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Transcript of the Testimony of Adam Farley

Date: August 2, 2010

Case:

Printed On: August 9, 2010

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STATEMENT UNDER OATH
OF
ADAM FARLEY

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 Monday, August 2, 2010, beginning at 1:03 p.m.

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

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(b) (7)(C)

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P R O C E E D I N G S

ATTORNEY BAXTER:

My name is Derek Baxter. Today is August
2nd, 2010. I'm with the Office of the Solicitor, U.S.
Department of Labor. With me is Erik Sherer, an
accident investigator with the Mine Safety and Health
Administration, MSHA, an agency of the U.S. Department
of Labor. Also present are several people from the
State of West Virginia. I ask that they state their
appearance for the record.

MR. FARLEY:

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

MR. O'BRIEN:

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

MS. SPENCE:

Beth Spence with the Governor's
Independent Investigation.

ATTORNEY BAXTER:

And Mr. Sherer, Mr. Farley and Ms. Spence
will be conducting the questioning today. All members
of the Mine Safety and Health Accident Investigation
Team and all members of the State of West Virginia

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

16 Government investigators and specialists

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

25 You may have your personal attorney

1 present during the taking of this statement or another
2 personal representative if MSHA has permitted it and
3 may consult with your attorney or the representative
4 at any time. And for the record, do you have a
5 personal representative here with you today?

6 MR. FARLEY:

7 No.

8 ATTORNEY BAXTER:

9 Okay. Your statement is completely
10 voluntary. You may refuse to answer any question and
11 you may terminate your interview at any time or
12 request a break at any time.

13 Your identity and the content of this
14 conversation will be made public at the conclusion of
15 the interview process and may be included in the
16 public report of the accident unless you request that
17 your identity remain confidential or your information
18 would otherwise jeopardize a potential criminal
19 investigation. If you request us to keep your
20 identity confidential, we will do so to the extent
21 permitted by law. That means that if a judge orders
22 us to reveal your name or if another law requires us
23 to reveal your name or if we need to reveal your name
24 for other law enforcement purposes, we may do so.

25 Also, there may be a need to use the

1 information you provide to us or other information we
2 may ask you to provide in the future in other
3 investigations into and hearings about the explosion.

4 Do you understand?

5 MR. FARLEY:

6 Yes, sir.

7 ATTORNEY BAXTER:

8 And do you have any questions so far?

9 MR. FARLEY:

10 No.

11 ATTORNEY BAXTER:

12 After the investigation is complete, MSHA
13 will issue a public report detailing the nature and
14 causes of the fatalities in the hope that greater
15 awareness about the causes of accidents can reduce
16 their occurrence in the future. Information obtained
17 through witness interviews is frequently included in
18 these reports. Since we will be interviewing other
19 individuals, we request that you not discuss your
20 testimony with any person aside from your personal
21 representative or Counsel.

22 A court reporter will record your
23 interview. Please speak loudly and clearly. If you
24 do not understand a question asked, please ask me to
25 rephrase it. Please answer each question as fully as

1 you can, including any information you've learned from
2 someone else.

3 We'd like to thank you in advance for
4 your appearance here. We appreciate your assistance
5 in this investigation. Your cooperation is critical
6 in making the nation's mines safer.

7 After we've finished asking questions,
8 you will have an opportunity to make a statement and
9 provide us with any other information that you believe
10 to be important. If at any time after the interview
11 you recall any additional information that you believe
12 might be useful, please contact Norman Page at the
13 telephone number or e-mail address provided to you.

14 Any statements given by miner witnesses
15 to MSHA are considered to be an exercise of statutory
16 rights and protected activity under Section 105(c) of
17 the Mine Act. If you believe any discharge,
18 discrimination or other adverse action is taken
19 against you as a result of your cooperation with this
20 investigation, you are encouraged to immediately
21 contact MSHA and file a complaint under Section 105(c)
22 of the Act.

23 MR. FARLEY:

24 Adam, on behalf of the Office of Miners'
25 Health, Safety and Training I want to advise you that

1 the West Virginia Mine Safety Regulations also protect
2 miners against discrimination for participating in
3 these type interviews. And I want to pass along some
4 contact information for the West Virginia Board of
5 Appeals.

6 They hear complaints about
7 discrimination, should you experience anything like
8 that. And also, I want to give you my business card,
9 and also on the memo is a phone number for Mr. Bill
10 Tucker. He's our lead underground investigator.
11 Should you have any problems, you can contact any of
12 us and we'll try to help you out. Also, we'd advise
13 you, should you have any problem with discrimination
14 you need to file a complaint within 30 days of when it
15 happens; okay?

