

01 EXAMINATION UNDER OATH
02 OF
03 ROBERT ASBURY
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 21, 2006, at 8:08
13 a.m.

14

15

16

17

18

19

20

21

22

23 Any reproduction of this transcript
24 is prohibited without authorization
25 by the certifying agency.

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

02
03 KENNETH A. MURRAY
04 District Manager
05 U.S. Department of Labor
06 Mine Safety and Health Administration
07 Coal Mine Safety and Health
08 District 6
09 100 Fae Ramsey Lane
10 Pikeville, KY 41501

11

12

13 MARK HEATH, ESQUIRE
14 Spilman, Thomas & Battle, PLLC
15 990 Elmer Prince Drive
16 Suite 205
17 P.O. Box 4474
18 Morgantown, WV 25604-4474

19

20 DANIEL M. BARISH, ESQUIRE
21 U.S. Department of Labor
22 Office of the Regional Solicitor
23 1100 Wilson Boulevard
24 22nd Floor West
25 Arlington, VA 22209-2247

3

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

02

03 WILLIAM TUCKER
04 Assistant Inspector at Large

05 West Virginia Office of Miners'
06 Health, Safety & Training
07 142 Industrial Drive
08 Oak Hill, WV 25901
09
10 WILLIAM J. FRANCAERT, P.E.
11 Mining Engineer
12 Pittsburgh Safety and Health
13 Technology Center
14 Ventilation Division
15 P.O. Box 18233
16 Cochrans Mill Road
17 Pittsburgh, PA 15236
18
19 ANTHONY BURKE
20 CMS&H Inspector
21 U.S. Department of Labor
22 Mine Safety & Health Administration
23 Whitesburg Field Office
24 704 Highway 2034
25 Whitesburg, KY 41858

4

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

02

03 ALSO PRESENT:

04 DENNIS A. BEITER

05 RONALD W. STAHLHUT

06 CHARLES W. POGUE

07 C.A. PHILLIPS
08 EUGENE WHITE
09 BETH SPENCE
10 DERRICK TJERNLUND
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

5

01 I N D E X

02

03 INTRODUCTION 7 - 17

04 WITNESS: ROBERT ASBURY

05 QUESTIONS

06 By Mr. Pogue 17 - 90

07 By Mr. Tucker 90 - 97

08 By Mr. Pogue 97 - 99

09 By Mr. Tucker 99 - 100

10	CLOSING	100 - 103
11	CERTIFICATE	104
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

6

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	A	Mine Map	34
05	B	Rescue Map	47
06			
07			
08			
09			
10			
11			

12
13
14
15
16
17
18
19
20
21
22
23
24
25

7

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

02 -----

03 MR. POGUE:

04 My name is Charles
05 Pogue. I represent the Mine
06 Safety and Health
07 Administration, which is an
08 agency of the United States
09 Department of Labor. I am a
10 member of MSHA's accident
11 investigation team that is in
12 charge with investigating the
13 accident that occurred at the
14 Aracoma Coal Company, Inc.,

15 Aracoma Alma Mine Number One,
16 on January the 19th of 2006.

17 This is a joint
18 investigation that MSHA is
19 conducting with the State of
20 West Virginia. I will be
21 asking the questions for MSHA
22 in today's interview. With me
23 here today are members of the
24 MSHA's team and the State
25 team. MSHA's team includes

8

01 various specialists and
02 members of the Solicitor's
03 Office. At this time, I would
04 like to ask each member of
05 MSHA's team to identify
06 themselves for the record.

