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Transcript of the Testimony of Glen Farley

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STATEMENT UNDER OATH
OF
GLEN FARLEY

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at The National Mine Health & Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Friday, July 16, 2010 at 4:30 p.m.

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

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ATTORNEY WILSON:

Good afternoon. My name is Bob Wilson.

I'm with the Office of the Solicitor, United States Department of Labor. Today is July 16, 2010. With me is Jasey Maggard with the Mine Safety and Health Administration. Also present are individuals with the State of West Virginia. I'll ask that they state their appearance.

MR. FARLEY:

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

MR. O'BRIEN:

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

MR. MCGINLEY:

Patrick McGinley with the Governor's independent investigation team.

ATTORNEY WILSON:

Today is July 16, 2010. We're here to conduct an interview of Glen Farley. Mr. Farley, thank you for coming in this afternoon. All members of the Mine Safety and Health Administration Accident Investigation Team and all

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

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 pursuant to Section 103(a) of the Federal Mine
22 Safety and Health Act and by the West Virginia Office
23 of Miners' Health, Safety and Training. We appreciate
24 your assistance in this investigation.

25 Mr. Farley, you may have an attorney or

1 personal representative present with you during the
2 taking of your statement. Do you have a
3 representative with you?

4 MR. GLEN FARLEY:

5 No.

6 ATTORNEY WILSON:

7 Your statement is completely voluntarily.

8 You may refuse to answer any question. You may
9 terminate your interview at any time. You may request
10 a break at any time. Just let me know.

11 This is not an adversarial proceeding.

12 Formal Cross Examination is not permitted, but each of
13 the parties will be permitted to ask follow-up
14 questions.

15 Your identity and the content of this
16 interview will be made public at the conclusion of the
17 interview process and may be included in a public
18 report of the accident unless you request that your
19 identity remain confidential or if your identity would
20 otherwise jeopardize other enforcement activities. If
21 you request us to keep your identify confidential, we
22 will do so to the extent permitted by law. In other
23 words, if a judge orders us to reveal your identity or
24 some other law require that we will reveal your
25 identity, we will do so.

1 Also, there may be a need to use the
2 information that you provide to us in other
3 investigations or hearings concerning the explosion.
4 Do you understand your right to request
5 confidentiality?

6 MR. GLEN FARLEY:

7 Yes.

8 ATTORNEY WILSON:

9 Okay. Do you have any questions?

10 MR. GLEN FARLEY:

11 No.

12 ATTORNEY WILSON:

13 After the investigation is complete, MSHA
14 will issue a public report detailing the nature and
15 the causes of the fatalities in the hope that greater
16 awareness about the causes of accidents can reduce
17 their occurrence in the future. Information obtained
18 through witness interviews is frequently included in
19 those reports. We will be interviewing additional
20 individuals, so we request that you not talk with any
21 outside of this room about what we talk about here
22 today.

23 A court reporter will record the
24 interview, so please speak loudly and clearly. If you
25 do not understand a question asked, please ask that

1 the question be rephrased. Please answer each
2 question as fully as you can including any information
3 that you may have learned from someone else. Again, I
4 would like to thank you for your appearance here
5 today. We appreciate your assistance, and your
6 cooperation is critical in making the nation's mines
7 safer.

8 When we have finished asking questions,

9 we will provide you with an opportunity to either add
10 any additional information that you believe might be
11 helpful to the investigation or if you would just like
12 to make a statement at that time, you may do so then.
13 If after the interview is complete you think of any
14 other information that you would like to provide to
15 us, you can reach us at the contact information that
16 was contained in the letter that we sent to you
17 requesting your appearance today. Terry, do you have
18 anything you want to add?

19 MR. FARLEY:

20 Yes. Mr. Farley, on behalf of the Office
21 of Miners' Health, Safety and Training, we want to
22 advise you that the West Virginia Mine Safety
23 regulations also protect miners against potential
24 discrimination participating in these type interviews.
25 I want to give you some contact information from the

1 West Virginia Board of Appeals. They hear complaints
2 regarding discrimination should you have any problems.
3 Also, you'll find my phone number and the phone number
4 for Bill Tucker, who's our lead underground
5 investigator. And I caution you, if you have a
6 problem with discrimination, you need to file a
7 complaint within 30 days of the time that it happens.

8 ATTORNEY WILSON:

9 Pat?

10 MR. MCGINLEY:

11 I'd just add that our job is to try to
12 find some answers for the families of the men who died
13 in this mine explosion for the families, and your
14 truthful responses will be a big help to us in doing
15 our job. And if somebody should be held responsible,
16 we want to be able to do that, and if not, we want to
17 be able to tell the families that as well. So we
18 appreciate you being here.

19 MR. GLEN FARLEY:

20 Thank you.

21 ATTORNEY WILSON:

22 Mr. Farley, if you would, please face the
23 court reporter, and she'll swear you in.

24 -----

25 GLEN FARLEY, HAVING FIRST BEEN DULY SWORN, TESTIFIED

1 AS FOLLOWS:

2 -----

3 ATTORNEY WILSON:

4 Would you please state your full name for
5 the record?

6 A. Glen Farley.

7 ATTORNEY WILSON:

8 And Mr. Farley, would you please tell us
9 your mailing address and telephone number?

10 A. [REDACTED]
11 [REDACTED]

12 ATTORNEY WILSON:

13 And what's the ZIP Code?

14 A. [REDACTED]

15 ATTORNEY WILSON:

16 Thank you. I'll turn it over to Jasey to
17 start the questioning.

18 EXAMINATION

19 BY MR. MAGGARD:

20 Q. Glen, could you give us a little background
21 information about yourself, what kind of mining
22 experience you have?

23 A. As far as mining experience, I do not work
24 underground. I work on the surface. I drove truck
25 for several years. I've been a mechanic, an equipment

1 operator. And I took and become an electrician ---
2 well, I was a mechanic and then I took --- and once I
3 started with Massey after a few years, I became an
4 electrician, worked on the belts, so ---.

