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Transcript of the Testimony of John Pyles

Date: August 3, 2010

Case:

Printed On: August 9, 2010

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STATEMENT UNDER OATH
OF
JOHN PYLES

taken pursuant to Notice by Daniel Ohm, 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 3, 2010, beginning at 1:00 p.m.

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2

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23 (b) (7)(C)

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

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P R O C E E D I N G S

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2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is August
5 3rd, 2010. I'm with the Office of the Solicitor, U.S.
6 Department of Labor. With me is Erik Sherer, an
7 accident investigator with the Mine Safety and Health
8 Administration, MSHA, an agency of the United States
9 Department of Labor. Also present are several people
10 from the State of West Virginia. I ask that they
11 state their appearance for the record.

12 MR. FARLEY:

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

15 MS. SPENCE:

16 I'm Beth Spence with the Governor's
17 independent investigation.

18 ATTORNEY BAXTER:

19 There are also members of the
20 investigation team present in the room today. Mr.
21 Sherer, Mr. Farley and Ms. Spence will be conducting
22 the questioning today.

23 All members of the Mine Safety and Health
24 Accident Investigation Team and all members of the
25 State of West Virginia Accident Investigation Team

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

16 Government investigators and specialists

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

25 You may have your personal attorney

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

6 MR. PYLES:

7 No, I do not.

8 ATTORNEY BAXTER:

9 Your statement is completely voluntary.

10 You may refuse to answer any question and you may
11 terminate your interview at any time or request a
12 break at any time. Your identity and the content of
13 this conversation will be made public at the
14 conclusion of the interview process. Also, there may
15 be a need to use the information you provide to us or
16 other information we may ask you to provide in the
17 future in other investigations into and hearings about
18 the explosion. Do you understand?

19 MR. PYLES:

20 Yes.

21 ATTORNEY BAXTER:

22 And do you have any questions?

23 MR. PYLES:

24 No.

25 ATTORNEY BAXTER:

1 After the investigation is complete, MSHA
2 will issue a public report detailing the nature and
3 causes of the fatalities in the hope that greater
4 awareness about the causes of accidents can reduce
5 their occurrence in the future. Information obtained
6 through witness interviews is frequently included in
7 these reports. Since we will be interviewing other
8 individuals, we request that you not discuss your
9 testimony with any person aside from your personal
10 representative or counsel.

11 A court reporter will record your
12 interview. Please speak loudly and clearly. If you
13 do not understand a question asked, please ask us to
14 rephrase it. Please answer each question as fully as
15 you can, including any information you've learned from
16 someone else.

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

21 After we have finished asking questions,
22 you will have an opportunity to make a statement and
23 provide us with any other information that you believe
24 to be important. If at any time after the interview
25 you recall any additional information that you believe

1 might be useful, please contact Norman Page at the
2 telephone number or email address provided to you.
3 Please swear the witness in.

4 -----

5 JOHN PYLES, HAVING FIRST BEEN DULY SWORN, TESTIFIED AS
6 FOLLOWS:

7 -----

8 EXAMINATION

9 BY MR. SHERER:

10 Q. First of all, thanks for coming up here this
11 afternoon, John. Would you please spell your ---
12 state your full name and spell your last name for the
13 record?

14 A. John Michael Pyles, P-Y-L-E-S.

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

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

18 (b) (7)(C)

19 Q. And you're currently employed by MSHA?

20 A. Yes.

21 Q. What's your current position, please?

22 A. Assistant district manager over the Technical
23 Division in the Coal Mine Safety and Health District
24 7, Barbourville, Kentucky.

25 Q. Okay. How long have you been employed by MSHA?

1 A. I started with MSHA in December of 1974, or
2 started with MASA in December, 1974.

3 Q. Okay. Did you have any mining experience prior to
4 joining MSHA?

5 A. No.

6 Q. Okay. We understand that you were acting district
7 manager in District 4 in 2004. What dates were you
8 employed there as acting district manager?

9 A. I was there from January the 10th through June the
10 10th.

11 Q. Okay.

12 A. Now, I don't know how that looks on the personnel
13 thing, because I was there for a 120-day detail, but I
14 stayed over past the end of the detail.

