IN THE MATTER OF:

THE INVESTIGATION OF THE
APRIL 5, 2010 MINE EXPLOSION
AT UPPER BIG BRANCH MINE.

The interview of JASON ALAN ROSE, taken upon oral examination, before Elizabeth A. Howd, Registered Diplomate Reporter, Certified Realtime Reporter, and Notary Public in and for the State of West Virginia, Wednesday, October 27, 2010, at 2:58 p.m., at the Mine Academy, 1301 Airport Road, Beaver, West Virginia.
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GOVERNOR'S INDEPENDENT INVESTIGATION PANEL  
Beth Spence
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MR. KOERBER: My name is Barry Koerber. I'm an Assistant Attorney General, and I'm assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

The Office of Miners' Health, Safety and Training, together with MSHA and the governor's independent team, are investigating the mine explosion at the Upper Big Branch mine on April 5th, 2010.

We're conducting interviews as part of the investigation process, which this is. You're here today voluntarily. You're not here pursuant to a subpoena. I just want you to know that this interview is entirely voluntary, and you can refuse to answer any question that you want. You can terminate the interview at any time. And you can take a break at any time.

THE WITNESS: Okay.

MR. KOERBER: And just for the record, today is October 27th, 2010.

To my left is the interviewer for the Office of Miners' Health, Safety and Training. I would ask that he identify himself.
MR. FARLEY: Terry Farley.

MR. KOERBER: We also have people from MSHA and the governor's team, and I would ask that they identify themselves.

MR. SHERER: I'm Eric Sherer with MSHA.

MS. HAMPTON: I am Pollyanna Hampton, an attorney with the Solicitor's Office for the Federal Department of Labor.

MS. SPENCE: I'm Beth Spence with the governor's independent investigation.

MR. KOERBER: We would request that you not discuss your testimony here today with anybody after you leave, other than a personal representative or a personal attorney. And the reason we're asking that is to maintain the integrity of the interviews, so that people don't compare notes.

THE WITNESS: Sure.

MR. KOERBER: We have a court reporter here who will be taking down everything that is said today. And she does an extremely good job, but you need to say "yes," "no," not nod your head.

Try not to speak over an interviewer, and
they'll try not to speak over you.

    THE WITNESS: Sure.

    MR. KOERBER: If you so choose, three days after the interview, which would be come about Tuesday, the transcript will be prepared, and if you would like you can call Johnny Jackson & Associates. That's the name of the court reporter firm. It's in Charleston, West Virginia. I believe the court reporter would be willing to give you a card at the end of the interview.

    If you want to, go and read your transcript. And if you do so, if you find any errors, you will be given an errata sheet to which you can correct those errors with.

    It is not mandatory that you do that, but it is certainly your right. And you can make that decision yourself.

    Do you have an attorney with you here today?

    THE WITNESS: I do not have one with me, no.

    MR. KOERBER: Were you expecting one to be here today?

    THE WITNESS: No. I didn't know how
formal or informal this was going to be, so I didn't make any preparation.

MR. KOERBER: That's fine. Would you please swear in the witness?

JASON ALAN ROSE, WITNESS, SWORN

MR. KOERBER: Polly, do you want to put on the record that he has a letter?

MS. HAMPTON: Yes. I just want to mention that before this interview started I handed you a letter. Correct?

THE WITNESS: Yes, that's correct.

MS. HAMPTON: And you reviewed that letter?

THE WITNESS: Yes.

MS. HAMPTON: Do you have any questions at this point about the content of that letter?

THE WITNESS: No.

MS. HAMPTON: I do want to point out that in that letter there's contact information for Norman Page. He is the team leader for the MSHA investigation team.

If after the time that you leave here today you have additional information you would like to share with the teams, you are certainly
welcome to contact him, or if you have any questions or anything else that you think that the team should know.

THE WITNESS: Okay.

MR. KOERBER: Sir, would you please state your full name for the record and spell your last name?

THE WITNESS: Yes. My name is Jason A. Rose. Middle name is Alan, A-l-a-n. Last name Rose, R-o-s-e.

