



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Gary Quarles

Date: August 10, 2010

Case:

Printed On: August 23, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

STATEMENT UNDER OATH
OF
GARY QUARLES

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 10, 2010, beginning at 9:35 a.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

POLLYANNA HAMPTON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209

JOHN O'BRIEN
Safety Inspector
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

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

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

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

ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

BETH SPENCE

West Virginia Independent Investigation

(b) (7)(C)

(b) (7)(C)

JOHN D. JODY WOOTON, JR. ESQUIRE

Wooton Law Firm

201 North Kanawha Street

Beckley, WV 25801

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Hampton	6 - 12
5	STATEMENT	
6	By Mr. Farley	12 - 13
7	WITNESS: GARY QUARLES	
8	EXAMINATION	
9	By Mr. Sherer	13 - 42
10	EXAMINATION	
11	By Mr. Farley	42 - 43
12	CLOSING STATEMENT	
13	By Attorney Hampton	44 - 45
14	DISCUSSION AMONG PARTIES	45 - 50
15	CERTIFICATE	51
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4		NONE OFFERED	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2 -----
3 ATTORNEY HAMPTON:

4 My name is Pollyanna Hampton. Today is
5 August 10th, 2010. I am 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
9 United States Department of Labor. Also present here
10 are several people from the State of West Virginia,
11 and I ask that they now state their appearance for the
12 record.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

20 I'm Beth Spence with the Governor's
21 independent investigation.

22 ATTORNEY HAMPTON:

23 There are also several members of the
24 teams who are in the room with us today, observing.
25 All members of the Mine Safety and Health Accident

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

18 Government investigators and specialists
19 have been assigned to investigate the conditions,
20 events and circumstances surrounding the events that
21 occurred at the Upper Big Branch Mine-South on April
22 5th, 2010. The investigation is being conducted by
23 MSHA under Section 103(a) of the Federal Mine Safety
24 and Health Act and the West Virginia Office of Miners'
25 Health, Safety and Training. And we do really

1 appreciate your assistance in this investigation.
2 You may have a personal attorney present
3 during the taking of this statement. Your statement
4 is completely voluntary. You may refuse to answer any
5 question at any point and you may terminate the
6 interview at any point.

7 And since this is not an adversarial
8 proceeding, that means that your attorney shall not
9 ask any formal Cross Examination questions. However,
10 he can ask any clarifying questions if it's
11 appropriate. And just so the record is clear, you
12 have somebody here with you today?

13 MR. QUARLES:

14 Jody.

15 ATTORNEY WOOTON:

16 Yeah, Jody Wooton, Wooton Law Firm.

17 ATTORNEY HAMPTON:

18 Okay. And just a couple background
19 questions for you, Jody. You are legally representing
20 the witness in this matter?

21 ATTORNEY WOOTON:

22 Yes.

23 ATTORNEY HAMPTON:

24 And you understand that you may not
25 communicate with Massey Energy, its affiliates or its

1 officers or directors or attorneys concerning the
2 substance of this representation?

3 ATTORNEY WOOTON:

4 Yes.

5 ATTORNEY HAMPTON:

6 And are you being paid by a third party
7 to provide this representation?

8 ATTORNEY WOOTON:

9 No.

10 ATTORNEY HAMPTON:

11 Okay. And sir, did you voluntarily
12 choose to have Mr. Wooton as your attorney?

13 MR. QUARLES:

14 Yes.

15 ATTORNEY HAMPTON:

16 Okay. And do you understand that Massey
17 Energy, its affiliates or its officers or directors or
18 attorneys may not represent or direct you in this
19 matter in a legal way?

20 MR. QUARLES:

21 Yes.

22 ATTORNEY HAMPTON:

23 Okay. Your identity and the content of
24 this conversation will be made public at the
25 conclusion of the interview process and may be

1 included in the public report of the accident unless
2 you request that your identity remain confidential or
3 your information would otherwise jeopardize a
4 potential criminal investigation. If you do request
5 that your identity confidential, we can only do that
6 to the extent permitted by the law.

7 That means that if a judge orders us to

8 reveal your name or if another law requires us to
9 reveal your name or there are other law enforcement
10 purposes for doing that, then we might need to that.

11 Also, there might be a need to use the information you
12 provide to us or other information you provide in the
13 future in other investigations into and hearings about
14 the explosion. Do you have any questions about that?

15 MR. QUARLES:

16 No.

17 ATTORNEY HAMPTON:

18 Okay. After the investigation is

19 complete, MSHA will issue a public report detailing
20 the nature and causes of the fatalities in the hope
21 that the greater awareness about the causes of
22 interviews can reduce their occurrence in the future.
23 Information obtained through witness interviews is
24 frequently included in these reports. Since we will
25 be interviewing other individuals, we do request that

1 you not discuss your testimony with any other person
2 other than with your attorney.

3 As you can see, a court reporter is here
4 recording the interview, so please speak loudly and
5 clearly so that she can understand you. If you don't
6 understand a question, please ask the person to
7 rephrase that, and please answer any question as fully
8 as you can, including any information that you've
9 learned from someone else.

10 We would like to thank you for your
11 appearance here today. It really helps us as we
12 investigate.

13 MR. QUARLES:

14 You're welcome.

15 ATTORNEY HAMPTON:

16 After we have finished questions, you'll
17 have an opportunity to either go back over any answer
18 that you've given us. You can give us any clarifying
19 information, or if there's any other statement you
20 would like to make on the record, you can do so at
21 that point.

