



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of John Henline

Date: August 4, 2010

Case:

Printed On: August 23, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

CONFIDENTIAL STATEMENT UNDER OATH

OF

JOHN HENLINE

taken pursuant to Notice by Danielle Ohm, 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 4, 2010, beginning at 1:00 p.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

1 A P P E A R A N C E S

2

3 DEREK J. BAXTER, ESQUIRE

4 U.S. Department of Labor

5 Office of the Regional Solicitor

6 1100 Wilson Boulevard

7 22nd Floor West

8 Arlington, VA 22209-2247

9

10 JOHN O'BRIEN

11 Safety Inspector

12 West Virginia Office of Miners' Health,

13 Safety and Training

14 Welch Regional Office

15 891 Stewart Street

16 Welch, WV 24801-2311

17

18 TERRY FARLEY

19 West Virginia Office of Miners' Health,

20 Safety and Training

21 1615 Washington Street East

22 Charleston, WV 25311

23

24

25

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ERIK SHERER

Mine Safety and Health Administration

1100 Wilson Boulevard

Arlington, VA 22209-3939

BETH SPENCE

West Virginia Independent Investigation

(b) (7)(C)

(b) (7)(C)

CHRISTOPHER J. SEARS, ESQUIRE

Shuman, McCuskey & Slicer, PLLC

1411 Virginia Street East

Suite 200 (25301)

P.O. Box 3953

Charleston, WV 25339

COUNSEL FOR JOHN HENLINE

I N D E X

1		
2		
3	OPENING STATEMENT	
4	By Attorney Baxter	6 - 10
5	STATEMENT	
6	By Mr. Farley	10 - 11
7	DISCUSSION AMONG PARTIES	11 - 16
8	WITNESS: JOHN HENLINE	
9	EXAMINATION	
10	By Mr. Sherer	16 - 28
11	EXAMINATION	
12	By Mr. Farley	28 - 30
13	EXAMINATION	
14	By Ms. Spence	30 - 31
15	CLOSING STATEMENT	
16	By Attorney Baxter	31 - 32
17	DISCUSSION AMONG PARTIES	32 - 33
18	CERTIFICATE	34
19		
20		
21		
22		
23		
24		
25		

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

P R O C E E D I N G S

1
2 -----
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is August
5 4th, 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 Terry Farley, with the West Virginia
14 Office of Miners' Health, Safety and Training.

15 MR. O'BRIEN:

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

18 MS. SPENCE:

19 Beth Spence, with the Governor's
20 independent investigation.

21 ATTORNEY BAXTER:

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

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

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

1 Miners' Health, Safety and Training. We appreciate
2 your assistance in this investigation.

3 You may have your personal attorney
4 present during the taking of this statement or another
5 personal representative, if MSHA has permitted it, and
6 may consult with your attorney or the representative
7 at any time. Your statement is completely voluntary.
8 You may refuse to answer any question and you may
9 terminate your interview at any time or request a
10 break at any time. Since this is not an adversarial
11 proceeding, formal Cross Examination will not be
12 permitted. However, your personal legal
13 representative may ask clarifying questions as
14 appropriate. Your identity and the content of this
15 conversation will be made public at the conclusion of
16 the interview process and may be included in the
17 public report of the accident, unless you request that
18 your identity remain confidential or your information
19 would otherwise jeopardize a potential criminal
20 investigation. If you request us to keep your
21 identity confidential, we will do so to the extent
22 permitted by law. That means that if a judge orders
23 us to reveal your name or if another law requires us
24 to reveal your name or if we need to reveal your name
25 for other law enforcement purposes, we may do so.

1 Also, there may be a need to use the information you
2 provide to us or other information we may ask you to
3 provide in the future in other investigations into and
4 hearings about the explosion. Do you understand?

