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Workers' Compensation Hearing

Date: August 18, 2010

Case:

Printed On: August 25, 2010

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STATEMENT UNDER OATH
OF
TRACEY SLENTZ

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 Wednesday, August 18, 2010, beginning at 3:50 p.m.

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

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EXHIBIT PAGE

PAGE

NUMBER

DESCRIPTION

IDENTIFIED

One

Subpoena

7*

Two

Return Receipt Card

8*

* Exhibit not attached

P R O C E E D I N G S

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ATTORNEY BABINGTON:

My name is Matt Babington. Today is August 18th, 2010. I'm with the Office of the Solicitor, U.S. Department of Labor. With me is Erik Sherer, an accident investigator with the Mine Safety and Health Administration, MSHA, an agency of the U.S. Department of Labor. Also present are several people from the State of West Virginia. I ask that they state their appearances for the record.

MR. FARLEY:

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

MR. KOERBER:

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

MS. MONFORTON:

And I'm Celeste Monforton with the Governor's independent team.

TRACY SLENTZ, HAVING FIRST BEEN DULY SWORN, TESTIFIED
AS FOLLOWS:

1 ATTORNEY KOERBER:

2 Sir, would you please state your full
3 name for the record and spell your last?

4 A. Tracey Allen Slentz, S-L-E-N-T-Z.

5 ATTORNEY KOERBER:

6 And would you state your address and
7 telephone number?

8 A. (b) (7)(C)

9 ATTORNEY KOERBER:

10 And do you have an attorney or other
11 personal representative that you would like to have
12 here at the interview today?

13 A. No.

14 ATTORNEY KOERBER:

15 Sir, are you here pursuant to a subpoena?

16 A. Yes.

17 ATTORNEY KOERBER:

18 And would this be a copy of that
19 subpoena?

20 A. Yes.

21 ATTORNEY KOERBER:

22 I'd ask that that be Exhibit One.

23 (Exhibit T. Slentz One marked for
24 identification.)

25 ATTORNEY KOERBER:

1 And this is a copy of the return receipt
2 card. Have any questions about that?

3 A. No.

4 ATTORNEY KOERBER:

5 Okay. That would be Exhibit Two.

6 (Exhibit T. Slentz Two marked for
7 identification.)

8 ATTORNEY KOERBER:

9 Sir, prior to the beginning of this
10 interview, you and I filled out some forms so that you
11 could receive the statutory required \$40 witness fee
12 and roundtrip mileage, together with any tolls that
13 you might've passed; correct?

14 A. Yes.

15 ATTORNEY KOERBER:

16 Matt, come to you.

17 ATTORNEY BABINGTON:

18 All right. There may also be several
19 members of the investigation team that join us later
20 in the interview. Erik Sherer will be conducting
21 initial questioning.

22 All members of the Mine Safety and Health
23 Accident Investigation Team and all members of the
24 State of West Virginia Accident Investigation Team
25 participating in the investigation of the Upper Big

1 Branch Mine explosion shall keep confidential all
2 information that is gathered from each witness who
3 provides a statement until the witness statements are
4 officially released. MSHA and the State of West
5 Virginia shall keep this information confidential so
6 that other ongoing enforcement activities are not
7 prejudiced or jeopardized by a premature release of
8 information. This confidentiality requirement shall
9 not preclude investigation team members from sharing
10 information with each other or with other law
11 enforcement officials. Team members' participation in
12 this interview constitutes their agreement to keep
13 this information confidential.

14 Government investigators and specialists

15 have been assigned to investigate the conditions,
16 events and circumstances surrounding the fatalities
17 that occurred at the Upper Big Branch Mine-South on
18 April 5th, 2010. The investigation is being conducted
19 by MSHA under Section 103(a) of the Federal Mine
20 Safety and Health Act and the West Virginia Office of
21 Miners' Health, Safety and Training. We appreciate
22 your assistance in this investigation.

23 You may have your personal attorney

24 present during the taking of this statement or another
25 personal representative if MSHA has permitted it, and

1 you may consult with your attorney or representative
2 at any time.

3 Your identity and the content of this
4 conversation will be made public at the conclusion of
5 the interview process and may be included in the
6 public report of the accident, unless you request that
7 your identity remain confidential or your information
8 would otherwise jeopardize a potential criminal
9 investigation. If you request us to keep your
10 identity confidential, we will do so to the extent
11 permitted by law.

