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Transcript of the Testimony of **Randall Lafferty**

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STATEMENT UNDER OATH

OF

RANDALL LAFFERTY

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 Thursday, May 20, 2010, beginning at 5:00 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. We're here to conduct an investigation interview of Randall Lafferty. Do you go by Randy?

MR. LAFFERTY:

Yes, sir.

ATTORNEY WILSON:

Randy, my name is Bob Wilson. I am with the Office of the Solicitor, United States Department of Labor. With me is Tom Morley the accident investigator with the Mine, Safety and Health Administration. Also present are officials with the State of West Virginia. I will ask at this time that they state their appearance for the record.

MS. MONFORTON:

Celeste Monforton with the Governor in --- of West Virginia special investigation.

MR. TUCKER:

Bill Tucker with the Office of Miners' Health, Safety and Training.

MR. FARLEY:

Terry Farley. I'm with the same.

ATTORNEY WILSON:

1 Today is May 20th, 2010. There are
2 several other members of the investigation team also
3 present in the room. All members of the Mine Safety
4 and Health Administration Accident Investigation Team
5 and all members of the State of West Virginia Accident
6 Investigation Team participating in the investigation
7 of the Upper Big Branch mine explosion shall keep
8 confidential all information that is gathered from
9 each witness who voluntarily provides a statement
10 until the witness statements are officially released.
11 MSHA and the State of West Virginia shall keep this
12 information confidential so that other ongoing
13 enforcement activities are not prejudiced or
14 jeopardized by a premature release of information.
15 This confidentiality requirement shall not preclude
16 investigation team members from sharing information
17 with each other or with other law enforcement
18 officials. Everyone's participation in this interview
19 constitutes their agreement to keep this information
20 confidential.

21 Government investigators and specialists
22 have been assigned to investigate the conditions,
23 events and the circumstances surrounding the
24 fatalities that occurred at the Upper Big Branch Mine-
25 South on April 5th, 2010. The investigation is being

1 conducted by MSHA pursuant to Section 103(a) of the
2 Federal Mine Safety and Health Act and by the West
3 Virginia Office of Miners' Health Safety and Training.
4 And we appreciate your assistance in this
5 investigation.

6 After the investigation is complete MSHA
7 will issue a public report detailing the nature and
8 causes of the accident in hope that greater awareness
9 about the causes of accidents can reduce their
10 occurrence in the future. Information obtained
11 through witness interviews is frequently included in
12 those reports. You should know that you can request
13 confidentiality and confidentiality will be considered
14 on a case-by-case basis. Your statement may also be
15 used in other law enforcement proceedings. You may
16 have a personal representative present during the
17 taking of this interview and you may consult with the
18 representative at any time. Randy, do you have a
19 representative with you today?

20 MR. LAFFERTY:

21 No, sir.

22 ATTORNEY WILSON:

23 You may refuse to answer any question and
24 you may request a break at any time. This is not an
25 adversarial proceeding. Cross Examination will not be

1 permitted, however, clarifying questions will be
2 allowed. A court reporter will record your interview
3 today. I ask that you speak loudly and clearly so
4 that she'll be able to take down everything that's
5 said. If you do not understand the question, please
6 ask that the question be rephrased. Please answer
7 each question as fully as you can including any
8 information that you may have learned from someone
9 else. Again, I would like to thank you in advance for
10 your appearance here today. We appreciate your
11 assistance in the investigation. Your cooperation is
12 critical in making the nation's mines safer. After we
13 have finished asking questions we will provide you
14 with an opportunity to make a statement and provide us
15 with any additional information that you believe to be
16 important. If at any time after this interview you
17 recall any additional information that you believe
18 might be useful, we ask that you contact Norman Page,
19 the lead accident investigator, at the telephone
20 number that was included in the letter that was
21 provided to you.

22 You should know that any statements given
23 by miner witnesses to MSHA are considered to be an
24 exercise of statutory rights and protected under
25 Section 105(c) of the Mine Act. If you believe any

1 discharge, discrimination or any other type of adverse
2 action is taken against you as a result of your
3 cooperation in this investigation we encourage you to
4 immediately contact MSHA and file a complaint under
5 Section 105(c) of the Act. Remedies under the Mine
6 Act include back wages and immediate temporary
7 reinstatement to your most recent position with the
8 company pending a complete review of your complaint.
9 In order to file such a complaint you should contact
10 the MSHA District 4 Office in Mount Hope. The address
11 and telephone number are also provided in the letter
12 that was given to you. For more information
13 concerning your rights as a miner under the Mine Act
14 you may visit MSHA's website at www.MSHA.gov.
15 At this time I will ask that the court reporter to
16 swear you in.

17 -----
18 RANDALL LAFFERTY, HAVING FIRST BEEN DULY SWORN,
19 TESTIFIED AS FOLLOWS:

20 -----
21 ATTORNEY WILSON:
22 Tom.

23 EXAMINATION

24 BY MR. MORLEY:

25 Q. Will you please state your full name and spell

1 your last name?