5 MR. HENLINE:

6 Yes, sir.

7 ATTORNEY BAXTER:

8 Do you have any questions?

9 MR. HENLINE:

10 No.

11 ATTORNEY BAXTER:

12 After the investigation is complete, MSHA
13 will issue a public report detailing the nature and
14 causes of the fatalities in the hope that greater
15 awareness about the causes of accidents can reduce
16 their occurrence in the future. Information obtained
17 through witness interviews is frequently included in
18 these reports. Since we will be interviewing other
19 individuals, we request that you not discuss your
20 testimony with any person, aside from your personal
21 representative or counsel.

22 A court reporter will record your
23 interview. Please speak loudly and clearly. If you
24 do not understand a question asked, please ask us to
25 rephrase it. Please answer each question as fully as

1 you can, including any information you have learned
2 from someone else.

3 I'd like to thank you in advance for your
4 appearance here. We appreciate your assistance in
5 this investigation. Your cooperation is critical in
6 making the nation's mines safer. After we have
7 finished asking questions, you'll have an opportunity
8 to make a statement and provide us with any other
9 information that you believe to be important. If at
10 any time after the interview you recall any additional
11 information that you believe might be useful, please
12 contact or have your representative contact Norman
13 Page at the telephone number or e-mail address
14 provided to you. Any statements given by miner
15 witnesses to MSHA are considered to be an exercise of
16 statutory rights and protected activity under Section
17 105(c) of the Mine Act. If you believe any discharge,
18 discrimination or other adverse action is taken
19 against you as a result of your cooperation with this
20 investigation, you are encouraged to immediately
21 contact MSHA and file a complaint under Section 105(c)
22 of the Act.

23 MR. FARLEY:

24 Mr. Henline, on behalf of the Office of
25 Miners' Health, Safety and Training, I'd like to

1 advise you that the West Virginia Mine Health and
2 Safety Regulations also protect miners against
3 potential discrimination from participating in these
4 type of interviews. I'd like to pass along to you
5 some contact information from the West Virginia Board
6 of Appeals. It's a body which hears complaints
7 regarding discrimination. And I'll pass along my
8 business card. There is also a phone number on the
9 memo of Mr. Bill Tucker, who is our lead underground
10 investigator. Should you experience any problems,
11 please feel free to give us a call. I would caution
12 you that should you have a problem and wish to file a
13 discrimination claim, you need to do so within 30 days
14 of the time the event occurs.

15 ATTORNEY BAXTER:

16 And please swear in the witness.

17 -----
18 JOHN HENLINE, HAVING FIRST BEEN DULY SWORN, TESTIFIED
19 AS FOLLOWS:

20 -----

21 ATTORNEY BAXTER:

22 Please state your full name and address
23 for the record.

24 A. John Russell Henline. Address is (b) (7)(C)

25 (b) .

1 ATTORNEY BAXTER:

2 And can you spell your last name, please?

3 A. H-E-N-L-I-N-E.

4 ATTORNEY BAXTER:

5 Okay. And Mr. Henline, do you have a
6 personal legal representative here with you today?

7 A. Yes, sir.

8 ATTORNEY BAXTER:

9 Will your personal legal representative
10 please identify himself?

11 ATTORNEY SEARS:

12 Christopher Sears, with the law firm of
13 Shuman, McCuskey & Slicer.

14 ATTORNEY BAXTER:

15 And Mr. Henline, did you voluntarily
16 choose Mr. Sears as your personal legal
17 representative?

18 A. Yes, sir, I did.

19 ATTORNEY BAXTER:

20 Did you feel like you had a choice in the
21 matter?

22 A. Yes, sir.

23 ATTORNEY BAXTER:

24 Do you consent now to having Mr. Sears as
25 your personal representative?

1 A. Yes, sir.

2 ATTORNEY BAXTER:

3 Do you understand that Massey Energy, its
4 affiliates or its officers or directors or attorneys
5 may not represent or direct you in this matter?

