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Transcript of the Testimony of Jeffrey Stanley

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Case:

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STATEMENT UNDER OATH
OF
JEFFREY STANLEY

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 & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Wednesday, August 18, 2010, beginning at 9:00 a.m.

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

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is August 18th, 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:

Terry Farley, West Virginia Office of Miners' Health, Safety and Training.

ATTORNEY KOERBER:

Barry Koerber, Assistant Attorney General, assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. MONFORTON:

Celeste Monforton, with the Governor's independent team.

JEFFREY STANLEY, HAVING FIRST BEEN DULY SWORN,
TESTIFIED AS FOLLOWS:

1 ATTORNEY KOERBER:

2 Would you please state your full name for
3 the record and spell your last?

4 A. Jeffrey Allen Stanley, S-T-A-N-L-E-Y.

5 ATTORNEY KOERBER:

6 And would you give us your home address
7 and your telephone number?

8 A. (b) (7)(C)

9 (b) (7)(C)

10 ATTORNEY KOERBER:

11 And Mr. Stanley, for purposes of today's
12 interview, are you represented by an attorney?

13 A. No.

14 ATTORNEY KOERBER:

15 And do you have a personal
16 representative? Your wife?

17 A. Yes, my wife.

18 ATTORNEY KOERBER:

19 Ma'am, would you just state your name for
20 the record?

21 (b) (7)(C) :

22 (b) (7)(C)

23 ATTORNEY KOERBER:

24 Mr. Stanley, are you appearing here today
25 as a result of receiving a subpoena?

1 A. Yes, sir.

2 ATTORNEY KOERBER:

3 I'd just like to mark the subpoena as an
4 exhibit. This is a copy of the subpoena. Feel free
5 to take a look at it. It's a copy of what you got.

6 A. Yeah.

7 ATTORNEY KOERBER:

8 And that would be Exhibit One.

9 (J. Stanley Exhibit One marked for
10 identification.)

11 ATTORNEY KOERBER:

12 And then this is a copy of the green
13 card, where you signed for it, so I'd like that to be
14 Exhibit Two.

15 (J. Stanley Exhibit Two marked for
16 identification.)

17 ATTORNEY KOERBER:

18 Sir, prior to the interview you and I
19 spoke briefly about the fact that the Director is
20 required to offer subpoenaed individuals a \$40-a-day
21 witness fee plus mileage at the rate of 15 cents a
22 mile, plus reimbursement of tolls. You and I spoke
23 earlier, but I need you to put on the record whether
24 you choose to accept that money or whether you choose
25 to decline that money.

1 A. I decline.

2 ATTORNEY KOERBER:

3 Okay. Thank you.

4 ATTORNEY BABINGTON:

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

22 Government investigators and specialists
23 have been assigned to investigate the conditions,
24 events and circumstances surrounding the fatalities
25 that occurred at the Upper Big Branch Mine-South on

1 April 5th, 2010. The investigation is being conducted
2 by MSHA under Section 103(a) of the Federal Mine
3 Safety and Health Act and the West Virginia Office of
4 Miners' Health, Safety and Training. We appreciate
5 your assistance in this investigation.

6 You may have your personal attorney
7 present during the taking of this statement or another
8 personal representative, if MSHA has permitted it, and
9 you may consult with your attorney or representative
10 at any time. Your identity and the content of this
11 conversation will be made public at the conclusion of
12 the interview process and may be included in the
13 public report of the accident, unless you request that
14 your identity remain confidential or your information
15 would otherwise jeopardize a potential criminal
16 investigation. If you request us to keep your
17 identity confidential, we will do to the extent
18 permitted by law. That means that if a judge orders
19 us to reveal your name or if another law requires us
20 to reveal your name or if we need to reveal your name
21 for other law enforcement purposes, we may do so.
22 Also, there may be a need to use the information you
23 provide to us or other information we may ask you to
24 provide in the future in other investigations into and
25 hearings about the explosion. Do you understand?