07 ATTORNEY BARISH:

08 Hello, Mr. Asbury. My
09 name is Dan Barish. I'm with
10 the Solicitor's Office in
11 Arlington, Virginia for MSHA.

12 MR. BEITER:

13 I'm Dan Beiter. I work
14 for MSHA in Triadelphia, West
15 Virginia.

16 MR. STAHLHUT:

17 Ronald Stahlhut, MSHA
18 of Vincennes, Indiana.

19 MR. TJERNLUND:

20 Derrick Tjernlund, MSHA
21 Tech Support, Triadelphia.

22 MR. MURRAY:

23 Kenny Murray, MSHA,
24 Pikeville, Kentucky.

25 MR. FRANCCART:

9

01 Bill Francart,
02 Pittsburgh, Pennsylvania.

03 MR. BURKE:

04 Tony Burke, MSHA,
05 Whitesburg, Kentucky.

06 MR. POGUE:

07 And again, my name's
08 Charlie Pogue and I'm from ---
09 with MSHA from Hunker,
10 Pennsylvania. Here with me
11 today representing the State
12 of West Virginia is Mr. Bill
13 Tucker. Mr. Tucker will be
14 asking the questions for the
15 State. And at this time, I
16 would ask that Mr. Tucker to
17 introduce the members of the
18 State's team who will be here
19 today.

20 MR. TUCKER:
21 I have a brief
22 statement I need to read for
23 the record.

24 MR. POGUE:
25 Okay.

10

01 MR. TUCKER:
02 The West Virginia
03 Office of Miners' Health,
04 Safety & Training is
05 conducting this interview
06 session jointly with MSHA.
07 We're in agreement with the
08 procedures outlined by Mr.
09 Pogue. However, let me make
10 it clear that the Director
11 reserves the right, if
12 necessary, to call or subpoena
13 witnesses or require the
14 production of any record,
15 document, photograph or other
16 relevant materials necessary
17 to conduct this investigation.
18 We appreciate you coming in
19 today, Rob. And my name is
20 Bill Tucker, I'm the Assistant
21 Inspector at Large out of the

22 Oak Hill office.
23 MR. PHILLIPS:
24 Good morning, Rob. My
25 name is C.A. Phillips. I'm

11

01 the Deputy Director with
02 Miners' Health, Safety &
03 Training in Charleston, West
04 Virginia

05 MR. WHITE:
06 Eugene White, District
07 Inspector, Region Three,
08 Danville.

09 MS. SPENCE:
10 Beth Spence with the
11 Governor's Office.

12 MR. POGUE:
13 This investigation is
14 being conducted by MSHA and
15 the State of West Virginia to
16 gather information to
17 determine the cause of the
18 accident and to help and
19 prevent this from happening in
20 the future. These
21 investigations are an
22 important part--- these
23 interviews are an important
24 part of the investigation.

25 After the investigation is

12

01 completed, MSHA will issue a
02 written report detailing the
03 nature and causes of the
04 accident. MSHA's accident
05 reports are made available to
06 the public in hope that
07 greater awareness about the
08 causes of the accident can
09 reduce their occurrence in the
10 future. The information
11 obtained through witness
12 interviews is frequently
13 included in these reports.
14 Your statements may also be
15 used in other enforcement
16 proceedings.

17 I would like to thank
18 you in advance for your
19 appearance here today. We
20 appreciate your assistance in
21 this investigation. The
22 willingness of miners, members
23 of mine rescue teams and mine
24 operators to work with us is
25 critical to our success in

13

01 making the nation's mines
02 safer.

03 This interview with
04 Robert Asbury is being
05 conducted under Section 103(a)
06 of the Federal Mine Safety &
07 Health Act of 1977 as part of
08 the investigation by the Mine
09 Safety & Health Administration
10 into the conditions, events
11 and circumstances surrounding
12 the fatalities that occurred
13 at the Aracoma Alma Mine
14 Number One located at Route 17
15 North, Bandmill Hollow Road,
16 Stollings, West Virginia,
17 25646.

18 This interview is being
19 conducted at the Department of
20 Environmental Protection in
21 Logan, West Virginia, on March
22 21st, 2006 at five minutes
23 after 8:00.

