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Transcript of the Testimony of Jeremy Rife

Date: August 10, 2010

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STATEMENT UNDER OATH
OF
JEREMY RIFE

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 1:02 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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IDENTIFIED

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Return of Service

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ATTORNEY HAMPTON:

Terry, would you like to say something?

MR. FARLEY:

Sure. To begin with, I'd like to enter
as Exhibit One a copy of the subpoena issued to Mr.
Rife, and as Exhibit Two I'd like to enter the Return
of Service on the same subpoena to Mr. Rife.

ATTORNEY HAMPTON:

Okay. I am marking the subpoena as
Exhibit Number One, Rife 8/10/10, and I am marking the
Return of Service as Exhibit Number Two, Rife 8/10/10.
(Rife Exhibit Numbers One and Two marked
for identification.)

MR. FARLEY:

Thank you. While I have the ball here,
I'll save us some time. She's going to read you an
opening statement, but our normal opening statement is
to advise everyone being interviewed that they have
protection under State law against potential
discrimination for participating in these type
interviews. The West Virginia Code protects miners
under these circumstances.

I pass along some contact information for

1 the West Virginia Board of Appeals. They hear
2 complaints from miners regarding discrimination.
3 Also, you'll see my phone number and the phone number
4 for Mr. Bill Tucker, our lead underground
5 investigator.

6 Should you experience any such problems,
7 you give us a call and we'll be glad to try and help
8 you out. Also, we'd advise you that should you file a
9 discrimination complaint for any reason, you need to
10 do it within 30 days of when the problem occurs; all
11 right?

12 MR. RIFE:

13 All right.

14 ATTORNEY HAMPTON:

15 Okay. My name is Pollyanna Hampton.

16 Today is August 10th, 2010. I am with the Office of
17 the Solicitor, U.S. Department of Labor. With me is
18 Erik Sherer, an accident investigator with the Mine
19 Safety and Health Administration, MSHA, an agency of
20 the United States Department of Labor. Also present
21 here are several people from the State of West
22 Virginia, and I ask that they state their appearance
23 for the record.

24 MR. FARLEY:

25 I'm Terry Farley with the West Virginia

1 Office of Miners' Health, Safety and Training.

2 MR. O'BRIEN:

3 John O'Brien with the West Virginia

4 Office of Miners' Health, Safety and Training.

5 MS. SPENCE:

6 Beth Spence with the Governor's

7 independent investigation.

8 ATTORNEY HAMPTON:

9 All members of the Mine Safety and Health

10 Accident Investigation Team and all members of the

11 State of West Virginia Accident Investigation Team

12 participating in the investigation of the Upper Big

13 Branch Mine explosion shall keep confidential all

14 information that is gathered from each witness who

15 provides a statement until the witness statements are

16 officially released. MSHA and the State of West

17 Virginia shall keep this information confidential so

18 that other ongoing enforcement activities are not

19 prejudiced or jeopardized by a premature release of

20 information.

21 This confidentiality requirement shall

22 not preclude investigation team members from sharing

23 information with each other or with other law

24 enforcement officials. Your participation in this

25 interview constitutes your agreement to keep this

1 information confidential, as well.
2 Government investigators and specialists
3 have been assigned to investigate the conditions,
4 events and circumstances surrounding the fatalities
5 that occurred at the Upper Big Branch Mine-South on
6 April 5th, 2010. The investigation is being conducted
7 by MSHA under Section 103(a) of the Federal Mine
8 Safety and Health Act and the West Virginia Office of
9 Miners' Health, Safety and Training. And we do
10 appreciate your assistance with the investigation.
11 You may have a personal attorney present
12 during the taking of this statement, or a personal
13 representative if MSHA has permitted it. Your
14 statement is --- excuse me. Just so the record is
15 clear, do you have a personal representative with you
16 here today?

17 MR. RIFE:

18 No.

19 ATTORNEY HAMPTON:

20 Okay. Your identity and the content of
21 this conversation will be made public at the
22 conclusion of the interview process and may be
23 included in the public report of the accident unless
24 you request that your identity remain confidential or
25 your information would otherwise jeopardize a

1 potential criminal investigation. If you do request
2 your identity be confidential, we can only extend that
3 to --- I'm sorry. We can only do so to the extent
4 permitted by law.

