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Transcript of the Testimony of Jeffrey Kravitz

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STATEMENT UNDER OATH
OF
JEFFREY KRAVITZ

taken pursuant to Notice by Alison Salyards, a Court Reporter and Notary Public in and for the State of West Virginia, at the National Mine Health and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, September 20, 2010, beginning at 3:57 p.m.

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

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[REDACTED]

[REDACTED]

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P R O C E E D I N G S

1
2 -----
3 ATTORNEY FERGUSON:

4 My name is Dana Ferguson. Today is
5 September 20th, 2010. I'm with the Office of the
6 Solicitor, United States Department of Labor. With me
7 is Erik Sherer, an accident investigator with the Mine
8 Safety and Health Administration, an agency of the
9 United States Department of Labor. Also present are
10 several people from the State of West Virginia. I
11 would ask that they state their appearance for the
12 record at this time.

13 MR. FARLEY:

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

16 MR. O'BRIEN:

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

19 MS. SPENCE:

20 Beth Spence with the Governor's
21 independent investigation.

22 ATTORNEY KOERBER:

23 There are also members of the
24 investigation teams present in the room today, but Mr.
25 Sherer will be conducting most of the questioning.

1 All members of the Mine Safety and Health Accident
2 Investigation Team and all members of the State of
3 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 the 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. Their participation in this interview
17 constitutes their 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 Health --- Federal Mine Safety and Health Act and the

1 West Virginia Office of Miners' Health, Safety and
2 Training. We appreciate your assistance in this
3 investigation.

4 You may have your personal attorney or a
5 representative present during the taking of this
6 statement if MSHA has permitted it and may consult
7 with your attorney or representative at any time. Mr.
8 Kravitz, have you come with a personal attorney or
9 representative?

10 MR. KRAVITZ:

11 No.

12 ATTORNEY FERGUSON:

13 Since this is not an adversarial
14 proceeding, formal Cross Examination will not be
15 permitted. However, you may ask clarifying questions
16 as appropriate.

17 Your identity and the content of this
18 conversation will be made public at the conclusion of
19 the interview process and may be included in the
20 public report of the accident, unless you request that
21 your identity remain confidential or your information
22 would otherwise jeopardize a potential criminal
23 investigation. If you request to keep your identity
24 confidential, we will do so to the extent permitted by
25 law.

1 That means that if a judge orders us to
2 reveal your name or if another law requires us to
3 reveal your name or if we need to reveal your name for
4 other law enforcement purposes, we may do so. Also,
5 there may be a need to use the information you provide
6 to us or other information we may ask you to provide
7 to us in the future in other investigations into and
8 hearings about the explosion. Do you understand?

9 MR. KRAVITZ:

10 Yes.

11 ATTORNEY FERGUSON:

12 Do you have any questions?

13 MR. KRAVITZ:

14 No.

15 ATTORNEY FERGUSON:

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

1 A court reporter will record your
2 interview. Please speak loudly and clearly. If you
3 do not understand a question asked, please ask that it
4 be rephrased. Please answer each question as fully as
5 you can, including any information you have learned
6 from someone else.

7 We would like to thank you in advance for
8 your appearance here. We appreciate your assistance
9 in this investigation. Your cooperation is critical
10 in making the nation's mines safer.

11 MR. KRAVITZ:

12 Okay.

13 ATTORNEY FERGUSON:

14 Do you have anything before we get
15 started from anyone? Okay. Erik? Oh, I'm sorry.

16 -----

17 JEFFREY KRAVITZ, HAVING FIRST BEEN DULY SWORN,
18 TESTIFIED AS FOLLOWS:

19 -----

20 ATTORNEY FERGUSON:

21 Thank you, Ally.

22 EXAMINATION

23 BY ATTORNEY SHERER:

24 Q. Thanks for coming down this afternoon, Mr.
25 Kravitz. What was your position with MSHA on April

1 the 5th of this year?

