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Transcript of the Testimony of John Urosek

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STATEMENT UNDER OATH
OF
JOHN E. UROSEK

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 and Safety Academy, 1301 Airport Road, Room C-137, Beaver, West Virginia, on Monday, September 20, 2010, beginning at 1:00 p.m.

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

ERIK SHERER

Mine Safety and Health Administration

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BETH SPENCE

West Virginia Independent Investigation

██████████
██████████

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

NONE OFFERED

P R O C E E D I N G S

ATTORNEY FERGUSON:

My name is Dana Ferguson. Today is September 20th, 2010. I'm with the Office of the Solicitor, United States Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, an agency of the United States Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearance for the record at this time.

MR. FARLEY:

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

MR. O'BRIEN:

John O'Brien with the West Virginia Office of Miners' Health, Safety and Training.

MS. SPENCE:

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

ATTORNEY KOERBER:

There are also several members of the investigation team present in the room today, but Mr. Sherer will be conducting most of the questioning.

1 All members of the Mine Safety and Health Accident
2 Investigation Team and all members of the State of
3 West Virginia Accident Investigation Team
4 participating in the investigation of the Upper Big
5 Branch Mine explosion shall keep confidential all
6 information that is gathered from each witness who
7 voluntarily provides a statement until the witness
8 statements are officially released. MSHA and the
9 State of West Virginia shall keep this information
10 confidential so that the other ongoing enforcement
11 activities are not prejudiced or jeopardized by a
12 premature release of information. This
13 confidentiality requirement shall not preclude
14 investigation team members from sharing information
15 with each other or with other law enforcement
16 officials. Their participation in this interview
17 constitutes their agreement to keep this information
18 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 of the Federal Mine Safety
25 and Health Act and the West Virginia Office of Miners'

1 Health, Safety and Training. We appreciate your
2 assistance in this investigation.
3 You may have a personal attorney or
4 representative present during the taking of this
5 statement if MSHA has permitted it, and you may
6 consult with the attorney or representative at any
7 time. However, your statement is completely
8 voluntary. You may refuse to answer any questions and
9 you may terminate your interview at any time or
10 request a break at any time.

11 Since this is not an adversarial
12 proceeding, formal Cross Examination will be not ---
13 not be permitted. However, your personal legal
14 representative or yourself may ask clarifying
15 questions as appropriate. Mr. Urosek, do you have a
16 personal representative with you today?

17 MR. UROSEK:

18 I do not.

19 ATTORNEY FERGUSON:

20 Your identity and the content of this
21 conversation will be made public at the conclusion of
22 the interview process and may be included in the
23 public report of the accident, unless you request that
24 your identity remain confidential or your information
25 would otherwise jeopardize a potential criminal

1 investigation. If you request to keep your identity
2 confidential, we will do so to the extent permitted by
3 law.

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

12 MR. UROSEK:

13 Yes.

14 ATTORNEY FERGUSON:

15 Do you have any questions?

16 MR. UROSEK:

17 No.

18 ATTORNEY FERGUSON:

19 After the investigation is complete, MSHA
20 will issue a public report detailing the nature and
21 causes of the fatalities in the hope that greater
22 awareness about the causes of accidents can reduce
23 their occurrence in the future. Information obtained
24 through witness interviews is frequently included in
25 these reports. Since we will be interviewing other

1 individuals, we would request that you not discuss
2 your testimony with any person aside from your
3 personal representative or counsel.

4 A court reporter will record your
5 interview. Please speak loudly and clearly. If you
6 do not understand a question asked, please ask that it
7 be rephrased. Please answer each question as fully as
8 you can, including any information you've learned from
9 someone else.

10 We would like to thank you in advance for
11 your appearance here. We appreciate your assistance
12 in this investigation. Your cooperation is critical
13 to making the nation's mines safer.

14 After we have finished asking questions,
15 you will have an opportunity to make a statement and
16 provide us with any other information you believe to
17 be important. If at any time after the interview you
18 recall any additional information you might believe
19 might be useful, please contact or have your
20 representative contact Norman Page at the phone number
21 or e-mail address. Do you have any questions before
22 we get started?