24 Mr. Asbury, can I call
25 you Rob?

14

01 MR. ASBURY:

02 Yeah, that's fine.

03 MR. POGUE:

04 The interview will
05 begin by asking you a series
06 of questions. Feel free at
07 any time to clarify any
08 statements that you make in
09 response to the questions.
10 After we have finished asking
11 questions, you will also have
12 an opportunity to make a
13 statement of your own and
14 provide us with any other
15 information that you believe
16 may be important. You are
17 permitted to have a
18 representative with you during
19 the interview, and you may
20 consult with your
21 representative at any time.
22 You may designate any person
23 to be your representative.
24 Following the questions by
25 MSHA and the state, this

15

01 representative will have an
02 opportunity to ask questions
03 for the purpose of
04 clarification on areas already
05 discussed.

06 Your statement is
07 completely voluntary. You may
08 refuse to answer any question
09 and you may end your interview
10 at any time. If you do not
11 understand a question, tell me
12 and I will rephrase the
13 question. If you need a break
14 for any reason, please let me
15 know.

16 You may request the
17 opportunity to make a
18 confidential statement, which
19 we will withhold from the
20 public to the extent allowable
21 by law. Should you desire to
22 give a confidential statement,
23 you should advise me before I
24 begin your interview so that I
25 could reschedule your

16

01 interview in order to properly
02 consider your request.

03 A court reporter will
04 record your interview and will
05 later produce a written
06 transcript of the interview.
07 I ask that you state all of
08 your answers verbally because

09 the court reporter cannot
10 record your gestures like
11 nodding your head.

12 If any part of your
13 statement is based not on your
14 own firsthand knowledge but on
15 information you have learned
16 from someone else, please let
17 us know. Please answer each
18 question as fully as you can,
19 including any information that
20 you've learned from someone
21 else. We may not ask the
22 right question to learn the
23 information you have, so do
24 not feel limited by the
25 precise question asked. If

17

01 you have information about a
02 subject area of a question,
03 please provide us with that
04 information. Do you have any
05 questions about the manner in
06 which the interview will be
07 conducted?

08 MR. ASBURY:

09 No.

10 MR. POGUE:

11 Will you please ---.

12 -----

13 ROBERT ASBURY, HAVING FIRST BEEN DULY

14 SWORN, TESTIFIED AS FOLLOWS:

15 -----

16 BY MR. POGUE:

17 Q. For the record, would you

18 please state your full name, your

19 address, your telephone number and

20 spell your last name for the record?

21 [REDACTED]

[REDACTED]

04 Q. Okay. Are you appearing here

05 voluntarily for this interview?

06 A. Yes.

07 Q. Has anyone made any promises

08 to you for giving this statement or

09 offering you any rewards in exchange

10 for making your statement?

11 A. No.

12 Q. Has anyone threatened you or

13 warned you not to provide this

14 information?

15 A. No.

16 Q. Do you understand that you may
17 refuse to answer any question or
18 terminate this interview at any time?

19 A. Yes.

20 Q. Do you have a representative
21 with you today?

22 A. Yes.

23 Q. Could you identify him for the
24 record, please?

25 A. Mark Heath.

19

01 Q. Okay. We'll start into the
02 questions right now. Who was your
03 employer on January 19th of 2006?

04 A. Elk Run.

05 Q. Elk Run?

06 A. Yeah.

07 Q. Is that Elk Run Coal Company?

08 A. Elk Run Coal Company, yes,
09 sir.

10 Q. What was your job title and
11 position as of January the 19th of
12 2006?

13 A. Safety director.

14 Q. Safety director. How many
15 years have you worked at Elk Run?

16 A. Nine, going on ten.

17 Q. How many total years of mine
18 experience do you have?

19 A. Ten.

20 Q. Could you briefly describe
21 some of your mining background for
22 the record?

23 A. I've worked --- I started out
24 as a contractor at Elk Run and worked
25 there almost a year, then I got hired

20

01 on with the company and I've pretty
02 much done a little bit of everything,
03 I guess. I started out on supply
04 motor, then I went to work on the
05 coal crew now. I was running about
06 every piece of equipment they could
07 run. And then I started in safety
08 department a little over a year ago
09 probably.

