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Transcript of the Testimony of Gregory Arnold Shrewsbury

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STATEMENT UNDER OATH
OF
GREGORY ARNOLD SHREWSBURY

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 Thursday, July 29, 2010, beginning at 4:03 p.m.

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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 July 29th, 2010. I am with the Office of the
6 Solicitor, U.S. Department of Labor. With me is Erik
7 Sherer, who is an accident investigator with the Mine
8 Safety and Health Administration, MSHA, an agency of
9 the United States Department of Labor. Also present
10 with me are several people from the State of West
11 Virginia, and I ask that they now state their
12 appearance for the 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 ATTORNEY MCATEER:

20 I'm Davitt McAteer with the Governor's
21 investigation team.

22 ATTORNEY HAMPTON:

23 And Mr. Sherer will be asking you the
24 initial part of the questions, but several of the team
25 members will be asking you things today. And there

1 are other members of the team who are in the audience,
2 observing.

3 All members of the Mine Safety and Health
4 Accident Investigation Team and all members of the
5 State of West Virginia Accident Investigation Team
6 participating in the investigation of the Upper Big
7 Branch Mine explosion shall keep confidential all
8 information that is gathered from each witness who
9 voluntarily provides a statement until the witness
10 statements are officially released. MSHA and the
11 State of West Virginia shall keep this information
12 confidential so that other ongoing enforcement
13 activities are not prejudiced or jeopardized by a
14 premature release of information.

15 This confidentiality requirement shall
16 not preclude investigation team members from sharing
17 information with each other or with other law
18 enforcement officials. Your participation in this
19 interview constitutes your agreement to keep this
20 information confidential.

21 Government investigators and specialists
22 have been assigned to investigate the conditions,
23 events and circumstances surrounding the fatalities
24 that occurred at Upper Big Branch Mine-South on April
25 5th, 2010. The investigation is being conducted by

1 MSHA under Section 103(a) of the Federal Mine Safety
2 and Health Act and the West Virginia Office of Miners'
3 Health, Safety and Training. We appreciate your
4 assistance in this investigation.

5 You may have a personal attorney present
6 with you during the taking of the statement. Your
7 statement is completely voluntary. You may refuse to
8 answer any question at any time and you may terminate
9 your interview at any time or request a break if you
10 choose to.

11 Since this is not an adversarial
12 proceeding, formal Cross Examination of you won't be
13 permitted. However, your legal representative may ask
14 any clarifying questions if appropriate. And so the
15 record is clear, did you bring an attorney or a
16 personal representative with you here today?

17 MR. SHREWSBURY:

18 Yes, I did.

19 ATTORNEY HAMPTON:

20 Okay. And who is that attorney that you
21 brought with you?

22 MR. SHREWSBURY:

23 John McCruskey.

24 ATTORNEY MCCUSKEY:

25 That is ---

1 ATTORNEY HAMPTON:

2 John?

3 ATTORNEY MCCUSKEY:

4 --- McCuskey.

5 ATTORNEY HAMPTON:

6 Yeah, McCuskey.

7 ATTORNEY MCCUSKEY:

8 Yeah.

9 ATTORNEY HAMPTON:

10 Okay. And did you voluntarily choose to
11 have Mr. McCuskey come in as your legal
12 representative?

13 MR. SHREWSBURY:

14 Yes.

15 ATTORNEY HAMPTON:

16 Okay. And are you directly paying him to
17 be your attorney?

18 MR. SHREWSBURY:

19 No.

20 ATTORNEY HAMPTON:

21 Do you know who is paying?

22 MR. SHREWSBURY:

23 The company I work for.

24 ATTORNEY HAMPTON:

25 Okay. And that would be Massey?

1 MR. SHREWSBURY:

2 Yeah.

3 ATTORNEY HAMPTON:

4 Okay. And how exactly is it that he came
5 to be your attorney?

6 MR. SHREWSBURY:

7 I had the understanding that I could have
8 somebody come with me and I asked for it.

9 ATTORNEY HAMPTON:

10 Okay. And when did you retain him as
11 your attorney?

12 MR. SHREWSBURY:

13 I talked about a week ago.

14 ATTORNEY HAMPTON:

15 Okay. And you felt like you had a choice
16 in this matter?

17 MR. SHREWSBURY:

18 Yes.

19 ATTORNEY HAMPTON:

20 So you do consent to him being your
21 attorney?

22 MR. SHREWSBURY:

23 Yeah.

24 ATTORNEY HAMPTON:

25 Okay. And Mr. McCuskey, you agree that

1 you are legally representing this witness in this
2 matter?

3 ATTORNEY MCCUSKEY:

4 Yes, ma'am.

5 ATTORNEY HAMPTON:

6 Okay. And you understand that you may
7 not communicate with Massey Energy, its affiliates,
8 its officers, directors or attorneys concerning the
9 substance of this representation?

10 ATTORNEY MCCUSKEY:

11 As I have stated on earlier appearances,
12 I understand my responsibilities under West Virginia
13 Rules of Professional Responsibility and will abide by
14 those.

