

01 EXAMINATION UNDER OATH
02 OF
03 BRYAN SCOTT CABELL
04
05
06 Taken pursuant to Notice by Autumn D.
07 Furby-Pritt, a Court Reporter and
08 Notary Public in and for the State of
09 West Virginia, at Department of
10 Environmental Protection, 1101 George
11 Kostas Drive, Logan, West Virginia,
12 on Tuesday, March 14, 2006, at 5:56
13 p.m.

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01 A P P E A R A N C E S

02

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3

01 A P P E A R A N C E S (continued)

02

03 ALSO PRESENT:

04 DENNIS A. BEITER

05 ARLIE A. WEBB
06 RONALD W. STAHLHUT
07 MICHAEL FINNIE
08 ANTHONY L. BURKE
09 C.A. PHILLIPS
10 STEVE COX
11 EUGENE WHITE
12 BETH SPENCE
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01 I N D E X

02

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01 P R O C E E D I N G S

02 -----

03 MR. FRANCCART:

04 Welcome back, Bryan.

05 And thank you for coming. We
06 do have a few more questions
07 to ask you today, and it's
08 because we've had a number of
09 investigations and interviews
10 with people, and we need to
11 clarify a few things with you.

12 MR. CABELL:

13 Okay.

14 MR. FRANCCART:

15 I'm not going to go
16 through the big spiel on the
17 opening statements and all
18 again, but we do have to
19 introduce people for the
20 record that they were here.
21 So we're going to do this just
22 like we did last time.

23 This is a continuation
24 of the last interview we did
25 with you. But we're going to

7

01 ask all the MSHA to identify
02 themselves. So Denny, if you
03 would start, please.

04 MR. BEITER:

05 Denny Beiter. My
06 name's Denny Beiter, I work
07 for MSHA in the ventilation
08 division. And I work out of
09 Triadelphia, West Virginia.

10 MR. WEBB:

11 Anthony Webb with MSHA
12 in Pikeville, Kentucky.

13 MR. STAHLHUT:

14 Ron Stahlhut, MSHA

15 Vincennes, Indiana.

16 MR. FINNIE:

17 Mike Finnie, MSHA,
18 Madisonville, Kentucky.

19 MR. BURKE:

20 Tony Burke, MSHA,
21 Whitesburg, Kentucky.

22 MR. FRANCCART:

23 And I'm Bill Francart,
24 I'm from Pittsburgh,
25 Pennsylvania. And I'll be

8

01 asking the questions today for
02 MSHA. And with us here also,
03 again, is Mr. Bill Tucker from
04 the State. he'll be asking
05 the questions. And he has an
06 opening statement for you.

07 MR. TUCKER:

08 And again, I won't
09 bother reading the opening
10 statement. You've already
11 heard it once, but all of
12 that's still in effect. And
13 my name is Bill Tucker, and I
14 work out of Region Four for
15 Miners' Health, Safety &
16 Training. that's in Oak Hill.

17 MR. PHILLIPS:
18 Hello, Bryan. My name
19 is C.A. Phillips. I'm the
20 Deputy Director with Miners'
21 Health, Safety & Training in
22 Charleston, West Virginia.

23 MR. COX:
24 Steve Cox, Region
25 Three, Danville.

9

01 MR. WHITE:
02 Eugene White, Region
03 Three, district inspector of
04 Danville.

05 MS. SPENCE:
06 Beth Spence with the
07 Governor's Office.

08 MR. FRANCCART:
09 Bryan, this is a
10 continuation of the interview
11 that we conducted with you,
12 and it is being conducted
13 under Section 103(a) of the
14 Federal Mine Safety and Health
15 Act of 1977 as part of the
16 investigation of the accident
17 on January 19th at the Alma
18 Mine.

19 And we are located here

20 at the West Virginia
21 Department of Environmental
22 Protection offices, Division
23 of Mining Reclamation in
24 Logan, West Virginia. It's
25 March 14th, 2006. And it's

10

01 5:58 p.m.
02 Just as a quick
03 reminder, we'll go through
04 some of the --- some of the
05 things we talked about before.
06 Your statement may be used in
07 other enforcement proceedings,
08 as we discussed before. And
09 the format is the same as our
10 last session. You are
11 permitted to have a
12 representative with you during
13 the interview, and you may
14 consult with your
15 representative at any time,
16 and you can designate any
17 person to be your
18 representative. And again,
19 your representative will be
20 given time to ask clarifying
21 questions at the end of the

22 questioning by MSHA and the
23 State.

24 Your statement is
25 completely voluntary. You can

11

01 refuse to answer any question
02 at any time or end the
03 interview at any time. And if
04 you don't understand a
05 question, let me know and
06 we'll try to rephrase it for
07 you to make it clearer. If
08 you need a break for some
09 reason, let us know, we'll
10 stop to take a break.

11 As before, we have a
12 court reporter here to record
13 the interview, and later there
14 will be a written transcript
15 of the interview. And we'll
16 ask, again, that you state all
17 your answers verbally so we
18 don't have a problem with the
19 gestures, such as shaking your
20 head and those types of
21 things. And to remind you,
22 neither the transcript nor the
23 contents will be released to
24 the public until the MSHA

25 investigation is completed and

12

01 the accident report is
02 released. Or as required by
03 court order, or if public
04 hearings are held on the
05 accident. Do you have any
06 questions about the manner in
07 which the interview will be
08 conducted?

09 MR. CABELL:

10 No, sir.

11 MR. FRANCCART:

12 I now will ask the
13 court reporter to administer
14 the oath.

15 -----
16 BRYAN SCOTT CABELL, HAVING FIRST BEEN
17 DULY SWORN, TESTIFIED AS FOLLOWS:

18 -----

19 BY MR. FRANCCART:

20 Q. And again, could you please
21 state your name for the record?

22 A. Bryan Cabell.

23 Q. And are you appearing
24 voluntarily at the interview today?

25 A. Yes, sir.

13

01 Q. Has anyone made any promises
02 to you or offered you any rewards in
03 exchange for making a statement here
04 today?

05 A. No, sir.

06 Q. Has anyone threatened you or
07 warned you not to provide a statement
08 here?

09 A. No, sir.

10 Q. Do you understand that you may
11 refuse to answer any questions or
12 terminate this interview at any time?

13 A. Yes, sir.

14 Q. And you are going to continue
15 with Mr. Hardy as your
16 representative?

17 A. Yes, sir.

18 Q. And you do remember that there
19 is a potential conflict of interest
20 between you and the company as a
21 result of Mr. Hardy being here as
22 your representative?

23 A. Yes, sir.

24 Q. Okay. Thank you. Bryan, have
25 you discussed the previous interview

14

01 we held with you with any other
02 people?

03 A. No, sir.

04 Q. Have you discussed any other
05 people's interviews?
06 A. No, sir.
07 Q. Okay. At the beginning of
08 your shift on the 19th, you came into
09 the mine. You told us you walked
10 some of the belts and you walked up
11 to the drive area. And you replaced
12 somebody who worked day shift?
13 A. Uh-huh (yes).
14 Q. Who was that person?
15 A. Carl White.
16 Q. And did you have a discussion
17 with Carl before he left the mine?
18 A. Yeah. I talked to him on the
19 phone.
20 Q. Okay. You talked on the
21 phone, but you didn't talk in person?
22 A. No, sir.
23 Q. Okay. And do you know who
24 pre-shifted the drive area for your
25 shift?
01 A. I suppose Carl did.
02 Q. If we could go back, just to
03 rehash and refresh everyone's minds,
04 when you first walked up to the drive
05 area you said you saw an excessive

06 amount of what seemed to be dust?

07 A. Not when I first got there.

08 The belts was not running when I

09 first got there.

10 Q. Okay. After the belts were

11 started you saw the dust then?

12 A. Yes, sir.

13 Q. I'm sorry. Could you go from

14 there and explain to us what happened

15 in the initial phases of the fire

16 development at that point?

17 A. I looked back towards the ---

18 I was standing at the drive area, and

19 I looked back towards the storage

20 unit part, and like I said, it looked

21 like dust back there, which I didn't

22 smell no smoke, and nothing even

23 looked like smoke. But it just

24 seemed more dustier than normal. So

25 I walked back to there, but once I

16

01 got back to there and I could look at

02 towards the drive area where I was at

03 previously, then it looked like it

04 was dusty up there. I still didn't

05 smell no smoke. You know, I just

06 thought maybe the belt where it was

07 maybe running a little bit dry or

08 something, that --- it was more dust

09 than anything.

10 But while I was there, I
11 noticed that where the belt was
12 rubbing in the storage unit area.
13 And they had turned the belt off
14 again. And while they had the belts
15 off this time, I went over and I
16 found a cradle that was cocked in the
17 storage unit, and I knocked it loose
18 to try to straighten it up. And at
19 this time, like, they started the
20 belts back up, and it still wouldn't
21 --- the belt still wouldn't come over
22 off of the metal that it was rubbing.
23 I tried to train the belt, and while
24 training the belt, it wasn't doing
25 any good. And I was afraid I was

17

01 going to hurt the belt. You know, I
02 had noticed that, you know, more ---
03 well, what I noticed was smoke being
04 --- had started. So I went back up,
05 and I was afraid I was going to hurt
06 the belt. I still didn't think there
07 was no fire or nothing like that.
08 And I shut the belt off.

09 And when I shut the belt off,
10 it seemed like it started getting

11 more smokier. I called the --- I
12 called Fred, and I talked to Fred and
13 I talked to Dusty about it, about the
14 smoke. Which way it was going, which
15 way it was traveling. And then I
16 called the section, told the section
17 to, you know --- well, I didn't call
18 the section, I called the dispatcher,
19 had him shut the section belt off,
20 told them that they had smoke coming
21 up their intake and to evacuate.

22 I went back down and looked at
23 it, and there still wasn't nothing,
24 so I seen what I had to do to fix the
25 problem. And it was just --- like I

18

01 said, just a little bit of smoke that
02 was there around that frame. While I
03 was at the phone talking to Fred
04 about getting some tools up there, it
05 just --- it burst up into flames.

06 And you know, that's whenever I ---
07 some help arrived to help me put it
08 out. Well, that's when we started
09 fighting the fire.

10 Q. Okay. You mentioned you
11 talked to Dusty Dodson?

12 A. Yeah. He was on the phone. I
13 didn't call Dusty, he just happened

14 to be on the phone at the time.

15 Q. So you called Fred, but Dusty
16 just happened to be listening in on
17 your conversation?

18 A. Uh-huh (yes).

19 Q. Okay. You said that when you
20 first got up to the head the belt was
21 shut off, and then they started the
22 belt and they stopped it again?

23 A. Uh-huh (yes).

24 Q. Do you know why the belt was
25 stopped a second time?

19

01 A. They do it all the time up
02 there in the face. I don't get into
03 it. Whenever they stop and start it,
04 I just go with whatever they're
05 doing.