5 Q. Okay. So you have worked underground, I suppose,
6 at --- for Massey or not?

7 A. No, no. I'm not an underground miner.

8 Q. Okay. So what kind of mining certifications do
9 you have? I mean, you have electrical cards?

10 A. Yes.

11 Q. Okay. What else do you have?

12 A. I've got an electrical card. I'm a certified
13 surface miner.

14 Q. How long have you worked for Massey?

15 A. Since October of '01.

16 Q. And how long have you worked at UBB?

17 A. The whole time.

18 Q. Okay.

19 A. Well, actually --- well, as the way Massey does
20 some of their things, I was hired in for Independence,
21 and I worked for them on the environmental crew for
22 approximately a year, but I was at the same property.
23 Just I didn't work for Performance. I worked for
24 Independence, which is another Massey mine --- you
25 know, a Massey mine.

1 Q. Okay. Are you still currently working at UBB?

2 A. Yes.

3 Q. Okay. And what are you currently doing at UBB?

4 A. As of right now, I'm working at the drill site
5 doing different things as far as maintaining some of
6 the stuff up there, dirt work. I've been working on
7 some of the violations as far as at the mines
8 theirselves. Plus my normal duties. Just whatever they
9 need.

10 Q. And prior to the accident on April 5th, what were
11 your normal duties?

12 A. I was at the silo overland belt area, and I
13 checked the pumps and the Bandytown fan.

14 Q. Okay. Did you do any other work ---

15 A. As far as?

16 Q. --- other than that? Was that examination --- is
17 that what you were doing at those areas?

18 A. Yeah. Well, I done examinations. I done
19 equipment operating. I done mechanic work, belt work,
20 pick up pizzas if they needed me to do it. Just
21 whatever.

22 Q. So in a normal day, what time of day would you
23 start and about what time would you stop?

24 A. Normally, we'd start --- where we was at down
25 there, there were just two of us outside, and we

1 worked normally like 5:00 to 2:00, 5:00 to 3:00,
2 somewhere in that area.

3 Q. Okay. And when did you have to --- when you were
4 doing examinations, were some of those electrical
5 examinations?

6 A. Yes, sir.

7 Q. Okay. And so when you did the silo area, did you
8 record those in the book?

9 A. Yes, sir.

10 Q. And do you remember what that book was called?

11 A. As far as?

12 Q. Yeah. Was it just specifically for the silo area
13 or ---?

14 A. No. Well, I had several electrical books of
15 examination, and they was all broke up into different
16 areas. One may have the silo and the silo belt in one
17 book. One book may have the pump house or thickener
18 building. They call is a pump house. And then there
19 may be four or five belts in one book. But I think
20 there's a total of like seven or eight books. And
21 then, of course, the fan had their own book, and then
22 Jarrell's Branch pumps and all them had their own
23 books. There's several different books.

24 Q. Was you responsible for anything else like --- did
25 you do anything at UBB outside in the yard or any kind

1 of --- take care of CO system or ---

2 A. No.

3 Q. --- anything like that?

4 A. No, no.

5 Q. Okay.

6 A. Nothing of that nature.

7 Q. Had you ever been underground at UBB?

8 A. Yes.

9 Q. Okay.

10 A. I've been underground.

11 Q. And when was the last time you was underground?

12 A. I was under once in '04, '05 or something like
13 that.

14 Q. Okay. And what did you do when you went
15 underground? What was the purpose of that?

16 A. Well, they needed somebody to show them how to
17 fuse pipe, and they didn't know how to do it. And
18 then I fused pipe on the surface. I done everything.
19 They didn't know how to do it, so you need to show us
20 how to do this.

21 Q. So you're mostly on the surface and you take care
22 of the Bandytown fan, the silo area and some pumps;
23 right?

24 A. Yeah.

25 Q. Do you take care of a turbine pump on the back end

1 of the --- or where the sealed area of the longwall
2 is? Do you know what I'm talking about?

3 A. I don't know exactly what it's called, but ---.

4 Q. Do you take care of any turbine pumps?

5 A. Oh, yeah.

6 Q. Okay.

7 A. Jarrell's Branch. Jarrell's Branch has two.

8 Q. Okay.

9 A. They're in sealed areas. I think Match Creek and
10 West Fork are in sealed areas.

11 Q. And how does those pumps work? How do they turn
12 on and off? Could you tell us a little bit about
13 them, what you know?

14 A. They got --- as far as turning on and off, they've
15 got the air bubbler type system that when the water
16 level --- it's automatic. You know, when the water
17 level gets so high, it kicks on and pumps down there.

18 Q. How often do they normally run?

19 A. I check them every week. And as far as hours or
20 whatever, the engineers keep up as far as water level
21 and that kind of stuff. I just make sure that they
22 function like they're supposed to and make --- as far
23 as push the button, turn it on and it would start, but
24 as far as the hours and all that, I didn't keep a
25 record of all that.

1 Q. Now, did you take care of --- what did you examine
2 on the Bandytown fan?

3 A. Like the water gauge, daily examination of it.

4 Q. Okay. Did you replace fan charts?

5 A. Yes.

6 Q. Was you responsible for that?

7 A. (Indicates yes).

8 Q. Did you ever notice anything odd about a fan
9 chart, about blips in the charts or anything?

10 A. A lot of times during the winter, I mean, the tube
11 will freeze up with moisture, and if I was --- ever
12 knowed of what any of the glitches was you might say
13 or whatever, I'd take and write it on there as if two
14 was frozen. You know, if I get over there --- a lot
15 of times in the mornings I get over there, 9:30, ten
16 o'clock, sometimes, you know, back in the winter and
17 sometimes throughout the night that thing may freeze
18 up. That tube would freeze up, and I'd unthaw it and
19 I'd write on there tube freeze. But I mean, as far as
20 any kind of thing, I would make a record on the chart
21 of ---.