6 A. Say that again.

7 ATTORNEY BAXTER:

8 Do you understand that Massey Energy or
9 its affiliates or its attorneys may not represent you
10 in this matter?

11 A. Yes.

12 ATTORNEY BAXTER:

13 Okay. Mr. Sears, are you legally
14 representing Mr. Henline in this matter?

15 ATTORNEY SEARS:

16 I am Mr. Henline's legal representative.

17 ATTORNEY BAXTER:

18 Okay. Do you understand, Mr. Sears, that
19 you may not communicate with Massey Energy, its
20 affiliates or its officers or directors or attorneys
21 concerning the substance of this representation?

22 ATTORNEY SEARS:

23 I understand my ethical obligations under
24 the West Virginia Rules of Professional Conduct, and I
25 agree to be bound by those rules.

1 ATTORNEY BAXTER:

2 Okay. Are you being paid by a third
3 party to provide such representation?

4 ATTORNEY SEARS:

5 I'm not going to respond to any more
6 questions that you have of me. With all due respect
7 to the forum and to this Board, I decline to be the
8 subject of inquiry. We're here today to ask Mr.
9 Henline questions, so I'm not going to answer any more
10 questions you may have. If you want to read them into
11 the record, that's fine, but I'm not going to respond
12 to any more.

13 ATTORNEY BAXTER:

14 Okay. Well, I will read you into the
15 record a series of several other questions that we
16 would like to ask of you, and then I'll just ask for a
17 response at the end from Mr. Sears, if that's okay.
18 We would like you to confirm, Mr. Sears, that you have
19 the witness' informed consent in writing, which
20 reflects that you have explained in person the risks
21 and advantages of such representation, including any
22 real or potential conflicts of interest, that this
23 written consent reflects that the witness has been
24 given a reasonable opportunity to consider the risks
25 and reasonably available alternatives of such

1 representation and to raise questions and concerns
2 with you. We would like you to confirm that the
3 third-party payer will not direct, regulate or
4 interfere with your professional judgment in
5 representing your client.

6 We would like you to confirm that there's
7 no current attorney/client relationship between you
8 and the third-party payer. We'd like you to confirm
9 that you are prohibited from communicating with the
10 third-party payer concerning the substance of the
11 representation of this client and to confirm that it
12 is your understanding that the third-party payer shall
13 process and pay all such invoices within the regular
14 course of its business consistent with manner, speed
15 and frequency it pays its own counsel and to confirm
16 that it is your understanding that once the
17 third-party payer has committed to pay for your
18 representation, the third-party payer shall not be
19 relieved of its continuing obligations to pay without
20 leave of MSHA or a court or on prior written notice to
21 the lawyer and the client.

22 ATTORNEY SEARS:

23 Again, I decline to be the subject of
24 inquiry. I understand my ethical obligations to my
25 client.

1 ATTORNEY BAXTER:

2 Okay. Mr. Henline, having heard these
3 representations, do you still want Mr. Sears as your
4 personal legal representative?

5 A. Yes.

6 EXAMINATION

7 BY MR. SHERER:

8 Q. I want to thank you for coming down here, Mr.
9 Henline. This is, of course, the investigation of the
10 tragic accident on April the 5th. We're trying to do
11 two things. We're trying to put together what
12 happened, what caused the accident for the
13 families ---

14 A. Yes, sir.

15 Q. --- and the friends and coworkers of the victims.
16 They deserve some closure. Another thing we're trying
17 to do is prevent this sort of accident in the future.
18 So any help you can give us is greatly appreciated.

19 A. I don't know how I can help you because I don't
20 know what happened, and I wish I did.

21 Q. Well, let's --- we've got a few questions for you,
22 and maybe you can provide a key part of putting the
23 story together.

24 A. I'll answer anything that I can.

25 Q. Roughly, how many years mining experience do you

1 have?