1 A. Yes, sir.

2 ATTORNEY BABINGTON:

3 Do you have any questions?

4 A. No.

5 ATTORNEY BABINGTON:

6 After the investigation is complete, MSHA

7 will issue a public report detailing the nature and

8 causes of the fatalities in the hope that greater

9 awareness about the causes of accidents can reduce

10 their occurrence in the future. Information obtained

11 through witness interviews is frequently included in

12 these reports. Since we will be interviewing other

13 individuals, we request that you not discuss your

14 testimony with any person, aside from a personal

15 representative or counsel. A court reporter will

16 record your interview. Please speak loudly and

17 clearly. If you do not understand a question asked,

18 please ask the interviewer to rephrase it. Please

19 answer each question as fully as you can, including

20 any information you've learned from someone else. I'd

21 like to thank you in advance for your appearance here.

22 We appreciate your assistance in this investigation.

23 A. You're welcome.

24 ATTORNEY BABINGTON:

25 Your cooperation is critical in making

1 the nation's mines safer. After we've finished asking
2 questions, you'll have an opportunity to make a
3 statement and provide us with any other information
4 you believe to be important. If at any time after the
5 interview you recall any additional information that
6 you believe might be useful, please contact any of us
7 at the contact information provided.

8 Finally, any statements given by miner

9 witnesses to MSHA are considered to be an exercise of
10 statutory rights and protected activity under Section
11 105(c) of 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're encouraged to immediately
15 contact MSHA and file a complaint under Section 105(c)
16 of the Act. Terry?

17 MR. FARLEY:

18 Mr. Stanley, on behalf of the Office of
19 Miners' Health, Safety and Training, I want to inform
20 you that the West Virginia Coal Mine Safety
21 Regulations also provide protection against
22 discrimination. And I want to give you some contact
23 information for the West Virginia Board of Appeals.
24 They hear complaints from coal miners concerning
25 discrimination. And should you have any problems, you

1 can contact them at that address and file a claim.

2 Also I'll give you my business card if I can be of any
3 assistance. I would caution you that should you have
4 a problem, you need to file a claim within 30 days.

5 A. All right.

6 ATTORNEY BABINGTON:

7 Erik?

8 MR. SHERER:

9 Okay.

10 EXAMINATION

11 BY MR. SHERER:

12 Q. Again, I want to thank you for coming down here,
13 Mr. Stanley.

14 A. You're welcome.

15 Q. We're still actively investigating this accident.
16 We know that the causes and the conditions that led up
17 to this explosion is vital for two reasons. It's
18 something the families and the friends and the
19 coworkers of these coal miners deserve. And the other
20 reason is we're going to work real hard to prevent
21 this type of accident in the future. And the only way
22 we can do that is to understand what led up to this.
23 so any information you can provide to us that will
24 help us determine that is extremely helpful, and we
25 thank you for it in advance. Roughly, how many years

1 of mining experience do you have?

2 A. Two.

3 Q. Two years. Have both those years been with the
4 Massey organization?

5 A. Yes.

6 Q. Was all that time at Upper Big Branch?

7 A. No.

8 Q. Okay. Where did you start at?

9 A. I started at Logan's Fork and Elk Run Coal
10 Company.

11 Q. Okay. And did you come down with the wall?

12 A. Yes.

13 Q. About what time was that?

14 A. January, I believe.

15 Q. When you arrived in January, was the wall already
16 in operation?

17 A. No, sir.

18 Q. Okay. So did you help set up the wall?

19 A. Yes.

20 Q. What's your job title?

21 A. Utility.

22 Q. What does a utility man do?

23 A. Well, where I'm midnight utility, we party supply
24 --- we supply the longwall with everything they need,
25 and then we would do utility work, like getting ready

1 to set power moves up and recovering structure and
2 taking any parts or whatever they need to to
3 maintenance.

