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Transcript of the Testimony of Andrew Gillispie

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STATEMENT UNDER OATH

OF

ANDREW GILLISPIE

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 Saturday, August 28, 2010, beginning at 10:07 a.m.

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

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P R O C E E D I N G S

ATTORNEY HAMPTON:

My name is Pollyanna Hampton. Today is August 28th, 2010. I am with the Office of the Solicitor, U.S. Department of Labor. With me here is Erik Sherer. He is an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the United States Department of Labor. And also present here are several people from the State of West Virginia, and I ask that they now state their appearance for the record.

MR. FARLEY:

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

ATTORNEY KOERBER:

And I'm Barry Koerber, an Assistant Attorney General, assigned to represent the West Virginia Office of Miners' Health, Safety and Training.

MS. SPENCE:

And I'm Beth Spence, with the Governor's independent investigation.

ATTORNEY HAMPTON:

And we also have other members of the

1 teams who are in the audience observing.
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 provides a statement until the witness statements are
9 officially released. MSHA and the State of West
10 Virginia shall keep this information confidential so
11 that other ongoing enforcement activities are not
12 prejudiced or jeopardized by a premature release of
13 information. This confidentiality requirement shall
14 not preclude investigation team members from sharing
15 information with each other or with other law
16 enforcement officials. Your participation in this
17 interview also constitutes your agreement to keep this
18 information confidential.

19 Government investigators and specialists
20 have been assigned to investigate the conditions,
21 events and circumstances surrounding the fatalities
22 that occurred at the Upper Big Branch Mine-South on
23 April 5th, 2010. The investigation is being conducted
24 by MSHA under Section 103(a) of the Federal Mine
25 Safety and Health Act and the West Virginia Office of

1 Miners' Health, Safety and Training. We really
2 appreciate your assistance in this investigation.
3 You may have a personal attorney present
4 during the taking of this statement or you might have
5 a personal representative with you. Just so that the
6 record is clear, do you have a personal representative
7 with you here today?

8 MR. GILLISPIE:

9 No, I don't.

10 ATTORNEY HAMPTON:

11 Okay. Your identity and the content of
12 this conversation will be made public at the
13 conclusion of the interview process and may be
14 included in the public report of the accident, unless
15 you request that your identity remain confidential or
16 your information would other jeopardize a potential
17 criminal investigation. If you do request us to keep
18 your identity confidential, we can only do that to the
19 extent permitted by law. So that means that if a
20 judge orders us to reveal your identity or if another
21 law requires us to reveal your identity or if there is
22 any other law enforcement reason for revealing your
23 identity, we will do so. As well, the State has their
24 own confidential rules that they have to deal with.
25 So this is a statement only being made by the Federal

1 side. Also, there may be a need to use the
2 information you provide to us or other information we
3 may ask you to provide in the future in other
4 investigations into or hearings about the explosion.

5 Do you understand?

6 MR. GILLISPIE:

7 Yes, I do.

8 ATTORNEY HAMPTON:

9 Do you have any questions about that?

10 MR. GILLISPIE:

11 No, I don't.

12 ATTORNEY HAMPTON:

13 Okay. After the investigation is

14 complete, MSHA will issue a public report detailing
15 the nature and causes of the fatalities in the hope
16 that greater awareness about the causes of accidents
17 can reduce their occurrence in the future.

18 Information obtained through witness interviews is
19 frequently included in these reports. Since we will
20 be interviewing other individuals, we do request that
21 you not discuss your testimony with any other person
22 aside from a personal attorney or a representative, if
23 you were to have one.

24 As you can see, we have a court reporter

25 here. She is recording your interview, so please

1 speak loudly and clearly. If you don't understand a
2 question, please make sure you let us know, and we can
3 rephrase it so that you do understand. And also,
4 please answer each question as fully as you can,
5 including giving us information that might have been
6 something you learned from somebody else.