2 A. Randall Casey Lafferty, L-A-F-F-E-R-T-Y.

3 Q. Please state your address and telephone number.

4 A. [REDACTED] Area

5 code [REDACTED]

6 Q. And you're appearing here today voluntarily?

7 A. Yes, sir.

8 Q. How many years of mining experience do you have?

9 A. Thirteen (13) give or take.

10 Q. Can you give me a description of your coal mining
11 employment history?

12 A. Outside man for three years, got put underground.
13 I was a belt man for a year and a half, two years,
14 scoop man on section and got put on the bolter, run a
15 pinner for seven years and started in the electrical
16 field, been doing that for the past two.

17 Q. Do you have any mining certifications?

18 A. I do. I have a Foreman Certification, Shot Firer
19 Certification, EMT, certified electrician.

20 Q. And presently employed?

21 A. Yes, sir.

22 Q. Where at?

23 A. I'm now working at Round Bottom, Powellton. It's
24 probably about 15 minutes down the road from UBB.

25 Q. And when did you start there?

1 A. Shoot. I've been there for about a month now.
2 I'd say it was probably around the first of May.
3 Q. How much of your mining history is with Massey?
4 A. Five years.
5 Q. And was all of that at Upper Big Branch?
6 A. No, sir. I started working for Massey at the
7 Marsh Fork Eagle Mine behind the old plant. They
8 mined it out and since January the 8th, '07 I went to
9 Upper Big Branch.
10 Q. Okay. Did you receive any training when you
11 arrived at Upper Big Branch?
12 A. Yes, sir. Yes, sir.
13 Q. What was that?
14 A. Went over the map, the airways, had to walk the
15 escapeways, the whole nine yards.
16 Q. Can you describe for me the management structure
17 that was in place at Upper Big Branch?
18 A. Management structure, what do you mean?
19 Q. Like who was superintendent, mine foreman? Who
20 reported to who?
21 A. The mine foreman. Let's see. In the tailgate
22 section that would have been ---.
23 Q. Who was your foreman?
24 A. My foreman, maintenance foreman, was Terry
25 Claypool and he answered to Rick Nicolau. He was the

1 chief, dayshift chief. Gary May was my superintendent
2 when we were on Three and Four. And then when they
3 transferred us up to the tailgate section it was
4 Everett Hager was the superintendent then. They had
5 two superintendents, one for each side of the mine
6 basically.

7 Q. Okay. So you worked for maintenance chief?

8 A. Yes, sir.

9 Q. And did you work with the same mining crew every
10 day?

11 A. Yeah. Yeah, pretty much.

12 Q. But you really didn't work for that foreman?

13 A. No, I worked for Terry Claypool. Okay. To give
14 you a background of what we were doing, we were on
15 Three and Four section. I started out on four
16 section.

17 Q. Four section would be?

18 A. The barrier section they called it on the south
19 side of the mine. I started there and then they moved
20 me and him to the outby and we were going between
21 Three and Four section. They had a big job, whatever.
22 We went to either section and took care of the boxes
23 and whatnot between Three and Four. Then they had a
24 section shut down I believe at Parker Peerless. They
25 moved those guys over here to the new barrier section

1 that they started and that's when Terry and I and
2 another man, Tim McDaniel, were transferred from outby
3 to Tailgate 22. So I had been on Tailgate 22 for
4 approximately --- well, five days. April 5th, made my
5 fifth shift there on the tailgate section.

6 Q. And your job title was section mechanic or
7 electrician?

8 A. No, just maintenance, you know, a greaser
9 basically.

10 Q. And what were your duties there?

11 A. Just servicing equipment and just --- if it's
12 broke I fixed it, you know, basically.

13 Q. What was your work schedule for that week?

14 A. For that week we'd come in at normal time, 11:30
15 'til 8:30.

16 Q. So you're like 11:30 in the morning 'til 8:30
17 p.m.?

18 A. No, 11:30 p.m. to 8:30 a.m.

19 Q. So you're on midnight shift?

20 A. I was on midnight shift, yes.

21 Q. And you guys rotate?

22 A. No, just steady midnight. There was no swing.

23 Q. Okay. How'd that work? Did you work seven or
24 eight days a week or so many on, so many off?

25 A. Five on, two off and six on, one off. It was a

1 five and six schedule, nine hours a day.

2 Q. I think you told me a little bit --- what other
3 jobs you did at the mine? You did belt?

4 A. Yeah. I'd been a belt man and I did pinner. I've
5 been about everything as far as that goes except for a
6 buggy.

7 Q. When was the last time you were on the section at
8 22 Tailgate?

9 A. April 5th.

10 Q. Is it 22 Tailgate or 23 Tailgate? I've heard it
11 called both.

12 A. I filled my book out as Tailgate 22.

13 Q. Okay. We'll call it that. When was the last
14 time?

15 A. The morning of April 5th.

16 Q. Were you ever on 22 Headgate section?

17 A. No, sir.

18 Q. On the longwall?

19 A. No, sir.

20 Q. You made it around to a lot of different areas of
21 this mine. What were your general observations of the
22 condition of the mine, the underground mine? Was
23 there like rock dusting?