16 ATTORNEY BAXTER:

17 Please swear in the witness?

18 -----
19 ADAM FARLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED
20 AS FOLLOWS:

21 -----
22 EXAMINATION

23 BY MR. SHERER:

24 Q. I want to thank you for coming down here this
25 afternoon. What we're trying to do is figure out what

1 went on in this mine leading up to the accident, and
2 there's two things we want to do. For one is the
3 families and friends and coworkers of the victims,
4 they deserve to, you know, get some closure out of
5 this. The other is we want to prevent this type
6 accident in the future, so anything you can do to help
7 us we would certainly appreciate it.

8 Would you please state your name and spell your
9 last name?

10 A. Adam Farley, F-A-R-L-E-Y.

11 Q. Okay. And your address and telephone number,
12 please?

13 A. (b) (7)(C)

14 Phone number (b) (7)(C)

15 Q. Okay. Thank you. Roughly, how many years of
16 mining experience do you have, Mr. Farley?

17 A. I'm still a red hat.

18 Q. Still a red hat.

19 A. Yeah.

20 Q. Okay. Do you work for a contractor?

21 A. Not no more. I did when I worked down there.

22 Q. Who did you work for?

23 A. David Stanley.

24 Q. Okay. And you say you're now employed by the
25 company. Where do you work at now?

1 A. Actually I work for ICG now.

2 Q. Oh, okay. ICG, okay. Did you work at any other
3 mine prior to working at Big Branch?

4 A. No.

5 Q. Okay. What did you do at Big Branch?

6 A. I worked on the belt move crew.

7 Q. Belt move crew. What parts of the mine did you
8 work in?

9 A. One section.

10 Q. Okay. And by One section, that's the 22 Headgate?

11 A. Yeah.

12 Q. Okay. How long had you been employed by Upper Big
13 Branch prior to the explosion? When did you go to
14 work up there?

15 A. I started there February 20th.

16 Q. February 20th; okay. And you received all your
17 training through David Stanley?

18 A. Well, what do you mean by training?

19 Q. Where'd you get the 80 hours new miner training
20 at?

21 A. Oh, I took it up here at one of these schools at
22 Airport Road here.

23 Q. Oh, okay. And what did David Stanley train you
24 in?

25 A. They don't really --- no training.

1 Q. No training; okay.

2 A. Right.

3 Q. What about when you first went into the mine?

4 What sort of training did you receive on your first
5 day?

6 A. On my first day?

7 Q. Uh-huh (yes).

8 A. Well, they show you the maps and the airways and
9 your shelter. And well, before you even --- before
10 you even start in, Massey has what they call a MIT
11 training. They teach you how to use your rescuer and
12 go over, you know, hazards and different things like
13 that.

14 Q. Okay. So you looked at the maps and escapeways
15 and such. Did you go immediately --- after you did
16 all that, did you immediately go to the workplace or
17 did you go to different areas of the mine?

18 A. We went to the workplace.

19 Q. Okay. Thank you. Are you appearing here today
20 voluntarily?

21 A. I guess you could say that.

22 Q. Okay. Thank you. Has anyone else with the
23 company or attorneys for the company interviewed you
24 about the accident?

25 A. No.

1 Q. Okay. So you worked on the belt move crew.

2 A. Uh-huh (yes).

3 Q. And you said you worked on the One section. I
4 assume this was out near the Glory Hole?

5 A. Yeah.

6 Q. Okay. Did you work on April the 5th?

7 A. April 5th, no.

8 Q. The day of the explosion.

9 A. No.

10 Q. Okay. What was the shift --- the last shift you
11 worked prior to the explosion?

12 A. I believe it was April the 3rd.

13 Q. April the 3rd. And that was a Saturday?

14 A. Yeah. And we had a couple days off for Easter.

15 Q. Okay. What shift did you work?

16 A. Hoot owl shift.

17 Q. Hoot owl shift. That's primarily the maintenance
18 shift; isn't it?

19 A. Right.

20 Q. Okay. So you're in there late Saturday night into
21 Sunday morning?

22 A. Sunday morning.

23 Q. About when did that shift end Sunday morning?

24 A. Usually we come --- started heading back out about
25 7:00, got outside about 8:00.

1 Q. Okay. Do you remember anything that was unusual
2 about that shift?

3 A. No.

4 Q. Okay.

5 A. Just seemed like another day.

6 Q. Just another day. Did somebody go in with you
7 that normally didn't go in with you?

8 A. No.

9 Q. Okay. Did anybody come around while you guys were
10 working up there?

11 A. Uh-uh (no).

12 Q. Okay.

13 A. No.

14 Q. Exactly what did you guys do on that last shift?

15 A. I don't really know. I can't remember for sure.
16 We might've been getting a move ready, I believe.

17 Q. Oh, okay. And we understand that they were
18 putting in a new head drive and then, I guess going to
19 change the six-foot belt going into the One section?