22 Also, after we leave here today, if
23 there's other information that you would like to
24 discuss with us, please have your attorney contact us
25 through the information given to you in the letter

1 that I provided to you before we started. Norman Page
2 has his contact information here, and he's a good
3 person to get a hold of if you have things that you'd
4 like to share with us.

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

14 MR. FARLEY:

15 Mr. Quarles, on behalf of the Office of
16 Miners' Health, Safety and Training, I want to advise
17 you that the West Virginia Code also provides
18 protection against potential discrimination for
19 participating in these type interviews and pass along
20 some contact information for the West Virginia Board
21 of Appeals. They hear discrimination complaints from
22 coal miners.

23 Also, you'll see my phone number there,
24 along with a phone number for Bill Tucker. He's our
25 lead underground investigator. Should you experience

1 any problems after participating in this interview,
2 please give either of us a coal and we'd be happy to
3 try to help you out. Now, we'd caution you that if
4 you at some point need to file a discrimination claim,
5 you need to do so within 30 days of when it occurs.

6 Thanks.

7 ATTORNEY HAMPTON:

8 Thank you. Sir, do you have any
9 questions before we begin?

10 MR. QUARLES:

11 No.

12 ATTORNEY HAMPTON:

13 Are you ready to go forward?

14 MR. QUARLES:

15 Yeah, yeah.

16 ATTORNEY HAMPTON:

17 Okay. Could you swear in the witness,
18 please?

19 -----

20 GARY QUARLES, HAVING FIRST BEEN DULY SWORN, TESTIFIED

21 AS FOLLOWS:

22 -----

23 EXAMINATION

24 BY MR. SHERER:

25 Q. First of all, I want to thank you for coming down

1 here this morning, Mr. Quarles. We're trying to get
2 all the information we can concerning the conditions
3 and practices that led up to this explosion, and
4 there's two reasons we're trying to do that. One is
5 the families and the friends and the coworkers of
6 these victims deserve to know what happened to their
7 friends and loved ones. The second reason is we want
8 to prevent this in the future.

9 This is the biggest mining disaster in the past 40
10 years, so anything you can do to help us we'd
11 certainly appreciate. What's your full name, please?

12 A. Gary Quarles.

13 Q. All right. Could you spell that last name,
14 please?

15 A. Q-U-A-R-L-E-S.

16 Q. What's your address and telephone number, please?

17 A. (b) (7)(C)

18 (b) (7)(C) .

19 Q. And we understand that you're an experienced coal
20 miner?

21 A. Yes, sir.

22 Q. Roughly how many years have you been a coal miner?

23 A. Thirty-four (34) years.

24 Q. Thirty-four (34) years. Have you ever worked at
25 Upper Big Branch, sir?

1 A. Yes.

2 Q. When was that, just roughly?

3 A. I would say at least 14 years.

4 Q. At Upper Big Branch?

5 A. Not on this side ---

6 Q. Yeah.

7 A. --- as I told you before.

8 Q. Okay. You worked in the --- what we're calling
9 the southern part of the mine?

10 A. It was on the Hazy Portal side, on the left side.

11 Q. Okay.

12 A. Not as a Massey member, as a contractor.

13 Q. Okay. What contractor did you work for?

14 A. It was either Koppers Coal or Oasis.

15 Q. Okay. And what did you do primarily?

16 A. I worked on the part of the longwall, helped go in
17 and set cribs on the longwall. Every day I was
18 somewhere on the longwall. The longwall was down and
19 they needed air, we was doing whatever we could to do
20 support with cribs, and that's --- I mean, that's
21 about all I can remember. It's been a long time
22 ago ---

23 Q. Sure, uh-huh (yes).

24 A. --- when I was --- that was there.

25 Q. So what I'd call outby work around the longwall?

1 A. It was like the longwall was here (indicating) ---

2 Q. Uh-huh (yes).

3 A. --- and you know, and like, you could go down in
4 here just a small ways where it was safe enough to
5 build cribs to keep it supported.

6 Q. Sure.

7 A. And I can't remember if it was either on the head
8 or the tail.

9 Q. Okay. And about when did you leave UBB? Do you
10 recall?

11 A. Well, I worked there three months --- three weeks,
12 and then they laid me off and I went to work at either
13 Black King or Black Castle. It was Black --- at Blue
14 Pennant for Massey ---

15 Q. Okay.

16 A. --- as a contractor again. And I run a scoop for
17 them down there for about three or four weeks, and
18 then I got hired back for Independence Coal at Hazy
19 Ridge behind Tipple, Golds Tipple.

20 Q. Okay.

21 A. Me and my son both was hired the same day.

22 Q. Oh, okay. Do you recall about what year that was?

23 A. I'm saying 12 --- 12 or 14 years, something
24 similar to that, you know.

25 Q. Okay. Quite a while ago?

1 A. Yeah.

2 Q. Okay. Let's talk about your son just a moment,
3 and we certainly recognize your loss, and we express
4 our deepest ---

5 A. Thank you.

6 Q. --- condolences about that. Now, your son, we
7 understand, worked on the longwall at UBB; is that
8 correct?

9 A. Yes.

10 Q. What did he do, please?

11 A. He was a tail end shearer operator.

12 Q. Okay. Do you recall the last shift that he worked
13 prior to the explosion?

14 A. What do you mean by recall?

15 Q. Did he mention ---? Did he work ---? We know
16 that the longwall was down on Sunday. It was Easter
17 Sunday, and we understand there was some --- most
18 people got a little extra time off that weekend
19 because of that. So did he mention that he had worked
20 on Friday or Saturday?