7 We would like to thank you in advance for
8 your appearance here. We appreciate your assistance
9 in the investigation. Your cooperation is critical in
10 making the nation's mines safer. After we have
11 finished asking questions, you will then have an
12 opportunity at the end to go over any answer that
13 you've given us or, you know, if you want to clarify
14 anything or give us additional information. And we
15 will also give you an opportunity to make a statement
16 if there's anything else that you would like to say to
17 us.

18 If after the time you leave here today
19 you have additional information you'd like to share
20 with the teams, please feel free to contact us. I
21 gave you information in a letter right before the
22 interview. And Norm Page is the team leader for the
23 Federal Accident Investigation Team. You can contact
24 him at any time on his cell phone and e-mail. And so
25 definitely, if there's anything that you think of

1 after you leave and you feel like, oh, I wish I would
2 have said this or this might be confusing, please feel
3 free to do that.

4 Any statements given by miner witnesses
5 to MSHA are considered to be an exercise of statutory
6 rights and protected activity under Section 105(c) of
7 the Mine Act. If you believe any discharge,
8 discrimination or any adverse action was taken against
9 you as a result of your cooperation with the
10 investigation, you may contact MSHA and file a
11 complaint under Section 105(c) of the Act.

12 MR. FARLEY:

13 Mr. Gillispie, on behalf of the Office of
14 Miners' Health, Safety and Training, I want to inform
15 you that the West Virginia Mine Safety Regulations
16 also provide protection against potential
17 discrimination for persons who participate in these
18 type interviews. I'd like to pass along some contact
19 information for the West Virginia Board of Appeals.
20 It's a body which is charged with hearing
21 discrimination complaints from people who work in the
22 mining industry. Should you experience any such
23 problems as a result of participating in this
24 interview, you should contact the Board immediately.
25 And I would caution you that should you need to file a

1 claim, it needs to be done within 30 days of whenever
2 the event occurs. Also, there's my business card and
3 a card for Mr. Bill Tucker, who's our lead underground
4 investigator, should you have any questions of us.

5 Thank you.

6 MR. GILLISPIE:

7 Thank you.

8 ATTORNEY KOERBER:

9 Would you swear in the witness, please?

10 -----

11 ANDREW GILLISPIE, HAVING FIRST BEEN DULY SWORN,

12 TESTIFIED AS FOLLOWS:

13 -----

14 ATTORNEY KOERBER:

15 Sir, would you please state your full

16 name for the record and spell your last name?

17 A. It's Andrew Keith Gillispie, G-I-L-L-I-S-P-I-E.

18 ATTORNEY KOERBER:

19 And would you state your address and

20 telephone number?

21 A. It's [REDACTED]

22 [REDACTED] . My phone number [REDACTED] .

23 ATTORNEY KOERBER:

24 And are you appearing here today as the

25 result of being served with a subpoena?

1 A. Yes, I am.

2 ATTORNEY KOERBER:

3 And would this be a copy of that
4 subpoena?

5 A. Yes, it is.

6 ATTORNEY KOERBER:

7 I'd like this to be Exhibit One.

8 (A. Gillispie Exhibit One marked for
9 identification.)

10 ATTORNEY KOERBER:

11 And this is a document that you probably
12 have not seen. This is the return of service, showing
13 that M.L. Sisson of the Kanawha County Sheriff's
14 Office served this to you on the 9th day of August,
15 about 4:18 p.m. And he signed and it was notarized,
16 and then it contains a copy of the subpoena that he
17 served on you. So I'd like that to be Exhibit Two.

18 (A. Gillispie Exhibit Two marked for
19 identification.)