06 Q. Okay. But you stopped the
07 belt then after it started?

08 A. After it started smoking,
09 yeah, I turned the belt off.

10 Q. Okay. When you first called
11 out to Fred, could you tell us what
12 that conversation entailed?

13 A. I just told him what I needed
14 to --- the first time I talked to
15 him, I told him what I needed to fix

16 --- you know, what I thought was the
17 problem. And he said he's getting me
18 the tools I need and it would be
19 right to me. And the next time I
20 called him, it was whenever the fire
21 broke out, and he said he was on his
22 way.

23 Q. As far as the fire
24 extinguishers that you used, did you
25 use those prior to your second call

20

01 to Fred, or prior to the first?

02 A. After the second call to Fred
03 is whenever the fire broke out is
04 while I was talking to him, and
05 that's whenever I grabbed them and
06 started using them then.

07 Q. Okay. In your last interview,
08 I thought you told us that you
09 actually didn't see flames the first
10 time you used the fire extinguisher,
11 all you saw was glowing embers?

12 A. Right. Well, it was glowing,
13 but --- you know, I knew that ---
14 that's whenever I went to it, you
15 know, with the fire extinguisher.
16 And that's whenever it broke out into
17 flames.

18 Q. So the flames, did you see

19 them before or after the fire
20 extinguisher you used for the first
21 time?

22 A. I'm not sure. I can't
23 remember if it was just glowing or
24 actually burning at that time.

25 Q. Okay. Now, when you called

21

01 out the first time, you went back to
02 the storage unit; is that correct?

03 A. Uh-huh (yes).

04 Q. When you went back the second
05 time, had the conditions changed very
06 much?

07 A. Uh-uh (no). None at all.

08 Q. And then what made you shut
09 the belt off then?

10 A. I was afraid it was going to
11 hurt the belt. I didn't want to stay
12 there and make splices all night. I
13 was afraid it was going to tear all
14 the splices in the belt loop, because
15 it wasn't anything like I had ever
16 seen before. I mean, --- you know, I
17 had seen belt rubbed like that
18 before, but I'm not the type of
19 person that whenever it's doing that,
20 I won't just let it run. I'll shut

21 it off and try to fix the problem.
22 If it's down all shift, it's down all
23 shift, but I'll fix the problem
24 before I'll tear a belt up.
25 Q. On your second call out, what

22

01 was the purpose of the second call,
02 because you had already called for
03 help and tools to come in? Why did
04 you call the second time?

05 A. Because I didn't want to be
06 down too long. As far as I can
07 remember, I didn't want to be down
08 --- you know, I was waiting on them
09 to get there. And I needed tools to
10 work with, and while I was talking to
11 him, that's when it all took place.

12 Q. And who did you talk to on the
13 second call out?

14 A. Fred.

15 Q. You talked to Fred?

16 A. Yeah.

17 Q. Did you talk to Mike Brown at
18 all?

19 A. I just --- the only time I
20 talked to Mike was whenever I called
21 him and told him to shut the section
22 belt off.

23 Q. Okay. At what point did you

24 tell him to shut the belt off?

25 A. Whenever I saw the smoke.

23

01 Q. The smoke?

02 A. Uh-huh (yes).

03 Q. Before the flames?

04 A. Yeah.

05 Q. And do you know what time that

06 was?

07 A. No. I have no idea.

08 Q. What was causing the smoke

09 exactly, was it the belt, a bearing,

10 or --- could you tell?

11 A. Whenever I first saw the

12 smoke, I just thought it was just

13 maybe rubbing on the frame or

14 something. Whether it was that or

15 whether it was a bearing, I couldn't

16 tell you.

17 Q. Was that an alignment problem

18 caused by that carriage slippage, do

19 you think?

20 A. Well, it couldn't have been,

21 because whenever I knocked it loose

22 and it straightened back up a little

23 bit, it didn't help it none. I

24 really don't know what the cause of

25 it was.

01 Q. So you were able to straighten
02 the carriage?

03 A. Not completely.

04 Q. Okay.

05 A. But somewhat, yes.

06 Q. The last time you were here
07 you said that the carriage was
08 wrecked?.

09 A. Uh-huh (yes).

10 Q. So you had to do a major
11 adjustment ---?

12 A. Yeah. That's when I was
13 waiting on the tools to do it with.

14 Q. So you were able to put that
15 back into close proximity, but it
16 still needed fine-tuned; is that what
17 you mean?

18 A. Right. And it was --- it was
19 at a real sharp angle where it was
20 still held on one side. And whenever
21 I knocked it loose, then it was able
22 to, you know, free the tension up on
23 it.

24 Q. The fire extinguisher that you
25 used, where did you get that first

01 one?

02 A. The first one I got off the

03 manbus that Pat Callaway brought up.

04 Q. Okay. So you didn't use any
05 other extinguishers from that drive
06 area ---?

07 A. No, it was the first one I
08 grabbed, because it was the closest
09 one I had.

10 Q. Was there anyone with Callaway
11 when he came up there?

12 A. Joe Rhodes.

13 Q. What did Joe do during all
14 this time? We didn't talk about him
15 the last time.

16 A. I really didn't --- he was
17 just standing back out of the way.
18 Me and Pat --- me and Pat was doing
19 the work really.

20 Q. He didn't help you ---?

21 A. Well, whenever I was back
22 there with the fire extinguishers, as
23 far as I know, him and Pat was
24 getting the fire extinguishers, to
25 find them for me. To be honest, I

26

01 didn't see either one of them, what
02 they were doing. All I know is, when
03 I finished one, Pat was there handing
04 me another one.

05 Q. I think Joe told us that he
06 did go to find fire extinguishers for
07 you at an electrical installation?

08 A. Uh-huh (yes).

09 Q. But he also told us he helped
10 you actually disperse some of the
11 extinguishing. Do you remember him
12 using them?

13 A. No.

14 Q. It was pretty hectic down
15 there.

16 A. I was the only one that done
17 the --- used the fire extinguisher
18 that I know of. If he did, he did it
19 when I wasn't there.

20 Q. Okay. The first time you
21 called Fred, did you tell Fred that
22 you had smoke at that point?

23 A. Not the first time. I don't
24 think so.

25 Q. So were you just calling to

27

01 get somebody come and help you
02 re-align the belt and fix that
03 carriage?

04 A. Uh-huh (yes). Right.

05 Q. Did he say anything to Dusty
06 at that point, or did you?

07 A. No.

08 Q. How did you know he was on the
09 phone?

10 A. I heard him talking or
11 something to somebody about something
12 else. I may have butted into his
13 conversation. I'm not sure how that
14 went about.

15 Q. Okay. So do you know if he
16 understood that you were having a
17 problem at the drive?

18 A. Oh, yeah. Oh, yeah, I let him
19 know.

20 Q. Okay. What did he have to say
21 about the problem, anything?

22 A. No, nothing really.

23 Q. Did he seem concerned at all?

24 A. Oh, yeah.

25 Q. So when did you tell Fred

28

01 about smoke or a possible fire?

02 A. Whenever I was talking to him
03 the second time.

04 Q. The second call?

05 A. Yeah.

06 Q. Do you know where he was a
07 that point?

08 A. If I'm not mistaken, I think
09 he said he was at Number One

10 Fourway.

11 Q. And do you know what he was
12 doing?

13 A. Heading towards the main. He
14 was waiting on the chain ratchets,
15 for somebody to bring them to him,
16 and relay them up to me.

17 Q. And did he bring them in when
18 he came in?

19 A. Yeah. When he came --- no, I
20 didn't see them, because I wasn't
21 worried about them when he got there.
22 But I know that he showed up.

23 Q. At that point, when he got
24 there, you were already fighting a
25 fire?

29

01 A. Right. I wasn't worried about
02 the chain ratchets then.

03 Q. Okay. Let's see if we can
04 nail this down tight so I understand.
05 The last time you said you were on
06 the phone with Fred and you noticed
07 the smoke was getting worse, and you
08 saw the glowing embers. Was that
09 something you could see from the
10 phone, or did you actually have to
11 walk up to the storage unit to see
12 that?

13 A. I could see it from the phone,
14 which it was in direct eyesight from
15 where I was standing.

16 Q. So you could see the glowing
17 embers without flames at first?

18 A. Uh-huh (yes).

19 Q. And then it erupted into
20 flames?

21 A. Uh-huh (yes).

22 Q. And where did the flames first
23 become visible?

24 A. When?

25 Q. Where? What side of the belt?

30

01 A. On the outside of the belt.

02 Q. So it would be the tight side?

03 A. Uh-huh (yes).

04 Q. And at what point did you see
05 them on the wide side?

06 A. Probably --- as I was walking
07 back to it with the fire
08 extinguisher?

09 Q. So it grew pretty fast?

10 A. Uh-huh (yes). Very fast.

11 Q. Could you tell if the belt was
12 burning at that point or was it coal?

13 A. I couldn't tell you. I
14 couldn't tell you.

15 Q. You told us before that you
16 were off for a period of time because
17 of your injury on September 22nd.

18 A. Uh-huh (yes).

19 Q. Do you remember on September
20 22nd, was Two Section operating at
21 that time?

22 A. Well, they was up in there.
23 I'm not sure how far they was up in
24 there though.

25 Q. There was a development

31

01 section working somewhere then?

02 A. Yeah.

03 Q. It may not have been Two
04 Section, but ---.

05 A. It was right in that area
06 somewhere. I'm not sure exactly
07 where it was at, at that time.

08 Q. So on the 19th, Pat Callaway
09 was the first person to arrive, and
10 Joe Rhodes was with him?

11 A. Uh-huh (yes).

12 Q. You don't have any idea what
13 Joe was doing while ---?

14 A. Him and Pat came up together.
15 Where they was going, what they was
16 doing, no, I couldn't tell you. I
17 don't know.

18 Q. Did you attempt to travel to
19 the inby side of the fire toward the
20 longwall face?

21 A. Uh-huh (yes).

22 Q. Did Mr. Callaway go with you
23 in that attempt?

24 A. I didn't try to travel it. I
25 went up to the fire, you know, on the

32

01 walkway side of the belt. And after
02 doing all we could, I wanted to go to
03 the inby side. And I knocked a hole
04 in the stopping that was just outby
05 the mother drive, because I knew that
06 that entry was straight down. If it
07 was clear, I could go around to it.
08 Whenever I knocked one block out, I
09 seen that there was smoke in that
10 entry. I didn't even knock the block
11 completely out, I just knocked it
12 sideways. And I seen that there was
13 smoke in that entry, and right then I
14 just said, no, I can't do it. And
15 that's all --- I never did get in
16 closer to the fire.

17 Q. So you don't know where Joe
18 was all that time?

19 A. He was there with me when I

20 knocked that block out, if I'm not
21 mistaken.

22 Q. When you knocked the block?

23 A. Uh-huh (yes).

24 Q. Were you aware of him being
25 positioned at the doors in the

33

01 travelway to watch for any of the
02 Number Two Section employees coming
03 out?