MR. KOERBER: Sir, would you please also give us your address and your telephone number?

THE WITNESS:  

MR. KOERBER: Sir, Mr. Farley gave you a couple of business cards earlier. In the event that you have any information that you think of after this interview that you would like to share with the State, you can get ahold of Mr. Farley or Mr. Tucker at the addresses and telephone numbers on those business cards.

I would also like to just give you one more document. This document contains the address
to the West Virginia Board of Appeals.

The Board of Appeals is an administrative tribunal that hears discrimination complaints filed by coal miners who believe they have been discriminated against in the course of their duties as a coal miner.

Coal miners are protected by the West Virginia Code 22A-1-22 from being discriminated against for giving information in this type of a setting, this type of an interview.

If you do find yourself being discriminated against for participating in this interview, I want you to have the contact information for the Board of Appeals.

And I would also like to caution you that should you encounter any discrimination you only have 30 days from the day the event occurs to file your complaint.

THE WITNESS: Okay.

MR. KOERBER: Okay. Thank you, sir.

THE WITNESS: Thank you.

MR. KOERBER: And at this point in time I would like to pass the interview over to Mr. Farley to begin the interview.
MR. FARLEY: Thank you.

EXAMINATION

BY MR. FARLEY:

Q. Mr. Rose, can I start with a little background information, please.

A. Sure.

Q. Where are you currently employed?

A. Buchanan Pump Service.

Q. What is the address of the business?

A. It's Route 19 South Scarboro Loop, Oak Hill.

Q. Now, what business is your company engaged in?

A. We provide -- we're in the pump business. We provide full service pump. We sell, service, repair, install pumps.

Q. At mines?

A. Yes. Well, yeah. Some at mines, yes, and other, but yes, at mines.

Q. All right. Now, have you provided any such services for Performance Coal, particularly the Upper Big Branch mine, in the last year?

A. Yes, sir.

Q. Okay. Can you give me an idea of what you
have done for them?

A. We do mostly work off the general mining site at -- turbine pumps, vertical turbine pumps, is our main forte. That would involve coming onto the site, repairing or installation, troubleshooting, or replacing the pumps that they have in place.

Q. Okay. Now, at what locations on the Performance Coal Upper Big Branch property would you have worked or installed pumps?

A. Now, we have done some work at the site itself. We have done work off-site at locations called Jarrells Branch, Matts Creek, West Fork, and I believe that's -- and at the creek pump, at their main water supply at the creek on Coal River.

Q. Now, have any of your pumps had any application or been installed to remove water from underground?

A. Yes, sir.

Q. At all those locations or --

A. All but the pumps in Coal River are dewatering pumps, yes, sir.

Q. Now, have you been involved in installing any dewatering pumps in the Bandytown fan area?
A. Yes, sir.

Q. When were you last in that area?

A. Probably -- we put those pumps in at the first of the year, January or February. We would have that on file.

Q. Okay. Now, so you think that's the last time you were in the Bandytown fan area?

A. As far as doing pump installation, yes, sir. We may have had someone by there, I don't recall specifically, to maybe look at something or something of that nature. But as far as doing work, yes, sir.

Q. What type of pumps did you specifically -- did you actually install around that time in the Bandytown area?

A. They were turbine pumps, vertical turbine pumps.

Q. How many?

A. Two. That was actually the -- the latter one was the one I gave you. The prior one was last year. The Number 1 pump was last year, to my memory. I mean, I could support that.

Q. Would it be unreasonable for us to request some documentation of what you have done there?
A. No.

Q. And that is in no way to question --
A. Sure.

Q. -- your word on the subject.
A. Sure. Well, I am going by memory, so, yeah, I wouldn't oppose that.

Q. Okay. We would appreciate it. We would like to request copies of whatever documents you have on that if you don't mind.
A. Just at those two particular sites? I mean, at that one site?

Q. Yes.

MR. FARLEY: Is there, do you think, reason for other sites?
MR. SHERER: No.