20 ATTORNEY KOERBER:

21 Sir, the statute that authorizes the
22 Director to subpoena witnesses to interviews such as
23 this also requires the Director to offer to those
24 witnesses a \$40-a-day witness fee, plus mileage
25 roundtrip at the rate of 15 cents per mile, so long as

1 you travel in your personal vehicle, also
2 reimbursement for any tolls that you may have had
3 coming here or going back. In order to receive that
4 money, I have two forms that need to be filled out,
5 one of which is an IRS Form W-9, which is a request
6 for your Social Security number because the \$40 would
7 be considered taxable income and you'll receive a 1099
8 at some later date so that you can put that on your
9 taxes next year. Would you like to fill those forms
10 out at the end of the interview?

11 A. Yes, I would.

12 ATTORNEY KOERBER:

13 Okay. We will do so.

14 ATTORNEY HAMPTON:

15 Okay. We'll get started.

16 EXAMINATION

17 BY MR. FARLEY:

18 Q. Mr. Gillispie, where are you currently employed/

19 A. Performance Coal, Massey Energy.

20 Q. How long have you been employed with Performance
21 Coal?

22 A. In January it will be four years.

23 Q. Has this all been at Performance Coal?

24 A. Yes, it has.

25 Q. Okay. Now, what's your position there?

1 A. Security officer.

2 Q. Security officer?

3 A. Yes.

4 Q. Okay. During the four years you've been with
5 Performance coal, that's been your title for the
6 four-year period?

7 A. Yes, it has.

8 Q. Who do you report to?

9 A. Albert Stover.

10 Q. I'm sorry?

11 A. Albert Stover, Chief of Security.

12 Q. Albert Stover?

13 A. His first new is Huey, but he goes by Albert.

14 Q. Huey?

15 A. Huey.

16 Q. Huey. I'm sorry. Huey Stover. How long have you
17 reported to Mr. Stover?

18 A. My entire time.

19 Q. And he's chief of security?

20 A. Yes.

21 Q. Do you know who Mr. Stover reports to or reported
22 to?

23 A. Under the chain of command, it would have been the
24 vice-president, then the president. But in my
25 experience, he was always --- whenever he's needed

1 something, he's always spoke directly to the
2 president.

3 Q. Would the president be Mr. Blanchard?

4 A. Yes, it would.

5 Q. Okay. Who would the vice-president have been that
6 he might have dealt with?

7 A. It's changed many times, but it was Jamie Ferguson
8 the last time, during the explosion.

9 Q. Okay. At the time of the explosion on April 5th
10 the vice-president was Jamie Ferguson?

11 A. Yes.

12 Q. Okay. All right. Now, were you working on April
13 5th, 2010?

14 A. During the explosion, no. I came in roughly three
15 hours after the explosion happened

16 Q. Okay. So you arrive approximately at six o'clock,
17 is that about ---?

18 A. Roughly, yes.

19 Q. Okay. How long did you remain on the property?

20 A. For that shift?

21 A. Yes, sir. If I remember correctly, until 8:30 the
22 next morning.

23 Q. Okay. Now, what was your work location that
24 evening?

25 A. The Performance main gate.

1 Q. Okay. Now, that would be at Montcoal?

2 A. Yes.

3 Q. Now, if I'm crossing the bridge from Route 3, that
4 main gate would be to the right after crossing the
5 bridge; is that correct?

6 A. Yes, it would.

7 Q. Okay. Is that routinely your work location or was
8 it routinely your work location prior to April 5th?

9 A. At that time, no. I worked the main gate roughly
10 my first two years there and then after that I've been
11 the patrol rover at night.

12 Q. Did you work the day before the explosion, on
13 April 4th? It would have been Easter Sunday?

14 A. No.

15 Q. Okay. Did you work the day prior to that,
16 Saturday, April 3rd?

17 A. Yes, I did.

18 Q. What location did you work on April 3rd?

19 A. I was patrolling, roving the entire property.

20 Q. Roving?

21 A. Yes.

22 Q. Okay. Now, do you know what security officer
23 would have been manning the main gates on Sunday,
24 April 4th?

25 A. No, I don't. It would have been one of our

1 contractors.