04 A. No.

05 Q. Do you know if he ever had to
06 don a self-rescuer during the time
07 you were underground?

08 A. No, not that I remember him
09 doing.

10 Q. Were you with him the entire
11 time?

12 A. He was --- well, we was
13 running back and forth trying to get
14 the stuff and fight --- you know, to
15 fight stuff, and ---. No, I wasn't
16 with him the whole time. I just knew
17 of his whereabouts, and I kept in my
18 mind of where he was at, because I
19 wasn't going to lose him or, you
20 know, lose anybody around that area.

21 Q. Did you talk to him after the
22 fire at all?

23 A. After this all happened?

24 Q. Yes.

25 A. I worked with him once or

34

01 twice since then, but us talking

02 about the accident, no.

03 Q. You never talked about the

04 fire?

05 A. I never talked nothing about

06 it.

07 Q. He never told you anything

08 about the fire?

09 A. Uh-uh (no). About the only

10 thing I've seen about the fire or

11 anybody said, hey, you know, you look

12 at it and look back at it and say

13 it's just something you've never seen

14 before. You know, and it's amazing

15 how it went up, you know, into flames

16 the way it did, you know. And that's

17 basically the extent of what I've

18 ever said to anybody about it.

19 Q. We talked before about not

20 having water in the waterline to

21 fight the fire. And you sent Pat

22 Callaway to check on turning the

23 water on?

24 A. Uh-huh (yes).

25 Q. And he went to the head of

35

01 Number Seven belt to do that.

02 A. I didn't know where he went

03 to. I know where I told him to go,

04 but I didn't know if that's where he

05 went to or not.

06 Q. And where did you want him to

07 go?

08 A. I wanted him to go just on

09 Seven belt itself, right at the

10 mother drive is where I needed him to

11 go, because I knew I had water at

12 Seven belt. So I knew it had to be

13 between me and there.

14 Q. Was there one particular valve

15 that you wanted him to check?

16 A. Well, that's what I was

17 looking for.

18 Q. You didn't know where that

19 valve was though?

20 A. Not right off hand, no.

21 Q. And how did you know you had

22 water at that head?

23 A. Whenever I walked in that day,

24 I looked at the belt and saw that the

25 belt was wet. When I walked by the

36

01 mother drive head, I seen that I had

02 a little water hose, drip hose on it,
03 and it had water on it.

04 Q. Has anyone ever complained to
05 you or any other people that worked
06 at the head about the mudhole and how
07 it got there?

08 A. No, not to me they hadn't.

09 Q. We've heard some conflicting
10 accounts about the doors in the
11 travelway. I think you told us that
12 all four doors were closed at the
13 time of the fire?

14 A. Yeah, at the time that all
15 this ---. The only time I noticed
16 the doors was open was whenever Pat
17 and them came up. You know, they
18 opened the doors to get up there.

19 Q. And that was the two outby
20 doors?

21 A. Uh-huh (yes). I never saw the
22 second inby door, I was never --- the
23 first inby door was shut, so I never
24 did go through that door to even look
25 at the other door. So I just

37

01 expected that it was shut, too.

02 Q. And those doors were closed
03 when you came up to the head?

04 A. Uh-huh (yes). Yes.

05 Q. So as far as you were

06 concerned, all four doors were closed

07 until those two arrived on their

08 trip?

09 A. Uh-huh (yes). Yes, sir.

10 Q. Okay. Thanks. Do you know

11 when the belt storage unit was last

12 robbed of excess belt?

13 A. No, sir.

14 Q. Do you ever see any storage

15 --- were any belts stored up there

16 that had been removed?

17 A. Oh, yeah.

18 Q. Do you know when it was

19 removed?

20 A. I don't know the exact, no.

21 Q. Do you happen to know how

22 often the belts were removed from the

23 storage unit?

24 A. Yeah. I know how often I've

25 done it before whenever -- you know,

38

01 when it was ---. It just depends on

02 how they rode. You know, we like to

03 let it get as completely full to

04 where we can take at least 500 feet

05 out of it. How often that happens

06 just depends on how well the longwall

07 runs.

08 Q. Do you have any idea how many
09 feet would have been in that storage
10 unit the night of the fire? Just a
11 guess.

12 A. It was over half full.

13 Q. So we're looking at 200 to 300
14 feet minimum?

15 A. Minimum, yeah.

16 Q. Did you happen to notice a
17 flatcar full of belt in the area?

18 A. Yeah. It was underneath the
19 belt line.

20 Q. Right underneath the belt?

21 A. Uh-huh (yes).

22 Q. But you're not sure if Joe
23 donned his SCSR?

24 A. I never did see him with one
25 on. He was in fresh air. He was in

39

01 the intake the whole time, so no, I
02 never seen him with one on.

03 Q. Do you have any idea how much
04 belt was on that flat car under the
05 belt?

06 A. Well, there's at least 500
07 feet.

08 Q. So it would have been just one

09 time that they had removed the belt?

10 A. Uh-huh (yes). Yeah, you
11 couldn't get more than that on those
12 cars.

13 Q. When Mr. Callaway arrived, he
14 opened the doors and drove in. Did
15 he close the doors behind him?

16 A. I'm thinking that he did. I'm
17 not going to say yes positive. I
18 know that he shut them, but on one of
19 the doors, I'm not sure if it was
20 shut all the way, but --- I know one
21 side was shut. I don't know if the
22 other side was completely shut or
23 not.

24 Q. As far as the side, do you
25 mean the inby doors, were both

40

01 closed, or ---?

02 A. No, you got two doors. One of
03 the doors was completely shut. The
04 other door, I'm thinking it was just
05 --- it may have been cocked open just
06 a little bit.

07 Q. Do you have any idea why
08 Callaway went to Seven head to try to
09 turn on the water?

10 A. No. I mean, I tried to
11 explain to him where I wanted him to

12 go. I may have --- he may have
13 misunderstood me or something like
14 that. I'm not sure.

15 Q. Do you know anything about
16 trying to regulate water flow using
17 valves at Seven head for Number Two
18 Section?

19 A. No. It's either off or on as
20 far as I know.

21 Q. Do you know how many times you
22 talked to Fred on the phone?

23 A. Twice.

24 Q. Twice that night? So Dusty
25 was on the phone the first time you

41

01 called, and ---?

02 A. I'm thinking it was --- I'm
03 not sure if it was the first time or
04 the second time.

05 Q. And the second time, was there
06 anyone else on the phone, do you
07 know?

08 A. I think it was --- it must
09 have been the first time, because I
10 think the second time Fred was the
11 only one I talked to.

12 Q. Do you know if Mike Brown was
13 involved in that second conversation

14 at all?

15 A. I didn't talk --- I told you,
16 the only time I talked to Mike was
17 when I told him to shut the valve ---
18 I mean, shut the belts off. At that
19 time, I didn't even know --- I didn't
20 even know Mike. Where I've been off
21 for so long, he was a new face, a new
22 person outside. I didn't even know
23 him, so ---. I just known him as a
24 dispatcher.

25 Q. As far as Fred's knowledge of

42

01 the fire, he was on his way up to
02 help you out. When did he first
03 learn that there was actually a fire?

04 A. When I talked to him the
05 second time.

06 Q. So what exactly did you tell
07 him the second time?

08 A. I said I got to go, I've got a
09 fire. He said put it out, and I said
10 that's where I'm going, and that was
11 it. That was it. That's the last
12 time I talked to him.

13 Q. And as far as the evacuation
14 of the sections, when did that occur
15 in relation to that second call?

16 A. Before that.

17 Q. It was before that?

18 A. Uh-huh (yes).

19 Q. And that came about as a

20 result of you calling the

21 dispatcher ---

22 A. Yes, sir.

23 Q. --- to tell him to evacuate?

24 A. Yes, sir.

25 Q. That was Two Section. What

43

01 about the longwall?

02 A. I called all --- at first, I

03 wasn't concerned about the longwall,

04 because I knew that all the smoke was

05 coming towards me. But after I

06 called and told them to evacuate,

07 told the dispatcher to tell them, I

08 walked back to get another

09 extinguisher or something, and I

10 walked by a phone. And as I walked

11 by the phone, it hit me. So I called

12 and --- I hollered for the longwall.

13 Q. Did they answer?

14 A. No, they didn't. But it may

15 have been Mike and --- I don't know

16 who it was, somebody got on the phone

17 and said Bryan, said they've already

18 been notified. They're already off

19 the face. I said okay.
20 Q. So somebody told you that they
21 were already evacuating?
22 A. Uh-huh (yes).
23 Q. How did you know all the smoke
24 was going outby instead of inby?
25 A. I'm watching it. I'm standing

44

01 right there seeing it.
02 Q. You could see there was no
03 smoke going inby?
04 A. I could see that all the smoke
05 was coming towards me. And I know
06 that that smoke, if it --- if you got
07 air pushing it that way, it ain't
08 going to go the other way of the air.
09 Q. Did you ever hear of smoke
10 rollback?
11 A. No, sir.
12 Q. Do you remember where you
13 talked to Carl White from, which
14 phone?
15 A. I can't remember if it was Six
16 head or Seven head.
17 Q. I think he told us it was
18 Seven head. I'm not sure, but ---.
19 A. It may be. I can't remember.
20 Q. Do you have any idea how long
21 it was from the time you talked to

22 him to the time you got to the drive,
23 the longwall drive?

24 A. Probably 20, 25 minutes I'd
25 say, because I walked up to the

45

01 tailpiece of Six belt, I know. I
02 always went there first before I come
03 up Seven belt. So I'd have to walk
04 all the way up a hill to that, and
05 got a tailpiece to check, the
06 four-foot head to check, and then
07 walk back down and then walk up the
08 Seven belt. So it was at least that
09 long.

10 Q. Do you have any idea how long
11 the air in the longwall belt was
12 moving outby?

13 A. No.

14 Q. Is that something that you saw
15 every day?

16 A. No.

17 Q. Is that normally going inby?

18 A. Normally, I hadn't really paid
19 that much attention until I got down
20 --- you didn't really feel a whole
21 lot of air until you got down closer
22 to the wall. And then when you get
23 close to the wall, I guess through

24 that cut-through, it was all going
25 towards the longwall. And that's

46

01 when you --- you know, you really
02 noticed which way the air was going.

03 Q. So you think there was a split
04 point somewhere in the belt?

05 A. Somewhere along that belt line
06 there --- there had to be, but like I
07 said, I didn't never noticed it until
08 this fire.

09 Q. I think you mentioned before
10 you knew that the smoke was going
11 toward Two Section. How did you know
12 that?

13 A. I didn't know that it was
14 going towards Two Section. I knew it
15 was going in that direction, and
16 that's when I talked to Dusty about
17 which way it was going.

18 Q. Okay. When Two Section got
19 the call to evacuate, we've heard
20 some interviews that told us that
21 there was knowledge of that smoke in
22 the intake escapeway. Where would
23 that have come from?

24 A. The intake escapeway? I told
25 them that the smoke was coming up

47

01 their intake.