4 Q. And you say you work on the midnight shift?

5 A. Yeah.

6 Q. Have you always worked on midnight?

7 A. Yes.

8 Q. You saw you help supply parts and equipment, such.
9 Do you run a motor?

10 A. Yes, sir.

11 Q. Do you have a helper?

12 A. Yes.

13 Q. Okay. Who is that helper?

14 A. Jerry Martin.

15 Q. Okay. What was the last shift you worked prior to
16 the explosion? Did you work Sunday night?

17 A. I worked that night before it happened.

18 Q. Good. Does anything stuck out about that night?
19 Was anything different?

20 A. It's pretty much all the same. We done the usual.

21 Q. Okay. Well, what did you do that night?

22 A. Well, we loaded up a bunch of supplies outside,
23 brought them in, unloaded them. We had a cowl blade
24 we had to take up to the last open break and give to
25 the maintenance and get the old one, bring it back out

1 and put it on the car. And we got a shearer rope
2 moved up to the belt entry so we could get ready to
3 put a monorail for our next power move. That's pretty
4 much all I can recall.

5 MR. SHERER:

6 Just for the record, that's cowl blade,
7 C-O-W-L. We've had a lot of cow blades.

8 BY MR. SHERER:

9 Q. So you took a load of supplies. Did you just make
10 one supply trip that night?

11 A. Yes, sir. That's all I made.

12 Q. Okay. Do you guys go in after the crew or ---?

13 A. Yes. Yeah. We usually start a half hour before,
14 loading up our supplies and whatever we need to take
15 in, and then we let them go in first and then we
16 follow them.

17 Q. When you went through the doors at 78 Break, did
18 anything seem unusual down there?

19 A. No, sir.

20 Q. What about coming out, did anything seem unusual?

21 A. No, sir.

22 Q. Have you ever come up on those doors at 78 Break
23 and found any of them open?

24 A. Yes, sir.

25 Q. How common is that?

1 A. Sometimes it was common more than other times.
2 They cracked down on it a lot.

3 Q. Okay. Did you ever haul stuff into the tailgate
4 side of the wall?

5 A. Yes, sir.

6 Q. When's the last time you went down there?

7 A. Probably roughly two weeks to a month-and-a-half
8 before it happened.

9 Q. Okay. What were the conditions like down there?

10 A. It was low and it didn't look good. The top and
11 stuff didn't look very good at all, real low.

12 Q. Was the floor hooving?

13 A. The floor hooves everywhere in that place.

14 Q. Okay. What about the rock dust down on the
15 tailgate?

16 A. It looked pretty efficient.

17 Q. Okay. Where do you guys unload your supplies at?

18 A. Between one to four breaks outby the mule train.

19 Q. How about a cowl blade, did you unload that about
20 the same place?

21 A. Yes, unload it there and then go up the next entry
22 to the last open break.

23 Q. What about the ventilation up on the head side of
24 the wall, did anything seem unusual that night?

25 A. Not that night, no. But the way it's ventilated

1 seems unusual to me because I've been on one other
2 longwall panel and we had four entries on that side.
3 And on this, when we got to where we was, we only
4 actually had two.

5 Q. Okay. Can you explain that to me?

6 A. Yes. You've got your belt entry coming up your
7 head side. Okay. That would be Number One.

8 Q. Okay.

9 A. Your Number Two would be your track entry. They
10 also had it as our intake. Okay. And then Number
11 three --- you only had a Number three entry, which is
12 the intake on a four-entry section. There are four
13 entries on a longwall panel. Okay. And you could
14 only go up so far and it was blocked off because they
15 had that other tail entry --- the tail entries for
16 that other longwall panel.