12 That means that if a judge orders us to
13 reveal your name or if another law requires us to
14 reveal your name or if we need to reveal your name for
15 other law enforcement purposes, we may do so. Also,
16 there may be a need to use the information you provide
17 to us or other information we may ask you to provide
18 in the future in other investigations into and
19 hearings about the explosion. Do you understand?

20 A. Yes.

21 ATTORNEY BABINGTON:

22 Do you have any questions?

23 A. No.

24 ATTORNEY BABINGTON:

25 After the investigation is complete, MSHA

1 will issue a public report detailing the nature and
2 causes of the fatalities in the hope that greater
3 awareness about the causes of accidents can reduce
4 their occurrence in the future. Information obtained
5 through witness interviews is frequently included in
6 these reports. Since we will be interviewing other
7 individuals, we request that you not discuss your
8 testimony with person aside from a personal
9 representative or Counsel.

10 A court reporter will record your
11 interview. Please speak loudly and clearly. If you
12 do not understand a question asked, please ask the
13 interviewer to rephrase it. Please answer each
14 question as fully as you can, including any
15 information you have learned from someone else.

16 I'd like to thank you in advance for your
17 appearance here. We appreciate your assistance in
18 this investigation. Your cooperation is critical in
19 making the nation's mines safer.

20 After we've finished asking questions,
21 you'll have an opportunity to make a statement,
22 provide us with any other information that you believe
23 to be important. If at any time after the interview
24 you recall any additional information that you believe
25 might be useful, please contact any of us at the

1 contact information provided to you.
2 Finally, any statements given by miner
3 witnesses to MSHA are considered to be an exercise of
4 statutory rights and protected activity under Section
5 105(c) of the Mine Act. If you believe any discharge,
6 discrimination or other adverse action is taken
7 against you as a result of your cooperation with this
8 investigation, you're encouraged to immediately
9 contact MSHA and file a complaint under Section 105(c)
10 of the Act. Terry?

11 MR. FARLEY:

12 Mr. Slentz, on behalf of the Office of
13 Miners' Health, Safety and Training, I want to inform
14 you that West Virginia Coal Mine Health and Safety
15 Regulations also provide protection against potential
16 discrimination for participating in these type
17 interviews. I want to pass along some contact
18 information to you for the West Virginia Board of
19 Appeals. It's a body which hears complaints from
20 miners regarding discrimination. Also, my business
21 card, and there's a number on there for Bill Tucker,
22 our lead underground investigator. Now, I would
23 caution you that should you need to file a
24 discrimination complaint, you should do it --- you
25 need to do it within 30 days of whenever it occurred.

1 Okay. Thank you.

2 A. You're welcome.

3 EXAMINATION

4 BY MR. SHERER:

5 Q. Okay. First of all, I want thank you for coming
6 down here this afternoon, Mr. Slentz. How many years
7 of experience do you have in the coal mines?

8 A. It'll be two years the 15th, January, January
9 15th.

10 Q. Okay. Did you work for Massey Organization that
11 entire time?

12 A. No, I worked for a subcontractor, worked in
13 different mines.

14 Q. Okay. Were you employed as a subcontractor at UBB
15 or were you employed ---?

16 A. Part of the time I was.

17 Q. Okay. Did you convert to an employee of UBB?

18 A. Yes.

19 Q. Okay. About when did you become an employee of
20 UBB?

21 A. February 15th.

22 Q. Okay. Of 2010?

23 A. Yes.

24 Q. Okay. Did you work on the shields prior to taking
25 them underground?

1 A. No.

2 Q. Okay. And we understand that you're a shield
3 tech; is that correct?

4 A. Yes.

5 Q. Now, which shift did you work?

6 A. I started out on first and second, training.

7 Q. Uh-huh (yes).

8 A. And then I went to third shift.

9 Q. Okay. And we understand that the third shift is
10 primarily a maintenance shift.

11 A. Yes.

12 Q. What did you do as a shield tech?

13 A. I worked on the shields, replacing hoses and
14 different blocks that needed to be replaced, rams and
15 helped the electricians out every now and then if they
16 needed help.

17 Q. Okay. Are you a certified electrician?

18 A. No.

19 Q. Okay.

20 A. And as far as helping them out, as far as, like,
21 carrying their tanks or whatever, I didn't mess with
22 no wire or highline voltage.