02 Q. Okay. That was from you then?

03 A. Yeah.

04 Q. Okay. And how did you know it

05 was in the intake?

06 A. Because I knew where their

07 intake was. I know as soon as you go

08 through the doors, that was their

09 intake.

10 Q. But the doors were closed?

11 A. Yes, sir.

12 Q. Okay. If you could for us,

13 Bryan, come up to the map and just

14 show us that block that you took out

15 of the stopping to check ---?

16 A. Uh-huh (yes).

17 Q. Show us where that was up

18 here, please. Use the red pen.

19 WITNESS COMPLIES

20 BY MR. FRANCAERT:

21 Q. Let me mark that for you.

22 This is a block, we don't want to say

23 you moved, but you ---?

24 A. Well, just turned it sideways

25 is all I did.

01 Q. Sure.

02 A. That way I could look back

03 down that entry.

04 Q. So that would give you an idea
05 of what was in there. Was there
06 smoke coming out toward you, or could
07 you tell?

08 A. It was standing still.

09 Q. So all you could see was smoke
10 in the intake?

11 A. That's all I saw was smoke.
12 No, whenever I knocked the block out,
13 no smoke coming out in that entry,
14 none whatsoever.

15 Q. Okay. And while you're up
16 there, could you just sign and date
17 that map for us?

18 WITNESS COMPLIES

19 MR. FRANCCART:
20 Thank you. That's all
21 we have for the map right now.

22 BY MR. FRANCCART:
23 Q. Bryan, are you familiar with
24 the pre-shift/on-shift record book
25 for the belt?

49

01 A. Uh-huh (yes).

02 MR. FRANCCART:
03 We're going to mark
04 this as Exhibit Two Cabell.
05 We've marked the map on the

06 wall Exhibit One Cabell.

07 (Cabell Exhibits One

08 and Two marked for

09 identification.)

10 BY MR. FRANCCART:

11 Q. I'm going to direct you to a

12 page here that's marked Aracoma

13 002825. And this is from January

14 18th. Take a look at that for me,

15 please.

16 WITNESS REVIEWS DOCUMENT

17 A. Okay.

18 BY MR. FRANCCART:

19 Q. Do you recognize that one?

20 A. Well, it's my writing.

21 Q. You signed that page?

22 A. Uh-huh (yes).

23 Q. Okay. Thank you.

24 MR. FRANCCART:

25 I wish we had two

50

01 copies. I have to pass it

02 back and forth.

03 A. I didn't do this one, because

04 I had scratched my name out on that

05 one.

06 BY MR. FRANCCART:

07 Q. Which one is that?

08 A. The longwall belt.
09 Q. Did you initial the other
10 ones, or ---?
11 A. I initialed the other ones. I
12 did not initial that one.
13 Q. So that was a mistake, or ---?
14 A. Yes, sir.
15 Q. Nobody else wrote that in for
16 you?
17 A. No, sir.
18 Q. Okay. On a later page for
19 1/19/06, Aracoma 002829, you signed
20 as assistant foreman on this page.
21 Do you remember that one?
22 A. That's whenever he called it
23 out to me that day.
24 Q. Carl called that out to you?
25 A. Uh-huh (yes).

01 Q. Carl White?
02 A. Uh-huh (yes).
03 Q. Did Carl have a problem with
04 signing books, do you know?
05 A. I don't know. Some people
06 does, some people just forgets every
07 now and then.
08 Q. Is that common?
09 A. No, not normally.
10 Q. Is Carl mainly the one person

11 that does that, or do other people
12 forget to sign them?

13 A. No, not that I know of. I
14 mean, if somebody forgets, it's just
15 an uncommon thing, you know.

16 Q. Did you start to sign over
17 here by accident?

18 A. Uh-huh (yes).

19 Q. That's what it looks like.

20 A. Yeah.

21 Q. Okay. As far as the
22 examinations that are marked in here,
23 a lot of times we'll see air moving
24 in the right direction, 50-plus.
25 What does that mean?

52

01 A. That you have at least 50 feet
02 --- linear feet a minute of air
03 moving down that belt line.

04 Q. Let me go back to this page,
05 002825. That's the first one we
06 looked at in the same exhibit. Is
07 that your writing in the location
08 where it talks about right direction?

09 A. No, sir.

10 Q. Do you know whose that would
11 be?

12 A. No, I don't know who wrote

13 that down.

14 Q. Okay. And how do you know
15 what the proper direction is on the
16 Number Seven belt for the airflow?

17 A. How do you know? You just
18 know. I know that it's supposed to
19 be going out.

20 Q. Number Seven belt goes out?

21 A. It's supposed to.

22 Q. That's the 72-inch belt?

23 A. That's the way it was before I
24 left. Before I left and got hurt,
25 that's the way it was.

53

01 Q. Okay.

02 A. Now, nobody ever told me any
03 different from when I came back.

04 Q. Do you know when that change
05 would have been made, sometime ---?

06 A. No, I don't know. There was a
07 lot of changes that went on from
08 September to January.

09 Q. So sometime when you were off
10 that change was made?

11 A. Yeah.

12 Q. When you measured air
13 velocities in the belt entry, how did
14 you do that?

15 A. I have a anemometer.

16 Q. Do all of the belt examiners
17 have anemometers, do you know?
18 A. I don't know. I know I had
19 one.
20 Q. And where you took the air
21 velocities was a typical dry section?
22 A. No, I don't get in one place.
23 It's usually just in between the
24 blocks somewhere.
25 Q. Is it the same location?

54

01 A. No. I do it in different
02 locations.
03 Q. And you're looking for what,
04 the velocity, or the quantity, or
05 both?
06 A. The velocity.
07 Q. Your main concern's the
08 velocity?
09 A. Uh-huh (yes).
10 Q. So the longwall belt then is
11 supposed to go inby on the air
12 direction?
13 A. Uh-huh (yes).
14 Q. And Number Seven's supposed to
15 go outby?
16 A. Number Seven was like --- the
17 longwall belt had just started

18 whenever I was there before. From
19 the time I left to the time I came
20 back, I don't know all the changes
21 that were made, and nobody had told
22 me that the actual direction that the
23 air was supposed to be on any of them
24 at that time.

25 Q. Okay. And you came back on

55

01 January 11th, ---

02 A. Uh-huh (yes).

03 Q. --- or 12th? The 11th?

04 A. The 12th. The 12th, I

05 believe.

06 Q. The 12th, okay. I don't know
07 if we asked you this the last time or
08 not, but can you tell us who's
09 responsible at the mine for
10 ventilation planning and changes?

11 A. The mine foreman was always
12 responsible for your ventilation.

13 The general mine foreman.

14 Q. He does all the ventilation
15 planning also?

16 A. Him and --- I don't know who
17 else is involved with him, but the
18 general mine foreman, it's his
19 responsibility for ventilation.

20 Q. And who is that today?

21 A. Today? It's Dusty Dodson.

22 Q. Dusty would have been
23 responsible at that time, on the
24 19th?

25 A. He's the mine foreman.

56

01 Q. You were required to do an
02 examination on Number Seven belt on
03 the 19th; is that right?

04 A. Yes, sir.

05 Q. And you determined the air
06 direction was in ---?

07 A. I did not do that on the 19th.

08 Q. Oh, you didn't?

09 A. No. I do it at the end of the
10 shift.

11 Q. Okay. Did you do it on a
12 previous shift?

13 A. No. I wasn't there the
14 previous shift.

15 Q. On any previous shift prior to
16 the 19th, between the 12th and the
17 19th?

18 A. 17th maybe. That's the day I
19 was there.

20 Q. So on the 17th you examined
21 Number Seven belt?

22 A. Uh-huh (yes).

23 Q. And the airflow direction was
24 proper?

25 A. To the best of my knowledge,

57

01 the best I can remember, yes.

02 Q. And that would have been in an
03 outby direction?

04 A. From what I can remember. You
05 know, I might be mistaken. I'm not
06 sure. That's the best I can remember
07 right now.

08 Q. Mistaken as to the direction
09 or whether you did an examination?

10 A. Well, I did the examination,
11 but whether it was going out or not,
12 I can't remember. That's what I'm
13 thinking that it was.

14 Q. Now, what was it doing the day
15 of the fire?

16 A. I hadn't checked it the day of
17 the fire.

18 Q. Could you tell what direction
19 it was traveling?

20 A. I know which way the smoke
21 went, but you couldn't go by that,
22 because it was actually --- the belt
23 was actually isolated in that area
24 right there.

25 Q. But when you walked up Number

01 Seven belt to begin your shift, could
02 you tell what the airflow direction
03 was?

04 A. No. Uh-uh (no).

05 Q. Was it because it was too low
06 of flow?

07 A. I just didn't pay no attention
08 to it when I walked up.

09 Q. Why would you wait to the end
10 of the shift to do that examination
11 for air direction rather than when
12 you were there the first time?

13 A. I just did it on my pre-shift,
14 is when I did it.

15 Q. You only did it on pre-shift?

16 A. And then whenever I --- my
17 initial --- whenever I walk in, I'm
18 basically looking at the, you know,
19 rollers and anything that could hurt
20 the belt or something like that is
21 what I'm looking for.

22 Q. Okay. I'm not sure if I
23 understand this question, Bryan, but
24 I think you answered a question
25 earlier about the belt was isolated

01 right there. Do you remember that?

02 A. That Seven belt?

03 Q. Yeah.

04 A. Yeah. You had stoppings on

05 both sides of Seven belt, from the

06 head all the way to the overcast.

07 And it's not --- it's basically

08 isolated. You know, I would call it

09 isolated more than the others,

10 because you got stoppings on both

11 sides of it.

12 Q. So you're referring to Number

13 Seven belt outby the longwall belt?

14 A. Uh-huh (yes).

15 Q. What about by inby the

16 longwall belt?

17 A. Well, it goes to the tailpiece

18 and then on up the entry.

19 MR. FRANCCART:

20 Bill?

21 BY MR. TUCKER:

22 Q. Bryan, you had mentioned that

23 you trained the belt and it was

24 rubbing, and you started to get some

25 smoke?

60

01 A. Uh-huh (yes).

02 Q. How did you train it?

03 A. By using the bottom roller.

04 Take a bottom roller and knock it one

05 way or another to move the belt from
06 one side to the other.

07 Q. And you used the roller,
08 bottom roller just inby the ---

09 A. The storage unit.

10 Q. --- the storage unit?

11 A. Uh-huh (yes).

12 Q. So at that point, you didn't
13 have a lot of smoke, ---

14 A. No.

15 Q. --- because you could get inby
16 pretty easy?

17 A. Yeah.

18 Q. Okay. From the time you
19 trained the belt originally, how long
20 was it before you started noticing
21 heavier smoke?

22 A. It just --- it kept growing.
23 It was constantly getting, you know,
24 a little bit worse, a little bit
25 worse. So immediately really.