2 A. Thirty-four (34), 35.

3 Q. Thirty-four (34), 35. About when did you start
4 with the Massey organization?

5 A. 1993.

6 Q. '93.

7 A. Yes, sir.

8 Q. When did you start at Upper big Branch?

9 A. 1995.

10 Q. 1995.

11 A. October.

12 Q. Okay. What sort of certifications do you have?

13 A. Electrician.

14 Q. Electrician.

15 A. Yes, sir.

16 Q. Do you have any foreman papers?

17 A. No, sir.

18 Q. What was your job title at the time of the
19 explosion?

20 A. Maintenance foreman underground on the evening
21 shift.

22 Q. Okay. Did you have a certain part of the mine
23 assigned to you? How did that work?

24 A. No, sir. Just anything --- everything on outby,
25 basically belts, stuff like that, troubleshooting,

1 needed assistance, you'd go help him or have to go
2 order parts or something like that. That's it.

3 Q. Sure. Now, is it primarily repair,
4 maintenance ---

5 A. Yes, sir.

6 Q. --- sort of stuff?

7 A. Yes, sir.

8 Q. Did you get involved in like --- were you
9 supporting the roof?

10 A. No, sir. No, I don't do that.

11 Q. Okay. Just maintenance?

12 A. Yes.

13 Q. Okay. Were you working or were you scheduled to
14 work on the afternoon of May the 5th?

15 A. Absolutely, yes, sir.

16 Q. Where were you at when the explosion occurred?

17 A. Out in the yard at the Big Branch, wherever the
18 portal is, right here.

19 Q. Did you observe the explosion itself?

20 A. Just what was coming out this portal right here,
21 dust. And I thought we had a stopping blowed out or
22 something when I was out in the yard and ---.

23 Q. Okay.

24 A. Went upstairs, told them I thought we had a
25 stopping blowed out or something, because I really

1 didn't know what had happened, sir.

2 Q. Sure. Did you notice that the fans were making
3 some weird noises?

4 A. Yes, sir. Yes, sir.

5 Q. Could you describe that?

6 A. It's like --- it sounded like it went into a
7 stall, but what I took it to be was that the explosion
8 doors were closed up because we didn't know. And Tom
9 Sheets and I went to the fan and we was in there, and
10 it was making --- the water gauge had shot way up.

11 Q. Sure.

12 A. And then all of a sudden while we was in the fan
13 house it just dropped off, sir.

14 Q. Okay.

15 A. And that's basically what you seen, the moisture
16 coming out this portal here, dust coming out this
17 portal.

18 Q. Okay. Now, you say it actually went in the fan
19 house while it was stalled out?

20 A. Yes, sir. Yeah. Well, I thought, you know --- I
21 guess the explosion doors had shut up at this
22 particular time.

23 Q. Okay. And is that the way the explosion doors
24 work on that particular fan?

25 A. I guess. I really don't know. It would have

1 to --- because them aluminum fan blades, it would have
2 probably disintegrated them, ---

3 Q. Okay.

4 A. --- I guess. I don't know. I would have never
5 dreamed --- I've never been around one of these
6 things.

7 Q. Fortunately, very few of us have.

8 A. Yes, sir.

9 Q. Did you notice the --- happen to notice the
10 amperage on the fan?

11 A. No, sir, I didn't pay any attention to that.

12 Q. Okay. Thank you. What was the shift you worked
13 --- the last shift you worked prior to the explosion?

14 A. It was on Thursday night.

15 Q. Thursday night.

16 A. Thursday night. We was off on Good Friday. We
17 was off Friday, Saturday and Sunday.

18 Q. Okay. Do you recall what part of the mine you
19 worked in on Thursday night?

20 A. Yes, sir. We had to go all the way to Seven North
21 head and check power boxes, check trip settings and
22 fire extinguishers and masks.

23 Q. Okay.

24 A. Started at Seven North and worked our way back.

25 Q. Okay.

1 A. And then we was supposed to get them on Friday.
2 But since Good Friday, we didn't want to get a
3 violation, so we put it in the book, you know, for
4 that Thursday.