2 Q. One of your contractors? Who do you contract
3 with?

4 A. No, Security Group Services.

5 Q. Now? What about then?

6 A. It was Security Group Services then.

7 Q. Security Group Services.

8 A. In my time with Performance we've gone through two
9 companies, Guardsmark and now Security Group Services.

10 Q. But as of April 5th, it was Security Group
11 Services?

12 A. Yes.

13 Q. Is there a particular person, owner, operator,
14 manager or supervisor for Security Group Services that
15 you or your supervisor would have made contact with?

16 A. In my normal duties, no, there isn't, but the
17 owner of the company is Coy Matthews.

18 Q. Coy?

19 A. C-O-Y Matthews.

20 Q. Okay.

21 A. And his contact information I don't have.

22 Q. Okay. Do you know where the Security Group
23 Services business address might be?

24 A. Cross Lanes.

25 Q. Cross Lanes?

1 A. Yes.

2 Q. That's where I live, so I'll try and find it. Do
3 you know if Security Group Services provides security
4 officers for locations other than Performance Coal?

5 A. Yes, they do.

6 Q. Do they work at other Massey operations, as far as
7 you know?

8 A. Yes, they do.

9 Q. Okay. All right. So if I understand you
10 correctly, you think that whoever would have been
11 managing the main security gate at Performance on
12 Sunday, April 4th, would have been an employee of
13 Security Group Services?

14 A. Yes, it would have.

15 Q. Okay. What was your shift --- what shift did you
16 routinely work prior to April 5th? Everything is
17 pretty much in the context prior to April 5th here.

18 A. 7:00 p.m. to 7:00 a.m., four on, four off.

19 Q. Okay. So if you worked on April 3rd, you would
20 have reported to work on Friday evening, about 7:00
21 p.m.?

22 A. Yes, sir.

23 Q. Left 7:00 a.m. Saturday morning?

24 A. Yes, sir.

25 Q. And you did not work on Sunday, the 4th?

1 A. As best I can remember, I did not.

2 Q. Okay. All right. Now, of course, the Upper Big
3 Branch Mine has more than one portal. There's an
4 entrance known as the Ellis Portal a couple of miles
5 back towards Whitesville from the Montcoal entrance.
6 Is there a security gate there also?

7 A. Yes, there is.

8 Q. Is it staffed 24/7 like the gate at Montcoal?

9 A. Yes, it is.

10 Q. Do you know who would have been working at that
11 gate on Sunday, April 3rd?

12 A. It would have also been a contractor from Security
13 Group Services.

14 Q. All right. Would you know their shift rotation?
15 Was it similar to yours?

16 A. They worked --- all the shifts at Performance Coal
17 are 7:00 a.m. to 7:00 p.m., 7:00 p.m. to 7:00 a.m.

18 Q. 7:00 to 7:00, okay. So if you start at 7:00 a.m.
19 Sunday morning, you would have worked until 7:00 p.m.
20 Sunday night; right?

21 A. Yes.

22 Q. Okay. Now, I assume there are so many days that
23 you work and a few that you're off with a schedule
24 like that?

25 A. Yes.

1 Q. What is your normal routine schedule like?

2 A. It's four on, four off. My workdays and my days
3 off change one day per week. It's nothing constant.

4 Q. So four on, four off, 12 hours a day?

5 A. Yes.

6 Q. Okay. Got it. All right. At the two gates,
7 Montcoal and at the Ellis Portal entries, are there
8 cameras or were there cameras at the time which would
9 have recorded persons or vehicles entering and exiting
10 the property at those gates?

11 A. At the Performance gate there is a camera.

12 Q. Uh-huh (yes).

13 A. There are now cameras at the Ellis Portal, the
14 gate.

15 Q. Okay.

16 A. I cannot remember if they were there at the time
17 of the explosion.

18 Q. So you don't know that the Ellis Portal cameras
19 were installed prior to April 5th?

20 A. That's correct. I cannot remember.

21 Q. Okay. Now, how do the cameras work? Do they
22 record a particular period of time, for a certain
23 number of hours? How does that work?