15 ATTORNEY HAMPTON:

16 Okay. And you are being paid by a third
17 party to provide your representation?

18 ATTORNEY MCCUSKEY:

19 That is correct.

20 ATTORNEY HAMPTON:

21 Okay.

22 ATTORNEY MCCUSKEY:

23 You said I could mention about
24 clarification, and I'd like to ask you if you would
25 clarify something for Mr. Shrewsbury. I understood

1 you to say that his appearance here today is his
2 agreement, that he will not discuss this testimony
3 with anyone. And it's my understanding, but I'd like
4 your clarification or correction, that the law does
5 not --- there's no law or rule that says Mr.
6 Shrewsbury cannot discuss this with people other than
7 his lawyer, and I don't know if that's correct or not.
8 And that's a little different statement than his ---

9 ATTORNEY HAMPTON:

10 Yes.

11 ATTORNEY MCCUSKEY:

12 --- presence here today constitutes his
13 agreement, so ---.

14 ATTORNEY HAMPTON:

15 We are requesting that he not discuss the
16 content of what we talk about today with others,
17 because, as you know, we are conducting an
18 investigation and there are concerns depending on the
19 nature of the information that you share with us that
20 if certain information is out in the community ---
21 rumors spread --- other law enforcement activities
22 that are going on might be jeopardized. And we want
23 to make sure that people are coming in here and
24 sharing information with us that they know is certain
25 and isn't something that is painted by things that

1 other people have been telling them, so that is the
2 purpose of our request.

3 Okay. Your identity and the content of
4 this conversation will be made public at the
5 conclusion of the interview process and may be
6 included in the public report of the accident unless
7 you request that your identity remain confidential or
8 your information would otherwise jeopardize a
9 potential criminal investigation. If you request us
10 to keep your identity confidential, we can do that
11 only to the extent permitted by the law. That means
12 that if a judge orders us to reveal your name or if
13 there is another law requires us to reveal your name
14 or if there is another law enforcement purpose that
15 would require us to reveal your name, we would have to
16 do so.

17 As well, this is a statement coming from
18 the federal government. The State team has their own
19 FOIA rules and their own confidentiality, so the State
20 team can only tell you that --- I'm sorry, the Federal
21 team can only tell you that we can give you
22 confidentiality up to a certain point unless certain
23 information must come out for other witnesses. Do you
24 have any questions about that?

25 MR. SHREWSBURY:

1 No.

2 ATTORNEY HAMPTON:

3 Okay. After the investigation is

4 complete, MSHA will issue a public report detailing

5 the nature and cause of the --- causes of the

6 fatalities in the hope that greater awareness about

7 the causes of the accidents can reduce their

8 occurrence in the future. Information obtained

9 through witness interviews is frequently included in

10 these reports. Since we will be interviewing other,

11 other individuals, again, we request that you not

12 discuss your testimony with any other person other

13 than an attorney.

14 As you can see, a court reporter will

15 record your interview, so please speak loudly and

16 clearly so she can hear you. And if you don't

17 understand a question, make sure you ask the person to

18 rephrase the question and they will certainly do that,

19 because we want to make sure that you are

20 understanding the question before you answer it. And

21 please do answer each question as fully as you can,

22 including any information you might have learned from

23 someone else.

24 So we would like to thank you in advance

25 for your appearance here. We appreciate your

1 assistance in this investigation. Your cooperation is
2 critical in making the nation's mines safer.

3 After we have finished asking questions,
4 you will then have an opportunity to make any
5 statement to us or to clarify any of the answers that
6 you've given to us. As well, I'd like to call your
7 attention to the letter that I handed you earlier.

8 There's contact information in there for Norman Page.

9 If after the time when you leave us here today you
10 have something else you'd like to share with us or
11 anything you'd like to clarify, you can contact us at
12 the phone number or email address in that letter.

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

21 MR. FARLEY:

22 Mr. Shrewsbury, on behalf of the Office
23 of Miners' Health, Safety and Training I want to
24 advise you that the West Virginia Mine Health and
25 Safety Regulations, particularly West Virginia Code

1 Chapter 22(a), Article 1, Section 22, also provides
2 protection against discrimination for miners who
3 participate in these type of investigative interviews.

4 I'll pass along some contact information
5 for the West Virginia Board of Appeals. They hear
6 complaints about such matters, also my business card
7 with my phone number, and there's also a phone number
8 on the memo for MR. Bill Tucker. He's our lead
9 underground investigator. And then you can contact us
10 or the Board of Appeals should you have a problem, and
11 also, I would advise you that should you have a
12 problem, you need to file a complaint within 30 days
13 of the time it occurs; all right?

14 MR. SHREWSBURY:

15 Thank you.

16 ATTORNEY HAMPTON:

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

19 -----

20 GREGORY ARNOLD SHREWSBURY, HAVING FIRST BEEN DULY

21 SWORN, TESTIFIED AS FOLLOWS:

22 -----

23 EXAMINATION

24 BY MR. SHERER:

25 Q. Thank you for coming down here this afternoon, Mr.

1 Shrewsbury. Could I get you to state your full name
2 and then spell your last name for the record?

3 A. Gregory Arnold Shrewsbury, S-H-R-E-W-S-B-U-R-Y.

4 Q. Okay. What's your address and telephone number,
5 please?

6 A. (b)(7)(C)

7 ATTORNEY MCATEER:

8 Odd?

9 A. Odd.

10 ATTORNEY MCATEER:

11 O-D-D?

12 A. Right.

13 ATTORNEY MCCUSKEY:

14 It really is.

15 ATTORNEY MCATEER:

16 I'm not familiar with that. Good to
17 know.

18 A. Phone number is (b)(7)(C) .

19 BY MR. SHERER:

20 Q. Thank you. How many years' mining experience do
21 you have?

22 A. Since '89.

23 Q. '89. When did you join the Massey organization?

24 A. August of '08.

25 Q. August of '08. Did you go to work at UBB or at

1 one of the other operations?

