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**Transcript of the Testimony of Gary Sargent**

**Date:** September 28, 2010

**Case:**

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STATEMENT UNDER OATH

OF

GARY SERGENT

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 Tuesday, September 28, 2010, beginning at 10:37 a.m.

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1                   A P P E A R A N C E S

2

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

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JASEY MAGGARD

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(b) (7)(C)

(b) (7)(C)

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## P R O C E E D I N G S

1  
2 -----  
3 ATTORNEY BAXTER:

4 My name is Derek Baxter. Today is  
5 September 28th, 2010. I'm with the Office of the  
6 Solicitor, U.S. Department of Labor. With me is Jasey  
7 Maggard, an accident investigator with the Mine Safety  
8 and Health Administration, MSHA, an agency of the  
9 United States Department of Labor. Also present are  
10 several people from the State of West Virginia. I ask  
11 that they state their appearance for the record.

12 MR. SCOTT:

13 I'm John Scott. I'm with the West  
14 Virginia Office of Miners' Health, Safety and  
15 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 BAXTER:

23 There are also several members of the  
24 investigation team present in the room today. Mr.  
25 Maggard, Mr. Scott and Ms. Spence will be conducting

1 the questioning today.

2 All members of the Mine Safety and Health

3 Accident Investigation Team and all members of the

4 State of West Virginia Accident Investigation Team

5 participating in the investigation of the Upper Big

6 Branch Mine explosion shall keep confidential all

7 information that is gathered from each witness who

8 voluntarily provides a statement until the witness

9 statements are officially released. MSHA and the

10 State of West Virginia shall keep this information

11 confidential so that other ongoing enforcement

12 activities are not prejudiced or jeopardized by a

13 premature release of information. This

14 confidentiality requirement shall not preclude

15 investigation team members from sharing information

16 with each other or with other law enforcement

17 officials. The team members' participation in this

18 interview constitutes their agreement to keep this

19 information confidential.

20 Government investigators and specialists

21 have been assigned to investigate the conditions,

22 events and circumstances surrounding the fatalities

23 that occurred at the Upper Big Branch Mine-South on

24 April 5th, 2010. The investigation is being conducted

25 by MSHA under Section 103(a) of the Federal Mine



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

4 You may have your personal attorney  
5 present during the taking of this statement or another  
6 personal representative, if MSHA has permitted it, and  
7 may consult with your attorney or the representative  
8 at any time. And for the record, do you have a  
9 personal attorney or representative with you here  
10 today?

11 MR. SERGENT:

12 No.

13 ATTORNEY BAXTER:

14 Your statement is completely voluntary.

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

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

9 MR. SERGENT:

10 Yes.

11 ATTORNEY BAXTER:

12 Do you have any questions?

13 MR. SERGENT:

14 No.

15 ATTORNEY BAXTER:

16 After the investigation is complete, MSHA  
17 will issue a public report detailing the nature and  
18 causes of the fatalities in the 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 your personal  
25 representative or counsel.

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 us to  
4 rephrase it. Please answer each question as fully as  
5 you can, including any information you've learned from  
6 someone else.

7 I 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. After we have  
11 finished asking questions, you'll have an opportunity  
12 to make a statement and to provide us with any other  
13 information that you believe to be important. If at  
14 any time after the interview you recall any additional  
15 information that you believe might be useful, please  
16 contact Norman Page of MSHA at the telephone number or  
17 e-mail address provided to you. Will you please swear  
18 in the witness?

19 -----  
20 GARY SERGENT, HAVING FIRST BEEN DULY SWORN, TESTIFIED  
21 AS FOLLOWS:

22 -----  
23 EXAMINATION

24 BY MR. MAGGARD:

25 Q. Gary, would you please state your full name and

1 spell your last name for us, please?

2 A. Gary Lee Sargent, S-E-R-G-E-N-T.

3 Q. And could you provide your address and telephone  
4 number, please?

5 A. Address, (b) (7)(C) , that's

6 (b) (7)(C) You

7 said phone number as well?