24 A. The Performance camera is on a VCR. And if I
25 remember correctly, it records 18 or 24 hours. I

1 cannot remember exactly. The recording system at the
2 Ellis Portal is a DVR, and I believe it records 30
3 days at a time before it begins to rewrite on itself.

4 Q. So Ellis Portal would record up to 30 days?

5 A. Possibly more. I'm not sure.

6 Q. Possibly more. But Montcoal portal was maybe 18
7 to 24 hours on a VCR-type format; ---

8 A. Yes.

9 Q. --- is that right? Okay. Now, what would ---
10 would the recording system at Montcoal have an
11 automatic rewind or erase after the 18 to 24-hour
12 period?

13 A. No. There are 12 VCR tapes, if I remember
14 correctly, and the officer working the gate, when the
15 tape ends, has to rewind the tape and place a new tape
16 in.

17 Q. Okay. But are the tapes --- after the tape is
18 fully --- excuse me. whenever the tape is full, is it
19 erased and used again?

20 A. Eventually. It's not erased. It's just recorded
21 over.

22 Q. Recorded over?

23 A. Yes.

24 Q. Okay. All right. I got you. Are all persons
25 required to check in at the security gates when

1 entering the UBB property prior to April 5th?

2 A. Yes.

3 Q. Did that include people who were considered
4 members, too?

5 A. How do you mean check in? Do you mean sign your
6 name?

7 Q. In other words, would the security guard document
8 each vehicle and person who entered the property?

9 A. We would document visitors, contractors and
10 inspectors. If they were a member, you had an ID and
11 we knew, we just waved them through.

12 Q. Okay. No documented recording of a member
13 entering?

14 A. No.

15 Q. Okay. Now, would members include the upper
16 management people like Mr. Blanchard?

17 A. Our boss said anyone who's a member, a Massey
18 member, especially Performance Coal members, we don't
19 document or write anything.

20 Q. Okay. Now, would members include Massey Coal
21 Services employees?

22 A. Yes.

23 Q. Okay. Now, what --- what would identify them as
24 members?

25 A. The Massey member ID card which is supposed to be

1 made for all members, but it's not. After working the
2 gate for so long, you eventually learn who is who.

3 Q. Okay. But if it were someone you didn't know, you
4 would ask them for a Massey ID card?

5 A. Yes.

6 Q. Okay. Now, would there be any sticker or anything
7 on the vehicle the person was driving?

8 A. No.

9 Q. Okay. Obviously you would become familiar with
10 the president, I'm sure?

11 A. Yes.

12 Q. How do you track the people on the property that
13 you've --- are required to document, such as the
14 vendors and inspectors and the delivery people?

15 A. When you say track the people on the property, do
16 you mean once they're on the property or at the gate
17 when they check in?

18 Q. Both, actually.

19 A. When someone comes to the gate, there's a form we
20 fill out, name, company, time in, plate number,
21 destination. And once they're actually on the
22 property, we really have now ay of tracking them.

23 Q. Okay. Now, the record, where you document who was
24 entering, was that a paper document?

25 A. Yes.

1 Q. How long was that document typically maintained?

2 A. As far as I know, at the end of the month they're
3 all turned into the chief of security. Beyond that, I
4 have no clue what happens to them.

5 Q. Do you know if he maintained them at a specific
6 location?

7 A. I don't know.

8 Q. Where was the chief of security's office?

9 A. At the Performance main office.

10 Q. Okay. And if we wanted to find out if a
11 particular person entered the property on a given day,
12 how would we go about that?

13 A. I suppose you would contact the chief of security,
14 and if those logs are available, it can be looked up,
15 assuming the person signed in. Some of our
16 contractors are a little lax about things at times.

17 Q. Was the location of the video camera such that one
18 might identify persons and/or vehicles that were
19 entering the security gate?