21 A. No, his last shift was Thursday.

22 Q. Okay. Thank you. Now, we have a lot of questions
23 about what was going on on the longwall, and we got a
24 lot of people in the mine trying to determine the
25 physical evidence of what was going on. But the

1 practices that the miners had on the longwall face and
2 the things that the management people did are very
3 important to this investigation. We're going to ask
4 you some questions about that, if you don't mind.

5 A. I don't care.

6 Q. Okay. Thank you.

7 A. We understand from different sources that there
8 may have been some ventilation changes that took place
9 on this longwall or around the longwall within a few
10 days of the explosion. Did your son mention anything
11 like that to you?

12 A. No. Me and him didn't talk about the mines that
13 much. A couple of months before this all happened he
14 (b) (7)(C) and he had too much other
15 stuff on his mind to talk about coal mining, and which
16 we did coal mine a lot before that, you know. He
17 swung, I swung.

18 Q. Uh-huh (yes).

19 A. And sometimes we would both be on the dayshift.
20 And other evenings --- you know, not every evening,
21 but other evenings sometimes we'd get together and
22 we'd talk about some things that has happened, ---

23 Q. Sure, uh-huh (yes).

24 A. --- you know. But as you were talking about air
25 change --- and I don't know if you want to hear

1 secondary hearsay stuff.

2 Q. Yeah, we understand in your situation almost
3 everything would be secondary hearsay.

4 A. Well, I mean, I talked to another shearer operator
5 on the telephone just Sunday, and he said something
6 about an air change. And this confuses me. He's been
7 a shear operator and been at UBB for years and he said
8 they had, like, 50-some thousand coming through the
9 last open break.

10 Well, another boy that worked on the hoot owl was
11 a maintenance and he's a good friend to me and my
12 sons. And I asked him about it, and he worked the
13 Sunday night on the face.

14 Q. Sure.

15 A. And he said they had beau coups of air, so I don't
16 know.

17 Q. Sure. Now, who was the shearer operator that you
18 talked to?

19 A. Roger Scarbro.

20 Q. Okay. Thank you. And who was the gentleman that
21 said they had a beau coup of air?

22 A. We call him Smokey.

23 Q. Smokey.

24 A. I just asked the guy what is his name, because
25 I've knowed him for ---

1 Q. Sure.

2 A. --- and I don't know his real name. We call him
3 Smokey.

4 Q. Sure, uh-huh (yes). Now, we understand that in
5 general there was a lot of air on the longwall about a
6 month prior to the accident, and we've gotten comments
7 from people that said things like, well, I used to
8 have to wear a heavy coat or I used to have to wear a
9 jacket. And roughly a week or so prior to the
10 explosion, they not only had to take that jacket off,
11 but one guy said he had to start wearing a T-shirt it
12 was so hot. Have you heard anything like that?

13 A. No.

14 Q. Okay. Thank you. Have you heard anything about
15 methane monitors?

16 A. Not from my son or from ---. Well, I talked to
17 Clay, you know. He was here yesterday. He mentioned
18 a few things that he had heard about he'd even took
19 them apart and found, you know, where they had stuffed
20 stuff back in them. But as far as my part, that's
21 methane monitors on this part of UBB or ---. I mean,
22 years ago I've seen them bridge them out ---

23 Q. Sure, uh-huh (yes).

24 A. --- on the continuous miner, not on their
25 longwall, years ago.

1 Q. Sure.

2 A. You know, it was a common thing. We never had ---
3 we never did --- never had no methane. It was at
4 Hilltop Mines ---

5 Q. Sure.

6 A. --- and it was ---. I was in the union, and it
7 wasn't ---. I mean, you could see an electrician do
8 it. After so many times, you could do it.

9 Q. Sure.

10 A. You know what I mean? It wasn't nothing to take a
11 piece of wire and skin it back on both ends, bend it
12 around like a U--- and ---

13 Q. Stick it.

14 A. --- stick it in the holes.

15 Q. Yeah. Okay. Have you ever heard of anybody
16 around this wall putting anything in front of the
17 methane sensors?

18 A. Uh-uh (no).

19 Q. Okay.

20 ATTORNEY HAMPTON:

21 Was that a yes or no?

22 A. No.

23 MR. SHERER:

24 Thank you.

25 A. Okay. I'm sorry.

1 BY MR. SHERER:

2 Q. No problem. Now, we understand there was some
3 problems with water on this longwall. Did you ever
4 hear anything about that?

5 A. Yes. Yes, my son complained about that a lot. He
6 has been sent home early on account that they couldn't
7 work. I don't know where it was at down in here, ---

8 Q. Sure, uh-huh (yes).

9 A. --- but I know he worked in water a lot and in a
10 lot of water, ---

11 Q. Okay.

12 A. --- you know. That was a bad, bad situation.

13 Q. Oh, I'm sure it was. I'm sure it was. Do you
14 recall about when he complained about that?

15 A. Yeah, I'm saying at least maybe it was three to
16 four months ago or, say, before April 5th, probably
17 something like two to three months ---

18 Q. Okay.

19 A. --- before April 5th.

20 Q. So roughly after Christmas sometime?

21 A. Yeah.

22 Q. Okay.

23 A. And out here on the head all at the same time,
24 wherever it was at. It could've been right in here.

25 You see where they didn't go very far?

1 Q. Uh-huh (yes).

2 A. That's what that means. I mean, you all probably
3 all know all of that, you know? This line to this
4 line, they moved ---

5 Q. Sure, uh-huh (yes).

6 A. --- you see?

7 ATTORNEY HAMPTON:

8 And just so we're clear on the record,
9 because you were just saying this line and this line,
10 you were talking about the actual longwall and the
11 mining that was done in January and February of 2010?