24 A. To me it was well rock dusted. The main line they
25 kept the pod dusters running on the main line, you

1 know. They'd dust every night or so. As far as
2 general impression I wasn't worried about going
3 underground. You know, it's a big place. You know, a
4 lot of outby to cover. I mean, you have rashy ribs,
5 the top was a little draw rock here and there, but
6 other than that general impression --- it was just
7 another coal mine really. I mean, I wasn't ever
8 really worried about going underground.

9 Q. What conditions were the belt lines in?

10 A. Belt lines I didn't see a whole lot of. Wet, I
11 know they were wet, a few of them anyway. Especially
12 the ones over on Three section and Four section where
13 I was basically at, but other than that I really don't
14 know about the big six foot mother belts and all this
15 other stuff out there.

16 Q. Okay. What about ventilation, did you have any
17 issue with ventilation that you knew of?

18 A. Well, now, I know you know everything that
19 happened as far as being pulled out for the air
20 changes and stuff of that affect, but other than that,
21 no. I don't, you know ---.

22 Q. Well, on your section were there problems with
23 ventilation? Let me put it that way.

24 A. On the tailgate section?

25 Q. Yeah.

1 A. No, no. I mean, it was a Three entry section.
2 They always had good air up there on that particular
3 section.

4 Q. Do you know of any methane problems in the mine?

5 A. In the mine, no. To be honest, no.

6 Q. What about the clean up program, any combustible
7 materials? Were they pretty good about that or ---?

8 A. Yeah, they kept everything pretty well taken care
9 of as far as I could see.

10 Q. Did you guys have water run in that section?

11 A. Yes. Yes, we did.

12 Q. It was coming through the roof?

13 A. Bottom, coming through the bottom I believe.

14 That's the only place I could figure it was coming.

15 It was probably coming off of the longwall. That's
16 the only thing I could think, it was coming from the
17 old longwall panel over into --- you know, just
18 creeping through the bottom.

19 Q. Did you ever have conversations with fellow
20 workers or mine management concerning unsafe
21 conditions in the mine?

22 A. None to speak of. Like I said, I was never
23 worried about going in.

24 Q. On this section or any other section when they're
25 running coal did you ever detect methane from the

1 mining?

2 A. I'm not real sure.

3 Q. Did you ever watch them run coal with a methane
4 monitor?

5 A. No. As soon as they got there we left. You know,
6 every now and again we were up there when they started
7 running, but it was --- that was just it. They
8 started running. The people that they worked for were
9 not going to put them in a situation --- you know, if
10 they found methane, they weren't going to let them
11 run.

12 Q. So on the shift you worked they didn't run coal?

13 A. No, sir. Midnights were idle.

14 Q. Okay. Now I understand. Was that throughout the
15 mine or just this section?

16 A. Throughout the mine.

17 Q. The midnight shift did not run coal?

18 A. The midnight shift did not run.

19 Q. It was a maintenance shift?

20 A. Yes, sir.

21 Q. Okay. Are you responsible ---?

22 MR. MORLEY:

23 What's that?

24 MR. FARLEY:

25 Is the longwall the same way, they didn't

1 run on ---?

2 A. They did not run on --- well, unless there was
3 something that I didn't know about, they didn't really
4 ever run on third shift.

5 BY MR. MORLEY:

6 Q. Did you maintain the methane monitor on the miner?

7 A. Yes, sir.

8 Q. And how often was it calibrated?

9 A. Once a week.

10 Q. What type is it?

11 A. It's a 104 I believe. I can't remember the exact
12 model and serial number and all that stuff.

13 Q. A CSE?

14 A. Yes, sir, a CSE.

15 Q. I guess you were never down at the longwall?

16 A. No.

17 Q. You don't know what they were running down there?

18 A. No.

19 Q. Were you ever aware of machine mounted monitors
20 being inoperative or anyone ever bridging one out?

21 A. No, sir. No, sir.

22 Q. Were you aware that the mine encountered problems
23 with unknown gas wells, gas feeders?

24 A. I've never heard anyone say anything about it.

25 Q. Never had any gas ---

1 A. No.

2 Q. --- coming in anywhere?

3 A. No, not that I'm aware of.

4 Q. Okay. Did anyone on your crew carry methane
5 detectors?

6 A. Let's see. Me and Terry. Terry had one and the
7 section foreman had one.

8 Q. Okay. Did the company have any type of incentive
9 program in regards to mine production or safety?

10 A. No, they had like the point system, you know.
11 You'd go so many --- if you go a whole quarter without
12 an accident or whatever, you know, the points and
13 stuff.

14 Q. Do you know if the company ever cancelled a
15 vacation period for some reason?

16 A. They didn't actually cancel it. You could take it
17 if you wanted to. They did post it to work, you know.
18 They needed volunteers basically. They wouldn't full
19 out come out and say, no, there's no vacation this
20 year. We do need volunteers. If you'd like to work,
21 work. And you can have your vacation later in the
22 year.