15 Q. Okay. Do you recall the methane outburst at the
16 Upper Big Branch Mine?

17 A. Yes.

18 Q. Did you visit that mine as part --- associated
19 with that outburst?

20 A. Yes.

21 Q. Could you please describe what you recall of that
22 event?

23 A. I think we were at the Academy and learned of the
24 event. Link Selfe and I drove to the mines and when
25 we got there, of course, people were already out.

1 This is probably late afternoon, after five or six
2 o'clock, somewhere in that neighborhood.

3 We went there, went up into the mine office and
4 there was a room full of people. There was
5 discussions going on about --- actually the company
6 was really trying to find out when they could get back
7 to work.

8 Bill Ross, who was the ventilation supervisor, was
9 trying to explain to the gentleman in charge. I assume
10 he was the, like, the superintendent or whatever
11 Massey's title was. We appeared to be in his office.
12 That there were certain things that need to be done.
13 The methane had to be gotten down.

14 Apparently when the event occurred --- of course,
15 I think the face was gassed off, plus it filled the
16 bleeders full of methane. And Bill was trying to
17 explain to him what all had to be done before they
18 could be released to do anything.

19 And I remember I walked in the back of the room
20 and I stood there a few minutes and a discussion was
21 going on and the gentleman was kind of pressing Ross
22 pretty hard and said, well, we'll just have to call
23 the district manager. And Ross told him, well, he's
24 standing in the back of the room back there if you
25 want to talk to him.

1 And I basically told the guy, you know, you need
2 to listen to Mr. Ross and nothing's going to be
3 different than what he tells you. You had an event
4 and you're going to have to, you know, get things back
5 to a situation near normal now before you'll be
6 released. I stayed around the mine there for probably
7 an hour two and then left.

8 Q. Okay. Was there a (k) order issued on that
9 particular event?

10 A. To the best of my understanding, yes, there was.

11 Q. Okay. Do you recall who issued the (k) order?

12 A. No, I do not.

13 Q. Had you visited that particular mine prior to that
14 event?

15 A. No, I had not.

16 Q. Did you visit after that event?

17 A. No, I did not.

18 Q. Okay. Did you have any further discussions with
19 any of the mine management concerning that event?

20 A. There was discussions held with Massey personnel.
21 I believe I had a recollection of two --- two
22 discussions with them.

23 Q. Okay. Could you please describe those
24 discussions?

25 A. One discussion on April the 5th, we met with

1 Drexel Short, Chris Hamilton, Frank Foster, and I
2 think Rick McKinney was there and myself. And we were
3 talking about safety and health issues at Massey
4 Mines. And they made a mention of Upper Big Branch,
5 and I do not recall --- I found that in my notes that
6 I had, and I do not recall the specific discussions
7 other than that notation, that Upper Big Branch. A
8 subsequent meeting was later held on May the 3rd with
9 Wayne Francis, Barry Hale, Chris Adkins, Frank Foster.
10 And they were basically --- had initially talked
11 about doing degasification to remove the methane from
12 the subsequent panel or panels that was left to be
13 mined. And they made a request for assistance. And we
14 had previously sent people there from Tech Support
15 from the Roof Control, Ground Control Group. And the
16 next day we made a request on 5/4, I believe, to
17 request that we get some assistance with
18 degasification, efforts that might be applicable for
19 the Upper Big Branch Mine.

20 Q. Okay. Do you recall who you contacted in Tech
21 Support about the degasification?

22 A. The degasification, my best knowledge and
23 recollection is that Rich Kline, who was the ADM over
24 Technical Group in Mount Hope had been having ongoing
25 discussions since the incident occurred with Terry

1 Hoke.

2 Q. Okay.

3 A. And he contacted Terry Hoke, who in turn kind of
4 passed and punt it over to John Urosek, because Hoke's
5 people in Ground Control I don't think had very much
6 knowledge of that, and the recommendation was that
7 possibly George Aul, A-U-L, would come and talk with
8 him. I think Rich had known him from days where they
9 worked together at maybe Consol or something like
10 that.

11 Q. Sure.

12 A. And arrangements were made for him to come and
13 meet with Massey personnel, the district personnel,
14 and I believe there was someone from the Roof Control
15 who came, also.

16 Q. Okay.

17 A. And I believe that meeting was summarized in a
18 memorandum that was dated 5/16, I believe, later on to
19 Steve Gigliotti. A result of their actions came up to
20 that point at the end.