22 Q. Do you also take care of the north and south fans,
23 or does somebody else do that?

24 A. No, I don't fool with that.

25 Q. Okay. What can you tell us about the silo area?

1 What all did you check over there when you went over
2 there?

3 A. The silo area, as far as ---?

4 Q. Electrical.

5 A. I mean, as far as pull cords, you know, alarms,
6 pull cords, the belt switches and as far as MCC rooms.
7 We had a couple D boxes for vulcanizing purposes,
8 checked all of them.

9 Q. The D boxes, did you have to test any breakers or
10 anything on those?

11 A. Yeah. I do the monitor test and the ground fault
12 test, and all that's routine.

13 Q. When was the last time they did any vulcanizing
14 over there? When was the last time you used the box?

15 A. Well, they've got --- there's like four or five
16 boxes on the whole area. Like throughout the belt
17 system, you know, they're strategically placed to
18 where you can run cord and a belt through those boxes,
19 but as far as the last time being used, I don't
20 remember when the last time we vulcanized, because we
21 just run one shift, you know, down there. It used to
22 be when all the longwall coal and everything comes to
23 us, I mean, that was a happening place, but we're just
24 a dying breed down there. We're dying out, you know.
25 As soon as they get finished, we're done.

1 Q. But you know, out of everything down there, was
2 anything out of service? Was everything pretty much
3 up to par and ---

4 A. As far as working order?

5 Q. --- ready to use?

6 A. Well, we had some belts that like when we went
7 underground and stuff, you know, we had the power
8 knocked on them because we never used them. Well,
9 that's like the D boxes. You know, we had the power
10 knocked on all them. As far as anything we didn't
11 use, there was not power on it.

12 Q. What kind of stuff did you have to run from that
13 was running --- I assume you probably had some power
14 that went underground from the MCC room; is that
15 correct?

16 A. No. I mean, that --- well, now, at the silo belt
17 in that MCC room to file up there, you've been to that
18 area, you know, the ---. Well, there was some small
19 things, you know, motors and everything. They were
20 set outside of One South, which that part is not mine
21 as far as checking or whatever. From there, that was
22 all underground stuff. Like that D box and all that
23 stuff that was up there, that's all the underground
24 stuff. Because whenever they took Terry out of there,
25 Terry was --- he was an underground miner, and there

1 was three of us down there. They put him underground.

2 Q. I reckon they had a PLC over there. What all did
3 they use that for? What did they monitor over there?

4 A. As far as on the ---?

5 Q. At the silo.

6 A. At the silo tail back there?

7 Q. Yeah.

8 A. I mean, they monitored the silo belt and all of
9 the safety switches and stuff like that, that would
10 come out of that, which there's a PLC on each of those
11 MCC rooms for each belt.

12 Q. Had you ever had a problem over at the Ellis
13 Portal with the beltline in --- I can't even remember
14 what the name of that mine is. Would it sequence out
15 if they had a problem with the belt over there? Would
16 it shut down ---?

17 A. Are you talking about ---?

18 Q. Ellis Five Head.

19 A. I never fooled with none of that.

20 Q. Oh, okay.

21 A. Yeah, that's --- no.

22 Q. Thought you took care of that, too.

23 A. No.

24 Q. Where was you at April 5th when the explosion
25 occurred? Was you working that day?

1 A. I'd already left for the day.

2 Q. Had you?

3 A. Actually, I think I was at Wal-Mart when I heard
4 about it, but I had left for the day.

5 Q. And when did you --- when you heard about it, did
6 you come back to the mine or did you --- when was the
7 next day you was at work?

8 A. The next day.

9 Q. Okay.

10 A. The 6th. The morning of the 6th.

11 Q. Let's talk about the day that you was there on
12 April the 5th. Where was you working that day? Do
13 you recall?

14 A. It was like a --- as far as my normal routine is
15 we'd come out. We'd get the belts going. I mean,
16 we'd have coal in the silo from the night before with
17 the evening shift. They would just put it in the
18 silo. Come out taking --- get everything up and
19 going, everything running, do what little paperwork we
20 had to do. Then I'd usually go to the fan to do the
21 daily fan check. I mean, it was just a normal ---
22 normal day, you know, as far as --- I mean, that
23 normally was my job. I'd go over and check the fan,
24 unless we was working on something at the fan as far
25 as them compressors they was putting in and all of

1 that.

2 Q. How many compressors --- when did they get those
3 pads set and the compressors set over there at
4 Bandytown? When was that?

5 A. I'm thinking them compressors was set after the
6 explosion. I mean, the pad was poured prior to that
7 because we took and just like the wires that you've
8 probably seen yourself that's in the --- goes down
9 that borehole. You know, we had already put all of
10 that in there and the pad was poured as far as the
11 compressors. That was after the fact.

12 Q. What was the status of the air compressor they was
13 using over there at Bandytown?

14 A. The diesel compressor or the ---

15 Q. Yeah.

16 A. --- electric?

17 Q. Well, tell us what you know about the compressors.
18 I assume there was two over there, the electric that
19 was already set and a diesel; is that correct?

20 A. A diesel. I'm trying to think if they was --- at
21 that time, if there was two diesels. At one time,
22 they had two diesels up there and the electric. As
23 far as the status of them, you know, they --- at one
24 time, we run all three compressors and then we took
25 and cut back to two compressors, electric and a

1 diesel, you know.

2 Q. And how was that configured up? I mean, was they
3 tied in --- would you have to manually turn on the
4 diesel or how did that work?