8 Q. Please.

9 A. Do you want home or office?

10 Q. Office.

11 A. Office phone number is (276) 988-5505.

12 Q. Gary, tell us a little bit about your background  
13 as far as mining experience, what you do now, and a  
14 little bit about what you do for Pyott-Boone, please.

15 A. Okay. I graduated Bluefield State College in  
16 2000, and started for work at Pyott-Boone Electronics  
17 that year, January 1st of 2000. Have been a sales ---  
18 I was a sales engineer for the first several years  
19 there and I'm currently a project manager over the  
20 communications and tracking products.

21 During my college years I worked for Consol Energy  
22 in the engineering student program that they had. I  
23 received my black hat during those years. Spent three  
24 years underground --- or three summers underground and  
25 three summers with the de-gasification projects. So

1 for the last four years, since 2006, roughly about the  
2 time of Sago, when I was tasked with communications  
3 and tracking, that has been what I have done for the  
4 last four years, is worked on the mine comm leaky  
5 feeder systems and the Pyott-Boone tracking.

6 Q. Tell us a little bit about the tracking system,  
7 how it works, talk about ranges, frequencies, whatever  
8 you can tell us to help us understand how it works.

9 A. Okay. The Pyott-Boone tracking boss system, as we  
10 call it, is what they call an RFID zone-based system.  
11 A tag reader will be located at various intervals that  
12 meet all regulatory requirements, such as the MSHA  
13 PPL. It will detect the tag that a user or a vehicle  
14 is quipped with as it passes by. The tag operates at  
15 924 megahertz. The tag reader itself is dependent  
16 upon the system it's in. The one that was at UBB was  
17 what we call UHF, so it operated at approximately 488  
18 megahertz on the receive, and transmitted at  
19 approximately 456 megahertz. The maximum detection  
20 range that we've seen on this system has been  
21 approximately 700 feet. That's been in entries where  
22 there is no metal objects to obstruct signal, such as  
23 an intake. Typically in belt and track entries we've  
24 seen 200 to 300 feet. That's based on a mine height  
25 of 75 inches. As the mine height goes down, then so

1 does the signal range.

2 Q. Okay. The radios, as far as the leaky feeder  
3 communication, that would be the same frequency as  
4 your tag reader repeater portion, which is 4000 ---?

5 A. Yeah. The radios themselves are approximately 487  
6 and 457.

7 Q. And that would be VHR or ---?

8 A. UHF.

9 Q. UHF?

10 A. Uh-huh (yes).

11 Q. As far as work that was done at UBB, what part did  
12 you play in getting the system installed at UBB?

13 A. Nothing hands on. I left UBB mostly up to the  
14 guys that work under me.

15 Q. Okay. And who all did you have working under you  
16 that went --- that was involved with UBB's  
17 installation?

18 A. Dave Childress and Wes Leffel were there on a few  
19 occasions. I don't recall if we had anyone else  
20 there.

21 Q. Okay. And when did this project start?

22 A. I'm afraid I just don't really remember that  
23 information. I'd have to go back and look at my  
24 records.

25 Q. Do you keep copies of all purchase orders?

1 A. Keep copies of all purchase orders, all service  
2 reports.

3 Q. Is there a possibility that I could get a copy of  
4 those?

5 A. Yeah.

6 Q. Maybe, you know, what was ordered, not --- I don't  
7 need --- I'm not interested in costs or anything, you  
8 know, just as far as when it was ordered and when it  
9 was delivered.

10 A. Okay. If someone can make me a note. I didn't  
11 bring ---.

12 Q. I think that will be good.

13 A. I know approximately ten days prior to the  
14 explosion we had been there on a service call and had  
15 helped install a few more tag readers, but the system  
16 was not fully installed at the time. And I believe  
17 --- and Dave is more familiar than I am. I believe  
18 the last tag readers were approximately this area.