23 Q. Okay. When was that?

24 A. As a matter of fact it was last year.

25 Q. For summer vacation or Christmas?

1 A. It was summer, Christmas. Yeah. I mean, they
2 always wanted people working.

3 Q. So they gave you the option?

4 A. They gave you the option.

5 Q. They never said that if we don't meet some kind of
6 goal you're not going to have a vacation?

7 A. No, no.

8 Q. Nobody ever said that?

9 A. No, never, never.

10 Q. Did you ever work on this headgate in the north
11 panel?

12 A. On the headgate One North, no, sir.

13 Q. Yours was a maintenance shift, but yours was a
14 little bit different, but how are shifts changed? Did
15 you guys change out on a section or did you change at
16 the surface?

17 A. Changed out on section.

18 Q. All the shifts?

19 A. As far as I know.

20 Q. Did they like hot seat or did they ---?

21 A. I think one section here hot seated and ---.

22 ATTORNEY WILSON:

23 Which one are you pointing, too?

24 A. Headgate 22 or 23. The headgate up here I think
25 they hot seated, and I don't think as far as the day

1 and evening shift on the tailgate side --- I don't
2 think they hot seated.

3 BY MR. MORLEY:

4 Q. If they hot seated do you how they did their dust
5 parameters and stuff?

6 A. No, I don't.

7 Q. Did you normally look at the bulletin board and
8 review the ventilation changes submitted to MSHA?

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

10 Q. When the plan ventilation changes did you ever
11 receive any training about what they were about to do
12 or ---?

13 A. Yeah, they went over what they were going to do,
14 just sort of splitting up a work force, you know,
15 basically is about it. You know, they would send
16 people here to build stoppings and put up a set of
17 doors or what have you. That's about basically about
18 it.

19 Q. Even if you were not assigned to actually conduct
20 the change they'd provide training just to let people
21 in the mine know what changes were being made?

22 A. Not really. I mean, they never --- you know, not
23 that I'm aware of unless you were directly involved.

24 Q. Okay. Who told you about the changes?

25 A. It was usually, you know, just the upper

1 management.

2 Q. No one in particular?

3 A. No. Like I said, they just --- it was like
4 splitting up the workforce. That's about the only
5 thing they'd ever go over.

6 Q. Did you ever hear of any mining plans or revisions
7 discussed with MSHA inspectors?

8 A. No.

9 Q. Did you ever hear of any problems in this headgate
10 entry along the wall, longwall?

11 A. No. Like I said, I never ---- I was on the south
12 side. I was never up in that area, so ---.

13 Q. Until five days before the accident you were
14 always on the other end of the mine?

15 A. Basically, yes.

16 Q. Okay. Have you ever traveled up to the escape
17 north at the very top of the mine?

18 A. No, sir. About as far as I've made it was I
19 believe the Seven North head down in this area here
20 (indicating).

21 Q. Okay. I'm not quite sure where that is, so ---.

22 A. Let's see. Seven North should be --- yeah, that's
23 ---. Yeah, the Seven North head is about as far as
24 I've been.

25 Q. Somewhere around approximately Crosscut 105?

1 A. Right, right.

2 Q. In this mine for the travel way instead of having
3 overcast for the track they had air lock doors to
4 travel through?

5 A. Right.

6 Q. Did that concern you, to have that as your
7 separation from the escapeway?

8 A. I think it would have been better if they would
9 have had the overcast, I honestly do because you know
10 as well as I do, the doors leak.

11 Q. Yes.

12 A. They leak.

13 Q. Were they well maintained?

14 A. Yeah, for the most part they were I think. They
15 had some of the actuators unhooked because they were,
16 for whatever reason, I guess, tore up or whatever. So
17 you had to get out and manually open and close the
18 doors, you know, several sets of them. But as far as
19 being sealed, to the best that you could seal it, I
20 think they were, but they still leaked.

21 Q. Were these the kind of automatic doors?

22 A. Yeah, you had automatic doors, but they had the
23 actuators under pinned, so you had to manually open
24 --- I can't remember exactly how many sets.

25 Q. Were these the steal doors that swing in opposite

1 directions?

2 A. Yes. No, they both swing ---.

3 Q. The same way?

4 A. The same way.

5 Q. Okay. And going in and out for a shift changes
6 did you ever see them left open?

7 A. No, sir.

8 Q. They were always used as an air lock, to your
9 knowledge?

10 A. Yes, sir. To my knowledge, yes.

11 Q. Okay. Did you experience or are you aware of any
12 conditions which required portions of the mine to be
13 evacuated, that the miners be withdrawn?

14 A. Not that I'm aware of, no.

15 Q. Did you have any times that oncoming shifts were
16 cancelled or delayed due to conditions in the mine?
17 They told you not to come out because they had to
18 address a problem or something?

19 A. The only time they ever told us not to come out
20 was when they had the air changes or whatever they
21 were doing. As far as being withdrawn for methane or
22 loss of air, I mean, we had a fan go down and they
23 brought everybody out. I mean, that was ---.