12 A. Yes.

13 BY MR. SHERER:

14 Q. You know, the monthly blocks, roughly.

15 A. Well, the distance between the lines means they've
16 been mining pretty good.

17 ATTORNEY HAMPTON:

18 And you're referring to the distance
19 between the lines of how much was done per month?

20 A. Yes.

21 ATTORNEY HAMPTON:

22 Okay.

23 A. See this?

24 ATTORNEY WOOTON:

25 Can you tell her what that is? The

1 record, it's not going to pick that up, so what you're
2 pointing to is how much they mined in December of ---
3 the second half of December 2009?

4 A. I'm saying an inch and a half between lines,
5 they've mined a lot of coal. I'm saying a quarter of
6 an inch between lines, they ain't moved very far.

7 BY MR. SHERER:

8 Q. And that was the second half of December, and then
9 it looks like the first half of January they only
10 moved about a little over half an inch?

11 A. They had top falling in on the headgate and
12 squeezing it down. Couldn't move. And all at the
13 same time, they was closing out down here on the tail.

14 Q. Okay.

15 A. So I mean it takes --- you just don't move.

16 Q. Sure.

17 A. You're almost just at a standstill, you see,
18 because look. You got a quarter of an inch here, you
19 got a inch and half here. So you see what I'm saying?

20 Q. Yeah, we know that they had some major problems in
21 the latter half of December and the first half of
22 January. Did your son mention anything about the
23 shields tipping over during this point in time?

24 A. Uh-uh (no), no. He just mentioned that the weight
25 out here on the head was setting down on the head.

1 They couldn't get the jacks to push the head. And at
2 the same time for some reason --- I don't know --- I
3 don't know why, but he said, like, the miner section,
4 the way the intake or the return was --- now, he told
5 me this hisself. The way they had falls, some falls
6 somewhere, that the way --- the way that it went that
7 whenever that happened, they was down, too.

8 Q. Okay. And I assume that was a ventilation problem
9 on the miner sections?

10 A. I don't know. He just explained over here on the
11 longwall that whenever they had a fall or over here
12 that it messed --- it kept this, the miner section
13 from running, too. I don't know how their --- why
14 their ventilation --- unless they had the return
15 coming off of here and going out this way or if that
16 would've even meant if their return was blocked, could
17 they run?

18 Q. Okay. That's very helpful, sir. We appreciate
19 that. What was your general feeling about things in
20 this mine prior to the explosion? Did you sense there
21 was any particular problem?

22 A. I didn't know --- I didn't know how bad. He told
23 me when they left UBB, at one time UBB was the place
24 to work.

25 Q. Sure.

1 A. Most coal miners down in that area, they liked to
2 go to UBB and work. The longwall got done down there.
3 They had some panels at Logan's Fort. They took the
4 Shearer to Logan's Fort, where it was going to stay a
5 couple years.

6 Q. Sure.

7 A. He said, Dad, that place is terrible, talking
8 about Logan's Fort. Well, when they got done at
9 Logan's Fort, they brought the shearer back to UBB.
10 And I mean, I can't tell you what happened, but I can
11 only tell you what he told me.

12 Q. That's what we're interested in, sir.

13 A. He said, I thought Logan's Fort was bad, he said,
14 but this, it's a whole lot worse, talking about when
15 they come to here.

16 Q. Okay.

17 A. He said, it's a whole lot worse. Now, he didn't
18 explain what ---.

19 Q. Sure.

20 A. You know, he just said it was a whole lot worse.

21 Q. Sure.

22 A. He said, I hate it.

23 Q. Okay. Did he ever mention methane?

24 A. No, unless --- and I don't think it was on this.

25 I think it was on somewhere else was when they had

1 methane come from out of a crack somewhere else
2 before. And I don't think it's here, but they was
3 down three or four days. MSHA come in, monitored it
4 until, you know, it was cleared up. But I don't know
5 exactly right, but I can remember him. He would go to
6 work. Sometimes he'd get to stay the whole shift.
7 The next day he might go to work and they'd send him
8 back home. But I can't remember when that was or
9 where that was.

10 Q. Okay. Now, we know that there was a similar
11 incident at UBB in 2004. Does that seem about right?

12 A. Yeah. But well, that wouldn't have been in this
13 part.

14 Q. So he's talking about in this current panel?

15 A. No, no. I don't know ---. I don't think it was
16 in this, ---

17 Q. Okay.

18 A. --- because I haven't heard him say nothing about
19 no methane for a while.

20 Q. Okay.

21 A. It's been a while back when that happened.

22 Q. This was before they brought this wall back from
23 Logan's Fort?

24 A. I think it was.

25 Q. Okay. We appreciate that information. I asked

1 you some questions before about ventilation. Had he
2 mentioned any particular problem with ventilation?

3 A. No.

4 Q. Okay. Appreciate that.

5 A. No, I can't --- the water and the headgate falling
6 in and some falls over in here and that kept them from
7 running, too, was really about what he really had
8 talked to me about. And actually two months before
9 this he never mentioned nothing about it.

10 Q. Sure. We understand some of the pressures
11 associated with (b) (7)(C) ---.

12 A. Right, right.

13 Q. Let me ask you just a general opinion. You're
14 obviously knowledgeable to some degree of the mines
15 and you've spoken with many of your former colleagues
16 and friends. And this is just speculation. What, in
17 your opinion, happened in here that led up to the
18 explosion?