5 A. Yeah, you had to manually start it as far as that
6 goes, but they both went into the same supply.

7 Q. Okay. Had you been having any problems with the
8 electric compressor over there?

9 A. Very seldom do you have any problems with that
10 electric compressor. I mean, we hadn't had --- that's
11 --- and we took and we had the two diesel. Well,
12 after a while, we just started running the diesel and
13 the electric. Then if we would have a problem with
14 the electric one on there, we'd just start the other
15 diesel one, whatever, which the diesel one pumped a
16 lot of air.

17 Q. Do you recall the electric compressor being down
18 at any time in the --- say a month prior to the
19 accident? Did it ever --- did you have any problems
20 with it?

21 A. I remember one time there was a hose or a line
22 broke or something another on it at one time, and they
23 had --- they took and Logan Corp. had to come in and
24 fix it.

25 Q. Okay. How long did that take?

1 A. As far as being down?

2 Q. Yes.

3 Q. I'm thinking it wasn't done but like a day maybe,
4 if that long, but I think it was a pretty quick fix.
5 I'm thinking --- I don't know if it was an overnight
6 thing or happened one evening and they had it fixed by
7 the next morning. I'm not for sure. I mean, I can't
8 --- that's been a long time ago.

9 Q. If those compressors aren't working, what effect
10 would that have underground at UBB?

11 A. I have no idea as far as --- the only thing I know
12 is they feed some kind of air pumps that they have
13 under there, but as far as if they would quit working
14 --- you know, I know Paul used to tell me all the
15 time, you know, we need to take and make sure these
16 are running all the time because usually me and him
17 --- even through the weekends and stuff, me and him,
18 one or the other would check, and if there was any
19 kind of problem, especially overnight, that one guard
20 over there, he was right on the ball. I mean, he
21 would take --- he'd call --- or they'd call my house
22 several, several times, I mean --- or Paul, but ---.

23 Q. Did any of them you if they went down how long it
24 would cause problems, how long it would take for them
25 to be down to really cause a ---

1 A. Cause a problem?

2 Q. --- bad problem for them?

3 A. As far as a day, a time or hour or anything like
4 that, you know, if --- you know, nobody has really
5 given me a pinpoint, said, you know, hey, we ain't got
6 but an hour. Nobody said that. Nobody's told me
7 that. I don't know. As far as those compressors, I
8 was always told, you know, these things need to run
9 and if they go down, it won't take just --- you know,
10 after a certain --- after a while, you know, it will
11 cause a problem. I don't know exactly what kind of
12 problem or ---.

13 Q. On April 5th, you went over there to the fan;
14 right?

15 A. Uh-huh (yes).

16 Q. Was it running then, the compressor? Was
17 everything okay?

18 A. Yeah.

19 Q. What do you recall?

20 A. As far as I mean, any time I had a problem with
21 that, with the compressor or I mean, the air --- any
22 time there was any kind of, you know, out of the
23 ordinary problem of any kind or anything, I would take
24 and I'd let somebody know. You know, if there was
25 something that wasn't right, I would say, hey, you

1 know, this is going on or that's going on or something
2 was going on. You know, if I observed something that
3 wasn't like it normally is or --- in the past, you
4 know, hey, this ain't --- something ain't right here,
5 you know. And most of the time I'd be with Paul. I'd
6 call Paul and tell him what's going on.

7 Q. As far as the turbine pumps, I guess, was there
8 --- had you had any problems out of them over there at
9 Bandytown or ---?

10 A. No. No, not really. We had one after they put
11 in, the ratchet went bad in the top of it, but most
12 the time on things like that, you know, especially
13 with that little pump, it under warranty, I just
14 called Jackson in Buckhannon and, hey, we got a
15 problem here and usually they was right on it as far
16 as being down or whatever.

17 Q. As far as the diesel compressor, where was those
18 normally set at? Where did you keep them at?

19 A. You mean where they set?

20 Q. Yeah.

21 A. Right in front of where the fan exhaust is or
22 right below ---.

23 Q. Right below?

24 A. Yeah, the fan exhaust blowed ovetop of them.

25 Q. Okay. So you had --- I'm kind of confused. You

1 had one diesel compressor in front of the fan or two?

2 A. Two.

3 Q. Before the accident?

4 A. Yeah, at --- they had pulled that one out of there

5 because they called me in the middle of the night and

6 said you need to go over there and get that

7 compressor. That need that in Kentucky somewhere.

8 And I don't remember if that was --- I don't remember

9 the date of the explosion, if we had one over there or

10 two diesel. But anyhow, they set side by side in

11 front of the fan, you know.

12 Q. And did you ever test the fan alarm over there on

13 the Bandytown side?

14 A. As far as the ---?

15 Q. You know, if the fan stopped what would happen and

16 how often did you have to check that?

17 A. I wasn't --- I wasn't part of that, no.

18 Q. Had you ever --- you never helped out ---

19 A. No.

20 Q. --- if anybody checked it?

21 A. No, because they usually done that on the weekend

22 in the middle of the night or something like that, and

23 I normally wasn't a part of that.

24 Q. Do you know what it would do if it did alarm? How

25 did they know on the other side?

1 A. It's supposed to call the mines.

2 Q. Okay. Thank you.

3 A. I know it went off the other day and it called the
4 mines.

5 EXAMINATION

6 BY MR. FARLEY:

7 Q. Prior to April 5th, what was the last shift you
8 worked at UBB or in your area there at UBB?

9 A. I worked April 5th.

10 Q. Before April 5th. Did you work that day before?

11 A. That was on --- that was on a Sunday, wasn't it?

12 Q. Yes, sir.

13 A. No, I did not work that Sunday. No. I'm trying
14 to think if I worked that Saturday.

15 Q. Uh-huh (yes).

16 A. I don't think I did.

17 Q. Okay.

18 A. I don't think I worked that Saturday. I may have.
19 I don't remember.

20 Q. When you checked the fan at Bandytown, did you
21 look at the charts routinely?

22 A. Yes. Yeah, I initialed the chart.

23 Q. And if I understood your correctly, you didn't
24 notice anything unusual during the last week or so
25 prior to the explosion?