5 Q. Okay.

6 A. Yes, sir. That's it.

7 Q. Okay. So you went all the way to Seven North?

8 A. Yes, sir.

9 Q. And you checked all the belts outby to the Ellis
10 Portal?

11 A. No, sir. I didn't go to the Ellis Portal.

12 Q. Okay.

13 A. No, sir.

14 Q. Where did you stop?

15 A. Seven, Six, Five and Four North.

16 Q. Okay.

17 A. And then we come back this way and checked on what
18 they called old Two North.

19 Q. Okay. Thank you. Did you notice anything out of
20 the ordinary?

21 A. No, sir.

22 Q. Was the ventilation good while you were up there?

23 A. Yes, sir, ---

24 Q. Okay.

25 A. --- according to me. You know, I mean, I'm on the

1 mainline, and that's ---.

2 Q. Did you notice whether it was --- seemed to be
3 unusually hot or was it about the same as always?

4 A. About the same all the time.

5 Q. What about the rock dust along the belt line, what
6 did it look like?

7 A. It looked pretty good to me. You know, I'm not a
8 --- it looked good. They had the duster at different
9 belt heads, little tranquil dusters.

10 Q. Sure. Did it look like it had recently been
11 dusted up through there?

12 A. I don't know when they dusted it, sir, because
13 they had a big track duster, is all I can tell you.
14 And they done that on the midnight shift.

15 Q. Okay. Sure. Did you have a methane detector?

16 A. Yes, sir.

17 Q. Did you notice any methane readings while you were
18 up there?

19 A. No, sir.

20 Q. Did it ever alarm on you that night?

21 A. No, sir.

22 Q. Do you know what it's set at to alarm?

23 A. One percent, I think. It's a Solaris.

24 Q. And some of those are set ---.

25 A. They may go off at a half percent or something

1 like that, but I've never picked up any methane.

2 Q. Okay.

3 A. And of course, I'm out here on the mainline. I'm
4 not in the returns or nothing.

5 Q. Sure. What about the belt up through there, was
6 it in good shape?

7 A. Yes, sir.

8 Q. Did you ---?

9 A. As far as I know. I mean, I'm not a belt man,
10 so ---.

11 Q. Sure. Did you have to make any repairs to the
12 electrical equipment up in there?

13 A. No, sir.

14 Q. Just checking?

15 A. Just checking.

16 Q. Did you notice any problems with electrical ---?

17 A. No, sir.

18 Q. Okay. What time did you get out of the mine that
19 day?

20 A. About 12:00.

21 Q. Is that about when your shift normally ends?

22 A. Yeah. I'm in there at 2:30 and quit at 12:30.

23 Q. Okay. Let me ask you an odd question. When you
24 were up in the Seven North area, did you smell
25 anything unusual?

1 A. No, sir.

2 Q. Any kerosene type smell?

3 A. No, sir.

4 Q. Did your eyes burn?

5 A. No, sir.

6 Q. Let's go back a bit. Do you recall Massey

7 Appreciation Day this year?

8 A. That was in February?

9 Q. February, about the middle of February.

10 A. Yes, sir.

11 Q. Did you take off that day?

12 A. Yes, sir, I think I did.

13 Q. And was that on a Saturday?

14 A. It was on --- I can't really remember what day it
15 was on.

16 Q. Okay. Do you recall the next shift you worked
17 after that?

18 A. No, sir.

19 Q. Do you recall problems with a methane monitor when
20 they were starting up at the barrier section, cutting
21 the overcasts?