20 A. Right.

21 Q. What had you done up in that area? What were you
22 working on up there?

23 A. I don't really think I worked anything on that.

24 Q. Okay. Did you carry materials around? What did
25 you normally do?

1 A. Normally just, you know, helped get the move in,
2 you know, put in the structure for the belt line.

3 Q. Okay. And to do that you --- did you help drill
4 holes?

5 A. Sometimes I'd help drill holes for the tailpiece.

6 Q. Okay. Did you form up concrete?

7 A. No.

8 Q. Didn't form up any concrete. How about assemble
9 structure, disassemble structure?

10 A. Yeah, assemble.

11 Q. Okay. What sort of structure were you putting in
12 up here?

13 A. Just, you know, belt structure, chains, rails,
14 rollers.

15 Q. Okay. Were you working --- we know there's a
16 short belt that goes up to the Glory Hole. Did you
17 work around that belt?

18 A. Yes.

19 Q. Okay. Did you go up to the Glory Hole?

20 A. I never was all the way up to it, actually.

21 Q. Okay. And you were involved in setting this new
22 Mother Drive, they call it, ---

23 A. Right.

24 Q. --- I guess? Had you guys installed any of the
25 six-foot structure at the Number One section?

1 A. No.

2 Q. Okay. Was there a flow-through up there?

3 A. Flow-through. I don't know for sure.

4 Q. Okay. When you were up there that last shift,
5 Saturday night, Sunday morning, did you hear anything
6 about problems with the ventilation?

7 A. I knew there was problems, you know, with the
8 ventilation.

9 Q. Okay. Could you explain?

10 A. Well, a couple times, you know, we got sent home
11 early because there just wasn't enough air.

12 Q. Okay. When was the last time you guys were sent
13 home?

14 A. It was probably a couple weeks prior to the
15 explosion.

16 Q. Okay. Did you ever hear anybody's methane
17 detector go off?

18 A. Uh-uh (no).

19 ATTORNEY BAXTER:

20 Is that a no?

21 A. No.

22 BY MR. SHERER:

23 Q. What about the rock dust up in that area?

24 A. It was pretty good rock dusted.

25 Q. Okay. Did you occasionally have to throw rock

1 dust or ---?

2 A. Yes, sir.

3 Q. Do you remember if that area had been rock dusted
4 by the bulk dusting crew? We understand there's a
5 track mounted bulk duster that they used primarily on
6 the hoot owl shift. Had it been up in that area
7 recently?

8 A. Not that I'm aware of.

9 Q. Okay. Did you ever get off into the adjacent
10 entries, the intakes or the returns up in that area?

11 A. Not really.

12 Q. Okay. What about the general conditions where you
13 were working? Was the roof and ribs okay?

14 A. Yes, sir.

15 Q. Did you guys have to cut out any pillars to
16 install the belt structure?

17 A. No.

18 Q. Okay. I was up there --- oh, it's been about a
19 week ago, a little over a week ago now, and there was
20 a bunch of jacks up there. Did you guys set those
21 jacks?

22 A. I never set no jacks.

23 Q. Okay. Who was your boss up there?

24 A. Kyle Anderson.

25 Q. And what was his title? Do you recall?

1 A. I guess it was just our, you know, shift leader,
2 boss.

3 Q. Okay. Did he have his boss papers?

4 A. Yes.

5 Q. Okay. Who did the pre-shift up in that area? Do
6 you know?

7 A. I don't know.

8 Q. Did you ever hear of any problem with methane up
9 in that area?

10 A. No, I never even was aware that there was, you
11 know, high contents of methane until this happened.

12 Q. Sure. Did you guys ever use explosives up there?

13 A. No.

14 Q. Did you ever hear of methane problems anywhere
15 else in the mine?

16 A. No.

17 Q. Did you ever hear of methane outbursts?

18 A. Uh-uh (no).

19 Q. Now, when you say you knew there were ventilation
20 problems, did you ever notice one shift you'd go in
21 and there'd be a lot of air, and maybe during that
22 shift or maybe the next shift it got real hot or
23 something and there wasn't as much air?