17 Q. Okay. Do you think that affected the amount of
18 air that you had?

19 A. I believe it had something to do with it.

20 Q. Let me ask you this. Do you wear a jacket or a
21 hoodie or something like that?

22 A. Yeah, I wear a jacket.

23 Q. Did you notice that you had to take it off a week
24 or two prior to the ---

25 A. No.

1 Q. --- accident?

2 A. No, sir.

3 Q. Were you wearing it Sunday night?

4 A. Yes.

5 Q. Okay.

6 A. I wear it until I get to the section, then I take
7 it off, and then I wear it when I get back on.

8 Q. So you wear it on the motor?

9 A. Yes.

10 Q. What about when you're on the section?

11 A. I never wore it.

12 Q. Did you notice if it was hotter on the section
13 than it had been?

14 A. Not that I recall.

15 Q. Did you notice any unusual smells that night?

16 A. No, sir.

17 Q. Did you ever smell anything that was kind of like
18 kerosene in there?

19 A. No, sir.

20 Q. Did you actually get up on the face that night?

21 A. To the last open break, to the head drive.

22 Q. Okay. When you went up there, did you notice the
23 curtains in the headgate?

24 A. In the headgate?

25 Q. Yeah.

1 A. By the shield?

2 Q. Just inby the shields, yeah.

3 A. Yeah.

4 Q. Were they flapping?

5 A. Only about six inches from the bottom.

6 Q. Were they tight?

7 A. Yes.

8 Q. Were they bowed in toward the gob or back out away
9 from the gob?

10 A. Toward the gob.

11 Q. Have you ever seen them bowed out toward the face?

12 A. No, sir.

13 Q. Okay. Did you ever come up there and notice that
14 the ventilation quantity just wasn't there?

15 A. No, sir.

16 Q. Always had good air coming over you ---

17 A. Yes.

18 Q. --- as you went in? Tell me about the doors. We
19 understand there was two new doors built near the
20 mouth of the longwall.

21 A. Yeah.

22 Q. Do you recall those?

23 A. Yeah, I recall them.

24 Q. Do you know about when those doors were built?

25 A. Probably a month to a month-and-a-half before the

1 explosion.

2 Q. Okay. Was there anything unusual about those
3 doors?

4 A. Yeah. The second set --- or the set after the
5 first set when you're going inby didn't have --- it
6 only had half a wall on each side of it.

7 Q. Okay. Do you think that was acting like a
8 regulator?

9 A. I believe.

10 Q. Did anybody tell you anything about those doors?
11 Did you talk to anybody and ask them why they built
12 them that way?

13 A. Supposedly they built them to give these other
14 sections on the other side of us more air.

15 Q. Okay. So they cut back on the air on the wall?

16 A. That's the way it seemed.

17 Q. Okay. When you opened those doors up, was there a
18 fair amount of pressure on them?

19 A. Yeah, because --- there was a pretty good bit
20 because when you close you had to pull pretty hard to
21 get them.

22 Q. Was there a roar through that open space?

23 A. Not really a roar, no, but you could hear the
24 wind.

25 Q. So it was a fairly stiff breeze coming through?

1 A. Yeah, there was a pretty good breeze.

2 Q. Okay. Now, you said you were getting ready to
3 pull up to the mule train. Did you pull it up that
4 night?

5 A. No, sir.

6 Q. When were you scheduled to pull that up?

7 A. It was probably within the next week sometime.

8 Q. So just starting to get ready for work?

9 A. Yeah, we'd get ready --- we'd spend --- just, you
10 know, every day we'd do something, you know, to make
11 it easier on us for the power move at night.

12 Q. Sure. Okay. About how often do you have to move
13 the mule train up?

14 A. Well, for a long time, back in the beginning of
15 the panel we was moving a lot, you know, about
16 every --- once every week or twice a week. But here
17 towards the end, twice a month.

