dusted at the time.

5 Q. That was how long ago?

6 A. Before the explosion it was about eight
7 months to a year ago, before the explosion.

8 Q. In your pre-shift and on-shift records,
9 you mentioned several times you list, Needs dusted
10 and sometimes spot dusted.

11 A. Yeah.

12 Q. Do you care to define the difference?

13 A. You know, some places would be dusted
14 fine, and there would be some places that was kind
15 of black and I think they needed some dusting.

16 Q. Okay. Now that's spot dusting or --

17 A. Yeah. I mean, if that's what I wrote in
18 the book, that's what I mean, yes.

19 Q. So spot dusting would be a small area --

20 A. Yes.

21 Q. -- is what you're saying?

22 A. Yes.

23 Q. And when you put down, Needs dusting,
24 would that be an entire conveyor belt?

1 A. Yes. On that side of the mines, yes.
2 Because I didn't ever go to the other side of the
3 mines, so ...

4 Q. So Terry Moore and Everett Hager were the
5 foreman and superintendent for this northern area
6 of the mine?

7 A. Yes, on the Ellis punch out inby.

8 Q. Ellis punch out inby?

9 A. Yes.

10 Q. Where the longwall was?

11 A. Right.

12 Q. And who were the mine foreman and
13 superintendent for the other area of the mine?

14 A. Gary May and Rick Foster.

15 Q. Which one was super?

16 A. Gary May was super.

17 Q. Okay. And then that would make Rick
18 Foster the foreman?

19 A. Yes.

20 MR. BABBINGTON: Thank you.

21 EXAMINATION

22 BY MR. MAGGARD:

23 Q. We was talking about that notebook you
24 had, and you'd keep them in the locker and stuff.

1 Did you have a lock on your locker?

2 A. No, I didn't.

3 Q. About how soon after the accident did you
4 go to the bathhouse?

5 A. It was directly -- it was maybe a day or
6 two before they let us go up there. They called me
7 back to work actually, just for any kind of
8 assistance that would be needed up there, I guess.

9 Q. Did you notice any other lockers that had
10 already had the locks removed off from them or
11 anything else that you noticed?

12 A. I don't recall, you know, personally
13 seeing locks removed, but I know everything was
14 taken out. I'm pretty sure of that.

15 Q. You don't have any idea who would have
16 done that?

17 A. Not at all.

18 Q. Did you also have to do anything with
19 explosives in the mines?

20 A. Yes.

21 Q. Could you tell us what -- I know you've
22 shot fire and stuff. When have you had to use
23 them, where at?

24 A. Last time I did use at UBB was in the cut

1 through between Headgate 22 and Tailgate 22. There
2 was a rock fall on the tail entry and they had me
3 to shoot it. That was the last time I done it.

4 Q. Do you know how long prior to the 5th that
5 would have occurred?

6 A. It wasn't long at all.

7 Q. Was there a magazine up there that you
8 remember?

9 A. Yes.

10 Q. Was you involved with bringing that
11 magazine in, or was it already there?

12 A. I think I might have brought it in and it
13 was never taken out to my knowledge, so ...

14 Q. Do you know if they had any permissible
15 blasting units at the mines, or did you know what
16 type they had?

17 A. You mean the magazines for outside?

18 Q. To initiate the blast, the battery pack?

19 A. Oh, yes. I don't recall what it was
20 called, but we had a battery explosive.

21 Q. Do you know if it was permissible or not?

22 A. I don't know. It was -- I really don't
23 know.

24 Q. Do you know where it was normally stored

1 at?

2 A. When I used it, I would take it in with me
3 and I'd take it back out into the office.

4 Q. Which office?

5 A. At the time I would figure it would have
6 been on the Ellis side. I didn't go to the UBB
7 side very often unless I had to go get the magazine
8 to get powder.

9 Q. When you were doing your exams and stuff,
10 did the operator issue you a multi-gas detector?

11 A. Yes.

12 Q. So they issued it, it wasn't your own or
13 anything like that?

14 A. No, they issued it.

15 Q. Okay. Do you know what -- had you had any
16 -- I know we talked about how much methane you
17 read. Did they give you any kind of training on
18 that detector?

19 A. Yes.

20 Q. Could you tell us when did they give you
21 some training?

22 A. I don't recall the exact time, but the
23 last time that I was trained on it would be at my
24 -- it would have been at my retraining course that

1 we would go through every year.