23 Q. Okay, sure.

24 A. Did the grunt work for them, so to speak.

25 Q. Okay. I've done that before.

1 A. Yeah.

2 Q. Who was your supervisor?

3 A. Then it was Steve Gration.

4 Q. Steve Gration. Did you work the Sunday night of
5 the explosion?

6 A. I'm not really sure. I was in Charleston the day
7 --- that day. I think I was in Charleston --- was it
8 Monday?

9 Q. Yeah, Monday, April the 5th.

10 A. I believe I came back from Charleston, and usually
11 when I go to Charleston, I don't work, you know?

12 Q. Sure, uh-huh (yes).

13 A. My days off varied, and I was probably off on
14 Sunday night.

15 Q. Okay. Now, we understand that was a long weekend.
16 It was Easter weekend.

17 A. Yeah, I was probably off, then, ---

18 Q. Okay.

19 A. --- that Sunday.

20 Q. Do you recall what would've been the last shift
21 you had worked in this mine prior to the explosion?

22 A. I usually didn't get three days off very often, so
23 it was either Friday or Saturday ---

24 Q. Okay.

25 A. --- was my last day.

1 Q. Okay. Does anything stand out as being unusual
2 the last shift or two you worked in this mine?

3 A. No.

4 Q. Tell me about the shields on that longwall. Were
5 there many dead shields?

6 A. No, there was no dead shields.

7 Q. Okay. What about --- let me ask you a slightly
8 different question, excuse me. Did you normally wear
9 a jacket or a coat when you were working on it?

10 A. Yes, unless I had to get back inside of there when
11 I knew I was going to get wet.

12 Q. Okay. Had you noticed it was getting hot? Did
13 you have to take your jacket off ---

14 A. No.

15 Q. --- prior to the explosion? Okay. Do you carry a
16 methane monitor with you?

17 A. No.

18 Q. Okay. Where would you normally get off the
19 mantrip it?

20 A. About one break outby the --- what do you call it,
21 the ---?

22 Q. The mule train?

23 A. Yeah.

24 Q. Okay. The mule train is what, about four or five
25 breaks long?

1 A. Yeah, it's pretty long.

2 Q. Okay. So you got off, like, six, seven breaks
3 outby the face?

4 A. Uh-huh (yes), yes.

5 Q. When you were working up there last shift or two
6 prior to the explosion, did you notice anything
7 different?

8 A. No.

9 Q. Do you recall seeing the curtains hung up in the
10 entries just right past the face?

11 A. Yes.

12 Q. Do you recall if they were tight or were they
13 flapping?

14 A. Tight.

15 Q. Okay. Were they bowed toward the gob or were they
16 bowed back toward the face?

17 A. That I don't recall.

18 Q. Okay. Have you spoken with any attorneys about
19 this explosion?

20 A. No.

21 Q. Okay. You haven't been interviewed?

22 A. No.

23 Q. Okay.

24 A. Oh, yes, I did speak to them at Revolution.

25 Q. Okay.

1 A. Yeah, I did do that.

2 Q. Were the attorneys representing Massey?

3 A. Yes.

4 Q. Did they instruct you on how to answer questions?

5 A. No.

6 Q. Okay. What'd they tell you to do?

7 A. They told me, just tell the truth.

8 Q. Okay. Appreciate that. What condition was the
9 longwall face in the last time you worked on it? Was
10 anything out of whack that you ---?

11 A. No, no, not that I recall.

12 Q. Okay. Who was last working on the crew the last
13 time you were in there?

14 A. I don't recall really, because Steve sometimes has
15 days off. There was four or five of us that --- as
16 far as shield techs that rotated days off, especially
17 around the weekends. And then we had two maintenance
18 crews. I don't know which one was on their last.

19 Q. Okay. Did you ever get out in the tailgate of the
20 longwall?

21 A. Did I go down there? Yes.

22 Q. When was the last time you did that?

23 A. The tailgate?

24 Q. Uh-huh (yes).

25 A. I'm sure it was probably maybe that night or maybe

1 the night before, because when they give me a list, I
2 just go down to what shield it is. You know, I
3 might've been down on 176 fixing whatever, a hose
4 or ---.