21 Q. Sure. Now, you mentioned that you had also asked
22 for assistance from the Roof Control Division. Did
23 they do a study and report on the ---?

24 A. Yes.

25 Q. Do you recall the meeting with Sandin Phillipson?

1 A. I do not have a specific recollection of meeting
2 with Sandin Phillipson, but I was aware of what they
3 were finding. We had two or three after we had the
4 Speed mining going on, which you were aware of.

5 Q. Sure.

6 A. And we were at Pinnacle, 24/7. And a lot of work
7 was handled through Bill Ross and the staff there.

8 Q. Sure.

9 A. I was aware of what they were coming up with
10 afterwards.

11 Q. Okay.

12 A. And I think they had looked at it and came up with
13 a theory that we could have some gas pockets there
14 that may be coming through fractures or whatever
15 through to a dome at an area where we had been
16 inter-burdened between the ---

17 Q. Sure.

18 A. --- between the seams. And his recommendation was
19 maybe we need to get the gas out ---

20 Q. Sure.

21 A. --- by degas.

22 Q. Okay. Now, did you receive copies of those
23 reports, those two reports you mentioned?

24 A. The report from Samuel and Phillipson that was a
25 result of their visit there in February, yes.

1 Q. Okay.

2 A. I do not recall having seen the memorandum dated
3 5/16, I believe ---

4 Q. Okay.

5 A. --- to Steve Gigliotti. The week that that
6 meeting occurred I was at the International Society of
7 Mine Safety Professionals meeting in Utah and had
8 taken some leave, and when I came back I was briefed
9 on the results of that meeting, because I remember
10 that there was a change from the philosophy of degas
11 holes to maybe degas is not the answer and we just
12 need to ---

13 Q. Okay.

14 A. --- step up, pick up ventilation and put some
15 other things in place. I do recall that, but I do not
16 know --- I may've seen a graph. Like I say, I do not
17 recollect seeing a written document.

18 Q. Okay, sure. Now, do you recall if any changes
19 were made to any of the plans, roof control,
20 ventilation, anything like that to address the
21 possibility of methane outbursts?

22 A. I'm not aware of any related to these memorandums.
23 I cannot say for sure. The record would have to talk
24 for itself that after the event occurred there was a
25 couple days when they was trying to degas and get the

1 mine opened back up. Whether or not we did anything
2 there or not as far as immediately ventilation changes
3 or something like that, I ---. But as far as those
4 two memorandums, to my knowledge, there was not ---
5 because it was an ongoing thing.

6 Q. Sure.

7 A. There was progression from people getting there,
8 people redoing, people doing this, people talking,
9 people meeting, and the memorandums flowed.

10 Q. Okay.

11 A. But there was not anything during the time that I
12 was down there that I know of that addressed
13 specifically the items talked about here, other than
14 first --- the first memorandum talked about degas. We
15 talked to the company about degas. They wanted help.
16 We got them some help and, you know, people that we
17 thought knew about degasification, and then it's
18 progressing from there.

19 Q. Okay. Have you had any further contact or
20 meetings with Upper Big Branch since the time you quit
21 acting as district manger in District 4?

22 A. No. No, I didn't.

23 Q. Have you had any further contact or correspondence
24 with anyone in MSHA concerning this event until
25 recently, of course?

1 A. After the event occurred, George Fesak talked to
2 me about the possibility of being on the Internal
3 Review Team.

4 Q. Okay.

5 A. I indicated to him a couple things. One is I was
6 going through surgery at the time. In fact, I was at
7 home on leave at that point. And then I also
8 mentioned to him that at that time the thing had come
9 out about Norman and Kentucky Darby, and I made George
10 aware of the fact that I had the same luggage ---

11 Q. Sure.

12 A. --- to pack in that Norman did about the Kentucky
13 Darby accident that occurred in Kentucky in 2006 ---

14 Q. Sure.

15 A. --- and respectfully declined or --- and asked not
16 to be put on the Internal Review Team.

17 Q. Okay. Is there anything else that we should be
18 aware of concerning this methane outburst?

19 A. No. I mean, when it --- I had no additional
20 information other than what we talked about. We
21 handled it as an occurrence. I thought it was a
22 fairly serious occurrence. I talked with Bill Crocco
23 the day after it occurred, and that's what initiated
24 the --- he'd asked us to go ahead and contact Tech
25 Support. That's what initiated the two site --- well,

1 the on site visit for sure that I know occurred by the
2 Ground Control Group, the geologist. And I really
3 don't know if the second meeting they had with George
4 Aul to discuss the degasification, I don't know if
5 that was onsite or the mine site or underground or
6 what, but ---.