19 A. I'd have to go in and look at it myself ---

20 Q. Okay.

21 A. --- for me to make my decision, except for what I
22 hear. And I cannot believe nobody.

23 Q. Okay.

24 A. I mean, Massey has showed this crack right here
25 to us.

1 Q. Sure.

2 A. All right. How do they know that crack was there
3 April 5th? All right. If that crack was there April
4 5th at two o'clock --- this shearer boss has got to
5 come out here in the tail entry and date up. Why
6 didn't he detect it?

7 Q. Sure.

8 A. And where's his dates at? He should be out here
9 in the tail entry three or four times that day. And I
10 say the only time he was out there was that morning,
11 checking his footage. That's the only thing they
12 cared about, because the big man called in every two
13 hours, wanting to know.

14 Now, another thing. This is my question, and I've
15 talked to a few other people about it. His notepad.
16 I mean, just like your note pad right there.

17 Q. Sure. Yeah, most bosses keep a notepad.

18 A. Exactly.

19 Q. I personally don't know if we found anything like
20 that in or around the longwall, but we're certainly
21 looking for things like that.

22 A. I mean the section boss's notepad.

23 Q. Sure, uh-huh (yes).

24 A. I mean and the electricians' notepads. I mean, if
25 the two bosses or --- I don't know how many bosses got

1 killed, but if the two bosses' notepads are gone and
2 the electricians' notepads are still in their pockets
3 I mean how come?

4 Q. Sure. Well, those are certainly things we're
5 checking into, and we've got a very involved evidence
6 procedure where things are bagged and tagged and a
7 chain of custody is established. Let me tell you what
8 we know about the longwall face. And you worked
9 around walls and I want to get your opinion. We know
10 the shearer was pretty close to being cut out on the
11 tail.

12 A. He had cut out.

13 Q. Yeah, and the pan line was empty of coal. It
14 looks like there's been a couple places where the face
15 has dribbled and there was just a little coal falling
16 out.

17 A. That's what I figured when Chris Adkins told me
18 that it was spotted.

19 Q. Yeah.

20 A. And that's probably just where the rib fell off.

21 Q. Exactly, yeah, yeah. We know the stage loader was
22 clear of coal and we know that there was coal on the
23 mother belt down near the mother belt drive. And I
24 can't tell you exactly what break it was, but there
25 was a little bit of coal still on the mother belt.

1 We know that on the headgate side they had pulled
2 the manual disconnects for the high voltage to the
3 shearer. We know that they had manually turned the
4 water off to the shearer. We know that the --- most
5 of the victims were well off the tail, and in fact,
6 the closest victims were about mid-face. We know that
7 one of those victims was an electrician, and then
8 further up toward the head there was another
9 electrician, and then all the victims were either
10 mid-face or up toward the head.

11 A. Right.

12 Q. What we don't understand is what was going on at
13 the time of the accident. The shearer was down. It
14 wasn't cutting, didn't even have voltage to it. The
15 water was turned off. The pan line may or may not
16 have been running. We just don't know at this point
17 in time.

18 A. Don't the JNA tell you a little bit? I mean have
19 you checked it?

20 Q. We have ---.

21 A. The JNA.

22 ATTORNEY WOOTON:

23 JNA.

24 A. JNA.

25 MR. SHERER:

1 Yeah, it's a data gathering box.

2 BY MR. SHERER:

3 Q. Yes, we have examined the JNA unit. I don't think
4 we've determined yet whether the pan line was running
5 or not. It's a fairly tedious process to go back
6 through all the bits of data.

7 A. Now, I don't know. He should know, but ---
8 because he's been on the shearer a long time. Roger
9 Scarbro, he told me, why didn't the detector on the
10 tail drive pick it up? And he said that will shut the
11 chain off. Now, he didn't say that that will shut the
12 shearer off. He says it will shut the chain off.

13 Q. Okay.

14 A. Now, I mean, will it? I don't know. I've been on
15 the longwall a couple years. I mean, as far as the
16 detectors, I don't know exactly ---

17 Q. Sure.

18 A. --- all about that, but now, he's been on it a
19 long time. And he said, why didn't the tail drive
20 detector pick it up? And he said, if it would've, it
21 would've shut the chain off.

22 Q. Yeah. And then we appreciate that tip there. We
23 have looked at the JNA information, and we don't see
24 any methane-related stop within some period of time
25 prior to the explosion. There was no methane

1 registered on the JNA unit prior to the explosion that
2 we're aware of.

3 A. Well, now, like, on the tail drive detector, would
4 that information --- would it have went through the
5 JNA?

6 Q. I don't know. I'm just not that familiar with the
7 system myself.

8 A. Because Roger also told me, he said that if they
9 was methane there, the tail drive detector should've
10 detected it and shut it down before they got there,
11 you know.

12 Q. Sure. Yeah, well, that's the sort of stuff we're
13 trying to piece together now.

14 A. And he said he was also cutting sand rock.

15 Q. Yeah, we do know that it was cutting --- they were
16 cutting a lot of sand in the roof. We do know that
17 the coal seam had pinched down very thin on the tail
18 and they were cutting primarily sandstone near that
19 tail end.

20 We know that the shearer had started out in the
21 shift on the headgate, and we think it had made about
22 one pass down the face during the day. It was down
23 most of the day due to the hinge pin. The hinge pin
24 was coming out, so they were working on that most of
25 the day.

1 A. I wonder how much sand rock? Was it all the way
2 across?

3 Q. We talked to different people and they've
4 indicated a lot. One gentleman, I think, said
5 something like about half of it was sandstone, and
6 we ---.

