



**SARGENT'S
COURT
REPORTING**

Quality Work. Quality People.

Transcript of the Testimony of Barry Fletcher

Date: May 18, 2010

Case:

Printed On: May 21, 2010

Sargent's Court Reporting Services, Inc.

Phone: 814-536-8908

Fax: 814-536-4968

Email: schedule@sargents.com

Internet: www.sargents.com

CONTINUED STATEMENT UNDER OATH
OF
BARRY FLETCHER

taken pursuant to Notice by Brett Steele, 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-123, Beaver, West Virginia, on Tuesday, May 18, 2010, beginning at 9:34 a.m.

Any reproduction of this transcript is prohibited without authorization by the certifying agency.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

ROBERT S. WILSON, ESQUIRE
U.S. Department of Labor
Office of the Regional Solicitor
1100 Wilson Boulevard
22nd Floor West
Arlington, VA 22209-2247

TERRY FARLEY
West Virginia Office of Miners' Health,
Safety and Training
1615 Washington Street East
Charleston, WV 25311

ERIC SHERER
Mine Safety and Health Administration
1100 Wilson Boulevard
Arlington, VA 22209-3939

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A P P E A R A N C E S

JOHN O'BRIEN
Safety Inspector
West Virginia Office of Miners' Health,
Safety and Training
Welch Regional Office
891 Stewart Street
Welch, WV 24801-2311

BETH SPENCE
West Virginia Independent Investigation

[REDACTED]
[REDACTED]

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS: BARRY FLETCHER

EXAMINATION

By Mr. Farley

6 - 10

CERTIFICATE

11

1		EXHIBIT PAGE	
2			PAGE
3	NUMBER	DESCRIPTION	IDENTIFIED
4		NONE OFFERED	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			

P R O C E E D I N G S

1
2 -----
3 ATTORNEY WILSON:

4 Good morning. We're with Barry Fletcher,
5 with the Office of Miners' Health, Safety and
6 Training. Mr. Fletcher had previously given a
7 statement, and we've been notified that he has some
8 additional information that he would like to provide.
9 Today is May 18, 2010. So this would be a
10 continuation of Mr. Fletcher's interview from
11 yesterday. We have the exhibit that had been marked
12 Fletcher One, and I'll turn it over to Terry Farley to
13 start the questioning. You're still under oath from
14 yesterday.

15 -----
16 BARRY FLETCHER, HAVING BEEN PREVIOUSLY SWORN,
17 TESTIFIED AS FOLLOWS:

18 -----
19 EXAMINATION

20 BY MR. FARLEY:

21 Q. Barry, I think, as I understand it, after some
22 reflection, you would like to correct or revise some
23 of your testimony from yesterday as to where --- as to
24 what areas you visited during the rescue and recovery
25 operation at the Upper Big Branch Mine on April 5th,

1 2010 and days afterwards when you participated. So
2 please just explain what you need to tell me.

3 A. Well, I had misspoke concerning a route of travel
4 on the 10th, the day that we retrieved bodies on the
5 longwall face and the longwall belt entry. The travel
6 route that we took, once we got off our manbus, we
7 walked up along the section of the belt ---.

8 Q. Where did you get off the manbus that day?

9 A. Probably at the 78, 79 block.

10 Q. Okay. All right.

11 A. Somewhere around that area. And I had stated that
12 I traveled up this tailgate area, and that was a
13 mistake.

14 Q. All right.

15 A. When we come off the track at about 81 or 82
16 Block, we turned left, as I stated. But instead of
17 going up the tailgate entries, we did travel up the
18 Four North, which would be Number Two entry, adjacent
19 to the track.

20 Q. Okay.

21 A. So I'd just like to correct that on the record,
22 the travel route.

23 Q. As your route of travel to the longwall face, is
24 that what you mean?

25 A. Yes, sir. Yes, sir. And the belt area, where the

1 bodies were located along the belt.

2 Q. So if I understand you correctly, you exited the
3 mantrip around 78 ---

4 A. Right.

5 Q. --- and traveled in the inby direction ---

6 A. Up the track.

7 Q. --- up the track entry?

8 A. Around 82 Block. We cleared the track to 82 and
9 then we went over in this adjacent entry, and here's
10 where we cleared ---.

11 Q. The adjacent entry, would that be the Number Two
12 entry, as you're traveling inby?

13 A. Yes, sir, that is correct.

14 Q. Now, how far did you travel in the Number Two
15 entry, heading in the inby direction?

16 A. Well, we traveled up to probably around 100 Block,
17 in the ballpark there, cleaning a mantrip road. We
18 might have made it to 101 or 102. But that's
19 eventually where we parked the rubber-tired mantrip.
20 And that's when we carried the bodies down to that
21 location.

22 Q. Okay. Now, how did you proceed to the longwall
23 face from that location?

24 A. We walked. By foot.

25 Q. In the area of where you --- as you were traveling

1 to the longwall face, ---

2 A. Yes, sir.

3 Q. --- you traveled up the Number Two entry to about
4 Crosscut 100. Now, how did you proceed from there to
5 the longwall face?

6 A. At that point we had to wiggle around across this
7 belt.

8 Q. Would that be the ---

9 A. Longwall.

10 Q. --- longwall belt?

11 A. Yes, sir.

12 Q. Okay.

13 A. And then we was on the belt in the adjacent
14 entries. And that's where --- we carried the people
15 up through there.

16 Q. Okay. So you traveled the longwall belt and
17 adjacent entries?

18 A. Which would be the Number Two.

19 Q. Why did you switch to --- back and forth?

20 A. Debris issues with carrying ---.

21 Q. Because of the debris on the track?

22 A. Yes, sir.

23 Q. So you traveled the longwall belt and the adjacent
24 entries to the longwall belt as conditions dictated to
25 the longwall face and back; is that correct?

1 A. Correct. To where the people were located, that's
2 correct.

3 Q. And as you said earlier, you did not travel in the
4 longwall tailgate entry; ---

5 A. No, sir.

6 Q. --- is that correct?

7 A. No.

8 Q. Okay. Is there anything else you need to tell us
9 that would revise your earlier statement?

10 A. No, sir. I just realized that I made a mistake.
11 I wanted to correct that for the record.

12 Q. That's okay. We appreciate your desire to get it
13 right.

14 MR. FARLEY:

15 Anything else? Any questions? Any
16 follow-up?

17 ATTORNEY WILSON:

18 Thank you for coming back in, and we're
19 off the record.

20

21 * * * * *

22 STATEMENT UNDER OATH CONCLUDED AT 9:39 A.M.

23 * * * * *

24

25

1 STATE OF WEST VIRGINIA)

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I, Brett Steele, 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.



Brett Steele