7 Q. And just for the record, what position was Gill
8 Crocco in at that point in time?

9 A. I believe Bill Crocco was the head of the accident
10 investigation group at that time. I think he's who we
11 reported incidents to.

12 Q. Okay.

13 A. And I think that was the reason why I made contact
14 with him, because considered that to be an inundation
15 of methane of consequence, because it idled the mine
16 and had a pretty significant methane liberation,
17 apparently. And I was letting him know that we had a
18 mine down.

19 Q. Okay.

20 A. And also, about the time I think the procedure was
21 that we was kind of to route things involved with
22 quota accidents ---

23 Q. Sure.

24 A. --- through him to contact --- to go to Tech
25 Support to ask for help.

1 Q. Sure.

2 A. But he kind of deferred back and said, go ahead
3 and handle it.

4 Q. Okay, sure. Now, do you recall approximately how
5 long it was between the time this incident took place
6 and Massey reported it to the District?

7 A. No, I do not. I just know that I found out about
8 it in the late afternoon, maybe. And like I said, we
9 left the academy. I think we were at a meeting at the
10 Academy. I'm not sure about that, but Link Selfe and
11 I just jumped in the vehicle and drove over there,
12 because it was after normal work hours that we got
13 there.

14 Q. Sure.

15 A. And we already had people onsite.

16 MR. SHERER:

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

18 EXAMINATION

19 BY MR. FARLEY:

20 Q. Mr. Pyles, a couple things.

21 A. Uh-huh (yes).

22 Q. Do you recall the specifics of any of the
23 discussions that took place in 2004 involving
24 degasification initially? Was there discussion of
25 degasifying the Eagle Seam in the mine, the Lower

1 Eagle Seam below it on the strata below, the Lower
2 Eagle Seam? How did that play out, if you ---

3 A. Okay.

4 Q. --- can recall?

5 A. The discussions that I recall about that involving
6 staff in Mount Hope was that we had essentially told
7 the company, you know, you're going to have to do
8 something. You've had two of these occur, and they
9 occurred in the approximate same location. And they
10 were getting ready, if I recall correctly, to finish
11 that panel up and move the longwall. In that area
12 where they occurred there was inter-burden between a
13 lower seam and the seam they were mining. And the
14 longwall would move to an area where they had a
15 thicker inter-burden and on previous occurrences.

16 And through those discussions I think it was ---
17 because it was my understanding was that the company
18 --- or our people together, they come up with the idea
19 of degasification of the methane from below the, I
20 guess Eagle Seam they were mining would probably be
21 the way to go to get the methane out before they got
22 there so they would not have these bumps or whatever
23 type occurrence you want to call them and have a
24 sudden inundation or inrush of methane at the working
25 face of the longwall when you approach these areas

1 where they had a thin inter-burden.

2 Q. Okay. Now ---?

3 A. I take it that the company --- well, my
4 recollection was that the company was in favor of the
5 idea of some type of degasification.

6 Q. Okay. Was there any particular specific process
7 of degasification that was discussed?

8 A. Not with me. That was the idea of requesting the
9 second visit from someone from Tech Support who had
10 knowledge of --- and George Aul was an engineer who
11 worked in the Ventilation Group. And he happened to
12 be here working with us at Pinnacle, and he had
13 knowledge of in-seam degasification in, I guess the
14 Pokey Three in Virginia and maybe other places. And I
15 think Urosek and everybody kind of agreed that he
16 would be the kind of guy that may be able to help them
17 the most.

18 I don't know what their discussions entailed,
19 whether it was actually in-seam or trying to get down
20 through to below seam. My thought would've been that
21 we would've been trying to discuss below seam, because
22 there did not seem to be an apparent release of
23 methane from in-seam of the Eagle, that we had a
24 problem whenever the floor hooved and we'd have an
25 inrush from underneath, so that the typical thing

1 would be, I think, would be to try to degas the
2 underlying strata.

3 Q. Okay. Now, was it ultimately determined that
4 degasification wasn't practical or not --- or wasn't
5 feasible in that situation?