61

01 Q. Do you know what color the
02 smoke was at that point of you
03 standing there?

04 A. It was grey. Like I said, it
05 was --- it was like looking at dust
06 there at first. I mean, you couldn't

07 even smell the smoke at first.

08 Q. Right. So you tried training
09 the belt, and apparently ---?

10 A. It would take it off of one
11 bearing on this side of the storage
12 unit, but what it did was, it brought
13 it off of that bearing, and put it on
14 another bearing at this end. So I
15 basically just put the roller back
16 where it was at because it was ---
17 you know, it was doing better the
18 other way. Even though it was still
19 rubbing it was only rubbing --- it
20 wasn't rubbing as bad that way as it
21 was the way I trained it.

22 Q. So when you trained it, and it
23 was running on the walkway side, it
24 was smoking worse on that side?

25 A. Yeah. It didn't start smoking

62

01 yet, but it was like it was hitting
02 it harder.

03 Q. Curved up?

04 A. Yeah. And it was damaging ---
05 and it would damage the belt more, so
06 I put it back over where it was at.

07 Q. So when you trained it and
08 then you didn't have any luck, and
09 you had to train it back, ---

10 A. Right.

11 Q. --- at what point did you shut
12 the belt off and call for help?

13 A. Basically whenever I seen it,
14 I couldn't train it and couldn't do
15 nothing with it, that's when I went
16 and turned the belt off.

17 Q. Did you talk to anybody on the
18 longwall crew to ---?

19 A. No.

20 Q. Did anybody call about ---
21 from the longwall section call about
22 the belt being off?

23 A. Yeah. I told them that the
24 belt was down. I can't remember the
25 exact conversation or who even I

63

01 talked to. I just told them I was
02 having trouble with the storage unit.

03 Q. And from that point, did the
04 belt ever restart?

05 A. No. When I turned it off, I
06 never started --- it never started
07 back up.

08 Q. And shortly after you turned
09 the belt off, is that when you made
10 your first call to try to get ahold
11 of Fred Horton?

12 A. I made the first call prior to
13 that, if I'm not mistaken.

14 Q. Prior to turning the belt off?

15 A. Prior to turning the belt off.

16 Q. Okay. You mentioned that you
17 called Two Section ---.

18 A. Because after I turned the
19 belt off the second time, about five,
20 ten seconds later, that's whenever
21 the fire started.

22 Q. The fire started right after
23 you turned the belt off for the last
24 time?

25 A. Yes, sir. For the last time.

64

01 Whenever I turned the belt off the
02 last time, I was talking to Fred on
03 the phone about it, and that's
04 whenever I told him that I had a
05 fire.

06 Q. And that was your second
07 conversation with Fred?

08 A. That was my second
09 conversation with Fred.

10 Q. So on your first conversation
11 with Fred, when you called and said
12 it was rubbing, you need a chain
13 hoist, and you was getting smoke at
14 that point, at what point in there

15 did you call Two Section?

16 A. It was right after I talked to
17 Fred the first time. It wasn't,
18 maybe 15, 20 seconds after I talked
19 to Fred the first time. But I told
20 him to --- when I told them to get
21 out of there.

22 Q. And at that point, you only
23 had some grey smoke?

24 A. Uh-huh (yes). It was nothing.
25 It never, never got bad until after I

65

01 shut the belt. Whenever I turned
02 them off, that's when it got bad.

03 Q. And you called Two Section
04 before shutting the belt off?

05 A. Yep. Before I shut the
06 longwall belt off, I done called them
07 and told them to leave. And right
08 after that, I turned the belt and
09 that's when the smoke got really bad.

10 Q. Have you encountered smoke on
11 belts before, maybe a hot roller or
12 something rubbing, and having ---?

13 A. Slight, but nothing like that.

14 What I had seen the first time, you
15 know, prior to the fire, just

16 whenever I saw the smoke, yeah, I've

17 encountered that lots of times.
18 Q. On those other times, did you
19 call and evacuate the section?
20 A. It was never close to the
21 section. It was always on the outby
22 to where --- like, I usually work out
23 towards Rum Creek, and there was
24 nobody inby. The smoke was always
25 going away from you. But most of the

66

01 time before that, actually, the belts
02 was always off, because I worked
03 third shift. Prior to me coming back
04 on second shift, I always worked
05 third shift on the belts, and
06 basically the belts never even ran.

07 Q. Did you encounter smoke in the
08 past with the belts?

09 A. Whenever I encountered smoke
10 in the past, it was like --- it would
11 be right at the end of second shift
12 or something like that.

13 Q. How long after you shut the
14 belt off 'til Pat Callaway and Joe
15 Rhodes arrived?

16 A. Ten seconds maybe.

17 Q. So when you shut --- you just
18 had shut the belt off ---

19 A. I shut off ---.

20 Q. --- when they arrived?
21 A. Uh-huh (yes).
22 Q. Now, I'm trying to get clear
23 in my mind, I know you've given us a
24 lot of information. You had smoke
25 and it was getting worse, you trained

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01 the belt and it didn't help, and it
02 was rubbing worse so you trained it
03 back, and then the smoke continued.
04 And then you shut the belt off, and
05 almost immediately then you had
06 flames ---?
07 A. I still did not have bad smoke
08 --- when I shut the belt off the
09 smoke was not bad. Okay? The smoke
10 was light in color, grey in color.
11 There was not a lot of smoke.
12 Nothing --- I didn't think --- I did
13 not shut the belts off because of
14 smoke. I shut the belts off because
15 I was afraid of tearing the belt up.
16 And when I shut the belt off, the
17 belt --- that's whenever it went into
18 flames.
19 Q. That's what I'm just trying to
20 figure, if you shut the belt off
21 because you wasn't really worried

22 about the smoke at that point?

23 A. No. The smoke wasn't bad.

24 Q. But you said you had already
25 called for Two Section?

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01 A. Yeah, because it was --- the
02 first sign of smoke, you get the
03 people inby out. So I called them
04 and told them to get out. Yeah, it
05 was bad enough, I thought that, you
06 know, they needed to be alarmed and
07 know what it is. Get them out of
08 there, let the smoke clear up and
09 they could go back to work. That's
10 what was in my mind. But as far as
11 having a whole lot of smoke or black
12 smoke, no, I didn't have --- I never
13 had the first sign of black smoke
14 until after the belt was off, and
15 that's whenever it blazed up.

16 Q. That was after Pat and Joe had
17 arrived?

18 A. Yeah. Right.

19 Q. Who did you talk to on Two
20 Section?

21 A. I called the dispatcher. I
22 called the dispatcher and told him to
23 shut the belts off, evacuate the men,
24 that they had smoke coming up through

25 the intake.

69

01 Q. So after Pat and Joe got
02 there, things heated up rather
03 quickly then, ---

04 A. Real fast. Right.

05 Q. --- and that's when you put
06 your first fire extinguisher on the
07 fire?

08 A. Fire extinguisher on it.

09 Q. So when you put your first
10 fire extinguisher on, you had a flame
11 at that point?

12 A. Right.

13 Q. Not just an ember?

14 A. Right.

15 Q. Did you use the fire
16 extinguisher first, or did you try
17 the water hose?

18 A. I used the fire extinguisher
19 first. I used two fire extinguishers
20 first.

21 Q. And then after that's when you
22 tried to ---

23 A. The water. The fire
24 extinguishers ---

25 Q. --- pick up the water?

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01 A. --- was right there at hand.
02 that's the first thing I grabbed.
03 Q. Right.
04 A. And then after using the fire
05 extinguishers up, I didn't have
06 another one to turn around and grab,
07 so that water was right beside of me,
08 so that's when I tried it.
09 Q. So when you noticed --- you
10 said the smoke was going up to Two
11 Section, and you're close to the fire
12 at that point, you're right there at
13 it, and you're looking back and
14 you're seeing the smoke go outby you,
15 which way was the smoke going? You
16 say it was going to Two Section, but
17 which way was it going?
18 A. The smoke was going up to the
19 mother drive, to the discharge point,
20 and then going up.
21 Q. You seen it going over where
22 the longwall belt dumps onto the
23 Seven belt?
24 A. I seen it going to that
25 intersection and then going inby.

01 Q. Did you see any going through
02 the doors, or ---?
03 A. No. There was smoke there in

04 that intersection. Basically, you
05 couldn't see past the belt line after
06 it got bad. Just on the other side
07 of the belt. I mean, you couldn't
08 see on ---.

09 Q. As far as looking across the
10 belt, you're saying ---?

11 A. As far as looking over to them
12 doors right there and see which way
13 that air's going, is smoke going
14 through the doors or up, you couldn't
15 tell. It was just all smoke. All
16 you saw was smoke.

17 Q. Okay. You mentioned that you
18 used the phone there at the
19 travelway.

20 A. Right.

21 Q. Did that phone ever go dead on
22 you?

23 A. No, sir.

24 Q. Just to go back for just a
25 second with your conversation with

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01 Dusty. You mentioned that you made
02 him fully aware that there was smoke
03 and that you had a problem. Can you
04 remember that conversation, to just
05 tell us what it was that you talked

06 to him about?

07 A. Basically, I just --- I knew
08 that the smoke was going inby, and I
09 was basically asking him which way it
10 was going. Was it going to go all
11 the way to the section? Was it going
12 to go out on the overhead gates?

13 That's what I asked him.

14 Q. Right. So at that point, once
15 you're gathering that information,
16 did you and Dusty talk about a need
17 to evacuate Two Section?

18 A. Nobody decided on evacuating
19 the section but me.

20 Q. Okay.

21 A. I'm the one that made that
22 call.

23 Q. What did he have to say about
24 the smoke? I mean, was he pretty
25 much just asking which direction, or

73

01 was he asking the color, or what did
02 he say about the smoke?

03 A. I just asked him which
04 direction it would go, he said most
05 of it would be going down Nine
06 headgate, or Nine headgate or Nine
07 tailgate. I can't remember which
08 now.

09 Q. Okay. When you left the fire
10 area, and I understand that Joe
11 Rhodes was in the area with you, and
12 at some point, I mean, you had to
13 back up. It had heated up and got so
14 bad that you had to leave.

15 A. Right.

16 Q. Where was Joe Rhodes?

17 A. Whenever we left, me and him
18 --- actually, I went to --- I was at
19 one of the belt heads. I believe
20 that's whenever I went and tried to
21 find the shutoff valve myself maybe.
22 I was down at the overcast. That was
23 the last place I was at. Joe Rhodes
24 was there with me. I said where is
25 Pat. He said Pat just walked up

74

01 there. So I walked around the corner
02 and I hollered for Pat, I said come
03 on. I said get out of there, you
04 can't do nothing with it. So we got
05 to --- I said get out of there, and
06 we backed up. We backed up to Seven
07 head, and that's when we ran into
08 Fred.