2 A. UBB.

3 Q. Have you been at UBB the entire time you've been
4 with the Massey organization?

5 A. Yes.

6 Q. Okay. What's your job description?

7 A. Hoot owl, chief electrician.

8 Q. Chief electrician on the ---

9 A. Yeah.

10 Q. --- hoot owl. Is there any particular part of the
11 mine that you're assigned to or ---?

12 A. My responsibility is from the south side or from
13 the Ellis to the south side.

14 Q. Okay. So you're primarily over the southern part
15 of the mine?

16 A. Right.

17 Q. Now, we understand that's the portion of the mine
18 that's under Mr. Gary May; is that correct?

19 A. Yes.

20 Q. Okay. Where were you when the explosion occurred?

21 A. At home.

22 Q. At home; okay. What was the previous shift that
23 you had worked prior to the explosion?

24 A. I worked the hoot owl shift earlier that day.

25 Q. Okay. So Sunday night and Monday morning?

1 A. Right.

2 Q. Okay. What part of the mine were you working in
3 that shift?

4 A. I had been all --- I'd been up to One section ---

5 Q. Okay.

6 A. --- and down to Ellis punch-out.

7 Q. Okay. Now, the One Section, which section is
8 that?

9 ATTORNEY MCCUSKEY:

10 You can use a map ---

11 MR. SHERER:

12 Yeah.

13 ATTORNEY MCCUSKEY:

14 --- if you need to.

15 A. Well ---.

16 BY MR. SHERER:

17 Q. Now we have a bigger map of the entire mine up on
18 the board.

19 A. Right here beside --- it's right beside the
20 longwall.

21 Q. Okay. So it was the ---?

22 A. The working section that was driving up for the
23 next longwall.

24 Q. Okay. Was it on the tailgate side?

25 A. No.

1 Q. Oh, it was the headgate side?

2 A. Yeah.

3 Q. Okay. So the ---?

4 A. So the Headgate 22.

5 Q. Yeah, we normally refer to it as Headgate Number
6 22, and we understand that there was, like, a One
7 through Four section at one time and ---

8 A. Right.

9 Q. --- they changed some of the names; okay. What
10 were you doing up on the Number One section?

11 A. I had to deliver something for the maintenance
12 crew. I believe it was a tire.

13 Q. Okay. About what time did you take that tire up
14 there?

15 A. I don't remember.

16 Q. Okay. Was it morning or afternoon?

17 A. It was sometime up in the early morning.

18 Q. Okay. It's good to know. When you went in there,
19 did you notice anything unusual?

20 A. No.

21 Q. Okay. Did you talk to the folks up on the section
22 when you got up there?

23 A. Yeah, I talked to some of them. I don't remember
24 which ones it was, but ---.

25 Q. Did they mention anything?

1 A. No.

2 Q. Okay. When you were up there did you notice if
3 there was --- did it feel hot or anything like that?

4 A. That end of the mines is always warmer than the
5 rest.

6 Q. Okay. Do you think there was adequate air once
7 you got up on the section? Could you feel, feel the
8 air?

9 A. I don't know.

10 Q. Okay. Just don't recall?

11 A. No, I don't.

12 Q. Okay. What did you do once you delivered the
13 tire?

14 A. I went back to the Ellis --- they were setting up
15 another section down on the Ellis end.

16 Q. Okay. And just inside the Ellis Portal?

17 A. Right.

18 Q. Okay.

19 A. I went down there to see what was going on and I
20 was up there for a little bit, and then I had to go
21 back to the tailgate side and get a belt started.