18 Q. So the wall slowed down quite a bit?

19 A. Yes, they done a lot.

20 Q. Did anybody mention why it slowed down?

21 A. Yeah, because of the sandstone on the tail.

22 Q. Okay.

23 A. Hard tail. And had a lot of water trouble then
24 before that.

25 Q. When's the last time you went down the face?

1 A. When we was having water trouble.

2 Q. And roughly about when would that have been?

3 A. Late February.

4 Q. Okay. What did you do down the face, set pumps?

5 A. Yeah, set pumps and drain them out back.

6 Q. Okay. Did the longwall have to shut down because
7 of the water in February?

8 A. Not that I recall, no.

9 Q. It kept running?

10 A. As far as I know. They might have had to shut
11 down and reset a pump or something like that, but I
12 don't remember them having to shut down for them.

13 Q. Okay. We understand there was a big shutdown back
14 --- sometime in the fall of last year with water.

15 A. Yes.

16 Q. Do you recall that?

17 A. Yeah, I recall it.

18 Q. Did you actually work on the wall when all the
19 water was on it?

20 A. Yeah.

21 Q. In comparison, how was this incident in February
22 compared to that? Was it as much water or ---?

23 A. Well, it seemed like the water was in two separate
24 places. In the early fall it was over in our Number
25 Three entry inby. And the water trouble we was having

1 when I was talking about it is it was coming out on
2 the face, down the face like a river.

3 Q. Okay. And that was in February?

4 A. Yeah, late February, sometime around in there.

5 Q. Was it near the head where it was coming down the
6 face or in the middle?

7 A. In the middle.

8 Q. Do you know why that water was coming in?

9 A. No, sir.

10 Q. Did anybody say anything about it?

11 A. Not at all.

12 Q. How high up on the backboards did that water get?

13 A. Some places it was almost to the cables on it.

14 Q. Oh, jeez. That's a lot of water. Okay.

15 A. That's if you didn't keep it pumped down.

16 Q. Sure. And I guess you guys got through that okay?

17 A. Yeah.

18 Q. About when did you get out of the water? Was it a
19 week later or two weeks later?

20 A. Probably two weeks.

21 Q. Okay. So about the 1st of March you should have
22 been getting out of the water?

23 A. Yes.

24 Q. Okay. Have any other water problems during the
25 month of March?

1 A. Not that I'm aware of.

2 Q. What about the work that was going on on the
3 longwall Sunday night? You mentioned there was a cowl
4 blade change. Anything else that you know of?

5 A. Not that I'm aware of, no, sir. I'm sure they
6 serviced the shearer ---

7 Q. Oh, yeah.

8 A. --- and all of that.

9 Q. Probably added a lot of grease and oil, that sort
10 of stuff?

11 A. Yeah, pretty much. I don't know if they took
12 slack out of the face chain or anything like that,
13 but ---.

14 Q. Did you notice if anything was welding or cutting
15 that night?

16 A. I'm sure they had been cutting because they always
17 cut the bolts off the cowl.

18 Q. Okay. You know, they had to weld them. You'd
19 tighten them up and then you'd spot weld them.

20 Q. Sure. Do you guys transport explosives into the
21 mine?

22 A. I haven't.

23 Q. Okay. What about then --- when you're
24 underground, did you ever hear of anything on the mine
25 phone or anybody say that there was inspectors on the

1 property?

2 A. Yes.

3 Q. How common was that?

4 A. Whenever there was an inspector in there or they
5 come there when we was underground and listen on the
6 phone.

7 Q. Okay. Did you ever see anybody working on a
8 methane monitor on the longwall?

9 A. No, sir. I've seen them calibrate. I've seen
10 them calibrate it.

11 Q. Take the gas bottles down there?

12 A. Uh-huh (yes). Yeah.

13 Q. Where were they calibrated at, up near the head
14 or ---?

15 A. Down at the tail.

16 Q. Down at the tail, okay. Did you guys ever have to
17 pick up any methane monitors, carry in ---?

18 A. No, sir.

19 Q. Okay. What about the --- did you ever have to
20 pick up a cable that goes from the head methane
21 readout over to the tail drive where the sensor is?