09 Q. So Joe was with you at that
10 point?

11 A. Uh-huh (yes).
12 Q. And then after you ran into
13 Fred, would you tell us your
14 conversation with him? I'm sure
15 you're telling him how bad it is, and
16 catching him up.
17 A. Well, I told him how bad it
18 was. I told him you can't get to it.
19 There was no way up that way to get
20 to it, is what I told him. I said
21 the only two ways that you could get
22 to it, I told Fred, was either go to
23 the longwall and come up, or go up
24 four-foot belt entry and come back
25 down. I said --- he said, well, I'm

75

01 going to go down this way and I'm
02 going to look at it this way. I
03 said, I'm going to go up the
04 four-foot belt entry and I'll see if
05 you can get back down to it. I went
06 up the four-foot belt entry to a man
07 door, looked through the man door,
08 seen smoke, shut the door, come back,
09 told Fred, you can't go that way.
10 Q. So did Fred go up through the
11 cut-through and ---?
12 A. Later on in the shift, after
13 we got everybody out and down that

14 way except for the two men that we
15 lost, after that, that's when he went
16 up and tried to see what he could do.

17 Q. So when you all parted company
18 there, do you know where Joe Rhodes
19 and Pat Callaway went?

20 A. Pat basically was --- at that
21 point, Pat was keeping everybody ---
22 after we got everybody together, Pat
23 was in charge of keeping everybody
24 together. He had a role call. He
25 had everybody together, and he made

76

01 sure of where everybody was at.

02 Q. What about Joe?

03 A. Well, he was in that group. I
04 mean, I --- you know. He was there
05 in the group. I mean, he had to have
06 been, because everybody --- we
07 evacuated from there. We went
08 outside from there.

09 Q. Okay. Do you know if he ever
10 went back up toward the double doors,
11 the travelway doors?

12 A. Not that I know of he didn't.
13 I didn't see him do it. If he did, I
14 don't know nothing about it.

15 Q. Do you have the authority to

16 evacuate the mine or would you have
17 to call it to someone else?

18 A. As far as I'm concerned, if I
19 see a problem, I'll evacuate the
20 mine. I ain't going to wait on
21 nobody.

22 Q. Okay. Was there a stopping
23 inby Seven tail toward Two Section?

24 A. Inby Seven tail? Well, the
25 power center was there.

77

01 Q. Okay. No stopping?

02 A. I never remember seeing one
03 there, never.

04 Q. What type of detector do you
05 carry?

06 A. I was carrying a 270. I
07 carry, I think it's a 310 now.

08 Q. So the night of the fire, you
09 had a 270?

10 A. No, I had a 310 at that time.

11 Q. A 310? When Carl White called
12 you, did he tell you any concerns he
13 had with the belt or any problems?

14 A. He said it been rubbing the
15 belt all day.

16 Q. Did he ---?

17 A. No, he didn't say it was bad,
18 he just said it's been rubbing the

19 belt all day. He said, you know,
20 that he was going --- he actually
21 told me then that he was going down
22 and training on the belt.

23 Q. Did he see any concern about
24 it?

25 A. Not really.

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01 Q. Did he talk to you about how
02 long it would be before you got up
03 there?

04 A. I told him what all I had to
05 do. You know, I didn't tell him how
06 long I would be, but the belts was
07 off at that time. The longwall belt
08 was. So I wasn't in a big hurry to
09 get there. So I just went ahead and
10 done my other rounds before I went up
11 there.

12 Q. Did he mention any other
13 problems he had with it ---

14 A. No.

15 Q. --- running throughout the
16 day?

17 A. No.

18 Q. Was the trip levers in place
19 at the storage unit?

20 A. The what?

21 Q. Trip levers.

22 A. Trip levers?

23 Q. Yeah, for the dollies. You
24 mentioned that you'd hit --- you
25 mentioned that the dolly was cocked,

79

01 and you had hit ---.

02 A. It was just a --- it's just a
03 piece of metal overtop a stop is all
04 it is. And you just take a hammer
05 and knock it up.

06 Q. Do you know what all tools
07 they were bringing to help you?

08 A. I have no idea.

09 Q. So just help me to be clear on
10 this. I'll run this by you one more
11 time. You called Two Section to
12 evacuate?

13 A. I called the dispatcher.

14 Q. Or called the dispatcher
15 to ---

16 A. Shut their belt off.

17 Q. --- get ahold of Two Section
18 to get them out?

19 A. I know by shutting their belt
20 off, they would come immediately to
21 the phone and tell them to evacuate,
22 that they had smoke coming up their
23 intake.

24 Q. And you did that before you
25 told Fred that there was a fire?

80

01 A. Yes, sir.

02 MR. TUCKER:

03 Can I see your fire
04 boss report? Exhibit Two.

05 BY MR. TUCKER:

06 Q. I'm referring to Exhibit Two
07 Cabell. On the fire boss record, you
08 mentioned Carl White had called that
09 out to you?

10 A. Yes, sir.

11 Q. When he calls out his report,
12 what did he tell you when he called
13 out?

14 A. He just told me what's on
15 there, it needed cleaned and dusting.

16 Q. I mean, does he go down a list
17 of Number One belt, none observe,
18 Number Two belt?

19 A. He tells me what he got.

20 Q. What do you mean what he got?

21 A. Whichever belts that he got
22 that day was what he called up.

23 Q. Okay. On the 19th, did you
24 take a report from anybody else other
25 than Carl White?

01 A. I can't remember who it was.

02 Q. Would they not have counter-
03 signed the book after ---

04 A. They should have.

05 Q. --- they got outside?

06 A. They should have counter-
07 signed the book when they came out.

08 Q. Who else on the dayshift,
09 other than Carl White, usually fire
10 bosses the belts?

11 A. You have Carl White, you have
12 Lanny Hoosier, and --- there's some
13 other names that I'm not --- you
14 know, I'm not aware of who they are.
15 They were new guys, new faces. I
16 really didn't know them.

17 Q. But if you were looking at
18 this report with Carl White, and the
19 report was called out by Carl White,
20 and say if an outsider comes in and
21 looks at this report ---.

22 A. It looks like Carl White
23 had ---.

24 Q. Called out all the reports?

25 A. Uh-huh (yes).

01 Q. And you say you don't
02 remember ---

03 A. No, I didn't recognize his
04 name, so I just didn't know.
05 Q. --- anybody else that you
06 talked to?
07 A. I didn't know his name. I
08 didn't recognize his name.
09 Q. They don't identify
10 theirself, like ---
11 A. I mean, their voices --- no.
12 Q. --- if they call out, they
13 don't identify theirself?
14 A. No. They just say Bryan this
15 is so and so --- you know, I'm down
16 here, if they tell me their name.
17 And they'll just say that the lower
18 end --- what they got down on that
19 end. Usually, you have one on one
20 end, one on the other.
21 Q. Do you know which ones on here
22 that Carl White did himself?
23 A. I know that Five, Six, Seven,
24 longwall and Two Section. That's the
25 ones that you get on the upper end.

83

01 Q. You said you took Carl's
02 report. So if he calls out Five
03 needs dusted, Six needs dusted, on
04 this report right here, can you

05 identify which belts Carl White
06 called out?

07 A. I just know what Carl worked,
08 and I know which ones he got, because
09 I knew I was coming in behind Carl,
10 and I knew what I had to get. You
11 know what I'm saying? I know what
12 you're looking at, and I know what
13 you're saying. But I know what I was
14 --- what I had to get. And Carl told
15 me what he had to get. He told me
16 that he got Five. He told me got
17 Six. He told me he got Seven. But I
18 didn't --- I didn't write that on
19 there.

20 Q. And what about --- you
21 mentioned Two Section. Did he tell
22 you he got Two Section?

23 A. Yeah, he always has to. I
24 mean, that's his job. That's the
25 part he gets.

84

01 Q. Two Section is --- would that
02 be the 48-inch belt?

03 A. Uh-huh (yes).

04 Q. And the longwall?

05 A. Yes, sir.

06 Q. So if you call out, say, the
07 longwall belt, does that tell you

08 that you made it from one end to the
09 other?

10 A. It usually --- it's the upper
11 end or the lower end.

12 Q. Who would --- I mean, if you
13 split it --- what do you mean the
14 upper end or lower end? I don't
15 follow you.

16 A. If you got two fire bosses
17 there that day, ---

18 Q. Right.

19 A. --- Carl's on the upper end,
20 he gets Five --- from Five belt up,
21 and the lower end is from Five head
22 down.

23 Q. So if Carl got from Five head
24 up, you would expect him to get the
25 longwall belt?

85

01 A. Uh-huh (yes).

02 Q. When I say one end to the
03 other end, I'm referring to the
04 longwall belt.

05 A. If he tells me he got the
06 upper end, then that's what it's
07 taken as. That's just basically from
08 the guys talking I know that that's
09 not right as far as the book goes.

10 Q. So if you were to call out
11 your report at the end of the shift,
12 a normal shift, nothing's ---?
13 A. I tell him what belts I got.
14 I tell him I got Five belt, Six belt,
15 Seven belt, longwall belt and the Two
16 Section belt.

17 Q. And tell him specifically the
18 needs of those belts, or violations
19 or none observed or whatever?

20 A. Uh-huh (yes).

21 MR. TUCKER:

22 Thank you. That's all
23 I have right now. Thank you,
24 Bryan.

25 BY MR. FRANCCART:

86

01 Q. Bryan, I'm a little confused
02 on a couple things. And I'm easily
03 confused, so hopefully you can
04 straighten me out.

05 A. Well, I ain't slept none since
06 yesterday morning, so I'm confused
07 too right now.

08 Q. Well, we'll get you out of
09 here as soon as we can. You said
10 that you called the dispatcher to
11 evacuate Two Section when you saw the
12 smoke?

13 A. Right.

14 Q. That was your decision?

15 A. Yes, sir.

16 Q. Has Massey ever indicated to
17 you that that was something that
18 should be done?

19 A. No, sir.

20 Q. Why would you do that?

21 A. Common sense.

22 Q. Did we talk the last time you
23 were here about the fire on the 29th
24 of December?

25 A. I wasn't there.

87

01 Q. You weren't there. Did we
02 talk about it at all?

03 A. No.

04 Q. There was a fire on the 29th
05 in north mains belt that sent smoke
06 up toward the longwall. It went
07 clear up to the tail of Number Seven
08 belt. In that case, no one was
09 evacuated. Why would nobody evacuate
10 either section on that day?

11 A. I don't know, I wasn't there.

12 I didn't even know that there was a
13 fire.

14 Q. But Massey hasn't instructed

15 you or trained you on identifying
16 smoke as a hazard?

17 A. Oh, yeah, we know it's a
18 hazard.

19 Q. That's why I don't understand
20 why you were --- and I give you
21 credit for doing it in a timely
22 manner. Why would you do it so
23 quickly in another fire, which at
24 that point spread smoke for a very
25 large area, and people weren't

88

01 evacuated?

02 A. I can't answer that.

03 Q. You're as confused as I am
04 then?

05 A. Right.

06 Q. When you first applied the
07 fire extinguisher, or used the fire
08 extinguisher to fight the fire, you
09 mentioned to Bill that you used the
10 ones that were at hand. Those are
11 the ones that Callaway had on his
12 Jeep?