22 Q. Okay. The tailgate side of the current longwall?

23 A. Yeah, which would be right --- probably right
24 here, where they had a belt head at one time.

25 Q. Okay. That's the headgate.

1 A. That's the headgate.

2 Q. Yeah, tailgate.

3 A. Tailgate. Let me think right here where I'm at.

4 Yeah, well, right here.

5 Q. Okay. And you're pointing at about the end of the
6 current panel, near the takeout point?

7 A. Right.

8 Q. Okay. Was that in the morning or the afternoon?

9 A. That was in the morning.

10 Q. Okay. When you got in there, did you notice
11 anything unusual?

12 A. No.

13 Q. Did you smell anything unusual?

14 A. No, sir.

15 Q. Do you think the air movement was adequate?

16 A. I didn't see anything out of the ordinary.

17 Q. Okay. Do you carry a methane detector with you?

18 A. Yes, sir.

19 Q. What model is that, please?

20 A. It's a Solaris.

21 Q. Three-gas or 4-gas?

22 A. Three, I believe.

23 Q. Okay. Did you notice what it was reading when you
24 were in there?

25 A. No, but the alarm never did go off on it.

1 Q. Okay. Do you know where you have your alarm set
2 at?

3 A. It was a new detector and it had also been put on
4 the ---

5 ATTORNEY MCATEER:

6 Calibrator?

7 A. --- calibrator, yeah.

8 BY MR. SHERER:

9 Q. It had been calibrated?

10 A. It had been ---.

11 Q. Okay. Have you ever had that alarm go off on you
12 anywhere?

13 A. I have if --- around batteries or something like
14 that. That'll set them off.

15 Q. Okay. Well, that'll set off probably the
16 carbon ---

17 A. Right.

18 Q. --- monoxide.

19 A. Yeah.

20 Q. Okay. Yeah, the reason I'm asking, sometimes
21 those are set to alarm at a half percent, sometimes
22 they are set to alarm at one percent. Do you know
23 which it was set at?

24 A. I believe it was a half.

25 Q. Okay. That helps. Thank you. When you're going

1 in to pick up --- you say you were going to pick up a
2 belt head?

3 A. A belt starter.

4 Q. Belt starter; okay. Did you go through any doors
5 to get down to that area on the headgate, or tailgate?

6 A. Yeah, there was a set of doors just off --- just
7 from the switch here at 78.

8 Q. Okay.

9 A. Yeah, it was just up there a couple breaks.

10 Q. Okay. Were those doors in good condition?

11 A. As far as --- the best I can remember, they were.

12 Q. Okay. Were either one of them open when you got
13 up there?

14 A. Not that I recall.

15 Q. Okay. Did you go through any more doors once you
16 got inby those doors?

17 A. No.

18 Q. Okay. Do you recall which entry the track is in
19 down on the tailgate side?

20 A. It would be in Number Three entry.

21 Q. Okay.

22 A. Let me think.

23 Q. Okay. Thank you. Okay. So you got the belt
24 starter. What did you do then?

25 A. I took the belt starter back to --- up to that

1 section at Ellis.

2 Q. Okay. And you dropped the belt starter off.

3 What'd you do then?

4 A. We was up there just for a little while and went
5 home.

6 Q. Okay. About what time was that? What time did
7 you exit the mine?

8 A. We got outside probably 9:30.

9 Q. Okay. And you got out --- you went out down by
10 the UBB Portals?

11 A. Yes.

12 Q. Okay. Did you ever go out the Ellis Portals that
13 day?

14 A. No.

15 Q. Okay. Where they were setting up the new longwall
16 panel there, just inside the Ellis Portals, had you
17 been working up around that area for a while?

18 A. I'd been up there a few times.

19 Q. Okay. Over the course of several different days?

20 A. Yeah.

21 Q. Okay. Did you notice if the air was moving in the
22 same direction over those several days?

23 A. I don't think it --- I don't know of anything
24 being any different than it always was.

25 Q. Okay. Do you recall who was --- what sort of

1 construction was going on when you were there inside
2 the Ellis Portals?

3 A. They was doing some belt work. I had been up
4 there previously to put power boxes in.

5 Q. Okay. Do they have a miner up there cutting
6 overcasts or belt channels or anything like that?

7 A. There was a miner up there.

8 Q. Was it operating when you were up there?

9 A. I don't believe it was.

10 Q. Okay. Now, what was the shift that you worked
11 previous to the Sunday nightshift?

12 A. Thursday.

13 Q. Thursday; okay. So you had a long weekend?

14 A. I believe I did.

15 Q. Okay. What did you do on Thursday?

16 A. Oh, goodness. I have an idea.

17 Q. Okay. I've had a few Thursdays like that.

18 ATTORNEY MCCUSKEY:

19 Today might be one.

20 MR. SHERER:

21 No, I'll remember this one, buddy.

22 BY MR. SHERER:

23 Q. Okay. Did you notice anything unusual on Thursday
24 anywhere?

25 A. Not that I recall.

1 Q. Okay. Now, when you went down on the tailgate of
2 the longwall on Sunday night or possibly even Monday
3 morning, what were the conditions like where you
4 picked up that starter box? Was there any ribs
5 rolling or floor hooving or anything like that?

6 A. I don't remember anything. I don't know of
7 anything out of ---

8 Q. Okay.

9 A. --- just normal conditions.

10 Q. Okay. What about the track down through there?
11 Was the track in good condition?

12 A. It was pretty good.

13 Q. Okay.

14 A. There were just a couple bad places before you got
15 to the doors.

16 Q. Okay. Any standing water down through there?

17 A. No.

18 Q. Now, you're the electrical chief. Who do you
19 report to? Who's your boss, or who was your boss?

20 A. Well, Paul Thompson is maintenance chief.

21 Q. Okay. Now, who does Paul Thompson report to? Do
22 you know?

23 A. No.

24 Q. Okay. Do you have anybody that reported to you?

25 A. I had one guy worked with me that night.

1 Q. Okay. Who was that?

2 A. Brian Farley.

3 Q. Brian Farley. Are you his boss?

4 A. Yeah, I guess I would be.

5 Q. Okay. Does he normally work with you?

6 A. He had been working with us for a while. Since
7 the accident he went to another mine.

8 Q. Okay. Did you have anybody else that you were the
9 boss of?

10 A. There was the other sections on that side. I was
11 kind of like a boss if they had a problem.

12 Q. Okay. Would the electricians --- did they report
13 to you on those sections?

14 A. If there was a problem with anything, yeah.

15 Q. Okay.

16 A. And when I say a problem, having trouble getting
17 something fixed or something.

18 Q. Okay, sure. Would you check their, like, exams
19 and stuff like that, electrical examinations?

20 A. Sometimes I would be up there and, you know, look
21 around some

22 Q. Okay. Would you ever pull their electrical exam
23 books and just look at those?

24 A. From time to time.

25 Q. Okay, sure. Okay. Were you hourly or salary

1 here?