23 MR. UROSEK:

24 No.

25 ATTORNEY FERGUSON:

1 Swear the witness, please.

2 -----

3 JOHN E. UROSEK, HAVING FIRST BEEN DULY SWORN,

4 TESTIFIED AS FOLLOWS:

5 -----

6 ATTORNEY FERGUSON:

7 Mr. Sherer?

8 EXAMINATION

9 BY MR. SHERER:

10 Q. Thanks for coming down here this afternoon, Mr.
11 Urosek. Could you please state your name and spell
12 your last name for the record?

13 A. John E., middle initial, Urosek, U-R-O-S-E-K.

14 Q. Thank you. What's your address and telephone
15 number, please?

16 A. My address is [REDACTED] . That's in
17 [REDACTED] . My telephone
18 number at home [REDACTED] . At the office it's
19 (412) 386-6936.

20 Q. Thank you. Are you currently employed by MSHA?

21 A. Yes.

22 Q. Are you appearing here today voluntarily?

23 A. Yes.

24 Q. Thank you. What was your job title on April the
25 5th of 2010?

1 A. Chief, Mine Emergency Operations.

2 Q. Thank you. How long have you been associated with
3 MSHA?

4 A. Approximately 35 years.

5 Q. Okay. What does the Chief of Mine Emergency
6 Operations normally do?

7 A. My job is to coordinate the efforts of the Mine
8 Emergency Response Team of MSHA.

9 Q. Okay. Thank you. Had you had any prior contact
10 with Upper Big Branch Mine prior to the explosion?

11 A. Not personally ---

12 Q. Okay.

13 A. --- that I recall.

14 Q. Sure, uh-huh (yes). Let me show you a memo that
15 you signed off on dated July the 15th, 2004. Do you
16 recall that particular memo?

17 A. Yes, I do.

18 Q. Did you have any meetings or did you go to the
19 mine in conjunction with that particular event?

20 A. I did not. One of the employees assigned to me
21 did go to a meeting at that particular mine.

22 Q. Okay. Did you have any subsequent contact with
23 the mine concerning that --- the subject matter in
24 that memo?

25 A. After the meeting that one of the employees had,

1 no.

2 Q. Okay. Thank you. What time did you become aware
3 of the explosion at Upper Big Branch?

4 A. At about 3:15.

5 Q. 3:15 on ---

6 A. April the 5th ---.

7 Q. --- April the 5th?

8 A. Yes.

9 Q. Okay. Where were you at when you learned about
10 that?

11 A. I was on the way to the Doe Run Mine in Missouri.

12 Q. Okay.

13 A. I was almost at St. Louis when I received a
14 telephone call.

15 Q. Okay. What did you do when you received that
16 telephone call?

17 A. After I received the call, I started making the
18 callouts to the people on the Mine Emergency Team that
19 we needed to respond. And I turned around and started
20 back towards the mine.

21 Q. Okay. Who called you?

22 A. My first call, I believe, was from Link Selfe from
23 the district.

24 Q. Okay. So you turned around from St. Louis. What
25 time did you arrive at the Upper Big Branch Mine?

1 A. I proceeded there directly, but it was quite a
2 long drive. It was approximately 1:30 a.m. on the 6th
3 when I arrived.

4 Q. Okay. When you got to the mine, could you start
5 at that point and just walk us through what you did
6 throughout the --- first the rescue attempt and then
7 the recovery, just the outline of it, John.

8 A. Basically, when I got there, I believe the teams
9 had just --- were exiting or had just exited the mine.
10 I received a briefing from Kevin Stricklin and Bob
11 Hardman, the district manager. I was there when they
12 debriefed the men that came out to find out exactly
13 what was going on at that point.

14 I stayed in the command center, assisting the
15 district manager in what was going on underground,
16 helping him ascertain what the readings were, the gas
17 readings, assisting him with decisions as to when it
18 would be safe to send the teams back in the mine and
19 what could be done with the teams. That proceeded on,
20 a back and forth operation.

21 I worked with him as far as monitoring the
22 boreholes and the gas at the boreholes and sampling
23 underground until the victims were recovered. I
24 believe that would've been the 13th. Then assisted
25 him again for a period of time while we had boreholes

1 drilled into the mine to evaluate the mine atmosphere,
2 and that occurred for approximately a month and a
3 half.