7 A. All the way across?

8 Q. No, it was primarily near the tail.

9 A. Oh, half of the face?

10 Q. Yeah, yeah. All indications are the cutting was
11 pretty good until they got somewhere near the tail.

12 A. Well, I mean, the reason I ask this, but it's
13 probably understandable, because they'd been down all
14 day, but the pictures that they showed, showed the
15 tail end drum. The bits was just like new.

16 Q. Yeah. Now, we do know that they had regularly
17 been changing the bits after one pass.

18 A. Yeah.

19 Q. So they had probably bitted up sometime ---.

20 A. While they was down.

21 Q. Exactly.

22 A. Right.

23 Q. Yeah. We do know that they commonly set boxes of
24 bits on the shearer near the head and carried them
25 down near the tail since they ---

1 A. Right.

2 Q. --- had to bit up down there. And we don't know a
3 lot more than that, to be quite honest with you.

4 We're still looking at a lot of physical clues. We've
5 mapped the face and we're digging into that, but
6 there's a lot of questions here, and ---.

7 A. How far is it to the next seam down?

8 Q. The next seam is what they call the Little Eagle,
9 and we don't know exactly where this face was, but in
10 general, it's roughly 10, maybe 15 feet below the
11 Upper Eagle coal seam.

12 A. Now, was they getting any methane out of that
13 crack later on once they found it?

14 Q. The crack that was showed in that photo that
15 you're referring to is --- it looks like it's where
16 the floor and the tailgate had heaved up a little bit.
17 It's kind of a sandy, crusty floor, and that crack ---
18 that block had lifted, and supposedly the crack was
19 roughly six to eight inches deep. We don't think that
20 was a source of methane.

21 A. Okay. And the packman there setting, the pack
22 setter, I mean, I couldn't see no ---. I mean, it
23 showed some parts of it, like, next to the bottom.
24 But up next to the top in the picture, it didn't show
25 it. I didn't see no whole lot of weight on the one.

1 And then they was another one sitting there. Looked
2 like it was split. I mean ---.

3 Q. I'm just not aware of that. I personally haven't
4 been down on that tail yet.

5 A. Yeah. Because I was wondering if that shear boss
6 was supposed to be required to go out in the tail.
7 And for sure, a man that knows what he's talking
8 about, if the tail entry's bad, he's required to date
9 up on the tail drive.

10 Q. Sure, uh-huh (yes).

11 A. If the tail entry's not bad, he's required to go
12 out in the tail entry.

13 Q. Sure.

14 A. And I'm wanting to see the dates. That's what I'm
15 wanting to --- if that shearer boss did his job. Now,
16 whether that crack was there --- if it was there and
17 methane was coming out of it and he didn't do his
18 job ---.

19 Q. Uh-huh (yes); sure.

20 A. But if he did his job and that crack was there,
21 then there shouldn't have been no methane coming out
22 of it because his detector should've went off.

23 Q. Sure. That's what I know about what went on on
24 the face, and it's a big question mark to us.

25 A. And I've asked this other question for every

1 meeting ---

2 Q. Sure.

3 A. --- except one. How did the men get from the
4 shear tail to the mid-face?

5 Q. Exactly.

6 A. Chris Adkins says they (b) (7)(C) .

7 ATTORNEY HAMPTON:

8 It appears that the fire alarm is going
9 off, so let's go of the record.

10 SHORT BREAK TAKEN

11 BY MR. SHERER:

12 Q. Okay. Mr. Quarles, let's --- first of all, I
13 apologize for the fire drill.

14 A. Glad it wasn't.

15 Q. And let's talk about what we were talking about in
16 late December and early January, about where the wall
17 didn't move very fast. Do you recall if they were
18 having problems getting back into the coal seam or did
19 they get out of the coal seam, or did your son mention
20 anything about that?

21 A. Yes, he did. And I don't know exactly how it went
22 about, but they got up out of the coal seam. And then
23 I don't know how it went about after that or how far
24 they was out of that, but more or less they had to
25 have been cutting solid rock, because they was out of

1 the coal seam. But sooner or later, they had to go
2 back down in the coal seam.

3 Q. Okay.

4 A. And I don't know how that went about for them to
5 get up out of it. I don't know.

6 Q. Okay. Did he mention any sandstone or anything
7 like that?

8 A. No.

9 Q. Okay. Thank you. Now, let's go back to the
10 weekend prior to the explosion. We've heard a lot of
11 things about people going in and working, maybe making
12 ventilation changes. We're not sure exactly what.
13 Have you heard anything like that?

14 A. I heard that Blanchard and Jason Whitehead had
15 went in on Sunday and made an air change.

16 Q. Who'd you hear that from?

17 A. From Roger Scarbro.

18 Q. Okay. Did he see them or did he indicate how he
19 knew that?

20 A. No, he didn't see how.

21 Q. Okay. Thank you. Well, let me ask, in your son's
22 career working for Massey, did he ever get injured at
23 any time?

24 A. He had broke his leg at a mine that they called
25 Upper Cedar Grove.

1 Q. Okay.

2 A. And he was pulling a --- had a set of come-alongs
3 that a roof bolt ---. Was trying to get a --- haul a
4 tire on and a piece of rock fell, hit him on the leg.
5 And I guess he was out of work for four, five, six
6 months, but he --- they kept him out in the bathhouse
7 all that time. And then once he was able to get
8 around and move a little bit, he was --- they wanted
9 him to go here with a cast on his leg and go there
10 just to get little bits and pieces from one mines to
11 another. And then they was some --- there was some
12 other people that got hurt there. I don't remember
13 their names, but they was several people at that Cedar
14 Grove Mines that got hurt.