2 A. Salary, non-exempt.

3 Q. Salary, non-exempt. What does that mean?

4 A. I'm guaranteed 40 hours a week.

5 Q. Oh, okay. Do you get paid overtime?

6 A. Yes, sir.

7 Q. Okay. Where are you employed now?

8 A. I'm at UBB.

9 Q. Okay. Still. What are you doing at UBB now?

10 A. Right now I'm working on mantrips.

11 Q. I understand there was a lot of people working on
12 mantrips.

13 A. Yeah.

14 Q. Do you know if there was any problems with
15 ventilation in this mine prior to the explosion?

16 A. I know that they had some changes to try to better
17 the air.

18 Q. Okay. Do you recall about when those changes took
19 place?

20 A. No.

21 Q. Do you know if the air actually got better?

22 A. No, sir, I don't.

23 Q. Okay. Do you know who would've been doing those
24 changes or making those changes?

25 A. No, sir.

1 Q. Did you ever hear of any problem with methane?

2 A. No, sir.

3 Q. Okay. Was this a gassy mine?

4 A. As far as I know it wasn't.

5 Q. Okay. Did you ever --- you say you took a Solaris
6 spotter around with you. Did you ever notice any
7 methane showing up on that machine?

8 A. Yeah, from time to time. It just --- if it was
9 all the way up on a section somewhere.

10 Q. Like in the working face?

11 A. Right. You might get just a little.

12 Q. Okay. Tenth of percent or ---

13 A. Right.

14 Q. --- 20 tenths maybe?

15 A. One or two tenths.

16 Q. Okay. Did you ever see anything more than a
17 couple tenths of a percent?

18 A. Not that I recall.

19 Q. Okay. How about water? Was water a problem when
20 you were in the mine that you were aware of?

21 A. They was a couple places that had a lot of water.

22 Q. Where were those places at?

23 A. Well, now it would be back in behind the wall.

24 Q. Did you ever get back there when they were having
25 problems with the water?

1 A. No, once the wall was set up I wasn't back up
2 there.

3 Q. Okay. So you worked on the wall, setup of the
4 wall?

5 A. No.

6 Q. Okay.

7 A. I helped drive up through there.

8 Q. Okay. Did you drive the --- on the headgate side
9 or the tailgate side?

10 A. The headgate.

11 Q. Okay. Were you the chief electrician when you
12 were doing that or did you have some other position?

13 A. No, I was a maintenance foreman.

14 Q. Oh, maintenance foreman; okay. So you were
15 basically over the section that was driving this
16 headgate as far as the maintenance?

17 A. Yes, sir.

18 Q. Do you recall any particular maintenance problems
19 or issues that you had when they were driving this
20 headgate?

21 A. No, sir.

22 Q. Okay. Do you recall if there was problems with
23 the air when they were driving that headgate?

24 A. They was always enough air to the best of my
25 knowledge. There was always movement.

1 Q. Okay. Was the section ever shut down because of
2 not having enough air?

3 A. I'm not sure.

4 Q. Okay. Did you ever hear of a section that
5 encountered an explosive mixture of methane up there
6 near where the Bandytown fan is?

7 A. (Indicates no.)

8 OFF RECORD DISCUSSION

9 A. No, I did not.

10 BY MR. SHERER:

11 Q. Thank you. When you were underground, did you
12 ever receive any notice that MSHA or State inspectors
13 were on the property?

14 A. No.

15 Q. You never heard anybody calling in, saying, we've
16 got company, or something like that?

17 A. No, not that I know of.

18 Q. Do you have a hearing impairment?

19 A. No.

20 Q. Okay. Were ventilation changes ever made when
21 miners were underground?

22 A. I don't know about that.

23 Q. Okay. Did you ever see mining taking place
24 without ventilation curtains?

25 A. No, sir.

1 Q. Okay.

2 A. Did you ever see any methane monitors that were
3 bridged out?

4 A. No, sir.

5 Q. Okay. Did you ever see a methane monitor with a
6 cover removed?

7 A. No, sir.

8 Q. Okay. Were miners subjected to retaliation and
9 threats for reporting safety issues or other concerns?

10 A. No.

11 MR. SHERER:

12 Okay. Thank you. That's all the
13 questions I've got.

14 EXAMINATION

15 BY MR. FARLEY:

16 Q. Mr. Shrewsbury, other than an electrician
17 certification, do you have a mine foreman/fire boss
18 certification?

19 A. Yes.

20 Q. Okay. How long have you had that?

21 A. Since '98.

22 Q. Okay. How long were you --- have you been a owl
23 shift chief electrician at UBB, or how long were you
24 the owl shift chief electrician at UBB?