5 Q. Okay. Did you notice anything unusual down there?

6 A. No.

7 Q. Okay. Did you actually get out in the tailgate
8 entries any?

9 A. No.

10 Q. Okay.

11 A. I usually stay right on the shields.

12 Q. Okay. Do you ever go out in the tailgate entries?

13 A. No.

14 Q. Okay. Do you recall any unusual thumping or
15 bumping the last night you were in there?

16 A. No more than normal, because when you pull the
17 shields up or when the other shift pulled the shields
18 up, you know, sometimes it might take the rock a
19 little bit to fall. And a lot of times when we're in
20 there working, you know, you can hear it falling
21 behind you.

22 Q. Okay. Did it seem to be falling about the same
23 way it normally does?

24 A. Yes.

25 Q. Okay. Do you recall anything sloughing off the

1 face or any coal being pushed off the face that night?

2 A. No.

3 Q. When you left the face that night, do you recall
4 where the shearer was? Was it on the head or ---?

5 A. I have no idea.

6 Q. Okay. Now, is there a system that, lets say, the
7 headgate operator keep up with where the shields are
8 at?

9 A. I really don't know. I know they call for a
10 shuffle sometimes, so maybe that's what they're
11 talking about, a shuffle.

12 Q. Okay. Is there a network that ties --- some sort
13 of electrical network or computer network that ties
14 the shields together?

15 A. Yes.

16 Q. What's that called?

17 A. I know you got the CIU computers. Now, I forget
18 the cable that goes from each computer.

19 Q. Probably some joy word.

20 A. CIU --- I can't think of the name of it right now.
21 So we had to replace them every so often when they go
22 bad, if one computer can't translate to the next one.

23 Q. Do you know if they normally run the shields in
24 the automated mode?

25 A. No. Automated as far as it would run by itself?

1 Q. Yeah.

2 A. No, there was always someone right there.

3 Q. Okay. So there is a jack man that ---

4 A. Yes.

5 Q. --- controls the shields? Okay. Some faces can
6 run automated.

7 A. Oh, yeah? That's the first time I ever seen a
8 longwall there.

9 Q. Okay. So is this the only wall you've ever worked
10 on?

11 A. I went to the Revolution wall but they wasn't
12 running coal then. I was just up there cleaning up a
13 little bit.

14 Q. Okay. What about the condition of the shields?
15 Were they very dusty and have much coal dust back on
16 the hoses and stuff like that?

17 A. Some of them did. You know, you get pretty dirty
18 getting back in there.

19 Q. I would imagine.

20 A. And we spray all the pontoons off and keep all the
21 gob off the front if there's any.

22 Q. Is that one of the things you guys normally do, is
23 spray off the shields?

24 A. No, usually the other shift does that.

25 Q. Okay.

1 A. They do that while they run.

2 Q. Okay. Did you ever run into much water on that
3 longwall face?

4 A. Yes, we've had water before.

5 Q. When was the last time that you had a problem with
6 water?

7 A. Maybe a month prior, maybe a month and a half, two
8 months.

9 Q. Okay. So that puts you sometime in maybe late
10 January, early February?

11 A. March, somewhere around there.

12 Q. Okay. Even into March; okay. Do you recall ---
13 did you see the water coming in? Was it coming out of
14 the roof, coming out of the face, coming out of the
15 floor?

16 A. I believe it was coming from behind.

17 Q. Back in the gob?

18 A. Yeah.

19 Q. Okay. Did you have to set any pumps?

20 A. Yes.

21 Q. How many pumps did you have to set?

22 A. I think at one time they had two, maybe three.

23 Q. Okay. Was it just in a swag that the longwall
24 went through?

25 A. Yes.

1 Q. Okay. Did you ever have any reason to go back
2 behind the face, back in the gob?

3 A. You mean back behind the shields?

4 Q. Yeah.

5 A. No.

6 Q. Okay.

7 A. They don't let us do that.

8 Q. Actually there was a crew working back there, we
9 understand.

10 A. Oh, really?

11 Q. Yeah, pumping the water.

12 A. Oh, they might go in another way, but as far as,
13 like, right behind the shields, no.

14 Q. Yeah.

15 ATTORNEY BABINGTON:

16 Erik, to clarify, I think what you were
17 saying is inby the face ---

18 MR. SHERER:

19 Yeah, exactly.

20 ATTORNEY BABINGTON:

21 --- along the headgate.