20 A. Identify persons inside their vehicles or coming
21 through the gate, is that what you're asking?

22 Q. Yes.

23 A. I don't believe so. I mean, the quality of the
24 camera, it was on one fixed location near the bridge.

25 I don't believe it was ever possible to identify

1 someone in their vehicle.

2 Q. What was the purpose of installing the camera
3 there originally?

4 A. If I remember correctly, and this happened long
5 before I ever came to Performance Coal, and I use the
6 term back in the day because I don't know when it was,
7 there was union activity, and I believe the chief of
8 security had all that stuff installed for that
9 purpose.

10 Q. Okay. All right. Whenever non-members would
11 enter the property, were the security officers at the
12 gate instructed to announce their arrival in any way?

13 A. Our instructions from the chief of security for
14 anyone who was not a Massey member was to call out on
15 the radio who they were, the name of the individual,
16 their location and who they were with --- I'm sorry,
17 not their location, but their destination.

18 Q. Okay. So if Terry Farley, as a representative of
19 the West Virginia Office of Miners' Health, Safety and
20 Training, had entered the Montcoal gate through the
21 security gate on April the 3rd of 2010, you would have
22 called out my name and who I worked with; is that
23 correct?

24 A. Yes, and your location. I keep saying ---.

25 Q. My destination?

1 A. Your destination. Our instructions from the chief
2 of security, if the person is an inspector, we do not
3 ask for location --- I keep saying location, their
4 destination, and we do not announce that on the radio.

5 Q. When did you receive those instructions?

6 A. I believe my first day of work.

7 Q. So if an inspector comes to the gate, would you
8 announce Terry Farley, Office of Miners' Health,
9 Safety and Training, on the radio?

10 A. That was our instructions, yes.

11 Q. But you would not announce my destination?

12 A. No, we would not even ask your destination.

13 Q. Okay. But you would announce my name and my
14 affiliation; ---

15 A. Yes.

16 Q. --- am I correct? All right. Now, if you cross
17 the Montcoal bridge and turn right through the main
18 security gate at Performance, once you pass through
19 the gate, that road would lead directly to the UBB
20 Mine; is that correct?

21 A. The hardtop road would. There are a few dirt or
22 gravel roads that lead to other destinations, yes.

23 Q. Such as?

24 A. Progress Coal being one. And another one of the
25 roads leads to --- are you pretty familiar with the

1 area?

2 Q. Generally.

3 A. There's a road going to the hillside to the silo,
4 the tail silo, another road which leads to the Valley
5 Field for Progress, which you can also get to Progress
6 that way, and then our scrap yard.

7 Q. Should I assume that none of these roads are open
8 to the public?

9 A. No, none of them.

10 Q. Okay.

11 EXAMINATION

12 BY MR. SHERER:

13 Q. I have just a few questions, Mr. Gillispie. Do
14 you know if there have been any problems with theft
15 out of the Upper Big Branch Mine prior to the
16 explosion?

17 A. Yes, there has.

18 Q. What sort of thefts?

19 A. There's one theft which I'm familiar with. I was
20 there a couple times. It was a member, I believe he
21 was an electrician, stealing copper, small bits of
22 copper, which he would bundle up and tape and place in
23 various pockets of his uniform. I know there were
24 other thefts, but our chief of security never really
25 made that public to us.

1 Q. Okay. We were wondering because we had heard that
2 the last crew out of the Ellis Portal, I think it was
3 Saturday afternoon, had spread rock dust to look for
4 footprints of people going into the portal. Have you
5 heard anything like that?

6 A. If I remember correctly, they all spread rock dust
7 like on holidays, when there's going to be no one
8 around for some time.

9 Q. That was just a standard practice?

10 A. If I understand, I believe it was.

11 Q. Now, you mentioned that you arrived at the mine
12 about three hours after the explosion. We understand
13 that it was very typical for a major mine disaster.
14 There was a lot of chaos and confusion. And you're
15 obviously an experienced security provider. What can
16 we do in the future to try to improve on what was
17 going on there? What would be your suggestions?