25 A. It was either August or September of '09.

1 Q. Okay. What'd you do before then at UBB?

2 A. Maintenance foreman.

3 Q. Okay. What area of the mine did you cover?

4 A. That was the headgate side. We always called it
5 One section.

6 Q. Okay. Now, prior to the explosion on April 5th,
7 on your owl shift you're responsible for the area from
8 the Ellis switch south; is that correct?

9 A. Yeah.

10 Q. All right. Who was responsible from a maintenance
11 standpoint? Who was the chief electrician for the
12 northern portion of the mine which would've included
13 the longwall and the two 22 Tailgate and 22 Headgate
14 sections?

15 A. Billy Graham.

16 Q. Okay. And he had all through the longwall and the
17 two gate sections?

18 A. The miner sections?

19 Q. Yes, sir.

20 A. He wasn't over the longwall.

21 Q. Okay.

22 A. He used to make sure that they got power up to the
23 start of each one of those.

24 Q. Okay. Now, who was --- which maintenance person
25 was the chief electrician for the longwall on the

1 midnight shift?

2 A. I don't know.

3 Q. Okay. Now, was there a longwall --- excuse me,
4 was there an owl shift or a midnight shift, I should
5 say, chief electrician for the entire mine or was it
6 just divided up?

7 A. Are you talking about on the midnight shift?

8 Q. Yes, sir. Yes, sir.

9 A. No, it was divided up.

10 Q. Okay. Now, who did you report to on the midnight
11 shift? If you had a problem and you needed to see a
12 superior, who did you talk to? Who did you take it up
13 with?

14 A. If it was a maintenance problem ---.

15 Q. Uh-huh (yes).

16 A. It also depended on where it would be. If it was
17 up on the One section end, they would contact the
18 dayshift chief.

19 Q. Okay. Now, the dayshift chief was not present
20 during the owl shift?

21 A. Right, they would call him.

22 Q. Okay. All right. Who would you contact for your
23 area of the mine?

24 A. In my area?

25 Q. Yes, sir.

1 A. I would probably call either David Taraczkozy or
2 Paul Thompson.

3 Q. Okay. Now, on the owl shift at UBB how many
4 people actually reported to you? How many people did
5 you actually supervise?

6 A. I was over the maintenance foremen on two
7 sections.

8 Q. Okay. Now, what two sections would that have
9 been?

10 A. I believe it was the barrier section, I believe.
11 And they had a mine on the south side. They had just
12 pulled it out and was moving it over to Ellis.

13 Q. Okay. Would that have been the section known as
14 the portal section?

15 A. Yeah.

16 Q. Okay. So these two maintenance foremen, one for
17 each of those two sections, reported to you?

18 A. Right.

19 Q. Okay. Now, how many maintenance people or
20 electricians or --- electricians reported to those two
21 individuals in that part of the mine?

22 A. On an average, three.

23 Q. Three for each one?

24 A. Uh-huh (yes).

25 Q. Okay. Did you personally make any weekly

1 electrical equipment exams?

2 A. Belts.

3 Q. Okay. Which belts?

4 A. The Number One South and ---.

5 Q. Okay. I think Mr. Sherer asked you if you had any
6 knowledge of any methane monitors being bridged out at
7 any time at UBB. During the time that you were chief
8 electrician for the south part of the mine at UBB, did
9 you ever have occasion to make repairs on any methane
10 monitor on any mining machine?

11 A. I didn't make any repairs on the south side, no.

12 Q. Did anyone who reported to you ever have to make
13 repairs on the methane monitor at any time?

14 A. Not that I know of.

15 Q. Okay. Did anyone --- did you or anyone that
16 reported to you ever have to calibrate methane
17 monitors?

18 A. Well, they have to be calibrated regularly.

19 Q. Okay. Now, did you do that personally or ---?

20 A. No.

21 Q. Now, who ---?

22 A. That was under the --- that was under the
23 maintenance foremen ---

24 Q. Okay.

25 A. --- on their sections.

1 Q. Okay. Did they do any maintenance work on the
2 methane monitors other than to calibrate them?

3 A. Not that I know of.

4 Q. Okay. Now, I think you indicated that on your
5 last shift prior to the explosion, which was April
6 5th, that you had visited the Headgate 22 section to
7 deliver something?

8 A. Right.

9 Q. Now, prior to that occasion, had you been to the
10 Headgate 22 section before?

11 A. Yes, sir.

12 Q. When was the last time prior to April 5th?

13 A. I don't know.

14 Q. Okay. Sometime this year?

15 A. Oh, yeah.

16 Q. Did you ever visit the longwall face?

17 A. No, sir.

18 Q. Never?

19 A. No, never been on the face.

20 Q. Okay. Not this year, not last year, not any time?

21 A. No, not at all.

22 MR. FARLEY:

23 Okay.

24 EXAMINATION

25 BY ATTORNEY MCATEER:

1 Q. Mr. Shrewsbury, thank you so much for coming in.
2 When you got --- what time did you arrive at the mine
3 on the hoot owl shift that Sunday?

