

1 **WEST VIRGINIA MINE SAFETY AND HEALTH ADMINISTRATION**

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4
5 **IN THE MATTER OF:**

6 **THE INVESTIGATION OF THE**
7 **APRIL 5, 2010 MINE EXPLOSION**
8 **AT UPPER BIG BRANCH MINE.**

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15 The interview of JASON ALAN ROSE, taken upon
16 oral examination, before Elizabeth A. Howd,
17 Registered Diplomate Reporter, Certified Realtime
18 Reporter, and Notary Public in and for the State of
19 West Virginia, Wednesday, October 27, 2010, at
20 2:58 p.m., at the Mine Academy, 1301 Airport Road,
21 Beaver, West Virginia.

22 **JOHNNY JACKSON & ASSOCIATES, INC.**
23 606 Virginia Street, East
24 Charleston, WV 25301

(304) 346-8340

APPEARANCES

1
2 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**
3 **Barry L. Koerber, Assistant Attorney General**
4 **1615 Washington Street, East**
5 **Charleston, WV 25311**
6 **(304) 558-1425**

7 **OFFICE OF MINERS' HEALTH, SAFETY & TRAINING**
8 **Terry Farley, Health & Safety Administrator**
9 **1615 Washington Street, East**
10 **Charleston, WV 25311**
11 **(304) 558-1425**

12 **U.S. DEPARTMENT OF LABOR**
13 **Office of the Regional Solicitor**
14 **Pollyanna Hampton, Esquire**
15 **1100 Wilson Boulevard**
16 **22nd Floor West**
17 **Arlington, VA 22209**
18 **(202) 693-9389**

19 **U.S. DEPARTMENT OF LABOR**
20 **Mine Safety and Health Administration**
21 **Eric Sherer**

22 **GOVERNOR'S INDEPENDENT INVESTIGATION PANEL**
23 **Beth Spence**
24

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1 MR. KOERBER: My name is Barry Koerber.
2 I'm an Assistant Attorney General, and I'm assigned
3 to represent the West Virginia Office of Miners'
4 Health, Safety and Training.

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

10 We're conducting interviews as part of the
11 investigation process, which this is.

12 You're here today voluntarily. You're not
13 here pursuant to a subpoena.

14 I just want you to know that this
15 interview is entirely voluntary, and you can refuse
16 to answer any question that you want. You can
17 terminate the interview at any time. And you can
18 take a break at any time.

19 THE WITNESS: Okay.

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

22 To my left is the interviewer for the
23 Office of Miners' Health, Safety and Training. I
24 would ask that he identify himself.

1 MR. FARLEY: Terry Farley.

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

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

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

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

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

18 THE WITNESS: Sure.

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

24 Try not to speak over an interviewer, and

1 they'll try not to speak over you.

2 THE WITNESS: Sure.

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

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

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

18 Do you have an attorney with you here
19 today?

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

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

24 THE WITNESS: No. I didn't know how

1 formal or informal this was going to be, so I
2 didn't make any preparation.

3 MR. KOERBER: That's fine.

4 Would you please swear in the witness?

5 JASON ALAN ROSE, WITNESS, SWORN

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

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

11 THE WITNESS: Yes, that's correct.

12 MS. HAMPTON: And you reviewed that
13 letter?

14 THE WITNESS: Yes.

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

17 THE WITNESS: No.

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

22 If after the time that you leave here
23 today you have additional information you would
24 like to share with the teams, you are certainly

1 welcome to contact him, or if you have any
2 questions or anything else that you think that the
3 team should know.

4 THE WITNESS: Okay.

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

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

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

13 THE WITNESS: [REDACTED]

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

23 I would also like to just give you one
24 more document. This document contains the address

1 to the West Virginia Board of Appeals.

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

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

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

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

19 THE WITNESS: Okay.

20 MR. KOERBER: Okay. Thank you, sir.

21 THE WITNESS: Thank you.

22 MR. KOERBER: And at this point in time I
23 would like to pass the interview over to Mr. Farley
24 to begin the interview.