18 A. One of the problems I saw there was with parking.
19 Seemed like everyone wanted a hand in parking, and
20 they were parking people wherever. I believe someone
21 from the mine, who's familiar with the area, should be
22 in charge of the parking. You know, with emergency
23 services, such as the ambulances, they were, once
24 again, all over the place. Again, it seemed like
25 someone --- everybody wanted a hand in where they were

1 located, where they were placed, where they wanted
2 them to go.

3 Q. What would you suggest that MSHA and the State and
4 the mine operator could do to facilitate that process?

5 The reason I'm asking is we require each mien to
6 develop an emergency response plan, and one of the
7 reasons for that plan is to try to make the response
8 to the emergency more effective. So any information
9 that you share with us, any suggestions we would
10 greatly appreciate.

11 A. I believe in the two cases I pointed out, that
12 having one person in charge of all that because,
13 again, everybody seemed to want a hand in it.

14 Q. Sure. I appreciate that. That's a good
15 suggestion.

16 EXAMINATION

17 BY ATTORNEY HAMPTON:

18 Q. You said that there were some contractors that you
19 guys used?

20 A. Yes.

21 Q. What were the names of the companies that you used
22 for security?

23 A. During the day of the explosion --- well, November
24 1st until now we use Security Group Services. And
25 before that it was Guardsmark. And I do not remember

1 when they came in.

2 Q. And Guardsmark, though, wasn't present at the time
3 of the explosion?

4 A. No.

5 Q. That was only Security Group Services?

6 A. Yes.

7 Q. Do you know where Security Group Services is based
8 out of?

9 A. Cross Lanes, I believe.

10 ATTORNEY HAMPTON:

11 Thanks.

12 RE-EXAMINATION

13 BY MR. FARLEY:

14 Q. On a holiday at the Performance, Upper Big Branch,
15 Ellis Portal areas, I would think that on a holiday,
16 where most of the people are not working, is it fair
17 to assume that the traffic entering and exiting the
18 gates would be quite minimal?

19 A. Yes.

20 Q. Okay.

21 RE-EXAMINATION

22 BY MR. SHERER:

23 Q. I have one more question. We know that the mine
24 operated many weekends. How common was it for upper
25 management to come out on, say, a Sunday? Do you

1 recall seeing ---?

2 A. It's been quite a while since I've worked the main
3 gate. I work mainly nightshift, ---

4 Q. Oh, okay.

5 A. --- so I couldn't give you a proper answer on
6 that.

7 Q. Okay. Thank you.

8 MR. SHERER:

9 That's all I've got.

10 ATTORNEY HAMPTON:

11 Okay. On behalf of MSHA and the Office
12 of Miners' Health, Safety and Training, we'd like to
13 thank you for appearing and answering our questions.
14 Your cooperation is very important to the
15 investigation as we work to determine the cause of the
16 accident. We do request that you not discuss your
17 testimony with any other person aside from a personal
18 representative or an attorney. And after questioning
19 other witnesses, we might have some follow-up
20 questions for you, so don't be surprised if we end up
21 calling you in here again. But we will see what other
22 information comes up. And also, as I mentioned
23 earlier, if you have any additional information that
24 you would like to share with us after you leave here
25 today, if there are other things you'd like to tell

1 the team, please feel free to contact us at the
2 information provided to you in the letter.
3 So now, at this point, if you would like
4 to go back over any of the answers that you've given
5 to us or if there's any statement you'd like to make
6 or any other information you would like to provide to
7 us, you may do so now.

8 A. I have nothing more.

9 ATTORNEY HAMPTON:

10 Okay. Thank you very much.

11 * * * * *

12 STATEMENT UNDER OATH CONCLUDED AT 10:40 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