15 Q. Do you think that's common with this company to
16 have restricted or light duty rather than reporting a
17 lost-time accident?

18 A. They don't want nobody to be off if you get hurt.
19 If you get hurt, they want you if you can drive the
20 next day back, and they'll let you sit in the
21 bathhouse.

22 Q. Okay.

23 A. The mines that I was working at, there had been an
24 electrician out there for two months. And his name
25 was Jeff Burgess. And he had something wrong with his

1 shoulder. He was an electrician. And he'd been up
2 there for at least two months, just piddling around,
3 whatever, in the bathhouse.

4 Q. Do you know why they do that?

5 A. To keep their accidents rates down, to keep MSHA,
6 maybe, from thinking that they run a safe coal mines.
7 I've worked for them for --- I worked for them the
8 first time for eight years, and then I've come back to
9 them and worked for them for a little over a year, and
10 they don't know the right way of mining coal.

11 Q. Okay.

12 A. They know one thing is to mine coal and don't want
13 nobody to get in their way.

14 Q. Have you heard any of this talk about safety
15 first?

16 A. Yeah, S1. They got a S1, P2, M3. That's their
17 motto. It don't mean nothing.

18 Q. There you go. We've heard that from a lot of
19 people, sir.

20 A. That's no lie.

21 Q. Sure.

22 A. I mean, I'm still employed by them, but my son's
23 gone. I'm telling you just like it is. I can't help
24 what anybody thinks or what they say or nothing else,
25 you know? I'm seen them. By law, you cut a 40-foot

1 deep cut, you're supposed to clean that and rock dust
2 it before you go back in and mine it. I've seen them
3 mine 400 feet of coal in a shift and never clean the
4 first place.

5 Q. Yeah.

6 A. They'd slinger dust it at the end of the shift.
7 But back years ago, the way I was taught and seen
8 inspectors do their jobs, they'd take a pick hammer
9 and go down the side of the rib and if they wasn't no
10 rock dust down on the bottom, that's a violation.

11 Q. Sure, uh-huh (yes).

12 A. You know, you can clean it and rock dust it, but
13 the ribs could fall off and cover it up.

14 Q. Sure.

15 A. That's the reason the inspectors dig down and
16 look, to see if the rock dust was there first. That
17 don't happen no more.

18 Q. I hear you, sir. I hear you. Well, that's all
19 the questions I've got. Have you got any additional
20 information that may help us with this investigation,
21 anything that we haven't asked?

22 A. No. I don't. I mean, I'm just --- I'm wondering
23 myself. The real --- I mean, now that they've showed
24 the pictures of the crack, I want to know if the
25 shearer boss done his job.

1 Q. Sure.

2 A. And I want to know ---. I mean, the chain was
3 empty and some of the belt was empty. How much time
4 are we talking about? Would that allowed --- by the
5 time they shut off here, not mining no coal, would
6 that have allowed them to get from here to mid-face or
7 could they have got from here to the head?

8 Q. I don't know.

9 A. Time.

10 MR. SHERER:

11 Sure, uh-huh (yes). That's something
12 we're looking into. I'm going to turn it over to
13 Terry Farley.

14 MR. FARLEY:

15 Can we take about a 60-second break?

16 MR. SHERER:

17 Sure, uh-huh (yes).

18 MR. FARLEY:

19 Be right back.

20 ATTORNEY HAMPTON:

21 Off the record.

22 SHORT BREAK TAKEN

23 EXAMINATION

24 BY MR. FARLEY:

25 Q. Mr. Quarles, you've been talking about the meeting

1 you went to with the Massey people when they were
2 discussing findings of the investigation. Now, are
3 they offering the idea or theory that the explosion
4 initiated and originated at this crack on the
5 tailgate, on the longwall tailgate? Is that what
6 they're saying?

7 A. That's the way I took it. That's the way I took
8 it.

9 Q. Okay. Now, you indicated you saw some pictures,
10 some photos during this meeting. I assume those
11 photos were taken during this investigation? Is that
12 how they presented them?

13 A. Yes.

14 MR. FARLEY:

15 Okay, all right. That's all I got. I
16 think you covered everything else.

17 MR. SHERER:

18 Any questions, Beth?

19 MS. SPENCE:

20 I think you've got it covered. I just
21 wanted on behalf of the State to offer our condolences
22 to you on your ---

23 A. Thank you.

24 MS. SPENCE:

25 --- tremendous loss.

1 A. Thank you very much.

2 ATTORNEY HAMPTON:

3 Okay.

4 MR. SHERER:

5 I don't have any more questions.

6 ATTORNEY HAMPTON:

7 Thank you. All right.

8 A. What about you back there, Mr. Bill and Eugene

9 Tucker? Huh? You see them guys back there. I used

10 to work with them guys a long ---.

11 ATTORNEY HAMPTON:

12 Oh, did you? Okay. Well, let's wrap

13 this up here and then we can go off the record. On

14 behalf of MSHA and the Office of Miners' Health,

15 Safety and Training we'd like to thank you for

16 appearing and answering questions today. Your

17 cooperation is very important to the investigation as

18 we work to determine the cause of the accident.

19 As we said earlier, we do ask that you

20 not discuss your testimony with any person other than

21 your attorney, and after questioning other witnesses,

22 we might have some follow-up questions for you. So if

23 we do, we'll contact you and let you know.

24 In the meantime, if you have any

25 additional information you'd like to share with us,

1 please have your attorney contact Norman Page through
2 the information given to you in the letter provided to
3 you before we started the interview. So now, as I've
4 told you before we were going to start, you have an
5 opportunity to go over any answer you've given us to
6 clarify or give additional information. Or if there's
7 any statement you would like to make, please do so at
8 this time.