4 Then sometime in June the gasses from the various
5 boreholes that were drilled into the mine looked like
6 the atmosphere had stabilized to the degree that we
7 could proceed underground and re-evaluate the mine at
8 a systematic approach and evaluated the longwall
9 first. Or that was the attempt, to get to the
10 longwall area first. Ended up doing some of the outby
11 areas instead, but eventually got to the longwall,
12 found out that there was no CO in the general area of
13 the longwall, and then proceeded with the
14 investigation of all the areas that were accessible
15 underground. And then when that was completed, and
16 this is when I was, again, assisting the district
17 manager, at that point we turned it over to the
18 Accident Investigation Team. And we still have our
19 MEU members assisting them at this point.

20 Q. Thank you. And do you recall approximately what
21 date you turned it over to the Accident Investigation
22 Team?

23 A. I do not.

24 Q. Okay.

25 A. The exact date.

1 Q. Okay. Thank you. One thing you mentioned was you
2 debriefed the people coming out of the mine. Did you
3 recall Mr. Chris Blanchard or Jason Whitehead from
4 that debriefing?

5 A. I don't recall Chris Blanchard specifically, but I
6 believe it was Jason Whitehead that we talked about,
7 you know, the areas that he traveled to.

8 Q. Okay.

9 A. Chris may --- the other Chris may've been there,
10 but I just ---. I don't recall. There were a number
11 of people and I'd just got there and was unfamiliar
12 with everyone.

13 Q. Okay. Did Mr. Whitehead explain what he was doing
14 underground?

15 A. I don't believe so, because I think the context
16 was what did they find? You know, what ---.

17 Q. Okay.

18 A. Because we were trying to ---. They were brought
19 out because of the gases and specifically the
20 explosive gas that they found at 22 Headgate. And we
21 were talking to the teams to find out what they had
22 found in other areas to see what hazards were there,
23 and also, to try and learn what we could do to get
24 back into 22 Headgate.

25 Q. Thank you. Since you released the mine to the

1 Accident Investigation Team, have you had any further
2 business at the mine?

3 A. I have not been back to the mine since we released
4 it.

5 Q. Okay. Before you released it, did you have an
6 opportunity to go back underground at this mine?

7 A. Yes, I did.

8 Q. Could you explain what --- where you went and what
9 you did, just briefly?

10 A. In general terms, I was underground when we did
11 the excursion on the longwall. That was an area of
12 great concern to us, because the gas readings had
13 continued to show CO, especially at the Bandytown fan.
14 And we were concerned that there could still be
15 something in the longwall area, and obviously we
16 didn't know what the gas concentration would be, so I
17 was part of the team that went to the headgate area of
18 the longwall.

19 We explored the headgate area. While we were
20 underground, we got a call, I know, from the folks
21 that were on the tailgate area, a separate team. I
22 know that Chris Adkins and I actually traveled across
23 the face, looking for the source of --- they indicated
24 they found some CO.

25 Q. Uh-huh (yes).

1 A. So we traveled across the face to see if we could
2 find that, where that was coming from. Eventually,
3 ultimately we determined that it was just another gas
4 that was affecting the detectors once we got the
5 bottle samples back. So did travel to the tailgate
6 area, came up the Glory --- I call the Glory Main?

7 A. Yeah.

8 Q. Glory Mains and traveled up into Eight North. We
9 eventually did find a couple areas in Glory Mains that
10 there were fires that had been burning after the
11 explosion, and we found one that was still hot, and so
12 that was the source of some of the readings that we
13 had gotten in that period of time, and we were able to
14 extinguish that.

15 We traveled up into Eight North, and again, this
16 is specifically when I was traveling with the teams.
17 And we examined the entire area there. I can tell you
18 that when we went in past the curtains, again, the
19 readings were clear enough that we could go barefaced,
20 although we had the apparatus with us. We felt like
21 we would find something because of the conditions that
22 we saw, the burning of the eyes, but we never did find
23 any hot spots while we were in there. Did find a
24 little bit of methane, I think up to two percent in
25 one corner. We came back and then on another

1 subsequent day made it up to 22 Headgate.
2 Again, we found up near --- like, the third
3 crosscut out, as I recall, we found some high methane
4 in a high spot. And at the bottom of the one of the
5 boreholes we found some batteries that were smoking
6 that would be inby where we found the methane, and we
7 were able to disconnect the batteries and come out of
8 the area, so those were pretty much the --- there were
9 obviously trips in and out, due to lightening, due to
10 conditions that we were in and out, but those are the
11 areas that I traveled to.

