

**U.S. Department of Labor**

Mine Safety and Health Administration  
1301 Airport Road  
Room D-200  
Beaver, West Virginia 25813-9426

September 23, 2010

Johnny Neely

(b) (7)(C)

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RE: Performance Coal Company's Upper Big Branch Mine-South  
Accident Investigation Interview transcript review

Dear Mr. Neely:

Earlier this year, you were interviewed as part of the Mine Safety & Health Administration's (MSHA) accident investigation of the Upper Big Branch Mine-South explosion that occurred on April 5, 2010. Either during that interview, or at a later time by written request, you requested an opportunity to review your transcript prior to its public release. This letter details the procedures for that transcript review.

You (and, if present, your personal or legal representative) will be provided with an opportunity to read a copy of your transcript in a location designated by MSHA's accident investigation team. You will have a reasonable period of time for your review. During your review, you may take notes of the contents of your transcript.

You may not take the transcript with you. This means that you may not leave the review room with the transcript at any time. You may not make any copies of the transcript through any means of reproduction. This means, for example, that you may not use a copier to make a copy of the transcript, that you may not take photographs or video of the transcript, that you may not create an audio recording of the transcript, and that you may not attempt to reproduce the transcript by any other means. Consistent with this procedure, you may not bring into the review room cameras, video-cameras, tape-recorders, cell phones, or any other technological device that has reproductive capability. You may leave such devices in your vehicle or with MSHA's accident investigation team; the team will return your devices to you following the completion of your review.

Finally, if you identify errors in the transcript, you may write a follow-up letter to MSHA's accident investigation team identifying and describing those errors. Please identify any errors by page and line number. The transcript will not be modified to reflect these alleged errors; however, your letter will be released in conjunction with your transcript. Because this interview was not taken during the course of formal litigation, the Federal Rules of Civil Procedure do not apply. Therefore, formal reading and signing of the transcript is not part of the review process.

Please contact Tammy Walker at (304) 256-1100, ext. 230, to schedule a time to come to the Mine Academy to read your transcript. Please bring this letter with you so that all parties may fully execute agreement to the above conditions.

Sincerely,

(b) (7)(C)

Norman Page  
Chief Accident Investigator  
Mine Safety and Health Administration

cc: Shuman, McCuskey & Slicer, PLLC  
1411 Virginia Street East, Suite 200  
PO Box 3953  
Charleston, WV 25339

Please sign below to certify that you understand the above procedures for your transcript review. Once you have signed, a copy of your signed letter will be provided to you.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness' Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
MSHA Representative

\_\_\_\_\_  
Date