13 A. One on his Jeep, and whenever
14 I got done with that one, he was
15 reaching me another one. Where he
16 got it from, I don't know. I mean,
17 there was other fire extinguishers

18 there that I know were hanging on the
19 rib and stuff. Which one he got, I
20 don't know.

21 Q. After you used the second one,
22 is that when you tried the water?

23 A. Uh-huh (yes). Yep. After the
24 second or third one. I can't
25 remember how many I used. I don't

89

01 know if I used two or three.

02 Q. And the reason you used a fire
03 extinguisher is you had it right
04 there with you?

05 A. Yeah, because after I finished
06 one he was handing me another one.

07 Q. Did the thought ever pass your
08 mind to use water instead of a fire
09 extinguisher the first time?

10 A. As soon I run out of fire
11 extinguishers. I mean, I knew the
12 waterline was right behind me, you
13 know, but as I was going to the fire,
14 you know, I knew it would take a few
15 minutes to get everything hooked up.
16 So as I was going to the fire, the
17 fire extinguisher was in his hand, so
18 that's what I used.

19 Q. At that point, was the fire

20 small enough you thought you could
21 get it with an extinguisher?
22 A. Yeah. The first sign of
23 flames, the flames was about, you
24 know, a foot high, a foot and a half
25 high. I still didn't think there

90

01 was, you know, an immense danger. I
02 did not think that at that time.

03 Q. But at that point you used the
04 fire extinguisher ---?

05 A. After I ran out of fire
06 extinguishers and I couldn't get the
07 water to work, and it blazed up high,
08 I knew we was in trouble.

09 Q. I know we don't know anything
10 about what time things happened, but
11 we have an exhibit here, Exhibit
12 Three, and we've labeled it Exhibit
13 Three Cabell.

14 (Cabell Exhibit Three
15 marked for
16 identification.)

17 BY MR. FRANCAERT:

18 Q. I don't know if you're
19 familiar with CO printouts or not.
20 Did we discuss those before?

21 A. Nope.

22 Q. You'll see a couple areas

23 marked on this sheet with black
24 marker. And it indicates, the first
25 one, when the first CO alarms and

91

01 warnings were received on the
02 surface. The second set of marks on
03 that paper indicate when the belt was
04 stopped for Two Section. And if you
05 notice, the date and times, the times
06 are circled, there's more than just a
07 few minutes between the time you had
08 the first warnings and you had the
09 belt stopped on Two Section?

10 A. Thirty (30) minutes.

11 Q. Why would we have such a long
12 period between ---?

13 A. Maybe because at that 1736, it
14 was picking up nine parts per
15 million, and that's when I thought it
16 was just dust.

17 Q. Okay. Did that seem --- in
18 your mind, does that time frame fit
19 when you first saw the dust, that
20 this would have been 5:13 that you
21 got the first warnings?

22 A. I couldn't tell you. I
23 couldn't tell you. I don't know how
24 long it was there. I mean, it was so

25 fast. Put yourself in that position.

92

01 It was so fast, and it seemed like it
02 was over in an instant.

03 Q. It's all blurry now; isn't it?

04 A. Yeah, it is.

05 Q. I can understand then. Maybe
06 we misunderstood, but I thought you
07 mentioned to Bill you looked through
08 a door on the 48-inch belt and saw
09 smoke?

10 A. Uh-huh (yes).

11 Q. Which door was that?

12 A. It was outby the mother drive.
13 I believe that's where it was at.

14 Q. On the 48-inch belt?

15 A. Uh-huh (yes).

16 Q. Could you come up and mark
17 that on the map for us?

18 A. No, I couldn't.

19 Q. No idea?

20 A. I mean, I don't know where ---
21 I know I can't do it, because I don't
22 know exactly which door it is. I
23 know I walked up the belt line. I
24 passed the men coming out. I got to
25 a man door and I looked down. I saw

93

01 smoke, I come back. That's all ---.

02 Q. So it would have been outby
03 the mother drive in the 48-inch belt?

04 A. It's basically --- I was
05 thinking that it was the door
06 straight across is what I was
07 thinking that it was.

08 Q. When you saw smoke outby in
09 other areas of the mine, you said
10 down around Rum Creek where you
11 worked, you had seen smoke in the
12 past, and you didn't have to evacuate
13 anybody; is that true?

14 A. Yeah. There wasn't nobody to
15 evacuate. I mean, basically, it was
16 just like a hot roller or something
17 like that, and you dropped the roller
18 down and that smoke was done.

19 Q. But if there's nobody inby at
20 work, why were the belts still
21 running?

22 A. The air was going outby.

23 Q. On Rum Creek?

24 A. Right. Nobody was --- towards
25 Rum Creek.

94

01 Q. So you're talking about the
02 air in the outby direction at Rum
03 Creek, and it wasn't where the air

04 was going inby then?

05 A. Right.

06 Q. Okay.

07 A. I was the only one in that

08 area to evacuate.

09 Q. And you knew when it was time

10 to go, I guess?

11 A. Yep.

12 Q. On the 19th, did you ever

13 check what seemed to be the dust for

14 CO with your spotter?

15 A. No, I didn't.

16 Q. At any point, did you check

17 the CO levels?

18 A. No.

19 Q. And that was a 310 you had

20 that day?

21 A. Huh?

22 Q. A 310 instrument?

23 A. Uh-huh (yes).

24 Q. Do you wear a watch

25 underground?

01 A. Uh-huh (yes). All the time,

02 but I never look at it, especially at

03 work. Not until I start fire

04 bossing.

05 Q. Do you use it when you date

06 time and initial?

07 A. Absolutely.

08 Q. That's about it then?

09 A. Uh-huh (yes).

10 Q. The day goes a lot faster that

11 way?

12 A. That's right.

13 Q. If you did have smoke in the

14 belt entry, would you identify that

15 as a hazard in the record books?

16 A. Absolutely. Yeah.

17 Q. Have you ever done that in the

18 past?

19 A. No, sir. I've never had it.

20 I mean, what I've seen in the past is

21 just something that you run across,

22 drop a roller down and it's gone. So

23 I know --- I didn't record that.

24 Q. So that wouldn't be a hazard

25 at that point?

96

01 A. Right.

02 Q. But something like this on the

03 19th would have been ---

04 A. Oh, yeah.

05 Q. --- more substantial, you

06 would report that as a hazard?

07 A. Uh-huh (yes).

08 Q. Is that something that

09 Massey's trained you to do, or ---?

10 A. What's that?

11 Q. To identify smoke as a hazard?

12 A. No, that's just something that

13 I know to do.

14 Q. When you had training for

15 doing examinations, did anybody talk

16 to you about what types of hazards

17 you should identify in the book?

18 A. Some not --- no, not really.

19 Q. They didn't tell you what to

20 report? So they left it up to you?

21 A. Basically, it's --- yeah.

22 Nobody's ever told me --- you know,

23 I've never went to a class to tell

24 me, you know, this, this, this, and

25 this is hazards, this ain't, this

97

01 ain't, this ain't, you know. No, I

02 haven't been through nothing like

03 that.

04 Q. Did they ask you any questions

05 on your certification tests about

06 that?

07 A. Well, that's it. You know,

08 that's the only training I've had,

09 just, you know, my mine foreman's

10 exam.

11 Q. What kind of hazards did you

12 have to identify in that examination?

13 A. The rollers, your rock

14 dusting, and your air.

15 Q. What about rollers, what do

16 you have to identify?

17 A. Stuck. When they're stuck or

18 whether you got bearings out on them.

19 Q. If you would drop a roller

20 out, would that be a hazard you'd

21 have to identify in the book?

22 A. Yeah, I guess you should, but

23 --- you know, if I walked up and I

24 saw a roller down, I'd drop both

25 sides of it down, you know, whether I

98

01 reported it or not, I might report it

02 as, you know, you got a roller down,

03 but I don't know if I would report it

04 as a hazard then. I'd probably just

05 report it as a roller missing then.

06 Q. So it would be something that

07 third shift would do on maintenance?

08 A. It would be something that I'd

09 be doing --- fixing the next night

10 anyway, probably.

11 Q. Is it common to find hot

12 rollers and smoke?

13 A. No.

14 Q. Have you worked at other
15 mines?

16 A. Very few.

17 Q. Have you had those problems in
18 the other mines like this?

19 A. No.

20 Q. So when we've described smoke
21 as a hazard in the record book, where
22 would you make your cutoff as
23 determining when it is and when it
24 isn't a hazard?

25 A. A judgment call, I guess. I'm

99

01 not sure.

02 Q. You can't describe that?

03 A. Uh-uh (no).

04 Q. That's more of a gut feeling?

05 A. Yeah.

06 Q. On the dolly that you found
07 cocked, can you physically describe,
08 as far as what kind of an angle it
09 was at?

10 A. No. It's at an angle.

11 Q. Any idea of --- was it 15
12 degrees long?

13 A. I couldn't tell you.

14 Q. Were the brackets in place on
15 that dolly?

16 A. As far as I know. They have a

17 different type of bracket that allows
18 them to move so much.

19 Q. But they were in place as far
20 as you know when you went up to
21 reposition it?

22 A. Uh-huh (yes).

23 MR. FRANCCART:

24 I need to take a
25 five-minute break for a

100

01 bathroom break.

02 SHORT BREAK TAKEN

03 BY MR. FRANCCART:

04 Q. Bryan, just to clarify, how
05 far up past up the Seven tail did you
06 travel?

07 A. I never passed the power boxes
08 there.

09 Q. That's as far as you went
10 inby?

11 A. That as far as I got.

12 Q. Do you know what an imminent
13 danger is?

14 A. Life-threatening.

15 Q. Would you consider smoke to be
16 an imminent danger?

17 A. Yeah.

18 Q. That's why you evacuated the

19 Two Section?

20 A. Uh-huh (yes).

21 Q. So you can have smoke without
22 a fire and still be in imminent
23 danger?

24 A. Absolutely.

25 Q. When did you realize smoke was

101

01 going inby toward Number Two Section?

02 A. As soon as I saw it go to the
03 discharge, I know it didn't go outby.
04 I knew it went inby. I know the only
05 thing inby is Two Section, but other
06 than those gate entries. So if it
07 don't go down in the gate entries,
08 it's going to Two Section.

09 Q. So that decision you made, was
10 that before or after you called to
11 have Two Section evacuated?

12 A. What now?

13 Q. When you made that decision in
14 your mind---

15 A. To evacuate?

16 Q. No, no. About the air
17 direction, was that before or after
18 you evacuated Two Section?

19 A. I evacuated Two Section,
20 because I knew which way the air was
21 going, because I knew which way the

22 smoke was going to.

23 Q. It's maybe a chicken before
24 the egg type question. You knew the
25 smoke was going ---.

102

01 A. Let's put it this way. There
02 was a chance that it might go to the
03 section, so I evacuated. I wasn't
04 willing to take that chance.