2 A. I was acting Deputy for Technical Support.

3 Q. Okay.

4 A. Deputy, director.

5 Q. Okay. Thank you. And where was that position
6 located?

7 A. Arlington, Virginia ---

8 Q. Okay.

9 A. --- on detail.

10 Q. Okay. Thank you. How long have you been employed
11 by MSHA?

12 A. Approximately 38 years.

13 Q. Okay. What was your normal position prior to
14 being the acting director?

15 A. Chief of Scientific Development, Tech Support out
16 of Pittsburgh's Safety and Health Technology Center.

17 Q. Okay. Thank you. Prior to the explosion, did you
18 have any contact with Upper Big Branch?

19 A. No, none at all.

20 Q. Okay. When were you first made aware of the
21 explosion at Upper Big Branch?

22 A. April 5th, about 3:30 I got a call from John
23 Urosek, who had been contacted by several people on
24 the way. He was out, going out towards Missouri for
25 another investigation.

1 Q. Okay. Where were you at that time?

2 A. I think I was either at 21st floor at Education
3 Policy and Development or on the 23rd floor in Tech
4 Support.

5 Q. In Arlington?

6 A. Yeah.

7 Q. Okay. Thank you. Did you travel to Upper Big
8 Branch?

9 A. Yes, I did.

10 Q. When did you leave Arlington?

11 A. It was somewhere either the late night of the 5th
12 or the early morning. It was around midnight. I
13 traveled down with Assistant Secretary Main.

14 Q. Okay. And about what time did you arrive at Upper
15 Big Branch?

16 A. Approximately 8:30 in the morning ---

17 Q. Okay.

18 A. --- on the 6th.

19 Q. Okay. Starting with when you arrived on the
20 property, would you mind giving us an overview of what
21 you did with the ---

22 A. MSHA?

23 Q. --- rescue and then the recovery effort?

24 A. Well, basically arrived there with Assistant
25 Secretary, and John Urosek and Ray McKinney met us.

1 They gave us a briefing, a thumbnail briefing, what
2 was happening. Joe was kind of in a hurry because
3 there was a press conference that was taking place,
4 and he already had talked to Kevin Stricklin about
5 trying to get over there.

6 So we got a quick thumbnail sketch of what was
7 happening. And teams --- I think teams were
8 underground at that time. Maybe not. But basically,
9 that's what we did.

10 Then John Urosek and I went over to the MSHA
11 command center. We tried to get ahold of any
12 surveyor. Took us a little while to find somebody.
13 We finally did, and then we went up on top the
14 mountain to locate a place where we could install our
15 seismic system. We located a place for the system,
16 came back down the mountain, met the guys from
17 Pittsburgh Safety and Health Technology Center, John
18 Gibson, Ed Chuta. And there were several people there
19 from the MSHA Mine Emergency Unit, MEU.

20 And we gathered up as many people as we could that
21 were available and then went back up on top of the
22 mountain with the seismic system, installed the
23 system, got it working. Everything worked fine. And
24 from then on it was pretty much a matter of keeping
25 the system running, changing out batteries,

1 communicating what was happening up there, and then
2 basically coming down after very long periods of time
3 spending on top of the mountain, over 12-hour shifts
4 that we were putting in.

5 Q. Okay.

6 A. Mr. Main and I and Mr. Ponceroff, Bill Ponceroff,
7 were staying at the academy. Several other people,
8 John Urosek and several other people were staying at
9 the Holiday Inn at the Beckley Exit.

10 Q. Okay. So the primary thing you did during the
11 rescue and recovery effort was --- or the rescue
12 effort, I guess, was to monitor the seismic ---

13 A. Right.

14 Q. --- system?

15 A. Uh-huh (yes).

16 Q. Did you pick up any seismic signals from within
17 the mine?

18 A. Not that we could ascertain. The signals that we
19 received were mostly noise, you know, probably the
20 drilling trucks along the rode. We were very close to
21 the main road that was going over to the drilling hole
22 area.

23 Q. Uh-huh (yes).

24 A. And eventually the area where the refuge shelter
25 or refuge alternative was, that's an area that we

1 focused in on with the seismic system, ---

2 Q. Sure.

3 A. --- you know.

4 Q. Do you recall if there were any significant bumps
5 coming from the mine or thumps or whatever you want to
6 call it?