4 A. I generally get there around 10:30.

5 Q. Uh-huh (yes). And what did you do this night,
6 this Sunday night that you got there? What did you
7 have for lunch? Did you go in the office?

8 A. Yeah, we go up in the office and ---

9 Q. Right.

10 A. --- see if anybody's got any problems or if they
11 need anything.

12 Q. Sure.

13 A. Sometime that night we got a call, saying that One
14 Section needed some parts and we took them up.

15 Q. That was when you were still in the office?

16 A. No, that was later on.

17 Q. Okay. Who was in the office that night if you can
18 recall?

19 A. Oh, goodness. I don't remember.

20 Q. Chris Blanchard?

21 A. Oh, not that I know of.

22 Q. Okay. Would you have talked to any of these other
23 supervisors, either Paul Thomas or ---?

24 A. No, I don't think Paul was there that night.

25 Q. Okay. Can you remember anybody that was there

1 that night?

2 A. Let's see. Some of the guys come in from Ellis,
3 so we didn't have too many on the south side.

4 Q. And who were those coming in from Ellis? What
5 were they coming in for?

6 A. One section.

7 Q. You mean they just ---

8 A. The maintenance ---.

9 Q. --- came into the mine from Ellis Portal?

10 A. Right.

11 Q. Oh, got you; okay.

12 A. Their office is over at the Ellis.

13 Q. Right. So how did you get into the mine?

14 A. I always went in from UBB.

15 Q. But I mean physically, how'd you get in them?

16 A. On a Jeep.

17 Q. A Jeep. Who'd you ride with that night?

18 A. Brian Farley.

19 Q. What's he do?

20 A. He's a electrician, outby.

21 Q. Okay. And you got up to the --- where would you
22 have gone to, the barrier section or ---?

23 A. Headgate 22.

24 Q. Oh, so you went sort of the --- at the beginning
25 of the shift up to Headgate 22?

1 A. Yeah, it was sometime that morning. I don't
2 know ---.

3 Q. Yeah, but I mean you don't remember going
4 someplace else first and then coming back?

5 A. No, I don't know.

6 Q. Okay. Now, you were delivering a tire?

7 A. I think it was a tire we took up there.

8 Q. Tire for a ---?

9 A. I'm thinking a bolter.

10 Q. Okay. Who was the electrician up there?

11 A. Mike Dickens. I don't remember who was up there
12 with him.

13 Q. Yeah. Who'd you take the tire to?

14 A. Mike Dickens.

15 Q. Mike? Okay. How was the rock dusting that night?

16 A. That night? I don't recall if I seen any dusting
17 going on that night.

18 Q. Okay. Who did the dusting?

19 A. I don't know his name.

20 Q. Okay. A black fellow?

21 A. At one time there was one.

22 Q. Okay. Is he no longer at the place?

23 A. I don't think he is.

24 Q. Okay. You worked --- I'm sorry. You worked
25 Thursday and then you worked Sunday. Was there any

1 difference in the ventilation between the two?

2 A. Not that I know of.

3 Q. Did anybody talk about changes in the ventilation
4 Sunday night?

5 A. Not Sunday night.

6 Q. Any other time?

7 A. You hear people talking about it. It never --- I
8 never was involved in any of it, so I didn't pay a
9 whole lot of attention to it.

10 Q. Who was in charge of ventilation at the mine?

11 A. Either the superintendent or the president.

12 Q. So that would be Chris Blanchard, and who was the
13 superintendent then?

14 A. Well, they even had that divided into two, if I
15 ain't mistaken.

16 Q. All right.

17 A. Everett Hager was one and Gary May was one.

18 Q. Who was over you?

19 A. Gary May.

20 Q. Okay. Did you have any of your crew working on
21 Saturday or Sunday, earlier on Sunday, any people that
22 reported to you?

23 A. They would come in early from time to time.

24 Q. But on the Sunday or Saturday before this accident
25 did any of your people come in?

1 A. Not that I recall.

2 Q. Okay. Now, after you took the tire up --- did
3 anybody ride with you, taking that tire up in the Jeep
4 or ---?

5 A. Brian Farley.

6 Q. Oh, I'm sorry. I think you did say that. And
7 then he went back with you?

8 A. Right.

9 Q. Okay. And where'd you go then?

10 A. To the new setup at Ellis.

11 Q. And was there adequate air at that time at the new
12 setup?

13 A. Yeah, the best I remember ---

14 Q. Okay.

15 A. --- there was.

16 Q. And then you went on the tailgate of the wall?

17 A. Right. Just a little bit past 79 Break.

18 Q. And picked up that ---

19 A. Belt starter.

20 Q. --- belt starter? Was it not functioning or ---?

21 A. It was not in use.

22 Q. Okay.

23 A. And they needed it at Ellis.

24 Q. Anybody go with you?

25 A. Brian Farley.

1 Q. Now, did he open the odors or did you open the
2 doors when you went through?

3 A. I did.

4 Q. You did?

5 A. Uh-huh (yes).

6 Q. So he drove?

7 A. Right.

8 Q. And did you use the double sets of doors there?

9 A. Yes, sir.

10 Q. Okay. Had they been changed from Thursday to
11 Sunday night?

12 A. Not that I recall.

13 Q. Okay. Had there been any electrical work that was
14 done on the shift that Sunday night that you were
15 conscious of either in 22 or the tailgate, any
16 discussions about?