22 MR. SHERER:

23 Or along the tailgate, either one.

24 ATTORNEY BABINGTON:

25 Not necessarily behind the shields, but

1 in the entries.

2 A. Oh, I think there is different people working out
3 there. Yeah, I think Jaybird's crew was down there.

4 BY MR. SHERER:

5 Q. Is Jaybird the guy's name or is it a nickname?

6 A. That's a nickname.

7 Q. Do you know what his name is?

8 A. Jason Thomas, I believe.

9 Q. Oh, okay. Thank you. Did you ever talk to Mr.
10 Thomas about the water back there?

11 A. No.

12 Q. Okay. Did you ever hear anybody talking about the
13 water back there?

14 A. They just said there's water back there. That's
15 all I heard.

16 Q. Okay. Anybody mention if any of the entries were
17 roofed out?

18 A. No.

19 Q. Okay. Did you ever have to walk up the beltline
20 from the longwall?

21 A. We've done that when we're moving power, but as
22 far as, like, all the way out, no.

23 Q. Okay. When was the last time you helped move
24 power?

25 A. We usually move, like, every two, three weeks,

1 something like that. Just depends on how fast they
2 run.

3 Q. Do you know if you moved up fairly close to the
4 time of the explosion?

5 A. No, I don't recall.

6 Q. Okay. The last time you did one of those moves,
7 what was the rock dust on the belt entry like? Was it
8 bright white?

9 A. I don't really recall. I mean, I know I was over
10 there. I'm not sure.

11 Q. Okay. Anybody ever call in on the mine phone or
12 anybody ever tell you there were instructors on the
13 property?

14 A. I don't think so. I never --- I'm never around by
15 the phone. I'm usually way up the line.

16 Q. Okay. Yeah. Did you ever see anybody working on
17 the methane monitor system on that longwall?

18 A. No, not that I know of.

19 Q. What did you think about the ventilation in this
20 mine? Did you think it was adequate?

21 A. I think it was pretty strong, because it was
22 always cold up there.

23 Q. Okay. A lot of air on the face?

24 A. Yeah, it was always cold.

25 Q. Had you noticed any change on --- as far as the

1 volume of air on the face?

2 A. No, not really.

3 Q. About the same?

4 A. Uh-huh (yes), yes.

5 Q. Still cold?

6 A. Yes, always cold.

7 Q. Okay.

8 A. Always had to wear long johns and a couple shirts
9 and my jacket if I wasn't back in there in the
10 shields.

11 Q. Sure. That's pretty cold.

12 A. Yeah. I don't wear long johns now at this other
13 mines I'm working in.

14 Q. Which mine is that?

15 A. I work at Elk Run, Logan's Fork.

16 Q. Oh, okay. When you got down near the tail end of
17 the wall last time, did you notice anything that
18 smelled different, any kerosene type odor?

19 A. No.

20 MR. SHERER:

21 Okay. That's all the questions I've got.

22 MR. FARLEY:

23 I don't think I have any.

24 MS. SPENCE:

25 I don't have any.

1 ATTORNEY BABINGTON:

2 Okay. Well, two documents at the
3 beginning. One was a copy of the subpoena. That'll
4 be marked T. Slentz One, and then a copy of the return
5 receipt; that'll be marked T. Slentz Two.

6 On behalf of MSHA and the Office of
7 Miners' Health, Safety and Training, I want to thank
8 you for appearing and answering questions today. Your
9 cooperation is very important in the investigation as
10 we work to determine the cause of the accident. We
11 request that you not discuss your testimony with any
12 person aside from a personal representative or
13 Counsel. After questioning other witnesses, we may
14 call you if we have any follow-up questions.

15 If at any time you have additional
16 information regarding the accident that you'd like to
17 provide to us, please contact us at the contact
18 information previously provided. If you wish, you may
19 now go back over any answer you've given during this
20 interview, and you may also make any statement that
21 you'd like to make at this time.

22 A. No, everything's fine.

23 ATTORNEY BABINGTON:

24 Okay. Thank you. And again, I want to
25 thank you for your cooperation in this matter.

1 A. All right. You're welcome.

2 ATTORNEY BABINGTON:

3 Off the record.

4 * * * * *

5 STATEMENT UNDER OATH CONCLUDED AT 4:15 P.M.

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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.

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Alison Salyards

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