22 A. No, sir.

23 Q. Okay. Do you have a methane detector that you
24 carry with you?

25 A. No.

1 Q. Your buddy that helped out on the motor, did he
2 have one?

3 A. Yes.

4 Q. Did you ever hear that thing alarm?

5 A. Not his, no.

6 Q. Where were you at when you heard about the
7 explosion?

8 A. I was at home, asleep, and one of my buddies come
9 up and woke me up, told me about it. I didn't believe
10 it.

11 Q. When he told you about it, what's the first thing
12 you thought about?

13 A. My friends.

14 Q. What do you think happened with this explosion?
15 What's your personal opinion?

16 A. I have no idea.

17 Q. I'm sorry for the loss of your friends.

18 MR. SHERER:

19 That's all the questions I've got.

20 A. Thank you.

21 EXAMINATION

22 BY MR. FARLEY:

23 Q. I need to clarify a few things here. I think when
24 Erik asked you earlier when you first started to work
25 at UBB, you came --- you said you came to UBB from

1 Logan's Fork with the longwall.

2 A. Yes.

3 Q. Now, if I understood you correctly, you said
4 January.

5 A. Yeah.

6 Q. You mean January of 2009?

7 A. Yes.

8 Q. Okay. All right. I think Erik also asked you if
9 you noticed any unusual smells on your last shift at
10 UBB, and your answer was no. Did you ever notice ---
11 ever have any burning --- unusual burning sensation in
12 your eyes as you traveled in and out of the mine,
13 particularly in the area where 78 is?

14 A. Not that I can recall. I know --- I do know that
15 it seems like I have sometimes, but it doesn't seem
16 like it was no time around then. I mean, to me I just
17 figured like, you know, the wind, cold air, the cold
18 air done it.

19 Q. Okay. Now, Erik asked you about the doors in the
20 longwall headgate entries that had blocks out on the
21 side panel ---

22 A. Yes.

23 Q. --- that sort of served as a regulator. Do you
24 remember when you first saw those doors like that?

25 A. Yes. Yeah, it was --- I don't remember the exact

1 date or nothing.

2 Q. Okay. Well, as close as you can. Just what's
3 your best estimate?

4 A. Let's see. Roughly, March, the first of March.

5 Q. Okay. That's fine. Now, when you were bringing
6 supplies in and out of the mine on your midnight
7 shift, did you ever move any major pieces of equipment
8 in and out?

9 A. No.

10 Q. You also said that you had seen the longwall
11 methane monitor calibrated.

12 A. Yes.

13 Q. Do you remember when you saw that?

14 A. No, sir.

15 Q. Would it have been 2010?

16 A. Yes.

17 MR. FARLEY:

18 I don't think I have anything else.

19 MS. MONFORTON:

20 I don't have anything.

21 MR. SHERER:

22 I don't have anything.

23 ATTORNEY BABINGTON:

24 Okay. Well, there were two documents

25 that were discussed at the beginning. One was a copy

1 of the subpoena that was given to you and a copy of
2 the return receipt, and those will be labeled J.
3 Stanley One and Two respectively.

4 On behalf of MSHA and the Office of
5 Miners' Health, Safety and Training, I want to thank
6 you for appearing and answering questions today. Your
7 cooperation is very important to the investigation as
8 we work to determine the cause of the accident. We
9 request that you not discuss your testimony with any
10 person aside from a personal representative or
11 counsel. After questioning other witnesses, we may
12 call you if we have any follow-up questions. If at
13 any time you have additional information regarding the
14 accident that you'd like to provide to us, please
15 contact us at the contact information previously
16 provided.

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

21 A. I have none.

22 ATTORNEY BABINGTON:

23 Thank you. And again, I want to thank
24 you for your cooperation in this matter.

25 A. You're welcome.

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STATEMENT UNDER OATH CONCLUDED AT 9:27 A.M.

* * * * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

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I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

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That the proceeding is herein recorded fully

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and accurately;

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That I am neither attorney nor counsel for,

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nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

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am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

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this action.

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Alison Salyards

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