12 Q. Okay. Thank you. Now, you mentioned there was
13 some gases that the handheld instruments were reading
14 as carbon monoxide. And you said something about the
15 bottle samples showed different gases. What gases did
16 the bottle samples show?

17 A. I believe it was some of the higher hydrocarbons,
18 and I'm not exactly sure, because we don't actually
19 analyze for all of them, but I know that the carbon
20 monoxide didn't show up to the level that the
21 handhelds did at those locations.

22 Q. Okay. Thank you. Now, you also mentioned your
23 eyes were burning in Eight North. Can you explain
24 that a little more, please?

25 A. Yes. I mean, they weren't burning to the degree

1 that it was harmful, but it was enough that you knew
2 that there was something there other than normal
3 atmosphere, but none of the detectors nor any of the
4 bag samples that we took showed any other type of
5 contaminant while we were in there.

6 Q. Okay. You're aware of the initial mine rescue
7 teams after the explosion, how they reported their
8 eyes burning?

9 A. Yes.

10 Q. Do you recall, when you were in Eight North and
11 your eyes were burning, did it --- could you explain
12 what it smelled like?

13 A. It wasn't a fire smell. It was just an area that
14 hadn't been ventilated smell.

15 Q. Okay. Have you ever smelled any formaldehyde?

16 A. I have.

17 Q. Did it seem like a similar chemical agent?

18 A. If it was, it was a very weak version. In other
19 words, as soon as I noticed the smell, I wouldn't say
20 that --- I wouldn't say it was formaldehyde, although,
21 the test may show that there was, but I ---

22 Q. Okay.

23 A. --- can't say that that's what I smelled.

24 Q. Okay. Thank you. Looking back at the entire
25 rescue and recovery process, Mr. Urosek, is there any

1 suggestions you might have for us in the future?

2 A. I think to --- as we did in this operation, to
3 continue to evaluate the gases that you have and to
4 try and understand them before you take the next step
5 forward. Always be able to take one step back.

6 MR. SHERER:

7 Okay. Thank you. That's all the
8 questions I've got for right now.

9 EXAMINATION

10 BY MR. FARLEY:

11 Q. John, you said that you were first notified of the
12 UBB event at 3:15 p.m. You were near St. Louis. Was
13 that 3:15 central time or eastern Time?

14 A. I don't know the answer to that. I got that time
15 off the call log for my phone, so I believe it was
16 transferred to eastern time. I can't tell you that
17 for sure.

18 Q. Okay. The reason I asked the question is my first
19 documentation, our agency receiving any kind of calls,
20 like, 3:39.

21 A. It may've been.

22 Q. What was the nature of the initial message you
23 received?

24 A. Well, the initial message was that they thought
25 they had a fire at the mine and that they were unsure

1 of the conditions underground and that the --- our
2 inspectors were headed that way and that they hadn't
3 been able to contact everyone yet.

4 Q. Okay.

5 A. So you know, that was the first information we
6 had, and with that we decided to immediately pull all
7 the resourced and send them to the mine, even though
8 it was so early on and the information was so
9 preliminary. The fact that miners were missing was
10 still significant.

11 MR. FARLEY:

12 Okay.

13 EXAMINATION

14 BY MS. SPENCE:

15 Q. I have a few questions. Mr. Urosek, when you got
16 to the command center, who would you say was in charge
17 of the command center?

18 A. Well, for MSHA it would've been Bob Hardman.

19 Q. And was somebody else in charge?

20 A. Well, I think for the operator, I think ---
21 believe Chris Adkins was there.

22 Q. Okay. And how did they work together? I mean,
23 was it a good situation or a chaotic situation or ---?

24 A. Well, I think at that point it was --- I mean, it
25 was as good as you could get for the chaotic situation

1 that was going on, I guess.

2 Q. I understand. What teams were underground when
3 you arrived?

4 A. They were either on their way out or were already
5 out when I got there, because they just came out and I
6 was able to debrief some of them. And I can't tell
7 you exactly what --- whether it was a company team, a
8 Massey team. I know that there were some of our MSHA
9 folks there that I spoke to. And there were also some
10 other team members that came up and debriefed us, but
11 I specifically can't tell you what and what those team
12 members were.