22 A. No, sir.

23 Q. Did Jack Martin talk to you about a bridged-out
24 methane monitor?

25 A. Not that I'm aware of.

1 Q. Did anybody talk to you about a bridged-out
2 methane monitor?

3 A. No, sir.

4 Q. Okay. Thank you. Have you ever replaced a
5 methane monitor?

6 A. Yes, sir.

7 Q. When was that?

8 A. It's been a long time ago.

9 Q. A long time ago?

10 A. Yes, sir. I haven't messed with methane monitors
11 for a long time.

12 Q. Okay. By a long time, meaning a year?

13 A. Year, year-and-a-half.

14 Q. Okay. Are you aware of the stories that the
15 various newspapers and NPR has run on the bridged-out
16 monitor?

17 A. No, sir. I'm not aware of none of that.

18 Q. Have you ever been working underground and
19 somebody called in that an inspector is on the
20 property?

21 A. Yes, sir.

22 Q. Is that a common occurrence?

23 A. As far as I know, it is.

24 Q. What about ventilation in the mine, do you think
25 the ventilation was adequate prior to the explosion?

1 A. I'm not a ventilation person. I couldn't tell
2 you. As far as I know, they had beaucoup of air. I
3 know it was on the mainline.

4 Q. Sure.

5 A. What they done up there, I don't know.

6 Q. Did you ever hear of any problems with methane in
7 the mine?

8 A. No, sir, not me.

9 Q. Okay. How about water problems anywhere in the
10 mine?

11 A. Just behind the wall is all I know. They had air
12 pumps back there. That's all I know about.

13 Q. Did you ever go back there?

14 A. No, sir.

15 Q. Did you ever hear of anybody running a miner
16 without curtains?

17 A. No, sir.

18 Q. Now, you mentioned that you're involved with
19 ordering parts?

20 A. Yes, sir. If we're down for it and if it's not in
21 the warehouse, yes.

22 Q. Oh, okay. Is there --- do you fill out like
23 purchase orders or ---?

24 A. No, just a requisition.

25 Q. Do you know how long those requisitions are

1 retained?

2 A. No, sir, I do not. As far as I know, I give them
3 to the --- well, we don't even have a purchasing agent
4 on the evening shift.

5 Q. Okay. Is there a purchasing agent on the
6 dayshift?

7 A. Yes, sir.

8 Q. Who is that?

9 A. Greg Clay.

10 Q. Greg Clay?

11 A. Yes, sir.

12 Q. Is there some limit, like something's got to be
13 over \$50 or \$100 or something for a requisition?

14 A. I don't know.

15 Q. Well, do you fill out a requisition for a ---?

16 A. For like a cutter motor or something like that.

17 You know, it could be a cutter motor. We had one go
18 down before. And then the dispatcher on the evening
19 shift would take care of that if you was down, okay,
20 and you didn't have it in the warehouse.

21 Q. Okay. Did you get involved with the inventory in
22 the warehouse?

23 A. No, sir.

24 Q. If you had to, say, get a cutting motor that was
25 in the warehouse, was there some form that you'd fill

1 out for that?

2 A. No. You just sign a paper where it went to on the
3 wall.

4 Q. Okay. Just allocating that to a specific section
5 or machine?

6 A. Yes.

7 Q. Was it by a piece of equipment, like a serial
8 number or ---?

9 A. Well, it would just say right miner or left miner
10 or what section it may have been.

11 Q. Okay. Is there anything that we should be looking
12 at as far as trying to figure out what happened with
13 this explosion?

14 A. I don't know, sir.

15 Q. Any hints that you can give us?

16 A. No, sir. I wouldn't know.

17 Q. Do you have any personal opinion on what could
18 have contributed to this explosion?

19 A. No, sir, no personal opinion whatsoever, because I
20 really don't know.

21 Q. Thank you.

22 A. Yes, sir.

23 MR. SHERER:

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

25 EXAMINATION

1 BY MR. FARLEY:

2 Q. Mr. Henline, I don't mean to be redundant. I just
3 want to make sure I'm clear on what your area of
4 responsibility was. You were a maintenance foreman on
5 the evening shift, responsible for outby equipment?