24 Q. Do you happen to know what air changes ---?

25 A. No, sir. No, sir.

1 Q. So to your knowledge, did you have any concern
2 with the ventilation system before the explosion?

3 A. No, no.

4 Q. This area here is the Glory Hole that connects the
5 old mine. Were you ever up there?

6 A. Yes, I did go to the Glory Hole one time. One
7 time, so ---.

8 Q. Were you aware of any problems with methane or any
9 other problems ---

10 A. No, sir.

11 Q. --- at Glory Hole?

12 A. No.

13 Q. Okay. Your maintenance duties, did you ever work
14 on the CO monitoring system?

15 A. No, sir. No, they had two other guys --- two or
16 three other guys that took care of all the CO and
17 stuff.

18 Q. Do you know who that was?

19 A. One was Virgil Bowman, Tom Sheets. I'm thinking
20 that's about it. As far as I know that's who.

21 Q. Would they maintain and calibrate it?

22 A. Yes, I'm pretty sure.

23 Q. How about the primary escapeway, did you ever
24 travel off the tailgate section?

25 A. Yes, sir. Yes, sir, when I was first --- when we

1 first went up there we had to travel the intake
2 escapeway.

3 Q. What condition was it in?

4 A. It wasn't bad. I mean, ---.

5 Q. Was the lifeline throughout?

6 A. Yes, sir.

7 Q. So you traveled that within like maybe the last
8 week before the accident?

9 A. Right.

10 Q. Do you know who the designated responsible person
11 was on the shift?

12 A. That would have been Shawn Walker. He was the
13 third shift mine foreman.

14 Q. Did they ever notify miners if he had to leave and
15 somebody else took over? Did that ever happen, to
16 your knowledge?

17 A. No, not to my knowledge.

18 Q. There's a lot of mining seams above this mine.

19 A. Right.

20 Q. Did that ever concern you or any other miners?

21 A. Not that I'm aware of. I didn't even know there
22 was mines above it to be honest.

23 Q. Well, I guess that wouldn't concern you. Did you
24 ever go to another Massey Mine and come back to Upper
25 Big Branch?

1 A. No.

2 Q. The tracking system in this mine, do you know ---
3 how does that work? Do you know?

4 A. I wasn't real sure on how it worked. I mean, I
5 had my tag reader and my radio, but you know, as far
6 as ---.

7 Q. Did you ever work on the system?

8 A. No, no. That was Derrick Kiblinger and Patrick
9 Lomas, done most of the maintenance and installation
10 of the tag readers and stuff.

11 Q. Did you do electrical inspections?

12 A. Yes, sir.

13 Q. And where was that at?

14 A. I mean, it was just on the section equipment
15 basically, and when I was down on the Three and Four
16 section we would do the monthly examinations on all
17 the KK boxes and splitters and whatnot.

18 Q. Okay. How much time did that take to do?

19 A. We dedicated a whole shift. Basically anywhere
20 from seven to eight people would come out on the third
21 shift and do the monthly stop tests. And you know,
22 we'd split up each individual going to different
23 sections of the mine and take care of the --- you
24 know, doing boxes. It would take at least the whole
25 shift.

1 Q. Is that enough time to do a good job?

2 A. Yes. Yes, it was. Everything was done the way
3 it's supposed to be.

4 Q. Did you observe any problems with the base
5 equipment on your section, permissibility, anything
6 like that?

7 A. Nothing out of the ordinary, no.

8 Q. Did you ever have to take a piece of base
9 equipment out of service?

10 A. Not while I was up on two section, no.

11 Q. Did you ever have to take as a piece of your face
12 equipment out of service?

13 A. No, not while I was up on Two section. No.

14 Q. Okay. You were on the midnight shift so you
15 weren't at the mine at the time of the accident?

16 A. No, sir.

17 MR. MORLEY:

18 Okay. Do you want to ask some questions,
19 Bill?

20 EXAMINATION

21 BY MR. TUCKER:

22 Q. I'll try not to repeat anything that's already
23 been asked.

24 A. You go right on ahead. Whatever you got to do.

25 Q. Let's talk about the methane monitors and you

1 being on the idle shift. Do you know --- were y'all
2 responsible for calibrating and maintaining the
3 methane monitors?

4 A. Yes, sir. We calibrated the methane monitor once
5 a week. Whenever we did permissibility on the miner
6 we would calibrate the methane monitor every week.

7 Q. At any time, did you ever find anything bridged
8 out on the methane monitor?

9 A. Bridged out, no, sir.

10 Q. Just as far as sometimes maybe malfunction, have
11 to replace it?

12 A. I had one malfunction and replaced the read out
13 itself, but like I said, that was on Four section, but
14 on Two section, no.

15 Q. If you're going to be cutting and welding --- do
16 you have any instance working on things where you have
17 to cut or weld?

18 A. Yes, sir.

19 Q. What is the procedure if you're going to be
20 cutting and welding as far as ---?

21 A. Fire extinguishers, rock dust, water if it's
22 applicable, continuous monitoring with the methane
23 detector.

24 Q. And you mentioned that you had one?

25 A. Yes.

1 Q. What type of ---?

2 A. Solaris.

3 Q. Solaris. And I think you've already been asked
4 this, but I'll ask you again. As far as methane, I
5 mean, are you aware or have you seen at any time since
6 you've been there --- you mentioned you've been there
7 for a couple of years. What's probably the highest
8 reading you've seen on the methane monitor?