2 Q. Do you know about what time that was?

3 A. I really can't remember at that time, no.

4 Q. How long had they issued you a detector at
5 UBB?

6 A. I don't understand.

7 Q. How long had you had a detector? Did you
8 have take it home? Just tell me a little bit about
9 it.

10 A. They kept them stored. They had chargers
11 there and they had bumpers and all that stuff. We
12 had to bump it every shift.

13 Q. Did you normally use the same one that you
14 always --

15 A. No.

16 Q. Okay.

17 A. No, I didn't.

18 Q. How many spares did they have? We've been
19 told that there was a shortage of them at the
20 mines?

21 A. I don't know exactly. There was several.
22 I always had one, but I don't know exactly how many
23 they had, no.

24 Q. Did you calibrate them, or did somebody

1 else do that?

2 A. I would take care of mine. I would
3 calibrate it -- we had a little setup in our fire
4 boss room there, and we bumped them every shift and
5 we would calibrate them, things like that.

6 Q. Do you know how many -- I'm trying to
7 figure out how many spares they did have. Do you
8 know how many spare detectors they had there?

9 A. I really don't know at the time. I mean,
10 maybe there might have been about ten detectors
11 there. I ain't really a hundred percent exact. I
12 know there was several.

13 Q. Most of the examiners we talked to
14 actually took their detectors home with them and
15 charged them, and they were issued one
16 individually. Are you telling me that you
17 weren't --

18 A. I would just get mine when I went to
19 work. I never did take it home.

20 EXAMINATION

21 BY MR. CAUDILL:

22 Q. You mentioned the notebook in your locker
23 and that you traveled to the mine and you asked
24 them?

1 A. Yes.

2 Q. Who were you referring to when you said
3 "them"?

4 A. I think Everett Hager was up there at the
5 time, and, I mean, there was several people there
6 that I don't have a clue who they was.

7 But it was just a question I asked, and
8 the lockers was already cleaned out at the time so
9 nobody really had an answer.

10 Q. What did they tell you?

11 A. I can't recall exactly what they said. I
12 don't know. I just know our lockers -- there was
13 just a couple of us came back to assist a couple
14 Massey people and things like that that was there,
15 and I don't even know who them people was. I just
16 know they was something to do with Massey.

17 And everything was out of our lockers is
18 all I remember. I don't know what they done with
19 it or who got it or anything.

20 Q. You also stated that we went up there and
21 asked them. Was there someone else with you?

22 A. Billy Campbell was with me when I went
23 back.

24 Q. Billy Campbell was with you?

1 A. And John -- I can't remember John's last
2 name. He was another fire boss. He had just
3 started there a few months before the explosion, an
4 older man.

5 Q. Did they also ask for their personal
6 belongings out of their lockers?

7 A. I don't know.

8 Q. Did they ever talk to you about it?

9 A. No.

10 Q. You also mentioned while you were doing
11 your fire bossing that you held up the production
12 crew --

13 A. Yes.

14 Q. -- to complete your fire boss run.

15 What caused you to run late that day?

16 A. Shorthanded.

17 Q. Shorthanded?

18 A. Yeah, certain times I would have --
19 somebody maybe would call in or something, and I'd
20 have a lot more to fire boss than I normally would,
21 so ...

22 Q. Did you ever ask for additional help?

23 A. Yes.

24 Q. What was the response that you got?

1 A. They thought we had plenty at the time.

2 Q. Who did you talk to about this?

3 A. I talked to Everett Hager and Gary May.
4 Chris Blanchard, I've talked to him several times
5 about it.

6 Q. Now if I understand you correct, you were
7 traveling from the Ellis portal all the way up to
8 the north section --

9 A. 6 North.

10 Q. -- walking that area?

11 A. From punch out to 6 North tail or I would
12 get the -- from 6 North tail inby.

13 Q. And you made that trip how many times a
14 night?

15 A. Two times.

16 Q. Two times a night?

17 A. Yeah.

18 Q. And you had enough help?

19 A. I didn't think so.

20 Q. Do you feel like that's a whole lot for
21 one person to try to examine?

22 A. Yes.

23

24

EXAMINATION

1
2 BY MR. MAGGARD:

3 Q. If I was to ask you which belts had the
4 worst conditions, could you, you know, from your
5 memory, which belts would you say were in need of
6 extra attention?