6 A. The results of the meeting, having read the
7 memorandum, and my recollection, was that during the
8 discussions they decided that apparently
9 degasification of that lower seam buried below the,
10 below the coal bed was problematic and that they were
11 going to talk about other options for, I guess
12 mitigating as opposed to trying to eliminate a methane
13 liberation in the active workings.

14 Q. Okay. All right. Now, I think you indicated you
15 visited the mine on the day that the inundation
16 occurred in 2004.

17 A. Yes.

18 Q. And you were there for a while and you were not
19 back there. Do you recall any representatives from
20 the West Virginia Office of Miners' Health, Safety and
21 Training being involved in the investigation itself?

22 A. My knowledge of those individuals, I do not have a
23 specific recollection. I know that there was people
24 there ---.

25 Q. Okay.

1 A. That there was a roomful of people there and most
2 of them were involved in discussions with mine
3 management.

4 Q. Okay.

5 A. And once I saw --- done my thing and told the guys
6 there, you know, you better listen to the guy sitting
7 at the desk with you, that calling the district
8 manager wasn't going to help, because I was there and
9 here it is.

10 Q. Okay.

11 A. I just kind of walked out and went back into the
12 --- I guess it was like a change room in the back. And
13 they had a map something similar to like that up on
14 the wall or one like this, and I was standing back
15 there and looking at it, talking to some of the ---

16 Q. Okay.

17 A. --- inspectors.

18 MR. FARLEY:

19 All right. Thank you.

20 EXAMINATION

21 BY MS. SPENCE:

22 Q. How'd you pass along this information to whoever
23 took your place with MSHA?

24 A. We had limited, I guess limited verbal discussion
25 about it. I briefed him on what we had. We had a

1 series of that was left for him of ongoing things. I
2 know we had folders for Speed Mining. We had folders
3 for Pinnacle. We had folders set up for fatalities.
4 And I would assume we probably had a folder for ---
5 with some stuff in there regarding this mine. I do
6 not have a specific recollection of there being a
7 folder, but that's the way the majority of the ongoing
8 situations in the district was passed on to Mr.
9 Gigliotti.

10 Q. Mr. Gigliotti replaced you, then?

11 A. Yes.

12 Q. Okay.

13 A. Like I said, we had limited discussions. He came
14 in and we were there one afternoon. Then I believe
15 the next day he may've went somewhere with some of the
16 inspectors, and then the following day I believe I saw
17 him and then I left.

18 Q. At the time you left, what was --- was there a
19 plan in place? Had something been okay'ed?

20 A. No. At the time I left, I left in between the
21 meeting involving the ventilation personnel from Tech
22 Support and the company and the time of the arrival of
23 the results of that meeting. And I would say it was
24 still an ongoing matter at that time. Now, nothing to
25 my knowledge had been put in place.

1 MS. SPENCE:

2 Okay. Thank you.

3 MR. SHERER:

4 I don't have anything further.

5 MR. FARLEY:

6 I'm done.

7 ATTORNEY BAXTER:

8 On behalf of MSHA and the Office of

9 Miner's Health, Safety and Training, I want to thank
10 you for appearing and answering questions today. Your
11 cooperation is very important to the investigation as
12 we work to determine the cause of the accident. We
13 require that you not discuss your testimony with any
14 person aside from your personal representative. After
15 questioning other witnesses, we may call you if we
16 have any follow-up questions. If at any time you have
17 additional information about the accident that you'd
18 like to provide us, please contact us at the contact
19 information that was previously provided to you.

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

24 A. I have no need to go over any of the answers I
25 given. I will put a caveat out that this is based on

1 a limited recollection, e-mails that I have possession
2 of and some notes that I have. If the record shows
3 something different than what I'm saying as far as
4 approvals and plans or documents out there that I
5 may've signed off on, I would appreciate the
6 opportunity to look at those documents and to revisit,
7 possibly, some of my answers if I've misspoken at this
8 point. I'm not having access to anything other than
9 the two e-mails that's, I guess public knowledge now,
10 you know, that's floating around out there on the
11 websites and the notes and stuff that I have retained
12 from my extent of duty up here.

13 ATTORNEY BAXTER:

14 Certainly. And again, I want to thank
15 you for your cooperation in this matter.

16 A. Okay.

17 * * * * *

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

19 * * * * *

1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Danielle Ohm, 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.



Danielle Ohm