9 A. No, I think I've done asked what I want to try to
10 find out, you know. My main concern right now was
11 when they showed them pictures out here and showed the
12 crack that if the shear boss did his job. And my
13 other concern has been for a while, once I heard that
14 the shear was setting on the tail and the men was, I
15 think mid-face, that's been my other main concern
16 about, you know, what was happening, which now ---. A
17 guy from Riverton Rescue told me that they was a guy
18 got burnt or got hurt. I can't remember. And they
19 was trying to get him off of there.

20 That's why I asked Chris Adkins and I said, was
21 there any one of them hurt worse than the other? He
22 said, I can't answer that, because I mean I had a
23 reason why I asked that. This guy here may've been
24 hurt worse. I don't know. You know, if that was
25 true, if that was true, you know.

1 For some reason --- some reason they was here. He
2 says they was (b) (7)(C) . I don't think they was
3 (b) (7)(C) . I think they (b) (7)(C)

5 something, or I can't see why they would all have been
6 right there together, best of my opinion, you know.

7 ATTORNEY HAMPTON:

8 Okay.

9 A. That's my main concern, you know, other than ---
10 you know, I mean I've heard about Chris Blanchard and
11 Jason Whitehead going in right after the explosion.
12 And Clay had asked a guy that was there on the evening
13 shift. His name was Scott Sickles. He said he seen
14 him at Go-Mart and he said, can I talk to you for a
15 few minutes? He said, sure.
16 He said he went outside and Clay asked him, he
17 said, what happened down there that evening? He said,
18 I don't know. He said, the seven that they brought
19 out on the mantrip, we did everything we could to
20 revive them. He said, while we was doing that, some
21 other guys went underground. And I took that to be
22 Whitehead and Blanchard. And he said, when they come
23 back out they said they seen a crack with a four-foot
24 flame shooting out of it up around the longwall. I
25 don't know. That's what he told Clay, you know.

1 That's why I think that they're concentrating on
2 this, if they come up and come up the tail side, if
3 they did see something. And plus I've asked MSHA and
4 the State, is that not a violation or an IPA for them
5 going in after an explosion? I understand why they
6 done it, but you also got to do your job, don't you
7 boys?

8 MR. TUCKER:

9 Yeah.

10 A. You know you do. You've got to do your job, you
11 know. If it's a violation or if it's an IPA, write it
12 and let it lay where it may.

13 MR. SHERER:

14 Sure.

15 A. Let Massey take care of it for them. They take
16 care of everything else for them, you see, if they
17 will. And for the life of me, that --- to me that's
18 got to be a violation or even worse by them going
19 underground, knowing that the mines had just exploded.
20 And another thing that bothers me --- and I'm not
21 real intelligent, and probably for people to tell me
22 will be way above my head. I can't see how anybody
23 can make their decisions on what happened on this
24 whole mines right there without putting it all back
25 together just like it was April the 5th, nothing more,

1 nothing less.

2 The holes that they drilled down, the extra ones,
3 to me will have to be plugged up. You got to know how
4 much air they had up here. How you going --- I mean,
5 how you going to know that? Should you know it? Do
6 you want to know it? With three more holes drilled
7 down, it'd suck your hat off of you, you know? Now,
8 how could you make your decisions on what happened,
9 exactly what happened and where it all happened
10 without putting it back together?

11 That's another concern I've got. I know
12 how they ---. I've heard them say that they can't.
13 Well, that's beyond me. I don't know that. Which and
14 they may be able to, but I can't ---- I don't know
15 without putting it back together, every stopping. If
16 a stopping's been blowed out, if it's been plastered,
17 which most --- all the maps show --- the map shows
18 where every stopping was at, anyway.

19 But when you put a stopping in and you plaster it,
20 if it's tore out, the plaster is right there on the
21 ribs and across the top. I mean it's definite they
22 had a stopping there, you know, so I mean, how are you
23 going to not know for sure how -- what happened if it
24 ain't put back together, you know?

25 ATTORNEY HAMPTON:

1 Okay. We certainly understand your
2 concerns, and we are ---.

3 A. I know for it to be put back together it would
4 take a long time.

5 ATTORNEY HAMPTON:

6 Uh-huh (yes).

7 A. And I don't think nobody wants to take that much
8 time, but to make it right, to make for sure exactly
9 how ---. I mean, he can --- anybody can say, yeah, it
10 happened right there. But fire boss man called out
11 his report over here in his book, and he called out he
12 had 40,000 coming up his intake. Now, the books lie.
13 You can't go by none of them books. They're not going
14 to call out 8,000 feet of air. They're not going to
15 do it, so ---.

16 ATTORNEY HAMPTON:

17 Okay. Well, we thank you again for your
18 cooperation, coming in and answering our questions.

19 A. Me and my wife both want the answers.

20 ATTORNEY HAMPTON:

21 Yeah.

22 MR. SHERER:

23 Sure. We understand that.

24 A. We don't care if it takes time.

25 ATTORNEY HAMPTON:

1 Yeah.

2 A. She wants it as bad as I do. And this is all I
3 can think about.

4 MR. SHERER:

5 Yeah.

6 A. I can't think about nothing else. I can't.

7 ATTORNEY HAMPTON:

8 Okay. Let's go off the record.

9 * * * * *

10 STATEMENT UNDER OATH CONCLUDED AT 10:47 A.M.

11 * * * * *

12

13

14

15

16

17

18

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