7 A. Couldn't really tell with all the noise going on.
8 You know, what we hoped to do ---. It wasn't wasted
9 effort, you know? What we try to do is, you know,
10 when the drills go down and when noise comes down to
11 low levels, then we try to, you know, listen more
12 intently than when there's a lot of other types of
13 noise. So you know, during that whole week, you know,
14 we had people watching the seismographs all the time
15 and really didn't pick up any significant signals and
16 couldn't tell if nay mine bumps, per se.

17 Q. Okay. Thank you. And when did you guys stop
18 monitoring for seismic signals?

19 A. Well, we were still monitoring when Mr. Main and I
20 left, which was either Friday night or Saturday. I
21 think it was Friday night. And I drove him back down
22 to where his home is located, and then I went back
23 towards Arlington.

24 Q. Okay.

25 A. Uh-huh (yes).

1 Q. Have you had any contact with Upper Big Branch
2 since that time?

3 A. No, not one iota. No.

4 Q. Okay. Thank you. Did you attend any meetings
5 during that time period?

6 A. Not formally. Once in a while in the command
7 center it'd be some informal meetings off to the side.
8 The main meetings were in the formal command center,
9 which was operated by the company. It was up in one
10 of the company offices, but when I'd come back down
11 the mountain, I'd come back to the MSHA command center
12 or to the communication --- they call it the peer, the
13 public evaluation trailer that basically held our
14 communications equipment.

15 Q. Okay. When John Urosek called you on April the
16 5th, what did he tell you?

17 A. Basically he had been notified by a call that
18 something had happened and it still wasn't quite
19 clear, you know, what had happened. Also that we'd
20 probably have to be setting up a seismic, which I
21 assumed that we had a major problem.

22 Q. Okay. What's the purpose of the seismic system?

23 A. Seismic system is designed to locate trapped
24 miners. They can pound on surfaces like the roof
25 bolts in the mine.

1 Q. Okay. Why did you have to be on top of the
2 mountain to set that up?

3 A. Well, basically you want to get on top of where
4 someone would be pounding back, so you ---. Basically
5 the signals travel upward. We install our sensors
6 above the mine and the sensors pick up the vibrations
7 from, you know, possibly anyone pounding in the mine.

8 Q. Okay. Thank you.

9 A. Uh-huh (yes).

10 Q. Did you do anything else other than the seismic
11 system?

12 A. No, just pretty much, you know, what I was down
13 there for, except for helping out Mr. Main with
14 anything he needed and pretty much --- and he was
15 being supplied by support by Kohls, Kevin Stricklin,
16 our office information people, so he was doing pretty
17 good by himself.

18 MR. SHERER:

19 Okay. Thank you. That's all the
20 questions I've got for right now.

21 MR. FARLEY:

22 I have none.

23 MS. SPENCE:

24 I have none. Thank you.

25 MR. SHERER:

1 Okay.

2 ATTORNEY FERGUSON:

3 Anyone else? On behalf of MSHA and the
4 Office of Miners' Health, Safety and Training we want
5 to thank you for appearing and answering questions
6 today. Your cooperation is very important to the
7 investigation as we work to determine the cause of the
8 accident.

9 We request that you not discuss your
10 testimony with any person aside from a personal
11 representative. After questioning other witnesses, we
12 may call you if we have any follow-up questions.

13 If at any time you have additional
14 information regarding the accident you would like to
15 provide to us, please contact Norman Page. If you
16 wish, you may now go back over any answer you've given
17 or make a statement you would like to make.

18 A. No, no additional information at this time.

19 ATTORNEY FERGUSON:

20 Thank you.

21 A. Uh-huh (yes), sure.

22 * * * * *

23 STATEMENT UNDER OATH CONCLUDED AT 4:11 P.M.

24 * * * * *

25

1 STATE OF WEST VIRGINIA)

2

3

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

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



21

22

Alison Salyards

23

24

25

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