19 Q. And I believe that he's pointing to around the  
20 Mother Drive area. And that's where David had  
21 mentioned earlier today. What kind of problems had  
22 the company had with the installation? I mean, what  
23 was --- why was they kind of slow about getting it  
24 installed and ---?

25 A. UBB was the biggest mine that we had ever

1 installed a system in, and we ran into a problem that  
2 we did not realize existed. We reached a point where  
3 communications and tracking data did not function, and  
4 so we researched the project with the help of the  
5 electricians at UBB and we determined that we needed  
6 to change the frequencies to make them more optimal  
7 through the leaky feeder amplifiers. And that we had  
8 just changed those frequencies on that service call  
9 ten days prior to the accident that I referred to, so  
10 it was sort of our not understanding of our own system  
11 that prevented them from going farther until we  
12 resolved that. And we did get everything up and  
13 running ten days prior to and found that those  
14 frequencies worked and --- because I think because of  
15 the Easter holiday, that's what sort of, you know,  
16 slowed down them actually installing the rest of the  
17 units.

18 Q. So what did you have to do to change the  
19 frequencies? What does that entail?

20 A. It's reprogramming the modem card inside the tag  
21 readers.

22 Q. And how --- I mean, I'm kind of unsure about, you  
23 know, the radio frequency. It's a set frequency or is  
24 there different channels that are closer to the  
25 frequency that you need, or how does that work?



1 A. Well, the frequencies can be anything that we  
2 choose as long as it falls within the filters of the  
3 leaky feeder equipment. So we had picked frequencies,  
4 you know, that we thought would be good. And then  
5 when we actually put them in, like I said, we found  
6 out that we were hitting sort of an invisible wall  
7 where they didn't want to travel that many miles on  
8 the cable, and so our engineers did some more testing  
9 and found some more optimal frequencies that actually  
10 would travel more distance, and that is what we  
11 changed to.

12 Q. As far as amplifiers go, how often do you have to  
13 add an amplifier to the system?

14 A. The distance varies. When there is nothing  
15 between amplifiers, just cable, it's 1,148 feet. If  
16 there would be anything in between those amplifiers,  
17 though, such as a branch to split the line or a power  
18 coupler to insert voltage onto the line, then we  
19 reduce the cable distance to compensate for the  
20 insertion loss of that device.

21 Q. Since you didn't go to UBB, do you have any idea  
22 when the last order prior to the accident was? Had  
23 they had a late order of some stuff or do you think  
24 they had enough stock there to complete the system?

25 A. I believe they had enough stock on site. I'm

1       pretty sure they did.

2       Q. How familiar are you with the CO systems you guys  
3       sell?

4       A. I'm actually very not informed.

5       Q. How about the event recording of your mine boss  
6       system?

7       A. I know that it does record and it changes its  
8       values, alarm and warning conditions for any of our  
9       devices that are connected into the system.

10      Q. Okay. And let's talk about response times.  
11      What's an average response time to say a data loss, a  
12      line is cut in on the system or a CO alarm, how quick  
13      could those alarms come in or a tag reader alarm  
14      or ---?

15      A. There's a difference between the tag reader system  
16      and the CO system. The tag reader system reports all  
17      information over the leaky feeder cable wirelessly.  
18      So that polling time is actually faster. I'm not sure  
19      how much faster, but typically within 20 to 30 seconds  
20      our computer would poll readers and get that  
21      information back.

22      The CO system that was installed at UBB is what we  
23      call 320 baud. The system was purchased, I believe,  
24      sometime in the '90s, so therefore was our slowest  
25      version. The faster version that we sell as a default

1 now did not come out until sometime after UBB had  
2 purchased their initial system. So that's why their  
3 CO system was a bit slow for a mine this size. Our  
4 engineers would have to calculate what kind of delay  
5 speeds we would see typically over this kind of a  
6 distance, but I believe it does end up being several  
7 seconds as in possibly a minute.