9 A. The highest would be give or take .1, .2, nothing
10 really to speak of.

11 Q. As far as being on the maintenance --- on the idle
12 you mentioned you pretty it's idle, so you've never
13 been involved as far as getting your maintenance work
14 done and do y'all ever start up and run coal?

15 A. No, sir. No, sir.

16 Q. Have you lost any work, any time, as far as not
17 being paid, as far as not being able to report to
18 work ---

19 A. No, sir.

20 Q. --- as far as air change?

21 A. No, because I was usually there for --- you know,
22 as far as being an electrician I was usually there
23 when they had the air change to set power back up or
24 what have you. So I never lost any time over it.

25 Q. So since you do have your papers, your mine

1 foreman papers, ---

2 A. Yeah.

3 Q. --- do you have to ---? Do you do any fire
4 bossing?

5 A. No, not now. I've done it for them a time or two
6 probably for about a month and other than that that's
7 it. I try to keep away from that.

8 Q. But during that month did you fireboss?

9 A. Yeah, I fire bossed the belts.

10 Q. Belts?

11 A. Yes, sir.

12 Q. About what time frame was that?

13 A. Oh, shoot. Well, I take that back, too. When we
14 were down on Four --- when I first went to Four
15 section they had a move crew, a boss that didn't have
16 his papers. So one of the federal inspectors, you
17 know, wanted somebody down there to run phases every
18 two hours, and that's when I was put down there on
19 Four section to run phases every two hours and be an
20 electrician. So then I did fire boss belts for about
21 a week. It was last year or the year before last.

22 Q. You mentioned you worked your shift from 11:30
23 p.m. to 8:30 a.m.?

24 A. Yes, sir.

25 Q. And you've been on that --- up on the 22 Tailgate

1 for about five --- four or five days?

2 A. Five days, yes, sir.

3 Q. Five days. That Monday shift you said you worked.

4 Did you work that Sunday or was --- well, that was
5 Easter Sunday?

6 A. Yeah, Sunday night.

7 Q. Did anybody work that Sunday that you know of?

8 A. Not that I know of. It was supposed to have been
9 --- they had the longwall working up until Saturday
10 and then they let everybody off for Easter Sunday. To
11 the best of my knowledge, that's why they were
12 supposed to be doing things.

13 Q. When you showed up at work that night did you
14 notice anybody at the mines out of the norm, that
15 normally wouldn't be there for the midnight shift?

16 A. No, sir, not to my knowledge I didn't.

17 Q. Did you here any talk or anybody comment about any
18 type of air change that had maybe taken place on that
19 Sunday?

20 A. Not that I heard any.

21 Q. So as far as you know was the longwall idle on
22 that ---

23 A. Yes, sir.

24 Q. --- Sunday night also?

25 A. Yes, sir.

1 Q. Okay. So you'd only been up on this section for a
2 few days, but what was your --- and I know it's a new
3 section, that 22 Tailgate being started, but it's only
4 in there a few breaks. What was your take of the
5 route and ribs and ---?

6 A. It was a pretty good looking section. I don't
7 know if they got in to the bottom or it was just the
8 way the coal was running, but they had a little bit of
9 water. And when they got on up probably in that last
10 crosscut they had topped up over hill, so it was
11 starting to look really good, you know. It was
12 starting to dry up a little bit.

13 MR. TUCKER:

14 That's all I have for now.

15 EXAMINATION

16 BY MS. MONFORTON:

17 Q. Mr. Lafferty, can you tell me when you had your
18 last annual refresher training?

19 A. The date? I couldn't tell you the date.

20 Q. Or a month?

21 A. I'm pretty sure it was in March.

22 Q. In March. So just very recently?

23 A. Right. Yeah.

24 Q. Okay. And who was the instructor for that
25 training?

1 A. Let's see. They split it up into classes. We got
2 like four or five different teachers or instructors,
3 whatever you want to call them. I can't think of who
4 it was.

5 Q. Was it someone that you had before, someone from
6 the mine or ---?

7 A. Yeah. A couple of the classes they had
8 Rick Foster there, the mine foreman, and he went over
9 some things. And I can't remember these people's
10 names.

11 Q. Okay. Can you tell me a little bit about what was
12 covered in that training?

13 A. They cover everything. It's roof and rib. You
14 know, it's pre-op checks. They go over your spotters,
15 they make you go through the smoke trailer, they do
16 the SCSR training. You know, I mean, it's --- there's
17 a lot of different electrical hazard classes and stuff
18 like that.

19 Q. So you've been at this Massey Mine for two years.
20 How did that training compare to the refresher
21 training you've had in the past?

22 A. I've worked with Massey for the past five years.

23 Q. Five years. I'm sorry.

24 A. Actually it's a whole lot better, you know. I
25 have to say it's better than probably about anything

1 I've ever ---.

2 Q. And what made it better?

3 A. They go a little more in depth with things. They
4 really do. They try to cover everything in the eight
5 hours that you have to go there. They try to cover
6 everything.

7 Q. Okay. The emergency response plan and the tagging
8 system that you talked about, when did you receive
9 training on that system?