1 A. No, no. Like I say, anytime if there was
2 something with that chart, I would let somebody know.

3 Q. Sure.

4 A. That's just like probably --- I don't know how
5 many months before that, I noticed it was going up. I
6 said, man --- I told one of the chief electricians. I
7 said, well, that chart's going up, and he said, well,
8 that's water in the churn or something, you know. And
9 then that's when they started bringing the air
10 compressors and all that stuff in after that because
11 it started going up.

12 Q. Would that have been the fall of 2009?

13 A. Probably in that area. It was like six months or
14 so before that or something another. It's a
15 possibility --- I don't know as far as exact date. I
16 don't know, but I know it went up there --- the water
17 gauge went up pretty high at one time, and then it
18 started coming back down after we got the compressor
19 set up.

20 Q. Okay. If I understood you correctly, you were
21 underground maybe one time in 2004 or 2005 at UBB?

22 A. Yeah.

23 Q. Any other time since then?

24 A. No.

25 Q. Okay.

1 A. No. Like I say, they went up there. They didn't
2 know how to fuse pipe, and I showed them how to ---.

3 Q. Who took you underground? What foreman brought
4 you underground?

5 A. There was the president, the mine foreman,
6 superintendent, section director, all of them.

7 Q. Okay. Was it a situation where it was just, hey,
8 Glen, come on, we need you?

9 A. We had fused pipe outside.

10 Q. Uh-huh (yes).

11 A. And they was draining some old works, old Number
12 Seven Mines. It was like 98 million gallons of water
13 overtop of them. And the longwall was getting ready
14 to pass under, and they had to take and put that pipe
15 up in there. I don't know if you all knowed how they
16 done all that or not, but they took and drilled from
17 the strip down the drain line and they put that
18 --- needed that pipe in there and fused it like 700
19 foot sections or something outside. And they told me,
20 they said, we need you to go in here and show us, help
21 us do this so we can get this water drained before the
22 longwall comes up under there.

23 Q. Okay. Now, did you have an underground coal
24 miner's certificate at that time?

25 A. No, sir.

1 Q. Did you have an apprentice miner's card at the
2 time?

3 A. No, sir.

4 Q. I guess you went underground at the direction of
5 these people?

6 A. Yes, sir.

7 Q. Okay. And who was the president at the time?

8 A. Bill Potter.

9 Q. Bill?

10 A. Potter.

11 Q. Who else was involved there?

12 A. It was Bill Potter. I think Wendell was there.

13 Don Kelly was there. He was the mine foreman. George
14 Nelson was the safety director.

15 Q. Okay. Anybody else?

16 A. There was all kind of bosses. I mean, there was a
17 whole crew.

18 Q. Did they train you in any way before they took you
19 underground, explain anything to you?

20 A. As far as extensive training, no. Now, as far as
21 you talking about an apprentice card, I've had an
22 apprentice card which had been out of date for 20
23 years, but ---.

24 Q. Okay. All right. I got you.

25 MR. FARLEY:

1 That's it.

2 MR. MCGINLEY:

3 I only have a couple questions.

4 EXAMINATION

5 BY MR. MCGINLEY:

6 Q. Do you have any relatives who worked for Massey?

7 A. Yes.

8 Q. Who would that be?

9 A. [REDACTED] works for them.

10 Q. Where does he work?

11 A. He works at Marsh Fork at the plant.

12 Q. What does he do there?

13 A. He's a dozer operator. And I have some other
14 in-laws that works places.

15 Q. Is there a surface mine over UBB --- over any part
16 of UBB?

17 A. Progress.

18 Q. Okay. And where you work on the surface, is it
19 anywhere close to that surface mine?

20 A. Pardon me?

21 Q. Is it anywhere close to that surface mine?

22 A. What, Progress?

23 Q. Yes.

24 A. It's up on the hill behind it. As far as the
25 silo, you can see it on the map there.

1 Q. You worked on the day of the explosion. During
2 the day, did you hear any blasting at that mine? Do
3 you recall or ---?

4 A. As far as the surface mine blast?

5 Q. Yes, right.

6 A. Not that I recall.

7 Q. Okay. Because there's been, you know, some talk
8 about blasting being done, and I just wanted to ask
9 you because ---.

10 A. No, that's --- as far as blasting being done at
11 that --- not that I --- but you have to also consider
12 that when the silo --- when you're running the belts
13 and all that, I mean, there's a lot of noise out
14 there.

15 Q. Sure. So you wouldn't typically hear ---

16 A. No, no.

17 Q. --- even if they were blasting?

18 A. Even if they did have a blast, unless they got
19 real, real close or something. You might feel
20 something, but normally you didn't. And I think they
21 blast --- well, I don't know what time they blast.

22 Q. Right. You know the terms S1 and P2?

23 A. (Indicates yes).

24 Q. You have to say for the court reporter.

25 A. Yes. I'm sorry. I forgot about that.

1 Q. That's okay. What do they mean?

2 A. Safety first. And I don't know if --- how they
3 say at Performance or Progress or whatever and then
4 maintenance or whatever S1, P2, M3.

5 Q. What's M3?

6 A. Measurement or something another, I think is how
7 they say it.

8 Q. Other than S1 meaning safety first, what else does
9 it mean to ---? I mean, safety first sounds like a
10 slogan. Is it anything more than that?

11 A. Than a slogan?

12 Q. Right.

13 A. Well, I guess it's part of Massey's --- way their
14 safety program and their production is set up or based
15 on. I guess is supposed to be the aspect of it. As
16 far as S1, I mean, you hear that a lot from different
17 people say, well, that ain't S1 or ---.

18 Q. So that's what I meant. What is S1?

19 A. Yeah.

20 Q. If something isn't S1, how do you know?

21 A. Well, you know, as far as myself, people will tell
22 me, they say, well, that ain't S1. I have never seen
23 an S1 book. Supposedly there's a document out there
24 that's got S1 and P2, M3 in it. Myself, I've never
25 seen it.