6 A. Yes.

7 Q. Anything outby?

8 A. Outby --- anything outby. If the belts went down,
9 I would have to go ---.

10 Q. So you didn't go to any of the coal-producing
11 sections?

12 A. Not unless the troubleshooter needed some
13 assistance or something like that.

14 Q. How often would you ---?

15 A. Hardly ever. Hardly ever.

16 Q. Do you recall the last time prior to April 5th
17 that you might have visited one of the coal-producing
18 sections?

19 A. I can't remember exactly what date or when, but
20 they needed some parts for a scoop for their headgate
21 section, and I took parts up there for a scoop, handed
22 them to the troubleshooter and come back out. I mean,
23 it was probably three weeks prior to this.

24 Q. As you traveled through the Upper Big Branch Mine,
25 I'm sure you would have noticed a number of doors ---

1 A. Yes.

2 Q. --- along the mainline track; is that correct?

3 A. Yes, sir.

4 Q. How frequently did you encounter doors that might
5 have been left open?

6 A. Hardly ever. I've seen some wherever --- up
7 towards Six North, one of them would be opened up a
8 little bit that it ---.

9 Q. Excuse me. Let me get this map here. Actually,
10 I'm looking for the one that shows the new Mother
11 Drive construction area. Have you had any work to do
12 there this year in that area?

13 A. No. No, sir. I went through there this year.

14 Q. Specifically I'm talking about in this general
15 vicinity here at the mouth of the 22 Headgate, where
16 the new Mother Drive construction was ongoing. Did
17 you have any work to do there this year?

18 A. No, sir, I didn't do no work up in there.

19 Q. Okay.

20 MR. FARLEY:

21 I don't believe I have anything else.

22 EXAMINATION

23 BY MS. SPENCE:

24 Q. Mr. Henline, did you ever have any trouble getting
25 parts that you requisitioned for?

1 A. No. No, ma'am.

2 Q. They always came right away?

3 A. Well, depending. It might be an hour, two hours,
4 three hours if you had to get it trucked in.

5 Q. But it never was days or weeks?

6 A. No. Uh-uh (no).

7 MS. SPENCE:

8 Thank you. That's all I have.

9 MR. SHERER:

10 I don't have anything else.

11 ATTORNEY BAXTER:

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

24 If you wish, you may now go back over any
25 answer you've given during this interview. You may

1 also make any statement that you'd like to make at
2 this time.

3 A. I don't have nothing, sir.

4 ATTORNEY BAXTER:

5 Again, I want to thank you for your
6 cooperation in this matter.

7 A. Thank you.

8 ATTORNEY SEARS:

9 I have a request. He would like to
10 maintain the confidentiality of this as much as
11 possible, as permitted by the law. And also he would
12 like to have an opportunity to read and sign his
13 transcript before it's made final.

14 ATTORNEY BAXTER:

15 Okay. The transcript, we'll take that
16 under advisement. We'll contact you at a later date.
17 In terms of the confidentiality, can you
18 give an explanation or ---?

19 ATTORNEY SEARS:

20 It's just --- I mean, you explained that
21 that was his right to do, and he'd like to invoke that
22 right.

23 ATTORNEY BAXTER:

24 Just so it will help us assert that
25 later, do you have any --- aside from just a desire,

1 do you have any grounds for confidentiality?

2 ATTORNEY SEARS:

3 Well, I'm not going to explain his
4 rationale for it, but to the extent that he has that
5 right, he would like to invoke that right.

6 ATTORNEY BAXTER:

7 Okay.

8 MR. FARLEY:

9 On behalf of the state, you may be aware
10 that our Freedom of Information requirements are a
11 little different when it includes an investigation.
12 Everything we gather, including transcripts, will be
13 available to the public.

14 ATTORNEY SEARS:

15 I understand. Thank you.

16 * * * * *

17 CONFIDENTIAL STATEMENT UNDER OATH

18 CONCLUDED AT 1:30 P.M.

19 * * * * *

20

21

22

23

24

25

1 STATE OF WEST VIRGINIA)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, 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