5 That means that if a judge orders us to
6 reveal your name or if there are other law enforcement
7 purposes to reveal your name, we may have to do so.
8 Also, the State has their own FOIA stipulations they
9 must comply with, so this is only a statement made by
10 the Federal side. Also, there may be a need to use
11 the information you provide to us or other information
12 we may ask you to provide in the future in other
13 investigations into and hearings about the explosion.
14 Do you understand?

15 MR. RIFE:

16 Yeah. Yes.

17 ATTORNEY HAMPTON:

18 Do you have any questions?

19 MR. RIFE:

20 No.

21 ATTORNEY HAMPTON:

22 Okay. After the investigation is
23 complete, MSHA will issue a public report detailing
24 the nature and causes of the fatalities in the hope
25 that greater awareness about the causes of accidents

1 can reduce their occurrence in the future.
2 Information obtained through witness interviews is
3 frequently included in these public reports. Since we
4 are interviewing other individuals, we do request that
5 you not discuss the content of your testimony today
6 with other people other than if you were to get an
7 attorney or to have a personal representative.

8 As you can see, a court reporter is here,
9 recording your interview, so please speak loudly and
10 clearly. If you don't understand a question, please
11 ask the person to rephrase it so that we make sure
12 that you do understand it, and also, please answer
13 each question as fully as you can, including giving us
14 information that you might've learned from somebody
15 else.

16 We'd like to thank you in advance for
17 your appearance here. We appreciate your assistance
18 in this investigation. Your cooperation is critical
19 in making the nation's mines safer.

20 After we have finished asking questions,
21 you will then have an opportunity to go over any of
22 the answers that you've already given us to make any
23 clarifications or if you want to provide us with any
24 other information, you may do so at that time or make
25 any statement. I handed you a letter before we began,

1 and in that letter is contact information for Norman
2 Page. He is the head accident team investigator for
3 the MSHA side and his email and phone number are in
4 that, so if you have any other information that you
5 would like to share with the team after you leave here
6 today, please contact us through that information in
7 the letter.

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

17 MR. RIFE:

18 No.

19 ATTORNEY HAMPTON:

20 Okay. Could you please swear in the
21 witness?

22 -----

23 JEREMY RIFE, HAVING FIRST BEEN DULY SWORN, TESTIFIED
24 AS FOLLOWS:

25 -----

1 EXAMINATION

2 BY MR. FARLEY:

3 Q. Mr. Rife, would you please begin by giving us your
4 full name? Spell your last name.

5 A. It's Jeremy Wayne Rife. That's R-I-F, as in
6 Frank, E.

7 Q. Okay. And what's your home address?

8 A. It's (b) (7)(C) . The
9 physical is (b) (7)(C) .

10 Q. Okay. Is there a telephone number?

11 A. Yes, (b) (7)(C) .

12 Q. Okay. How long have you been a coal miner?

13 A. About six and a half years.

14 Q. Okay. Did you start your mining career with
15 Massey?

16 A. Yeah, yes.

17 Q. Okay. All right. When did you work --- start
18 working at UBB?

19 A. Not very long ago. I hadn't worked there no more
20 than four months, I wouldn't think.

21 Q. Okay. Four moths prior to the ---

22 A. Yeah.

23 Q. --- explosion on April 5th?

24 A. Yeah.

25 Q. Okay. Well, that puts you there sometime around

1 December; is that about right?

2 A. Yeah. Yeah, that's probably about right.

3 Q. Okay. Where'd you work before you came to UBB?

4 A. Parker Peerless for Marfork.

5 Q. Okay. Now, what was your reason for your transfer
6 to UBB?

7 A. They transferred us, Massey did. They were
8 wanting to start the panel that we had started over
9 there at performance, so they took us off the section
10 we were on, because something about the other section
11 was about mined out or something. And they wanted to
12 put them up there and they wanted us to go to
13 Performance to start this panel.