17 A. No, sir.

18 Q. Have you had an interview with the Massey lawyers?

19 A. Yes, sir.

20 Q. And when was that?

21 A. Approximately a month ago.

22 Q. Okay. Was John --- was Mr. McCuskey there at the
23 time?

24 A. No, sir.

25 Q. Okay. Do you remember who was or ---?

1 A. No, sir.

2 Q. Okay. Did anybody from Massey volunteer to pay
3 for your attorney?

4 A. I was told that if I needed somebody to come with
5 me ---

6 Q. Sure.

7 A. --- that I could get --- I could have it.

8 Q. Okay. And who told you that?

9 A. Oh, goodness. There've been several people
10 telling me that.

11 Q. Okay. Would they have been the lawyers from
12 Massey that you talked to?

13 A. I don't know if it was them or not.

14 Q. Okay. Would it have been Stephanie?

15 A. I don't know Stephanie.

16 Q. Okay. What time --- what time did you come out of
17 the mine that night? This is Sunday night, now. It
18 would be Monday morning.

19 A. That Monday morning? It was somewhere around
20 9:30, give or take a little bit. An inspector was
21 waiting on us to check our rides when we got out that
22 morning.

23 Q. Federal inspector?

24 A. I don't remember if it was State or Federal.

25 Q. Okay. And you said check your ride, checking the

1 jeep or the mantrip?

2 A. Right.

3 Q. Did you stay with him while --- when they did
4 that?

5 A. Brian did.

6 Q. Brian. And then did you go home then or did you
7 shower off there?

8 A. I went up in the office for just a few minutes.

9 Q. Who'd you see up there?

10 A. I don't know who was up there. I don't remember.

11 Q. Chris Blanchard up there?

12 A. Not that I remember.

13 Q. Who'd you report to? Did you tell anybody, I'm
14 checking out, or here's what I found last night
15 or ---?

16 A. No, I don't have to report.

17 Q. Okay. But I mean, did you pass along to the next
18 guy coming on, not reporting in the sense of ---?

19 A. We got out a little bit later than usual. And I
20 can't remember who was there. If I got out at normal
21 time, I could've talked to some people, ---

22 Q. Okay.

23 A. --- but I don't remember if anybody was there or
24 not.

25 Q. How come you got out later than usual?

1 A. We went to the tailgate side and got that starter.

2 Q. Okay.

3 MR. MCATEER:

4 That's all the questions I have.

5 RE-EXAMINATION

6 BY MR. FARLEY:

7 Q. Mr. Shrewsbury, since you've been employed at the
8 --- since you began your employment at the UBB Mine,
9 did you ever participate in any major equipment moves.
10 And let me define major equipment move, when you take
11 something on the order of a continuous mining machine,
12 a shuttle car or a bolting machine, a full sized,
13 completely constructed mining machine, place it on a
14 track mounted or rubber tire-mounted car and tow it or
15 push it into the mine or from one part of the mine to
16 another.

17 A. No.

18 Q. Okay. Did you ever witness any such moves?

19 A. No.

20 Q. Okay. When were such moves usually made?

21 A. I don't know whether it would be on the hoot owl
22 or on the weekend. I'm sure that it would be
23 something planned.

24 Q. Okay. And who would've routinely had planned
25 major equipment moves?

1 A. Probably the president or the superintendent.

2 MR. FARLEY:

3 Okay. Thank you.

4 RE-EXAMINATION

5 BY ATTORNEY MCATEER:

6 Q. I just had one. On the hoot owl shift that you
7 were on Sunday night, did you participate in any
8 ventilation ---- any changes that would affect the
9 ventilation of the mine?

10 A. No, sir.

11 ATTORNEY MCATEER:

12 Okay. That's all the questions I have.

13 ATTORNEY HAMPTON:

14 Okay. Terry?

15 MR. FARLEY:

16 No, I'm done.

17 ATTORNEY HAMPTON:

18 All right. On behalf of MSHA and the
19 Office of Miner's Health, Safety and Training we'd
20 like to thank you for appearing and answering our
21 questions today. Your cooperation is very important to
22 the investigation as we work to determine the cause of
23 the accident. And again, as I mentioned earlier, we
24 do request that you not discuss your testimony with
25 anyone other person aside from an attorney.

1 After questioning other witnesses, we
2 might call you if we have additional questions for
3 you, just depending on how the investigation goes. As
4 we learn more things we might have more information
5 we'd like from you. As well, I have given you Norman
6 Page's contact information, so if there are further
7 things that you would like to share with us, you can
8 contact us at the email address or phone number in the
9 letter that was given to you earlier.

10 So now if you wish, if there is any
11 answer that you've given us that you would like to
12 clarify or if there is anything else that you'd like
13 to share with us that we haven't asked you about, you
14 may do so at this point.

15 A. Not that I know of.

16 ATTORNEY HAMPTON:

17 Okay. Thank you very much.

18 * * * * *

19 STATEMENT UNDER OATH CONCLUDED AT 5:00 P.M.

20 * * * * *

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5

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;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

22

Alison Salyards

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25