8 Q. Now, if, say, you know, we had an explosion of  
9 quite a large magnitude here and a lot of different  
10 components got damaged at one time, we had a lot of  
11 data losses that come in, you know, pretty much, you  
12 know --- a big bunch of them, a lot of addresses were  
13 lost, would that speed the response time up somewhat  
14 because there's so many different addresses coming in  
15 that are in alarm, that the communications is not  
16 there? Would that make it faster or slower ---

17 A. I believe ---.

18 Q. --- versus one address that was lost?

19 A. I believe slower. I would actually have to check  
20 with my engineering department because the computer  
21 polls those addresses. When it's initially set up,  
22 it's told that there's this unit at this address, and  
23 so then it polls that address. But I do not know what  
24 happens when it's waiting for an address to respond.  
25 I don't know if it gives up and moves on to the next

1 one. I'm sure it does, but I don't know after what  
2 time period, okay.

3 Q. Okay. So if it polls that one address and it  
4 doesn't get anything, does it wait until it gets back  
5 to it again after it polls all the rest of the  
6 addresses?

7 A. That's my understanding.

8 Q. Okay. I would like to know that and maybe  
9 possibly --- I know we've requested that Wes Leffel  
10 come here and do an interview maybe next week, if  
11 possible.

12 A. Okay. I have not heard that.

13 Q. Well, I didn't know if you did or not. But I'd  
14 like to get that information if at all possible.

15 A. Okay. I can make sure he gets that information so  
16 he can tell you.

17 Q. I know that --- I guess Mr. Godsey --- is that  
18 Adam Godsey, ---

19 A. Adam Godsey.

20 Q. --- is a good resource for that?

21 A. He's an excellent resource, uh-huh (yes).

22 Q. That would be great.

23 A. Would you like to interview him as well?

24 Q. Well, I would like --- I know you guys -- I think  
25 you guys kept a copy of --- did you keep a copy of the

1 UBB data?

2 A. Yes, we did.

3 Q. Okay. What I would like for you to do is look at  
4 the 1508 time frame on April 5th and look at all the  
5 data that was lost as far as communication, ---

6 A. Uh-huh (yes).

7 Q. --- all the addresses and, you know, give me some  
8 scenarios of, you know, the time lag on that, how slow  
9 that data could be.

10 A. Okay.

11 Q. As far as CO sensors go, what do you know about  
12 their capabilities as far as concentrations that they  
13 work in?

14 A. I think they're rated range is zero to 120 parts  
15 per million.

16 Q. And I assume they're --- are they catalytic,  
17 electrochemical? What type of ---?

18 A. They are a chemical reaction.

19 Q. Okay. And is there a certain level of oxygen that  
20 they need to receive to read accurately?

21 A. Not that I'm aware of.

22 Q. Is there a certain CO percentage that --- is there  
23 certain conditions that would burn up a sensor or  
24 damage it?

25 A. I don't have enough information to answer that

1 question.

2 Q. I may ask Wes or Adam about that?

3 A. I can ---.

4 Q. Send word with them?

5 A. I can tell Wes that you're needing these answers,  
6 and he can find out from Adam.

7 Q. That would be great.

8 MR. MAGGARD:

9 I guess, John, I'll let you start.

10 EXAMINATION

11 BY MR. SCOTT:

12 Q. You said that there was a --- you found out there  
13 was a problem with the frequencies and you all had  
14 went in prior to this event, in approximately ten  
15 days, and adjusted the --- changed frequencies. When  
16 did you --- or do you remember when you found out  
17 there was a problem?

18 A. I think it was approximately two to three weeks  
19 prior to the accident, when we spent approximately a  
20 week or so, you know, scratching our heads and  
21 thinking of different things.

22 Q. That could be wrong?

23 A. Uh-huh (yes).

24 Q. To your knowledge, does all of Massey's mines use  
25 this same system pretty much? Is it company-wide, the

1 same system they had here at UBB or is it similar  
2 or ---?