7 A. I would say Ellis belt. Ellis 4 and 5
8 belt.

9 Q. I understand they had a lot of gob outs in
10 4 North tail. Is that what you're talking about?

11 A. Yes.

12 Q. What about in by 78 Break, in by the
13 switch?

14 A. Those belts was normally in good shape.

15 Q. Can you explain why that -- I know he
16 asked about it, why there's so many entries about
17 needing additional dust, spot dust, clean up here
18 and there, why are there so many entries by so many
19 different examiners in your opinion? Is it because
20 they couldn't keep up with you?

21 I want you to kind of clarify what you
22 mean by they were in pretty good shape when you
23 got --

24 A. I mean compared to what I was talking

1 about, the Ellis belts, they was in a lot better
2 shape than what they was in.

3 Q. Would you say that along 5 North belt,
4 would you say it's -- the conditions inby 78 were
5 the same or a little bit worse?

6 A. Maybe a little worse than 5.

7 EXAMINATION

8 BY MR. CAUDILL:

9 Q. When you record, Needs dusting, what did
10 you use to determine that an entry needed dusted,
11 visual examinations?

12 A. Yeah, visual examinations, black ribs and
13 black top, you know, it would have black dust on
14 them, or kind of like an air lock would do.

15 Q. Would you classify that as, like, float
16 coal dust then?

17 A. Yes.

18 Q. Now, Mr. Maggard has already mentioned
19 that "needs dusting" is repeated over and over and
20 over in these belts.

21 Did you ever question management as to why
22 these weren't getting corrected?

23 A. Sometimes if it was carried over in the
24 book several times I would bring it to their

1 attention more than one time.

2 Q. I know just looking through these belt
3 examination book it repeats, and it's not just you,
4 it's additional -- other examiners do the same
5 thing.

6 You mentioned the north area is not being
7 dusted all the time?

8 A. Right. Yes.

9 Q. Right there where the pump was?

10 A. Yes.

11 Q. How often did you ever see that area
12 dusted?

13 A. After they came out of there, never to my
14 attention.

15 Q. How many dust crews were you guys running
16 on third shift?

17 A. Just one.

18 Q. Just one?

19 A. We'd have two men.

20 Q. Would you ever know of them having any
21 problems with the rock duster? Was it --

22 A. Yeah.

23 Q. How often was it broke down?

24 A. Well, we had two. We always would have

1 one running, but they had a lot of maintenance
2 problems out of them. They needed to be rebuilt.

3 Q. Old machines?

4 A. Uh-huh, yes.

5 Q. How old were they, do you know?

6 A. They was there when I got there, so I
7 really don't know how old they are.

8 Q. What kind of condition were they in when
9 you arrived?

10 A. They was in real good condition when I
11 started.

12 Q. That was, what, eight --

13 A. Eight or nine years.

14 Q. Eight or nine years?

15 A. Uh-huh.

16 Q. To your knowledge, had any rebuilds been
17 done to them in that time frame?

18 A. I think they rebuilt the orange -- we had
19 an orange one and a white one. I think they
20 rebuilt the orange one at one time in between that.

21 **EXAMINATION**

22 **BY MR. TUCKER:**

23 Q. Did you ever travel up the tailgate of the
24 current longwall?

1 A. Towards inby 78?

2 Q. Inby 78, yeah, the tailgate entries of the
3 longwall.

4 A. I have before, yes.

5 Q. About how long has it been before you had
6 been up through there?

7 A. Before the explosion, it had been a
8 while.

9 Q. Been a while?

10 A. Yeah.

11 Q. Okay.

12 A. I think it was when they was driving that
13 tailgate, when they was driving it up, I believe.

14 Q. Okay. Was that before Bandytown fan was
15 online?

16 A. I believe so, yes.

17 Q. Okay. What about this connector down in
18 through here right below the longwall stop? Had
19 you been in there recently prior to the explosion?

20 A. I'd say I have, yes.

21 Q. Can you recall a condition of rock dust in
22 that area?

23 A. Not really. It's been so long ago I
24 really ...

1 MR. TUCKER: Okay. Thank you.

2 EXAMINATION

3 BY MR. MAGGARD:

4 Q. We was talking about those -- that rock
5 dust crew. I know you worked third shift. How
6 many times would you see them on a -- if they made
7 it into your area was it -- how many trips did they
8 make this far deep up in the mines, say, up 6
9 North, 7 North?