Q. When was the last time you or other persons employed by your company might have been on the Performance Upper Big Branch property?
A. Prior to the --

Q. Explosion on April 5th.
A. -- incident? On April 5th we were in the guard shack, in the vicinity of the property, but we weren't at the mine site and we weren't working for Performance Coal.
Q. Okay. Which guard shack do you --

A. The guard shack on Coal River, the one on Route 3.

Q. At the community -- at Montcoal?

A. Montcoal.

Q. And you say you were not working on pumps at the time?

A. No. We were. We weren't working for Performance Coal or Upper Big Branch. We were working on Progress's water system.

Q. That's Progress Coal?

A. Progress Coal, yes.

Q. That's also a Massey subsidiary?

A. Yes, sir.

Q. Now, what precisely were you doing for Progress at the time?

A. That particular day we -- I think we changed a pump in the river, and then we went up and checked on the pumps at the location known as Lower Big Branch or LBB, which is the right fork up, you know, from UBB.

Q. Now, the pump in the river, was that for purposes of providing a water supply to some location?
A. To Progress, yes.

Q. Were you yourself working there that day?

A. I stopped by to check on the guys at about 4:00 roughly and left around 5:00, something like that.

Q. Do you recall who the individuals were that you had working at the site?

A. Yes. I shared those names with Bill there. It's Doug Dixon and Chris Young, I believe.

Q. Chris Young?

A. Yes.

Q. Okay. Now, would it have been customary or typical for Performance Coal, Upper Big Branch mine, or any Massey subsidiary to contact you if they had a problem with a particular pump or pumps?

A. Yes, sir.

Q. Now, did you receive any service calls or any requests for assistance with any pumps on the Performance Upper Big Branch mine property within the week preceding the explosion on April 5th?

A. Not that I can recall, because typically when they call we respond rather quickly. So to my remembrance, no, or we would have been working on one of their pumps during that time period.
Q. Now, if you responded rather quickly, would that have been because some pump was --

A. No.

Q. -- not operational or there was an emergency?

A. You know, you guys know this as well as anybody. What we do in moving water is very time critical, so we have become good at responding. So that's just what we do.

Q. I understand.

A. If nothing else, we at least send one person out to take a look at it and see what kind of attention we need to make on the situation.

Q. I think my last question was, did you receive such a call for assistance within the week preceding the explosion?

A. Correct.

Q. At what point in time did you actually begin working on Performance Coal at Upper Big Branch property?

A. For them as a mine?

Q. Yes. Would that have been this year, last year?

A. In 1997 maybe.
Q. So you folks have been working with them --

A. Sure.

Q. -- several years?

A. Yes. Probably since Massey bought it, I would guess, somewhere in that time period.

Q. Now, when you installed the pumps at the Bandytown location, do you recall, was there -- was that time sensitive? Was there a critical need specified to you?

A. I don't recall. I don't think so. I think it was a very normal, actually a slow process, because we were ahead of the game and they were doing some construction as far as building the sump and things of that nature. That's what I recall. So it was never a hurry, hurry type deal during the whole process, yeah.

Q. So I think their longwall, as we understand, started up about September, early September, of last year.

Now, after that time, did you receive any calls requesting your assistance that were deemed urgent?

A. Well, like I said, every phone call we get
is deemed urgent. That's just kind of the way we handle business.

At that particular site, I don't recall any. We put the first pump in, and some months later we went and put the second pump in. And the second pump has never been started to my knowledge.

Q. You indicated that you had personnel on the Performance property on April 5th. Do you recall the most recent -- the last time prior to April 5th you had any folks on their property?

A. I don't recall it, but I have got a little bit of information with me.

Prior to that was January the 6th. So I told you wrong. January 6 would have been the day we were at --

Q. The last time you were on the Performance property?

A. That would have been at that Jarrells Branch site. That would have been the last time, January 6.

Q. While you were on the property April 5th at Performance Coal, did you pick up on any information that indicated there might have been some pump problems in the Bandytown area?
A. No, sir. No, sir.

MR. FARLEY: Do you have anything?