24 A. It just always seemed real hot down there.

25 Q. Oh, okay. Did you guys ever have to put up any

1 curtains for ventilation purposes?

2 A. No.

3 Q. How about build any doors or anything like that?

4 A. No, I never worked on any of that.

5 Q. Okay. Did you ever build any stoppings?

6 A. Just, you know, when we put in our belt line.

7 Q. Who told you where to put the stoppings?

8 A. My boss.

9 Q. Okay. Kevin?

10 A. Kyle.

11 Q. Kyle.

12 A. Yeah.

13 Q. Excuse me. Did you hear of any problem in the
14 mine on that Saturday night and Sunday morning shift?

15 A. No.

16 Q. When you got out of the mine --- I guess you'd
17 portaled at UBB?

18 A. Yeah.

19 Q. When you got out of the mine, did everything seem
20 to be okay?

21 A. Yeah, it seemed all okay.

22 Q. Did you hear anybody talking about any sort of
23 problem?

24 A. No.

25 Q. Do you know if the longwall was running that hoot

1 owl shift?

2 A. I'm not sure.

3 Q. Okay. Did you ever hear of anybody calling in and
4 saying there was inspectors on the property?

5 A. Not that I'm aware of.

6 Q. Okay. Did you ever have to leave the mine because
7 of a ventilation change?

8 A. A ventilation change?

9 Q. Uh-huh (yes).

10 A. I know one night that we come out early. They
11 said they was going to try to get more air up there
12 for the section. They was going to do some changes.

13 Q. Okay. Did you ever think one of those changes
14 were made while you were underground?

15 A. Not that I'm aware of.

16 Q. Did you ever hear of mining taking place without
17 ventilation curtains?

18 A. No.

19 Q. Did you ever hear of methane monitors being
20 bridged out or tampered with?

21 A. No.

22 Q. Do you know if miners were subject to retaliation
23 or threats for reporting safety issues?

24 A. No.

25 Q. Okay. What do you think happened with this

1 explosion?

2 A. I'm not so sure. I'd like to know.

3 Q. That makes two of us, buddy.

4 MR. SHERER:

5 Okay. That's all the questions I got.

6 Terry?

7 EXAMINATION

8 BY MR. FARLEY:

9 Q. Adam, let me make sure I have this understanding.

10 You started at UBB about February 20th, and was April
11 3rd the last day you worked there?

12 A. Right.

13 Q. So about six weeks?

14 A. Yeah, six weeks.

15 Q. All right. When did you start at ICG?

16 A. About two weeks ago or so.

17 Q. Okay. Had you worked anywhere in between there?

18 A. I worked at Slip Ridge on Marfork property.

19 Q. Okay. How long were you there?

20 A. Probably two or three months. Well, you know,
21 after ---. I started there the first of May up ---

22 Q. Okay.

23 A. --- all the way until ---

24 Q. All right.

25 A. --- this here, a week or two ago.

1 Q. Everything going okay for you at ICG?

2 A. Uh-huh (yes).

3 Q. Okay. Now, I want to make sure I'm clear here.

4 Now, did you work exclusively on the Headgate 22
5 section, or were you in this Mother Drive construction
6 area?

7 A. Well, I helped do some construction in this area,
8 but I was mostly, you know, putting in the belt ---

9 Q. Okay.

10 A. --- going up to the section.

11 Q. About how much of your time did you spend at that
12 Mother Drive construction area?

13 A. It was just off and on, you know, one day this
14 week, maybe, another day next week.

15 Q. Okay. When you were in the Mother Drive
16 construction area, did you happen to notice the
17 stoppings in the area?

18 A. I don't know.

19 Q. I mean, the ---. You know what I'm talking about,
20 the stoppings, brattices ---

21 A. Right.

22 Q. --- that direct the air? Did you notice any that
23 had been removed, knocked out, anything of that
24 nature, any holes in them?