10 A. I've done it. When I done it, I'd make
11 two or three a night. But the guys that they had
12 at the time would make a trip usually.

13 Q. How long would they normally be in an
14 area, do you know?

15 A. They would normally dust one belt a
16 shift. When they was dusting it would be -- you
17 know, say they dust 4 North, they usually dusted
18 that belt.

19 Q. We've had different ones say they could do
20 10 cross-cuts, some say 20. Could they really do a
21 whole belt?

22 A. With a load of dust you mean?

23 Q. Yeah.

24 A. They couldn't do a whole belt with one

1 load of dust.

2 Q. Okay. How thick was those guys applying
3 the rock dust when they put it down, do you know?

4 A. I don't know exactly, but I'd say they was
5 just whitening everything up more than likely.

6 Q. Had anybody -- I know you said you had
7 been on the rock dust crew. Did anybody give you
8 any training on how much rock dust to apply in the
9 area?

10 A. I was trained really well on it when I
11 done it. These other guys, I don't know.

12 Q. Do you remember who trained you?

13 A. Dave Petry was my foreman at the time.

14 Q. Do you recall what he told you about rock
15 dusting?

16 A. He went with me several times before he,
17 you know, let us have it, so he done a good job on
18 showing us how to run it and how to apply it and
19 all that.

20 Q. I know you was talking about when you
21 first started pre-shift and that somebody went with
22 you for a couple of days. Who would that have been
23 when you started pre-shifting the belts?

24 A. That would just have been another fire

1 boss, I'd say. Whoever was fire bossing at that
2 time.

3 Q. You don't recall who that would have been?

4 A. No, I don't.

5 Q. What was the purpose of him traveling with
6 you, to show you locations or what, can you
7 explain?

8 A. Show me what to look for, show me where
9 pumps and stuff was at, and things like that.

10 Q. Did anybody from the safety department at
11 any time go ever what you should be looking for
12 during a pre-shift?

13 A. No.

14 Q. What about any of the superintendents or
15 mine foreman?

16 A. No. They would send me to the fire boss
17 when I first started doing it.

18 Q. Is there anything else that -- I mean, I
19 know you done a notebook. Was there anything that
20 you would have put in that notebook that wouldn't
21 be on a pre-shift report or you didn't think needed
22 to be put in it?

23 A. No. Only reason I carried my notebook is
24 so I would remember what I needed to put in my book

1 when I got outside.

2 Q. Would there be any reason why that book --
3 if it was given to you, if the person that cleaned
4 out the lockers was to get, you know, they were to
5 give you that book, is there any reason you
6 wouldn't give it to the Accident Investigation
7 Team?

8 A. No, no. Just like I said, I carried it
9 to -- so I would remember what I fire bossed and,
10 you know, if I needed to do something, I would
11 remind myself with it.

12 Q. I know you said you was getting detectors
13 from out at, I guess, was that Ellis portal where
14 you was getting them at --

15 A. Yes.

16 Q. -- to do your examination?

17 During your fire boss runs with that
18 detector, did you ever run into an occurrence it
19 wasn't charged sufficiently and it ran out of
20 charge and you had to turn it off, maybe turn it
21 back on during your exam? Because you're a little
22 different than a lot of other examiners that
23 actually took theirs home and actually charged them
24 their self.

1 A. I never had any of them to go dead on me,
2 no.

3 Q. I know some of them had commented that,
4 you know, they would work that 12-hour shift that
5 you worked, that they were having some problems
6 keeping them charged. So are you saying that you
7 didn't have that problem with it?

8 A. No, I didn't. Mine never did go dead.

9 Q. Was you normally getting the same detector
10 every time, or was you getting a different one?
11 How many different ones was you using?

12 A. I would just go in and grab one and bump
13 it for that shift. I didn't really pay attention
14 to which one I was getting.

15 MR. KOERBER: Let's take a two-minute
16 break, and let's go off the record for just a
17 couple minutes and we'll be right back.

18 (Break.)

19 MR. KOERBER: Let's go back on the record
20 and finish up.

21 EXAMINATION

22 BY MR. CAUDILL:

23 Q. During your examination of the belts as a
24 fire boss, did you ever shut the belts down?

1 A. Yeah.

2 Q. And what for?

3 A. A hot roller. I remember one time we had
4 a hot roller and I shut it down to change that.

5 If I had a broken roller or something, I
6 would shut the belts off and take the roller out,
7 or a stuck roller or anything like that.