10 A. Oh, shoot. They put it in place I'm thinking
11 January, if I'm not mistaken. I can't quite remember,
12 but that's what --- as far as being trained on how it
13 works and whatnot there was really ---. To the best
14 of my knowledge, there wasn't, you know ---.

15 Q. Okay. So ---?

16 A. They gave you the tag and they gave you the radio
17 and said, here's how it works. You know, as far as
18 training, I don't know what you're really saying.
19 That's about all ---.

20 Q. Like how did you know what to do with it or how
21 did they describe what ---?

22 A. They just went over, you know, how to use the
23 radios and --- you know, that's basically about all
24 you had was a radio. And as far as the tag readers
25 and stuff of that effect go, I don't really know how

1 it works.

2 Q. Okay. Did they tell you that you were supposed to
3 do anything different with the tag if there was an
4 emergency?

5 A. Not that I'm aware of, no.

6 Q. Not that you recall. Okay. Thank you. Can you
7 tell me a little bit more about the --- I think you
8 called it the Raymond points?

9 A. No. They give you a catalog once a year and you
10 accumulate points throughout the year and that
11 catalog's got stuff in it that you order with those
12 points.

13 Q. And how did you earn the points?

14 A. No accidents. It's just a safety thing.

15 Q. And so who would keep track of your points?

16 A. The safety director most of the time, Berman
17 Cornett, Jim Walker. And then afterward they --- I
18 don't know. They got somebody, a lady in there to
19 start helping them out basically with the points. I
20 don't really know.

21 Q. Is it the kind of thing like you start out with
22 like a hundred points at the quarter and then you
23 loose points or do you earn points?

24 A. Earn them.

25 Q. You earn points for doing what?

1 A. For working safely basically.

2 Q. So how many points did you earn?

3 A. Shoot. I don't know. My wife spends them too
4 quick. I don't know how many I've got, you know. I
5 really don't.

6 Q. Did you know guys that weren't so good at earning
7 points?

8 A. No.

9 Q. What kind of things would you have to do in order
10 to not earn the points? Can you just give me some
11 examples?

12 A. If you had a lost time accident on your section or
13 in the mine or, you know, anything of that nature, you
14 wouldn't acquire the points for that quarter.

15 Q. So if you got hurt then you didn't earn the
16 points?

17 A. Well, I mean, if it was lost time accidents, you
18 know. I mean, if you fill out accident reports
19 they're not going to take your points or this that and
20 the other. I mean, they don't never --- they never
21 threaten you with them or anything like that, but if
22 you have a loss time accident in that quarter you
23 loose so many points for it.

24 Q. You lose points. Okay. Can you describe any
25 procedures that were in place at this mine for the

1 miners to raise concerns about the safety? Like, did
2 they have a safety committee or a safety team?

3 A. I really don't know. They had, you know, your
4 safety directors, which was Berman and them, but other
5 than that I really don't know.

6 Q. You don't know. Okay. So what would the
7 procedure be? If you had a concern about something
8 what was --- how were you instructed what you should
9 do if you had a concern?

10 A. If I had a problem I would go to my immediate
11 supervisor and if they didn't get it taken care of I'd
12 do it myself.

13 Q. Okay.

14 A. Yeah.

15 Q. You've been a minor for 13 years?

16 A. Yeah.

17 Q. But in your initial training as a minor, your
18 40-hour class, you would have had ---?

19 A. You take an 80-hour class.

20 Q. You take 80 in ---?

21 A. Underground.

22 Q. Okay. One of the topics that has to be covered is
23 miner's rights.

24 A. Okay.

25 Q. So can you elaborate a little bit about what you

1 know in terms of what your rights are as a miner?

2 Anything. Anything you know.

3 A. I don't know. I mean, if it's unsafe I don't do
4 it and they can't do anything to me for it. If I feel
5 unsafe going into a place or whatever I don't have to
6 go. If they don't like it that's their deal. You
7 know, as far as rights I don't really know. It's my
8 right to turn down anything they tell me to do that's
9 unsafe.

10 Q. Right to refuse unsafe work?

11 A. Right.

12 Q. Yeah. Okay. Under the Mine Act the mine
13 operator has to conduct his own investigation of the
14 --- of this disaster. Have you been approached by
15 anyone from Performance Coal and interviewed for their
16 investigation?

17 A. They had lawyers appointed and I had to go sit in
18 on a meeting with their lawyers, but other than that,
19 no.

20 Q. So was the meeting with their lawyers --- to do
21 what?

22 A. Just basically, what we're doing here, questioning
23 me about the general condition of the mines, this that
24 and the other, my job duties and whatever.

25 Q. Yeah. Did they say it was as part of their

1 investigation? Is that how they described it?

2 A. The way they put it to me was they weren't there
3 for me, they weren't there for the companies, the
4 families of the company. They were there for Massey
5 as a company. That's what they were there for and I
6 guess they were just getting information from people
7 who --- you know, build there case or whatever they
8 got to do.

9 MS. MONFORTON:

10 Okay. That's all I have.

11 RE-EXAMINATION

12 BY MR. TUCKER:

13 Q. Just one more quick question. As far as the
14 longwall on the April the 5th, on the dayshift are you
15 aware of it being down any throughout the shift with
16 any problems or had you heard anything about it being
17 down at any time on the dayshift?