1 Q. You're not the only one.

2 A. And I'm supposed to be the foreman. But I'm
3 supposed to be a foreman. That's another thing.

4 Q. Are you getting paid as a foreman?

5 A. No. No, I'm not getting paid as a foreman. I'm
6 not getting paid as an electrician. That's what eats
7 me when I said credibility. As far as me, if you all
8 want to taking and being here as what caused this
9 explosion, what was the reasoning behind it, I have no
10 idea.

11 Q. Sure.

12 A. I'm not an underground miner, but as far as the
13 credibility as a company, that will probably be the
14 only thing that you're going to get out of me as far
15 as anything to build a credibility case against the
16 company. Just like their contracts, I signed one. I
17 have never received the first penny of the contract.

18 Q. Is that the enhanced contract?

19 A. Yeah, 333. I signed it just like I've asked
20 several people about it, but I'm not like everybody
21 else, you know. Every time I say something about it,
22 you know, well, you're different. You're like a
23 plant. You're like working at a plant, but yet, they
24 get the big money at the plant and ask about it.
25 Well, you're different.

1 Q. So ---?

2 A. So there's some snakes in this bunch, believe me.
3 And I say you've all already figured it out, and it's
4 not just as far as president of the Resources Groups.
5 I mean, it's even out of your HR department.

6 Q. All right.

7 A. Yeah. I mean, whenever they take and --- just
8 like as far as this here goes, this hearing or
9 whatever, you know, if you say anything, you know, and
10 it gets wind to them, well, yeah, all you got to do is
11 start from the top down --- even at the local level.
12 Now, as far as above the local level, I don't know the
13 people. I can't tell you anything about Mr.
14 Blankenship. I can't tell you anything about Mr.
15 Adkins. I do not know them. So I have no way to
16 spread judgement on them because I do not personally
17 know them. The only thing I know is a person is as
18 good as his word, and if his word's no good, he's no
19 good. That's the way I see it.

20 Q. Right.

21 A. But that's just like, if you give me something and
22 I ask for it, am I wrong for asking for it if you give
23 it to me? No. As far as the local level, if I ask
24 for it and they don't like it, the HR department would
25 back them up and they'd see things get done, I mean,

1 it's pretty obvious.

2 Q. Well, you're not the only person that's told us
3 that.

4 A. Well, that's just like me. And to be honest with
5 you, I'm stupid for staying. [REDACTED] is a dozer man
6 and makes more money per hour than I do, and I'm
7 supposed to be a foreman and electrician.

8 Q. So you're not --- your job ---?

9 A. I am classified as a belt monitor. That's what
10 --- and whenever I ask my boss, which is Paul ---
11 which I've got several bosses. Believe me, now, as
12 far as Paul Thompson, Paul has took and tried to take
13 and stood and do right by me. He has. What happened,
14 I signed one of the contracts, and then after a couple
15 weeks, I called and asked about my raise. Well,
16 supposedly --- evidently, they messed up or something
17 another, but I had called their hand to it. Now I'm
18 dirt. I have jumped through every hoop down there.

19 As far as violations on the overland belts in '04,
20 '05, they was nothing for inspectors, State or
21 Federal, to walk in there and write ten violations a
22 day. That management changed. There was some other
23 management come in. I was still there. Me and the
24 boy that's there now, we was still there. We're the
25 last two standing, but we was part of it. We went

1 almost two years without a violation. We got a ---
2 some kind of thing from the Federal government, you
3 know, about so many hours or whatever, you know, no
4 violation. I mean, we've went --- our violations has
5 changed dramatically to no violations. Even the State
6 --- Clarence Dishmond himself --- and I know you're
7 probably well aware of Clarence.

8 MR. FARLEY:

9 Yeah.

10 A. Clarence was very upset with them, with the
11 management for the simple reason that we changed that
12 around and we turned that around down there and made
13 it the place it was, and we never even got recognized
14 for it.

15 BY ATTORNEY MCGINLEY:

16 Q. Did anybody ever say thank you, that's a great
17 job?

18 A. Well, one time they sent out some kind of little
19 newsletter and they kind of felt sorry for us and put
20 all our pictures in a little thing down there. But
21 yet whenever they was running 1.5 million ton a month
22 through that silo, we never got no coal bonus. We
23 never got none of the perks. We was always that bunch
24 at the bottom of the hill. That's the last stop
25 before you go across the bridge. If you was a boss at

1 the mines, if you got to be a boss at the bottom of
2 the hill at the belt house, you might as well go ahead
3 and pack your stuff because you're getting ready to
4 leave here. That's the way it happens. But the thing
5 of it is with me, I started at the bottom of the hill.

6 I see that bridge every day. And I'm stupid for
7 staying, for not --- but the only reason I do, it's
8 close to the house and I like the shift I work.
9 That's the only reason I stay.

10 BY MR. MCGINLEY:

11 Q. What's the 333 part of it, three years?

12 A. Three years, \$3 --- and what was the other thing?
13 It was three years, \$3 --- I don't remember what it
14 was. Plus, there was a big bonus, like \$6,500 bonus.
15 See, they all get that. We go to electrical
16 training ---.

17 Q. And if you quit, they say you have to give it all
18 back? Is that what ---?

19 A. Yeah, and 90 mile radius or whatever, you can't go
20 to work ---.

21 Q. For a year?

22 A. Huh?

23 Q. For a year? Is that ---?

24 A. Yeah, something like that.

25 Q. That's because --- I've read that contract. It

1 says you've learned proprietary confidential
2 information, and that's one of the reasons they don't
3 want you to go to work for anyone else.

4 A. Yeah, you know how to splice a belt. You learn
5 how to make a cable splice and how to run dozer. But
6 that's what I say, but whenever I ask about mine, I'm
7 --- I'm dirt. Well, what do you do in a case like
8 that?