MR. SHERER: I've got just a few follow-up questions, Mr. Rose.

EXAMINATION

BY MR. SHERER:

Q. You mentioned that there's two pumps in Bandytown, and then you also mentioned that the second one hadn't been started. So I assume the second one is a backup?

A. Yes, sir.

Q. What size pumps are those?

A. 400 horsepower.

Q. 400 horsepower.

A. Yes, sir.

Q. Do you recall what the maximum flow rate is for those pumps?

A. Somewhere in the 2,000 to 3,000 gallon a minute range. Not for positive, but that should be pretty close.

Q. Do you know if the pumps had been operating near that capacity?

A. As far as I know, yes, sir.

Q. Do you know where the discharge from those
pumps are routed?

A. The pipe goes off -- you know, it goes out the road and off the hill, but I have never actually seen the discharge.

MR. SHERER: That's all the questions I've got. Thank you.

THE WITNESS: Sure.

EXAMINATION

BY MS. SPENCE:

Q. How are those pumps powered?

A. Electrically. They're 4160 volt.

Q. So they're electric powered?

A. Yes, ma'am.

Q. And what happens -- if somebody says, "It's gone down, we have had a failure," what does that mean usually?

A. Oh, that could be all kinds of -- from something really simple that somebody overlooked to something that would require, you know, three or four days of on-site pulling the pump and repairing it, putting it back in.

That's the purpose of the Number 2 pump. So that's why I'm not sure if the Number 2 pump was ever started, because I don't think there were ever
any problems with that Number 1 pump.

Q. As far as you know, there were never any problems with the Number 1?

A. As far as I know, yes, ma'am.

MS. SPENCE: Thank you. That's all.

EXAMINATION

BY MR. SHERER:

Q. One follow-up question to what Ms. Spence asked you. You said they're 4160 volt electric pumps. Are they tied in with the power grid, or is that off a generator?

A. No. It's on the power grid. Yes, sir. There's no generators close by, unless there's one off-site that I'm not aware of, but I don't think so.

MR. SHERER: Thank you.

MR. KOERBER: Mr. Rose, we are interviewing several people, and potentially we may have a need to re-call certain people. So I want you to be aware that if at some point in the future we deem the need to ask you some more questions, we may re-call you.

THE WITNESS: Sure.

MR. KOERBER: And I would also like to
give you an opportunity now to add anything that
you would like to add, say anything that you
believe this investigative body should know that
they did not ask you a question about, clarify
anything that you said earlier, or make any
statement or comment you would like to make.

THE WITNESS: Sure. I would just like to
say when Bill stopped by and asked me a few
questions, you know, I wasn't sure of the depth of
this interview. I just wanted to offer any kind of
information I could as to what little bit I do
know.

Other than that, I don't have any further
questions or information I could think of that
would be beneficial.

MR. KOERBER: Okay. Well, I would like to
thank you very much for coming, and we'll go off
the record.

MR. FARLEY: One second. When you say
"Bill," do you mean Bill Tucker with the Office of
Miners' Health, Safety and Training?

THE WITNESS: Yes, sir. I believe this is
the guy. I have got his card in my office. I
believe it's --
MR. FARLEY: I believe it is too.

THE WITNESS: Yes, sir.

(Interview of JASON ALAN ROSE concluded at 3:18 p.m.)
STATE OF WEST VIRGINIA, To-wit:

I, Elizabeth A. Howd, a Notary Public, Registered Diplomate Reporter, and Certified Realtime Reporter, within and for the State aforesaid, duly commissioned and qualified, do hereby certify that the interview of JASON ALAN ROSE was duly taken by me and before me at the time and place specified in the caption hereof.

I do further certify that said proceedings were correctly taken by me in stenotype notes, that the same were accurately transcribed out in full and true record of the testimony given by said witness.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties to the action in which these proceedings were had, and further I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

My commission expires the 5th day of July, 2012.

Given under my hand and seal this 27th day of October, 2010.

_____________________________
Elizabeth A. Howd, Notary Public
Registered Diplomate Reporter
Certified Realtime Reporter