25 A. No.

1 Q. Okay. Any doors anywhere that were open?

2 A. No.

3 Q. Did you make it to any other areas of the mine
4 other than ---

5 A. No.

6 Q. --- that area we just discussed?

7 A. That's the only area.

8 Q. You indicated you drilled some holes in the mine
9 floor to set some belt down.

10 Q. Right.

11 Q. How deep did you drill those holes?

12 A. Four foot.

13 Q. Okay. Did you ever encounter any methane release
14 when you drilled those, any of those holes?

15 A. Not that I'm aware of.

16 MR. FARLEY:

17 Okay.

18 EXAMINATION

19 BY MS. SPENCE:

20 Q. Do you know what kind of ventilation changes were
21 made?

22 A. I know they was knocking some stoppings and
23 building some new ones, trying to, I guess redirect
24 the air. I'm not really for sure.

25 MS. SPENCE:

1 That's all I have.

2 RE-EXAMINATION

3 MR. SHERER:

4 Q. Now, you say you helped install some structure
5 down in the 22 Headgate section.

6 A. Right.

7 Q. How close to the working face did you get?

8 A. A couple breaks.

9 Q. A couple breaks. Were you up in that area
10 Saturday night?

11 A. Yeah.

12 Q. Okay. What were the conditions like up there?

13 A. The top was really high.

14 Q. Okay.

15 A. I'd say probably 20 foot.

16 Q. Twenty (20) foot, that's ---.

17 A. Probably at that time. I think they was, you
18 know, getting ready to set a new head or something, so
19 they had it cut out really high.

20 Q. Oh, okay. What about the ventilation?

21 A. Like normal, just hot.

22 Q. Just hot?

23 A. Yeah, it seemed like once you'd turn the break and
24 go out towards the belt it got hotter.

25 Q. What about the rock dust up near the working

1 section?

2 A. It was good, you know, all the way up.

3 Q. Okay. Did you ever notice any float dust anywhere
4 along that belt line?

5 A. (Indicates no.)

6 MR. SHERER:

7 That's the only questions I have.

8 RE-EXAMINATION

9 BY MR. FARLEY:

10 Q. Another one or two here. You said Kyle Anderson
11 was your boss?

12 A. Yes, sir.

13 Q. Who else was part of your crew that you can
14 remember at UBB?

15 A. There was a guy named John Plumley.

16 Q. John Plumley.

17 A. Yeah. Josh Plumley.

18 Q. John and Josh?

19 A. Yeah.

20 Q. They were related?

21 A. No.

22 Q. Okay.

23 A. Derek Petry, I think is his name.

24 Q. Petry or ---?

25 A. Yeah, Petry (changes pronunciation). I think it's

1 Petry.

2 Q. Okay.

3 A. I don't know the other guy's name. I know his
4 first name was James, but I don't know his last name.

5 Q. James --- okay. Anybody else you can think of?

6 A. That was all of us.

7 Q. Okay. Now, for your six weeks at UBB you were
8 pretty much with that group of people?

9 A. Yeah, I was with them all the time.

10 Q. Okay. When you traveled in and out of the mine,
11 you probably noticed some doors in the track entry.

12 A. Right.

13 Q. Had you noticed any of those doors open ---

14 A. No.

15 Q. --- on the ride down?

16 A. No, I always had to get out and be the one to open
17 them, because I'm the door man.

18 Q. Okay. So I guess if you got out and opened them,
19 you'd also close them?

20 A. Right.

21 Q. Okay. Now, the fellows in your crew, Plumley,
22 Plumley, Petry and James, were they red hats, too?

23 A. No. James and Derek were --- and I was a red hat
24 and the Plumleys were black hats.

25 Q. Okay. And were you and James both with Stanley,

1 David Stanley?

2 A. Yeah.

3 MR. FARLEY:

4 Okay. All right. That's all I got.

5 ATTORNEY BAXTER:

6 On behalf of MSHA and the Office of

7 Miner's Health, Safety and Training, I want to thank
8 you for appearing and answering questions today. Your
9 cooperation is very important to the investigation as
10 we work to determine the cause of the accident. We
11 request that you not discuss your testimony with any
12 person aside from your personal representative.

13 After giving --- after questioning other
14 witnesses, we may call you if we have any follow-up
15 questions. If at any time you have additional
16 information about the accident that you would like to
17 provide us, please contact us at the contact
18 information that was previously provided to you.

19 If you wish, you may now go back over any
20 answer you've given during this interview. You may
21 also make any statement that you'd like to make at
22 this time.

23 A. (Indicates no.)

24 ATTORNEY BAXTER:

25 Again, I want to thank you for your

1 cooperation in this matter.

2 * * * * *

3 STATEMENT UNDER OATH CONCLUDED AT 1:30 P.M.

4 * * * * *

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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