1 MR. FARLEY: Thank you.

2 EXAMINATION

3 BY MR. FARLEY:

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

6 A. Sure.

7 Q. Where are you currently employed?

8 A. Buchanan Pump Service.

9 Q. What is the address of the business?

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

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

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

17 Q. At mines?

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

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

23 A. Yes, sir.

24 Q. Okay. Can you give me an idea of what you

1 have done for them?

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

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

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

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

19 A. Yes, sir.

20 Q. At all those locations or --

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

23 Q. Now, have you been involved in installing
24 any dewatering pumps in the Bandytown fan area?

1 A. Yes, sir.

2 Q. When were you last in that area?

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

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

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

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

16 A. They were turbine pumps, vertical turbine
17 pumps.

18 Q. How many?

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

23 Q. Would it be unreasonable for us to request
24 some documentation of what you have done there?

1 A. No.

2 Q. And that is in no way to question --

3 A. Sure.

4 Q. -- your word on the subject.

5 A. Sure. Well, I am going by memory, so,
6 yeah, I wouldn't oppose that.

7 Q. Okay. We would appreciate it. We would
8 like to request copies of whatever documents you
9 have on that if you don't mind.

10 A. Just at those two particular sites? I
11 mean, at that one site?

12 Q. Yes.

13 MR. FARLEY: Is there, do you think,
14 reason for other sites?

15 MR. SHERER: No.

16 Q. When was the last time you or other
17 persons employed by your company might have been on
18 the Performance Upper Big Branch property?

19 A. Prior to the --

20 Q. Explosion on April 5th.

21 A. -- incident? On April 5th we were in the
22 guard shack, in the vicinity of the property, but
23 we weren't at the mine site and we weren't working
24 for Performance Coal.

1 Q. Okay. Which guard shack do you --

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

4 Q. At the community -- at Montcoal?

5 A. Montcoal.

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

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

11 Q. That's Progress Coal?

12 A. Progress Coal, yes.

13 Q. That's also a Massey subsidiary?

14 A. Yes, sir.

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

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

22 Q. Now, the pump in the river, was that for
23 purposes of providing a water supply to some
24 location?

1 A. To Progress, yes.

2 Q. Were you yourself working there that day?

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

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

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

10 Q. Chris Young?

11 A. Yes.

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

16 A. Yes, sir.

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

21 A. Not that I can recall, because typically
22 when they call we respond rather quickly. So to my
23 remembrance, no, or we would have been working on
24 one of their pumps during that time period.

1 Q. Now, if you responded rather quickly,
2 would that have been because some pump was --

3 A. No.

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

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

10 Q. I understand.

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

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

17 A. Correct.

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

21 A. For them as a mine?

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

24 A. In 1997 maybe.

1 Q. So you folks have been working with
2 them --

3 A. Sure.

4 Q. -- several years?

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

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

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

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

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

24 A. Well, like I said, every phone call we get

1 is deemed urgent. That's just kind of the way we
2 handle business.

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

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

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

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

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

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

21 Q. While you were on the property April 5th
22 at Performance Coal, did you pick up on any
23 information that indicated there might have been
24 some pump problems in the Bandytown area?

1 pumps are routed?

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

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

7 THE WITNESS: Sure.

8 EXAMINATION

9 BY MS. SPENCE:

10 Q. How are those pumps powered?

11 A. Electrically. They're 4160 volt.

12 Q. So they're electric powered?

13 A. Yes, ma'am.

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

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

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

1 any problems with that Number 1 pump.

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

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

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

6 EXAMINATION

7 BY MR. SHERER:

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

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

16 MR. SHERER: Thank you.

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

23 THE WITNESS: Sure.

24 MR. KOERBER: And I would also like to

1 give you an opportunity now to add anything that
2 you would like to add, say anything that you
3 believe this investigative body should know that
4 they did not ask you a question about, clarify
5 anything that you said earlier, or make any
6 statement or comment you would like to make.

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

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

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

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

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

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MR. FARLEY: I believe it is too.

THE WITNESS: Yes, sir.

(Interview of **JASON ALAN ROSE**
concluded at 3:18 p.m.)

1 STATE OF WEST VIRGINIA, To-wit:

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

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

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

21 My commission expires the 5th day of July,
22 2012.

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

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