14 Q. Okay. Now, when you started at Performance at
15 UBB, what panel are you talking about where you
16 started at?

17 A. The barrier section.

18 Q. Okay. And is that pretty much were you worked for
19 the entire four months you were at UBB?

20 A. Yeah.

21 Q. Okay. What shift were you on?

22 A. Swing, two weeks day, two weeks evening.

23 Q. Okay. And who was your boss?

24 A. Jack Martin.

25 Q. Okay. Now, were you involved in any construction

1 work to prepare the section for mining?

2 A. Yeah, yeah. It took us some time, two or three
3 weeks, pretty good while.

4 Q. Okay. Were you involved in cutting overcasts or a
5 belt channel, anything like that?

6 A. Yeah, I cut two. I think both. I cut a belt
7 channel over the track and I cut the belt channel and
8 the overcast. I cut one or two overcasts.

9 Q. Okay.

10 A. I can't remember which ones.

11 Q. Who was the other shift, the operator on the ---
12 miner operator on the other shift at the time?

13 A. The one that I swung with?

14 Q. Yes, sir.

15 A. Jim Lucas.

16 Q. Okay. Now, did you happen to work on what was
17 called Massey Appreciation Day or during that weekend
18 at some point?

19 A. I don't think I had to work. Yeah, I may've had
20 to work that weekend.

21 Q. Okay.

22 A. I believe I did, yeah.

23 Q. All right. Were you involved in cutting an
24 overcast then, or a belt channel?

25 A. I can't remember what day I cut them on, to be

1 honest with you.

2 Q. Okay. While you were cutting an overcast on the
3 barrier section or the belt channel, do you recall
4 having a problem with the barrier section continuous
5 mining machine's methane monitor?

6 A. No.

7 Q. I'm sure you probably read the newspaper about
8 that?

9 A. Yeah, I read that, but it wasn't me. I didn't
10 have no problem with it. It was working right for me.

11 Q. Okay. As far as you know, every time you operated
12 the machine, the ---?

13 A. Yeah.

14 Q. Let me finish my question; okay? As far as you
15 know, when you operated the barrier section continuous
16 mining machine, the methane monitor was fully
17 operational; is that correct?

18 A. Yeah. As far as I know, yeah. When I was running
19 it, it was right.

20 Q. Okay. Now, did you have any knowledge or
21 understanding of anybody else running it when it might
22 not have been quite right?

23 A. No, I don't.

24 Q. Okay. Are you aware of any problems with the
25 methane monitor on the barrier section continuous

1 miner that had to be repaired?

2 A. I remember one time my monitor read F4 when we
3 were actually mining coal but I backed the miner out,
4 which it shuts down when it goes into that phase
5 anyway. But if I can remember, we overrode it and
6 backed it out, because it was up in the cut. And the
7 electrician called outside to get the right stuff to
8 fix it. I didn't run it. I mean, my boss just --- he
9 wouldn't do that.

10 Q. Okay. Now, when you say you overrode it to back
11 it out of the place, was your remote control device
12 equipped with ---

13 A. Yeah, yeah.

14 Q. --- the ability to override it?

15 A. I'm pretty sure. It knocked it and the remote box
16 ---. I'm pretty sure we --- I'm pretty sure we backed
17 it out after that, because it was up in the --- up
18 near in the cut. I mean, it wasn't all the way up in
19 the cut, because I can only take 20-foot cuts over
20 there. But I remember just backing it out when it hit
21 F4, and then I was down until it was fixed.

22 Q. Okay. But did your remote control device have the
23 function where it enables you to override it by
24 holding the buttons?