9 Q. How long has that been since ---?

10 A. Since I signed mine? Mine ran out in November of
11 last year.

12 Q. After three years?

13 A. After three years. And I never got none of it.
14 But see, before that, they took and renewed a bunch of
15 them at the mines. And then where --- I am considered
16 salary exempt, I think what it is. I'm salary, plus I
17 get overtime. Everybody --- me and the other boy at
18 the bottom of the hill, that's how we're paid. They
19 finally took and let us take and sign that retention
20 bonus where you get --- it was \$1,000 one year and
21 then \$1,500 in 2000 or whatever. I have to give Chris
22 Blanchard credit. He did let us sign that. But as
23 far as the electrical bonus and all that, you know,
24 oh, you come underground, you come underground. Hey,
25 you go up on the hill up there at that one station,

1 AEP, that's 138,000 volts. That's not dangerous. You
2 turn your Tic-Tracer on and stand out in the road and
3 it'd go off. That's not dangerous just because I
4 ain't underground? What if you go out there and
5 you're in snow clean up to your knees and you stand
6 there with a hot stick?

7 Q. So did you have to sign a new three-year contract
8 after this one expired?

9 A. After ---.

10 Q. After this one expired, you said ---.

11 A. In November?

12 Q. Yeah.

13 A. No, I never was offered. That's what I'm saying.
14 I'm --- that's just like the guy --- they tell me ---
15 they say, you're like a plant down there, but yet if
16 you look at the PMs that you fill out for the
17 Bandytown fan and for the pump, the maintenance
18 foreman, which I sign, is right on top. It says outby
19 electrician. I should be getting outby electrician
20 wages. Performance Coal does not have a plant, but I
21 asked about the pay, you know, well, you're like a
22 plant. Well, they give all the plant --- like the
23 electricians at the plants make \$26, \$27 an hour now.
24 I said, well, what about mine? You all different.
25 But yet whenever they took that cut here --- Massey

1 took a cut four or five months ago, a year ago or
2 whatever, I had to take a cut.

3 Q. What about injuries? Do you know anybody that's
4 gotten injured and, you know, they should have stayed
5 home, but Massey came and had them come in and do
6 light duty? Do you know anything about the situations
7 like that?

8 A. I've heard of it. I mean, I've heard someone say,
9 you know, they'd have to come out and do different
10 things or whatever. I've heard of it. That's
11 hearsay.

12 Q. Sure.

13 A. Strictly hearsay, you know.

14 Q. So ---.

15 A. I do know for --- as far as I do know that we had
16 a man that had carpal tunnel surgery that worked down
17 there with us. He took and --- I think they told me
18 --- or asked him if he could come in, and they
19 wouldn't --- the only thing they'd have him do is run
20 dozer. You know, he wouldn't be out changing belt
21 rollers and stuff like that. They just needed
22 somebody to run a dozer and tried to get him to come
23 after that. As far as if he was on comp and all of
24 that, I think he was comp before that, but I don't
25 know as far as being on comp when they called him to

1 come in or whatever. I don't know. That's somebody
2 else's financial business. That's not --- that's not
3 me.

4 Q. So basically we're talking about S1, P2, M3 and
5 they have a whole description with their relationships
6 with Massey members. Is that --- in your view, that's
7 like a slogan? It's more do as I say, not as I do?

8 A. That's a --- you know, there are some things
9 that's --- as far as safety, to me --- I'm speaking as
10 myself. I am my safety man.

11 Q. Sure.

12 A. If I feel it's unsafe, I'm not going to do it. I
13 mean, that's just plain and simple. But as far as
14 Massey, I mean, they've got I guess guidelines set out
15 there. I have not seen an actual --- like I said
16 before, I have no seen an actual S1 booklet. I've
17 heard different tales of different things, people say
18 stuff, but you hear that slogan pretty regularly. You
19 know, that's not S1.

20 Q. What is S1?

21 A. Yeah, what is S1? I've yet to see. I have not
22 seen the booklet.

23 Q. Okay. Well, thank you.

24 A. As far as credibility, that's about the only thing
25 I can tell you.

1 Q. Everything you said, it's helpful. It's like
2 putting a puzzle together what we're doing here, so we
3 really appreciate it.

4 A. Well, as far as the contract deal --- you've got
5 some people --- I believe as soon as this contract's
6 over. To me, it ain't no good anyhow. I never got
7 mine to start with. It wouldn't hurt me none. I'd go
8 to work across the bridge, couldn't I?

9 Q. Right.

10 ATTORNEY WILSON:

11 Does anybody have any follow-up
12 questions?

13 MR. FARLEY:

14 I don't think so.

15 MR. MAGGARD:

16 I just wanted to ask him a question.

17 RE-EXAMINATION

18 BY MR. MAGGARD:

19 Q. Have you heard of anything before the accident,
20 anybody had any concerns that you heard of, you know,
21 that said anything about the mine underground, stuff
22 that bothered them or anything?

23 A. Yes, I did one time. A good friend of mine, which
24 I mean, I knowed all of them boys, a majority of them
25 --- some of them was --- but that one boy that was in

1 there, I don't know what they was doing, but he told
2 me, he said, man, they're going to get somebody
3 killed. I said, what? And this is not hearsay. The
4 boy told me hisself. As far as hearsay, I've probably
5 heard basically probably everything that you all
6 heard, but this here I heard out of the one boy's
7 mouth. I said, what is it? He said, they got men
8 behind the longwall doing something, and that's all I
9 know. I didn't pay a whole lot of attention to what
10 they was doing. They said they was working in behind
11 the longwall doing something back in there. It was in
12 the evening, because he was on the evening shift, but
13 he was one of them that got killed in the explosion.