13 Q. Do I understand right that one team wasn't --- one
14 team that you spoke with that either was coming out or
15 was already out when you got there was an MSHA team;
16 is that ---?

17 A. Well, they sent the captains or certain
18 individuals up to the command center to basically be
19 debriefed. And I do know that, like I said, two of
20 them were --- I believe two of them were from MSHA,
21 and then another group came and were either from
22 Massey or from one of the rescue teams that were
23 underground.

24 Q. Okay.

25 A. And then I think there were some of the management

1 people from the mine that had been underground, also.

2 Q. Okay. Did you keep a timeline?

3 A. I did not.

4 Q. Okay. I guess I want to ask you a question just
5 as an expert on gases. If you were going to say the
6 role that gas played, the role that dust played in
7 this explosion, what would be your opinion?

8 A. Oh, I certainly ---. From what little information
9 I obtained during my business underground, I can't
10 tell you what mixture the fuel would've been ---

11 Q. Okay.

12 A. --- possible. Methane --- enough methane could've
13 caused the destruction that I witnessed, and of course
14 methane and coal dust could've done the same.

15 MS. SPENCE:

16 Okay. All right.

17 RE-EXAMINATION

18 BY MR. FARLEY:

19 Q. During the conversation you had when you got the
20 initial call about the UBB event, you indicated that
21 Link Selfe called you. And I think you said at some
22 point that they decided to send everyone. Now, when
23 you say, they, you mean Link and the district people
24 or ---?

25 A. How our operation works is that when the district

1 manager or whoever, the senior representative from the
2 district calls me. We talk and we --- between the two
3 of us we decide what's appropriate as to who we should
4 send, so in that conversation with him, we talked
5 about the situation and the fact that anytime we have
6 missing miners, even though if it's just for a very
7 short period of time ---

8 Q. Sure.

9 A. --- we will send everything, even though we ---

10 Q. Sure.

11 A. --- hopefully are able to send them all right
12 back. But we will at least begin the dispatch process
13 to send everything we have.

14 MR. FARLEY:

15 Okay.

16 MR. SHERER:

17 I got ---.

18 MR. FARLEY:

19 Thank you.

20 RE-EXAMINATION

21 BY MR. SHERER:

22 Q. A few follow-ups, John. Did you participate in
23 the recovery of any of the victims?

24 A. I did not.

25 Q. Okay.

1 A. I just went underground in the first five days.

2 Q. Okay. Were you helping coordinate that activity
3 on the surface?

4 A. Yes.

5 Q. Okay. Thank you. Have you consulted as an expert
6 in either explosions, methane or coal dust since this
7 explosion?

8 A. No.

9 MR. SHERER:

10 Okay. Thank you.

11 ATTORNEY FERGUSON:

12 Any thing else, Beth?

13 MS. SPENCE:

14 No. Thank you.

15 MR. SHERER:

16 That's all I got.

17 ATTORNEY FERGUSON:

18 Okay. Beth? Tom? Okay, then. On
19 behalf of MSHA and the Office of Miners' Health,
20 Safety and Training we want to thank you for appearing
21 and answering questions today.

22 A. Thank you.

23 ATTORNEY FERGUSON:

24 Your cooperation is very important to the
25 investigation as we work to determine the cause of the

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

9 If you wish, you may now go back over any
10 answer you have given during this interview, and you
11 may also make any statement you would like to make at
12 this time.

13 A. I have no statement.

14 ATTORNEY FERGUSON:

15 Thank you very much for your cooperation.

16 A. Thank you.

17 * * * * *

18 STATEMENT UNDER OATH CONCLUDED AT 1:28 P.M.

19 * * * * *

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1 STATE OF WEST VIRGINIA)

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CERTIFICATE

5

I, Alison Salyards, a Notary Public in and

6

for the State of West Virginia, do hereby certify:

7

That the witness whose testimony appears in

8

the foregoing deposition, was duly sworn by me on said

9

date and that the transcribed deposition of said

10

witness is a true record of the testimony given by

11

said witness;

12

That the proceeding is herein recorded fully

13

and accurately;

14

That I am neither attorney nor counsel for,

15

nor related to any of the parties to the action in

16

which these depositions were taken, and further that I

17

am not a relative of any attorney or counsel employed

18

by the parties hereto, or financially interested in

19

this action.

20



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Alison Salyards

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