3 A. All but two that I'm aware of. They do have a  
4 recent acquisition of mines in Kentucky that I'm not  
5 familiar with. I think they already had something  
6 when they acquired them. And outside of that, the  
7 ones I am aware of, I think there's two that do not  
8 use our system.

9 Q. Have you received any kind of request from the  
10 company as far as data retrieval since the accident,  
11 any questions from the company?

12 A. No, not since the day that you and I met over at  
13 UBB.

14 Q. Has any of Massey's attorneys contacted your  
15 company with questions?

16 A. Not to my knowledge.

17 MR. SCOTT:

18 Thank you.

19 EXAMINATION

20 BY MS. SPENCE:

21 Q. Do you think the system worked the way it was  
22 supposed to have worked on April 5th?

23 A. Yes.

24 MS. SPENCE:

25 Thank you. That's all.

1 MR. MAGGARD:

2 I think we need to take a break.

3 OFF RECORD DISCUSSION

4 RE-EXAMINATION

5 BY MR. MAGGARD:

6 Q. Gary, what type of training have you guys --- your  
7 guys that work for you provided for UBB on the system?

8 A. While we're installing, we always that if there  
9 are any of the people at the mine that are going to be  
10 working on the system accompanying us and work with  
11 us. So it's a hands-on training during the  
12 installation phase. When we feel comfortable that  
13 they know how to install the devices, then we leave  
14 for a while, while they finish the install to save  
15 them our labor charges, and then we come back and  
16 verify what they've done. And then we work with a  
17 dispatcher on the dayshift and explain everything to  
18 them and give them a training class or a training  
19 session, I guess, on how to actually look at the  
20 readers and see where people are.

21 Q. In your opinion, from feedback from your guys, do  
22 you feel that the dispatchers were knowledgeable or  
23 they needed additional training at UBB as far as the  
24 tracking system goes?

25 A. They knew how to look at the screen and see where



1 people were, but the reporting functions were not  
2 fully implemented at that point, and that was one of  
3 the reasons why we sent --- or our guys went to the  
4 mine that night to help them print out the reports.

5 Q. So had all of the dispatchers at some point went  
6 through some kind of training class with you guys?

7 A. Not all shifts, just the dayshift person. And I  
8 believe we probably would have talked to the evening  
9 shift, but I would have to confirm that with Dave or  
10 Wes.

11 Q. Do you all keep a record of people that you train  
12 when you're at the mines?

13 A. No, we do not.

14 Q. Is there anything that --- any kind of information  
15 that your guys have mentioned about the mine that  
16 indicated that they were worried about conditions at  
17 the mine?

18 A. No. Actually, UBB was one of the ones we always  
19 looked forward to working in. It always felt like a  
20 safe environment.

21 ATTORNEY BAXTER:

22 On behalf of MSHA and the Office of  
23 Miners' Health, Safety and Training, I want to thank  
24 you for appearing and answering questions today. Your  
25 cooperation is very important to the investigation as

1 we work to determine the cause of the accident. We  
2 request that you not discuss your testimony with any  
3 person aside from your personal representative. After  
4 questioning other witnesses, we may call you if we  
5 have any follow-up questions. If at any time you have  
6 additional information regarding the accident that you  
7 would like to provide to us, please contact us at the  
8 contact information that was previously provided to  
9 you.

10 If you wish, you may now go back over any  
11 answer you've given during this interview. You may  
12 also make any statement that you'd like to make at  
13 this time. Again, I want to thank you for your  
14 cooperation in this matter.

15 A. Thank you.

16 \* \* \* \* \*

17 STATEMENT UNDER OATH CONCLUDED AT 11:07 A.M.

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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*

<b>A</b>	<b>Airport</b> 1:9	8:9,13	<b>biggest</b>	16:11
<b>Academy</b> 1:9	<b>alarm</b> 17:8	9:11,15	14:25	21:15
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