05 Q. And how did you plan on
06 getting the longwall section out?

07 A. Whenever I called them, or
08 what?

09 Q. Well, you had the dispatcher
10 stop the belts for Two Section.

11 A. I called for the longwall. I
12 hollered for longwall.

13 Q. And you didn't get them?

14 A. No, they told me that they was
15 already off the face and they was
16 coming to the ---.

17 Q. Who told you that?

18 A. Somebody told me. I don't
19 know who it was, but they told me
20 they had already talked to the
21 longwall, and that's what they said.
22 But who that was, I don't know who
23 that was. I didn't feel that they

24 was in any danger, so they was not my
25 primary concern, Two Section was.

103

01 Q. At that point, though ---.

02 A. I just basically wanted them
03 to let them know what was going on.

04 Q. But at that point, you still
05 didn't have flames when you evacuated
06 them?

07 A. On Two Section? No, I didn't
08 have flames when I evacuated Two
09 Section.

10 Q. And when you called for the
11 longwall section, you did have
12 flames?

13 A. Yeah. They was probably up
14 there sleeping anyways, is what I
15 thought at the time. They was up
16 there waiting on me.

17 Q. You were off for a long time,
18 and you said there was some
19 ventilation changes that were made.
20 Since you're examining belts, how do
21 they tell you that ventilation
22 changes have been made?

23 A. They never did. I just know
24 that they went on. Every time you
25 move a wall, every time you move a

104

01 section, changes takes place. I
02 don't know what all went on, and
03 nobody ever came to me and told me.
04 I just know.

05 Q. So the ventilation changes
06 that were made, you feel were a
07 result of a section moving?

08 A. Yeah, sections moving, and a
09 new setup for a wall getting ready to
10 take place and all this. You know,
11 like I said, I don't know what all
12 kind of changes was made, but I do
13 know that there was some changes that
14 were made.

15 Q. Are those changes posted
16 somewhere in the mine office?

17 A. No. I just know that they had
18 to do them.

19 Q. Do you look at the 1200 map
20 before you go underground and do your
21 examinations?

22 A. No.

23 Q. Do you know what's on that
24 1200 map?

25 A. Not right off hand. Which one

01 are you talking about, the one that's
02 on the table?

03 Q. The 1200 map's the one up in
04 the mine office upstairs.

05 A. No.

06 Q. The one on the table is the
07 escapeway map?

08 A. Uh-huh (yes).

09 Q. That would be just for
10 escapeways, not for your 1200 map?

11 A. Uh-huh (yes).

12 Q. 1200 we call it for compliance
13 with Section 1200 under federal law.

14 That's why we call it that. So
15 there's no map that you've been told
16 that would show current airflow
17 directions?

18 A. Nobody's ever told me --- you
19 know, I know that they're there. I
20 know that there's a map there showing
21 where everything's at, the way all
22 the air's going and all the --- all
23 the ventilation controls and all
24 that. But you know, nobody's ever
25 told me the changes or sat me down

106

01 and showed them to me, you know.

02 Q. Did they tell you to go look
03 at it every day, or ---?

04 A. No.

05 Q. So if how do you ---?

06 A. If I feel if I need to know,
07 I'll go and look at it. You know, if
08 I see --- if I find out that there's
09 a change going on, I'll look at it.
10 I hadn't looked at it when I come
11 back to work, no, I hadn't.

12 Q. I'm curious to know if there's
13 been an air change made, how you can
14 identify proper airflow directions
15 when you do your examinations?

16 A. You just know which way the
17 --- you just --- I don't know. I
18 just know. I felt like I knew it
19 anyway. I may be wrong.

20 Q. You know, at Alma, we have
21 some sections that use belt air to
22 ventilate the sections, and some
23 sections it don't. And it seems that
24 having the capability to do both, you
25 should be made aware of a change.

107

01 A. Well, nobody's ever told me
02 nothing about it. Nobody's ever told
03 me. You know, I've done it on my own
04 as far as that goes. Like I said, I
05 might be the one making the mistake.
06 I don't know.

07 Q. You were a mine foreman before

08 you got hurt?

09 A. I was shift foreman.

10 Q. Shift foreman. When you were
11 shift foreman, were you responsible
12 for any changes or updates to the
13 1,200 map?

14 A. No.

15 Q. Do you know who was?

16 A. I never done the ventilation
17 changes. Basically whenever I was a
18 shift foreman, third shift foreman,
19 his responsibilities is the belts,
20 and that was my responsibilities. If
21 there was something to go on to
22 ventilation, then they came out and
23 --- they came out and done it or they
24 come out and they worked third shift,
25 and I might assist them or something

108

01 like that, but when it come to that,
02 they came out and done it.

03 MR. FRANCCART:

04 Bill?

05 BY MR. TUCKER:

06 Q. A couple more, Bryan. When
07 you have to drop rollers, do you stop
08 the belt to drop out a roller, or how
09 do you do that?

10 A. It depends on what type of a

11 bracket it is. They use drop
12 brackets. They use bowed-on brackets
13 --- if it's a bowed-on bracket, you
14 have to. If it's a drop bracket,
15 then you can just loosen it up, and I
16 take --- you're never in any danger,
17 because you're always on the outside
18 of the belt, outside of the frame and
19 all that, and I just take my claw
20 hammer and I just pry it off there.

21 Q. Okay.

22 A. But if it's a bowed-on type,
23 you had to stop the belt and lift it
24 up out of the bracket and all that.
25 You never touched the roller with the

109

01 other type.

02 Q. With the drop bracket?

03 A. Uh-huh (yes).

04 Q. Okay. We may have asked you
05 this before, I can't recall, but did
06 you have your detector with you ---

07 A. No.

08 Q. --- when you went to check the
09 fire ---

10 A. No.

11 Q. --- or the problems, or the
12 smoke or whatever?

13 A. No.

14 Q. Okay.

15 A. It was with my bucket.

16 Q. Okay. Did you come back to
17 work on the 12th of January?

18 A. Uh-huh (yes).

19 Q. So you would have been working
20 --- I mean, did you work the
21 following day, the 13th, or ---?

22 A. Yeah. I worked every day up
23 to the fire, except for one day. I
24 was off one day between that time.

25 Q. Okay. Have you ever made a

01 fire run on the belt?

02 A. Yeah, you do that at the end
03 of the production shift at the end of
04 the week, or something --- you know,
05 whenever the belts are going to be
06 off more than eight hours, then,
07 yeah, you got to walk the belts and
08 make a fire run. Have I done it
09 before? Yes. Have I done it here?
10 No, because it's usually done
11 whenever third shift's not there.
12 You know, you would shut --- it would
13 be like at the end of second shift,
14 you know, during a holiday. Third
15 shift don't work the night, so at the

16 end of second shift, they would have
17 to make the fire run.

18 Q. Okay. So you've never done it
19 at Aracoma, you've done it at other
20 mines?

21 A. I'm not going to say that I
22 haven't done it. I mean, not that I
23 can think of.

24 Q. Not recently?

25 A. Right.

111

01 Q. Okay. Not prior to you being
02 injured and being off work, or after
03 I should say, after you've come
04 back ---?

05 A. I can't remember when I did
06 it. I know I've probably done one or
07 two of them up there. When and
08 where, I don't remember. Now, I know
09 that I've done them at other mines as
10 far as that goes.

11 MR. TUCKER:

12 Thank you, Bryan.

13 BY MR. FRANCAERT:

14 Q. Bryan, one more question.

15 A. You say that all the time.

16 Q. You can believe this time. I
17 don't want to sound like we're

18 beating a dead horse with this issue.
19 I know a lot of decisions we make in
20 life are split-second decisions and
21 gut-feeling decisions. When you go
22 into a mine and you first see smoke,
23 what is your first thought?
24 A. Get out of the mine. That's
25 my first thought. Usually when I

112

01 first go in the mine and see smoke,
02 get out of the mine.

03 Q. Well, that would depend though
04 on the extent of the smoke; right?

05 A. Well, yeah.

06 Q. Because you've said you've
07 dropped rollers that were smoking
08 before, so ---.

09 A. Yeah.

10 Q. So your first thought may be
11 get out, but then after that thought
12 passes your mind, what would you be
13 thinking then?

14 A. Find the problem, see what it
15 is, and then deal with it.

16 Q. So you would decide it's not
17 something you would have to get out
18 of right away?

19 A. Well, it just depends on how
20 the smoke is. I mean --- you know,

21 that's just a --- that's what you ---
22 a decision that you have to make
23 right then when you see it. You
24 can't --- that's not a guesstimate.
25 That's just a decision-making point

113

01 right then.

02 Q. So once you decide you don't
03 have to leave and you can take care
04 of the problem, you take care of the
05 problem; right?

06 A. If I can.

07 Q. If you can't take care of the
08 problem at that point, then you have
09 to make a decision on your own
10 evacuation and somebody else's?

11 A. Right.

12 Q. Now, would that be based on
13 the color of the smoke, the thickness
14 of the smoke, or ---?

15 A. My gut.

16 Q. Just your gut feeling?

17 A. I've made decisions before to
18 shut belts off before that I probably
19 shouldn't have, but it's my gut
20 feeling to do it, so I did. I don't
21 go --- when I get --- when I'm in
22 there and I've got other things,

23 people and equipment that is
24 responsible under me, I don't go by
25 what my boss tells me to do. I go

114

01 with what I know to do and what I
02 feel to do. If it's not something
03 that he agrees with, we'll deal with
04 that later. If I feel that it's
05 going to hurt somebody or to hamper
06 somebody, then I --- it's shut down.

07 Q. That's very admirable. When
08 you do those things though, has your
09 boss ever scolded you before?

10 A. I've never had a problem.
11 Never had a problem with it. If I
12 do, I'll take it to his boss.

13 MR. FRANCCART:

14 Bill?

15 MR. TUCKER:

16 I don't have anything
17 else.

18 MR. FRANCCART:

19 Bryan, is there
20 anything else you'd like to
21 add?

22 A. Nope, this is it.

23 MR. FRANCCART:

24 We can't promise that,
25 but ---. Mr. Hardy, do you

01 have questions?

02 ATTORNEY HARDY:

03 No.

04 MR. FRANCCART:

05 Thank you. It's going
06 to be a cut down closing
07 statement, too, Bryan, since
08 you've heard it all before.
09 Again, we thank you for
10 assisting us in the
11 investigation and your
12 patience coming back. We
13 really do appreciate you
14 coming in. And if you do have
15 any other points you'd like to
16 raise at any time, I don't
17 know if you still have Mr.
18 Murray's card and Mr. Webb's
19 cards, but we'll give you
20 another one.

21 Is there anything else
22 that you want to add tonight?

23 A. No.

24 MR. FRANCCART:

25 Bill?

01 MR. TUCKER:

02 I just appreciate you
03 coming back in, Bryan.
04 A. All right. Anything else,
05 just holler.

06 * * * * *

07 EXAMINATION CONCLUDED AT 7:24 P.M.

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