8 Q. Did you ever shut them down for any type
9 of accumulations, float coal dust?

10 A. Yeah, I have. Several times the tail
11 piece would be gobbled off, or there would be
12 rollers rolling in a gob, I would shut them off
13 when I went to knock it down.

14 Q. Is that something you would record in the
15 book?

16 A. I don't recall. I don't know. Probably
17 not.

18 Q. Would you perceive that as a hazard?

19 A. Yeah.

20 Q. Would you think that would be something
21 you should record in the book?

22 A. Yeah.

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EXAMINATION

BY MR. MAGGARD:

Q. Had you ever been instructed on putting that kind of material in the book?

A. No, I haven't. Like I said, they would just show me where to go, what to look for when they trained me.

Q. So have you ever had anybody go over the regulations pre-shifts and on-shifts with you at Performance or UBB?

A. Just the fire boss would show me how to fill my books out when I first started.

EXAMINATION

BY MR. CAUDILL:

Q. Now during your fire boss duties, were you also required to shovel belt?

A. I would work on whatever needed to be done the most. I would shovel, or I'd even -- a lot of times they'd have me go shoot the top somewhere or make belt splices.

Q. Okay. Did you guys have a belt shoveling crew, a crew that came in and cleaned the belts?

A. Yeah, we had a crew that shoveled belt and changed rollers, stuff like that.

1 Q. What shift did they work?

2 A. Third shift.

3 Q. What if you had an accumulation build up
4 during the shift? I've worked in the mines and,
5 you know, a belt run off the track or whatever and
6 spill?

7 A. Right.

8 Q. How do you address that?

9 A. Well, if it wasn't rolling in the gob, I
10 would report it. But if something was rolling, I
11 would shut the belts off and clean them up.

12 Q. Do you recall who was working that third
13 shift belt crew that you just mentioned?

14 A. Lacey Cox. He was like a crew leader, I
15 guess you'd call him. And then he had two men with
16 him.

17 Q. Two belt shovelers?

18 A. Yeah.

19 Q. For the entire months?

20 A. Yeah.

21 Q. Do you feel that's enough?

22 A. No.

23 Q. Did you ever tell mine management that
24 they needed to get more belt shovelers?

1 do several different -- yeah, I think it would.

2 Q. Okay. That's all I've got. Appreciate
3 that.

4 MR. KOERBER: Mr. Ullman, at this time, if
5 there's any statement you'd like to make any
6 comments --

7 MR. MAGGARD: Oh, I got one more. I'm
8 sorry. It's hard to remember questions.

9 BY MR. MAGGARD:

10 Q. Did you ever -- when you were doing your
11 pre-shifts, did you ever -- and I know you told
12 them you were shorthanded, I know you mentioned
13 that several times, did they ever try to go with
14 you, anybody from management, and see how long it
15 would take to do an adequate pre-shift or on-shift,
16 or what you were doing on a daily basis --

17 A. No.

18 Q. -- how difficult that would be or try to
19 find out any more about it?

20 A. No, they didn't.

21 MR. MAGGARD: Okay.

22 EXAMINATION

23 BY MR. CAUDILL:

24 Q. Did you ever see Chris Blanchard

1 underground?

2 A. On occasion.

3 Q. On occasion? And what was he doing there?

4 A. Just checking out the section, or if they
5 had a problem on something, they would call him and
6 he'd come in or something, just different things
7 like that.

8 MR. CAUDILL: Okay.

9 MR. KOERBER: Mr. Ullman, if there's any
10 statement, comment, question or anything you would
11 like to speak or ask, the floor is yours.

12 THE WITNESS: I'm fine. Thank you.

13 MR. KOERBER: With that, on behalf the
14 West Virginia Office of Miners' Health, Safety &
15 Training and MSHA, I would like to thank you very,
16 very much for coming here today.

17 And we'll go off the record.

18 (Interview concluded.)

19

20

21

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23

24

1 STATE OF WEST VIRGINIA, To-wit:

2 I, Jenny Marmol, a Notary Public and Court
3 Reporter within and for the State aforesaid, duly
4 commissioned and do hereby certify that the
5 interview of GLEN T. ULLMAN, JR., was duly taken by
6 me 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 22nd day of
22 September 2011.

23

Jenny Marmol
Notary Public

24