14 Q. Do you know who they had behind the longwall?

15 A. No. As far as who was with him or whatever, I
16 have no idea. I don't even know what they was doing,
17 but he told me --- because I seen him. I just passed
18 --- he was in his vehicle, and I passed him there, and
19 I was walking. And he was talking about --- said, how
20 you doing, and then he said, they're going to get
21 somebody killed. I said, why, what's going on? He
22 said, they're behind that longwall. So I don't know
23 what --- you all probably know. I don't know. You
24 all probably heard of it, know about it. I don't know
25 --- I have no idea. But I do know that that boy he

1 did --- he's one of them that got killed. He told me.

2 Q. Was that just recent that he told you that or ---?

3 A. That had been --- that had been right after the
4 longwall had come back and started. They hadn't been
5 there a month or two or maybe longer than that, but
6 the longwall hadn't been there very long. Actually,
7 he didn't even work on the longwall when this
8 explosion happened. He was up on another section.

9 Q. Anything else that you think we need to know or
10 anything you heard or ---?

11 A. Well, like I say, I've heard bunches of stuff, but
12 as far as facts, ain't no sense in me sitting here and
13 telling you hearsay. As far as facts, you know ---.

14 Q. Sometimes hearsay gets us looking in other
15 directions.

16 A. Getting you digging in another --- well --- but I
17 mean, I probably heard what you all have heard. I
18 mean, they --- I've heard several different things,
19 but I don't know any of it to be true.

20 EXAMINATION

21 BY ATTORNEY WILSON:

22 Q. Well, any of that that you think might be related
23 to what happened here?

24 A. What happened? I'm not at liberty to say, because
25 I don't --- like I say, I'm not --- because it's just

1 --- it would be hearsay.

2 Q. Well, we're not in court.

3 A. I know that. I know that, but as far as it's all
4 hearsay. You all have probably heard all of it
5 before.

6 MR. MCGINLEY:

7 Well, one of things about hearsay is ---

8 and typically in administrative proceedings, you know,
9 from a legal standpoint, it doesn't matter. Hearsay
10 helps us try to put two and two together. It's like
11 putting a puzzle together.

12 A. Well, that's just like I --- like, as far as
13 hearsay --- I'll tell you as far as hearsay, I've
14 heard them saying that supposedly somebody said they
15 said something about the overcasts, well, we're not in
16 the construction business and you all have probably
17 heard that. Am I lying?

18 BY ATTORNEY WILSON:

19 Q. Well, we know they used a lot of doors.

20 A. That's what I'm saying. I don't know nothing
21 about none of that stuff, you know. As far as that
22 kind of stuff, you know, I don't --- I don't know much
23 about that, you know.

24 Q. Who told you that? Do you recall?

25 A. Who told me that?

1 Q. Who told you that they said we're not in the
2 construction business?

3 A. I've heard that from several different people.
4 Not just one individual. I mean, you'd just be
5 walking by. You'd hear a bunch of guys sitting and
6 talking. You just overhear something.

7 RE-EXAMINATION

8 BY MR. MCGINLEY:

9 Q. Did you hear anything about people being
10 underground the weekend before the explosion making
11 air changes and that kind of discussion like that?

12 A. Like I say, that's all --- I don't know about
13 that.

14 Q. Have you heard that, though?

15 A. I've heard all kind of things, but as far as what
16 anybody done and ---.

17 Q. Right. You weren't there.

18 A. I mean, I know that --- all the time somebody
19 talking about the air changes and this and that or
20 whatever. I don't know what that stuff means. I
21 don't pay no attention to it, because I don't know
22 what it means, you know. The only thing I know is,
23 you know, hey, they're going to put a splice in the
24 belt and this belt's going to be down tonight, well,
25 that if --- or the One South is going to be down, so

1 it gives me a chance to take and work on the silo belt
2 if need be. There ain't going to be no coal running.
3 But as far as, you know, the reason why that belt's
4 down, I don't know, if it's an air change or
5 maintenance supplies or they're putting in a roller.
6 I don't know.

7 ATTORNEY WILSON:

8 Okay. Is there anything else? All
9 right. Then Mr. Farley, I want to thank you on behalf
10 of MSHA and the Office of Miners' Health, Safety and
11 Training for coming in and speaking with us this
12 afternoon. Your cooperation is very important to the
13 investigation.

14 Again, I remind you that we request that
15 you not speak with anyone about your testimony. I do
16 want to inform you of your rights under the Mine Act
17 as a miner. Any statements given to MSHA are
18 considered to be an exercise of statutory rights and
19 protected activity under Section 105(c) of the Mine
20 Act. If you believe that any type of discharge,
21 discrimination or other adverse action is taken
22 against you as a result of your cooperation with this
23 investigation, you should immediately contact MSHA and
24 file a 105(c) complaint. And you can do that by
25 contacting the MSHA District 4 Office in Mount Hope.

1 You can find their contact information and other
2 information concerning your rights under the Mine Act
3 at MSHA's website, which is www.MSHA.gov.

4 Before we finish and go off the record,
5 is there anything else that you would like to add at
6 this time?

7 A. No. Like I say, as far as my part, build a
8 credibility, as far as, you know, did they
9 discriminate against their employees? They're not
10 being bashful, you know. They make the rules as they
11 go. And if you don't like it, you know, where
12 it's ---.

13 ATTORNEY WILSON:

14 All right. Well again, thank you for
15 your cooperation, and we'll go off the record.

16 * * * * *

17 STATEMENT UNDER OATH CONCLUDED AT 5:25 P.M.

18 * * * * *

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1 STATE OF WEST VIRGINIA)

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4

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

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said witness;

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That the proceeding is herein recorded fully

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and accurately;

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That I am neither attorney nor counsel for,

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nor related to any of the parties to the action in

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which these depositions were taken, and further that I

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am not a relative of any attorney or counsel employed

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by the parties hereto, or financially interested in

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this action.

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Alison Salyards

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