25 A. No.

1 Q. What I'm saying is was it --- were you able to
2 override the methane monitor through the remote
3 control ---

4 A. Right.

5 Q. --- device or was it ---

6 A. No, no.

7 Q. --- actually necessary to ---

8 A. No.

9 Q. --- open it and bridge it?

10 A. No. He didn't bridge it. I forgot what we
11 exactly did, but I mean we didn't bridge it to run
12 coal.

13 Q. Right.

14 A. We were just getting the miner out of danger's
15 way, pretty much ---

16 Q. Sure.

17 A. --- to fix the monitor, but ---.

18 Q. And we understand that.

19 A. I can't really remember what he did, but I
20 remember eventually backing it out of the cut. But
21 that's the only incident I remember up there with my
22 monitor ---

23 Q. Okay.

24 A. --- at the time I worked over there.

25 Q. Do you remember about when that occurred?

1 A. I couldn't tell you that. I don't know. It was,
2 I don't know, a week after we started running coal.

3 Q. Okay. Would that have been maybe sometime in
4 February?

5 A. Maybe sometime, somewhere through there.

6 Q. Okay. All right. Other than that instance, did
7 you have any other problems with your methane monitor
8 on the continuous miner?

9 A. No.

10 Q. Okay. Did you ever detect any methane on the
11 barrier section?

12 A. Never.

13 Q. Okay. Did you ever work any part of the mine
14 other than the barrier section?

15 A. No.

16 Q. Okay. I guess you portaled at UBB; would that be
17 correct?

18 A. Yeah, the south side.

19 Q. Okay. On April 5th were you working on the
20 dayshift at the time of the explosion?

21 A. Yeah.

22 Q. How did you learn that the explosion had occurred?

23 A. I didn't know the mine had even exploded until I
24 got home.

25 Q. Really?

1 A. Yeah.

2 Q. Okay.

3 A. Well, I mean, when it happened I was moving my
4 miner and my boss was --- I think he was dating up,
5 checking airways. I remember he was back around where
6 the intake comes in. And he come up there and he
7 said, did you feel a shift in the air? And I felt a
8 little something. I mean it wasn't nothing big, but
9 once that happened, our power knocked and we pretty
10 much just got everybody together. And I heard them
11 hollering for the longwall on the mine phone down at
12 the feeder, and we went and got on the trip. And once
13 we got out to the main line, it got real dusty, like,
14 I guess where the explosion was blowing dust down the
15 main line.

16 And we all thought it was a rock fall. I mean
17 I've seen big falls and I've seen dust and stuff fly
18 down the entry, so I mean it was just the first
19 thought. It must be a rock fall. Because I remember
20 us laughing about it, thinking, man, those guys,
21 they're going to be stuck up there, have to work over,
22 cleaning that junk up or whatever. And when we was
23 coming out, I think our phone still worked up to our
24 point, and they called outside and told us we were
25 going to have to sign our name to a book or something

1 once we got to the portal, I guess stating we made it
2 outside.

3 And once we did that, I got outside, changed, got
4 in my vehicle, started up the road and started passing
5 a bunch of mine rescue people. And I got home. I
6 probably had about 20 messages on my answering
7 machine, and actually one of my buddies I've worked
8 with before called me and just said he was glad to
9 hear my voice alive, so ---.

10 Q. Yeah. Okay. (b)(7)(C) , that's a pretty good ---
11 pretty good drive.

12 A. Pretty good drive.

13 Q. What's it take you, about --- well, about at least
14 an hour?

15 A. Yeah, around an hour.

16 Q. Okay. Which way do you travel, up Route 3?

17 A. Sometimes I go through Peach Tree. If I go
18 through Peach Tree, it takes me less than an hour,
19 about 40, 45 minutes if I go fast, but if I take the
20 long way up Route 3, it takes me about an hour.

21 Q. Okay. While you worked at UBB, have you ever
22 participated in any major equipment moves where you
23 were taking mine equipment underground form the
24 surface?

25 A. No. They moved all of our equipment on the lowboy

1 on the track ---

2 Q. Okay.

3 A. --- that I seen. All the equipment they brought
4 up there was brought up there with a motor.

5 Q. Okay. What time --- did they do that during,
6 like, a dayshift?

7 A. Yeah, because I remember we were held up. They
8 kept us outside until they got it up there. I guess
9 they just made us wait until they got it up there out
10 of our way.

11 Q. They actually kept you outside while they were
12 moving?

13 A. Yeah, yeah. I remember we went inside probably,
14 I'd say two hours late a few times while they were
15 moving equipment up there on that track.