18 A. I did hear that it was down on the dayshift.
19 Let's see. I believe it went down something like
20 11:45 maybe and they got it back up and running around
21 2:00 something. And other than that I don't know why
22 it was down. I don't know. Yeah, I just heard basic
23 bathhouse talk.

24 Q. You don't know what they did?

25 A. No, sir.

1 Q. You don't know ---?

2 A. No, sir, I do not.

3 Q. What time does the longwall usually start on the
4 dayshift? Do you know?

5 A. No, I do not know. I don't know. They run a
6 whole different kind of schedule. Let's see. I'm
7 trying to think. Let's see. Dayshift on longwall, I
8 believe they start around 6:00 if I'm not mistaken.

9 MR. TUCKER:

10 Thank you.

11 ATTORNEY WILSON:

12 Okay. Let's go off the record.

13 SHORT BREAK TAKEN

14 ATTORNEY WILSON:

15 Okay. We can go back on the record.

16 RE-EXAMINATION

17 BY MR. MORLEY:

18 Q. Just a few additional questions, Randy.

19 A. Okay.

20 Q. Did you ever have MSHA or state inspection ---
21 inspectors conducting inspections while you were
22 working?

23 A. Yes, sir.

24 Q. When they would come to the section or wherever
25 you were did you guys pretty much know they were

1 coming?

2 A. Yes, sir.

3 Q. How would you know that? I mean, how did that
4 happen even?

5 A. If they were on --- you know, if they came in on
6 third shift they'd either ride in with us or come in a
7 little thereafter. So we knew they were there, you
8 know, one way or another.

9 Q. Did you guys do anything differently when ---?

10 A. Not really, no.

11 Q. Have you ever been searched for smoking materials?

12 A. Yes, sir.

13 Q. And did you ever observe or hear of anybody
14 smoking underground?

15 A. No, sir, not there at Performance.

16 Q. Did you ever hear of anybody getting --- any
17 smoking articles being found there?

18 A. No, sir.

19 Q. Is there anything that we've not asked you that
20 you think we should know in trying to find out the
21 cause of this accident?

22 A. I wish I knew the cause of it. I really don't
23 know.

24 Q. Do you know of anybody else that you think we
25 should talk to about the accident, any electrician

1 or ---?

2 A. I don't know who you --- I don't know who all
3 you've talked to, you know, to be honest.

4 Q. Well, if you think of anybody in particular we
5 need to talk to, let us know.

6 A. Okay.

7 Q. Has anyone offered you anything or made you
8 promises as for your appearing here today?

9 A. No, sir. No, sir.

10 RE-EXAMINATION

11 BY MR. TUCKER:

12 Q. Just a little follow-up on --- I know just as
13 miners we try to --- if we see an accident we try to
14 figure what happened. Have you heard any talk or have
15 any idea of any possibilities of what could have
16 happened?

17 A. No, no. I mean, you hear talk and that's all it
18 is, is talk. I just as soon not even speculate on a
19 bunch of bathhouse gossip. It don't ---.

20 Q. Yeah, that's fine.

21 A. It's just talk. Nobody's going to know until they
22 get up there and see what goes on.

23 Q. Right. I don't guess you've been back to the
24 mines ---

25 A. No.

1 Q. --- since? Did they just call you right after
2 that and say not to come back?

3 A. I was there through the whole recovery, you know,
4 helping with the mantrips keeping them running,
5 keeping them on track, keeping them charged up. The
6 whole rescue I was there from start to finish and then
7 after it was all said and done I got transferred to
8 Round Bottom.

9 MR. TUCKER:

10 Thank you.

11 ATTORNEY WILSON:

12 Anything?

13 MS. MONFORTON:

14 Uh-uh (no).

15 ATTORNEY WILSON:

16 No. Okay. Then, Randy, on behalf of
17 MSHA and the Office of Miners' Health Safety and
18 Training I want to thank you for appearing and
19 answering questions today. Your cooperation is very
20 important to the investigation as we work to determine
21 the cause of the accident. We will be interviewing
22 other potential witnesses, so we require that you not
23 discuss your testimony with anyone. After questioning
24 other witnesses we may have follow-up questions, and
25 if so, we will contact you. If at any time you have

1 additional information that you think is important
2 that we should know about, please contact Norman Page,
3 the lead accident investigator, at the contact
4 information that we've provided to you. At this time
5 I want to give you an opportunity to go back over any
6 of the answers that you've given us today. If there's
7 anything that you want to clarify or if you would like
8 to make any type of a statement at this time now's the
9 opportunity for you to do that.

10 A. I just hope I could be of some help.

11 ATTORNEY WILSON:

12 Yes, you have.

13 A. That's about it.

14 ATTORNEY WILSON:

15 Okay. Again, I want to thank you very
16 much.

17 A. Thank you, sir.

18 ATTORNEY WILSON:

19 Off the record.

20

21 * * * * *

22 STATEMENT UNDER OATH CONCLUDED AT 5:52 P.M.

23 * * * * *

24

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

I, Alison Salyards, 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.



Alison Salyards