16 Q. Okay. What about the people on the other sections
17 farther inby? Did they also hold them out during the
18 equipment move or do you know?

19 A. I think --- it seems like sometimes they were out
20 early, but there may've been a few instances. I
21 remember a couple of them mad because they had to stay
22 a little late because they got up there a little late
23 with the equipment on the track. I think they wrecked
24 a piece of equipment one time on the track up there
25 and they had to --- it was a big ordeal getting it

1 back on track with a lowboy or something.

2 Q. Okay. All right. Well, I guess if you never
3 worked on any other sections, you probably never made
4 it inby Number 78, did you?

5 A. The farthest I went was --- there's a switch right
6 above where we started that panel. I think it was LBB
7 or something. And that's the farthest I ever went in,
8 pulling rides in that switch to get it out of the way.

9 MR. FARLEY:

10 Okay. All right. Now, Erik, you have
11 any questions?

12 EXAMINATION

13 BY MR. SHERER:

14 Q. I've got a few questions, Mr. Rife. When you were
15 working in this mine, did anybody ever call in that
16 there was Federal or State inspectors on the property?

17 A. If they did, I wasn't aware of it. I was always
18 running the miner.

19 Q. Okay. Did anybody ever come around and say, you
20 know, straighten something up because there's Federal
21 or State people on the way in?

22 A. Uh-uh (no). Not that I remember.

23 Q. Okay.

24 A. When I went to UBB, we were told every day. I
25 mean, it was pretty strict compared to some of the

1 places I worked. I mean just the way they talked.
2 They wanted you to --- they act like they wanted you
3 to do it right, really strict. It was more of a
4 strict place. That's why I can't believe that what
5 happened, happened. They were just real strict about
6 keeping everything right.

7 Q. Okay. Now, we know that the methane monitor was
8 bridged out on February the 13th. We know that there
9 was only one miner on the section at that point in
10 time. We know that the crew left the methane monitor
11 bridged out. And Mr. Martin's crew was the next crew
12 that came on, on Monday. Did Mr. Martin say anything
13 about that methane monitor to you?

14 A. Uh-uh (no). If it was bridged, I just wasn't
15 aware of it.

16 Q. Okay. Have you ever seen a methane monitor
17 bridged out anywhere?

18 A. I've seen at other places, not Upper Big Branch.

19 Q. What did the methane monitor display do when it
20 was bridged out?

21 A. What did it do once it was bridged?

22 Q. Yeah, what did it read, 0.0?

23 A. Yeah, just 0.0.

24 Q. Would you be aware of it, that it had been bridged
25 out if somebody didn't tell you?

1 A. No, I don't guess you would, unless you were there
2 when they did it.

3 MR. SHERER:

4 Okay. Thank you. That's all the
5 questions I've got. Any questions, Beth?

6 MS. SPENCE:

7 I don't have anything.

8 MR. FARLEY:

9 I think we're done.

10 ATTORNEY HAMPTON:

11 Okay. On behalf of MSHA and the Office
12 of Miners' Health, Safety and Training we want to
13 thank you for appearing and answering our questions
14 today. Your cooperation is very important to the
15 investigation as we work to determine the cause of the
16 accident. We do request that you not discuss your
17 testimony with any person other than if you were to
18 retain an attorney or have a personal representative.
19 After questioning other witnesses, we may call you if
20 we have any follow-up questions.

21 And as I had mentioned earlier, if you
22 have anything else that you'd like to share with us
23 after you leave here today, please don't hesitate to
24 contact us through the information given to you in
25 that letter. So now, if you would like to go back and

1 clarify any of the answers that you've given us or
2 talk about anything else, if you would like to make
3 any other statement or share any other information,
4 you may do so now.

5 A. I don't guess I have anything else.

6 ATTORNEY HAMPTON:

7 Okay. Thank you for your cooperation.

8 Off the record.

9 * * * * *

10 STATEMENT UNDER OATH CONCLUDED AT 1:24 P.M.

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1 STATE OF WEST VIRGINIA)

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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