10 Q. Okay. Prior to January 19th,
11 what was your mine rescue experience
12 in the past?

13 A. As in --- what do you mean,
14 how long have I been on a mine rescue
15 team?

16 Q. Yeah. How long have you been
17 on a mine rescue team?

18 A. This is my sixth year.

19 Q. Sixth year?
20 A. Uh-huh (yes).
21 Q. Have you participated in mine
22 fires and ---?
23 A. This was the first mine fire I
24 was ---.
25 Q. Okay. When were you first

21

01 notified of the Aracoma Alma Mine
02 Number One fire?
03 A. Let's see, it was on the 19th,
04 it was probably --- I'm not really
05 certain of the time, maybe eight
06 o'clock or 8:30. I'm really not
07 certain of the exact time that I got
08 the call.

09 Q. Okay. Do you remember who
10 called you?

11 A. Frank Foster.

12 Q. Okay. When did you report to
13 Aracoma?

14 A. Like I said, I'm not certain
15 of the time. I'm really not.

16 Q. Was it on ---

17 A. It was at night.

18 Q. --- January the 19th?

19 A. I left as soon --- as Frank
20 called, I left and went to the mine

21 rescue station and loaded the van and
22 left.

23 Q. Okay. Can you recall what
24 time you arrived at the mine?

25 A. No, sir.

22

01 Q. Did you arrive by yourself at
02 the mine?

03 A. No, I had the whole team.

04 Q. Which would have consisted of
05 how many members, how many teams?

06 A. It was just our team, that
07 should have been eight members, I
08 believe so if I remember correctly.

09 Q. And what type of mine rescue
10 apparatus do you carry?

11 A. BG-4.

12 Q. Communications?

13 A. We have a communication reel
14 and then we also have radios,
15 hand-held radios.

16 Q. Okay. When you arrived at the
17 mine, who did you report to?

18 A. I'm not certain who I talked
19 to first. Went to the --- we pulled
20 in there and got our stuff ready and
21 then went up to the room where
22 everybody was at. I'm not certain
23 ---.

24 Q. To the command center?

25 A. To the command center, yes.

23

01 Q. When Frank Foster called you
02 at your home --- I assume it was at
03 your house?

04 A. Uh-huh (yes).

05 Q. What did he tell you?

06 A. Just told me we had a mine
07 fire, I needed to get my team
08 together and go to Aracoma Alma.

09 Q. Did he give you any details of
10 the fire, where it may be located or
11 ---?

12 A. Not at that time, no. He just
13 told me to get everybody together and
14 get up there.

15 Q. Well, once you arrived at the
16 mine and you went to the command
17 center, can you kind of walk us
18 through that portion of it, exactly
19 what transpired at that time?

20 A. Pretty much a whole lot of
21 screaming.

22 Q. Oh, really? Were you given a
23 briefing at that time concerning the
24 situation underground?

25 A. Before we went underground I

01 was, yeah. Yeah, we was talked to up
02 there, yes.

03 Q. Well, did you leave the
04 command center room and then have a
05 briefing in another room? Is that
06 ---?

07 A. No. We had it in the command
08 center.

09 Q. Okay. And who all was with
10 you at that time? Was your team with
11 you?

12 A. No. I don't think the entire
13 team was there. I think me and
14 Charles Conn, I believe went up. The
15 other captain of the East Kentucky
16 team.

17 Q. Okay. In that briefing, can
18 you tell me in general what they
19 discussed with you? What your
20 objectives were? The situation with
21 the fire?

22 A. I don't remember what was
23 stated to be honest with you. I
24 mean, we just --- we knew we had a
25 fire and I remember they was talking

01 about where these guys might have
02 went. And was just trying to get a

03 plan together to go.

04 Q. Okay. Were you given a mine
05 map to carry underground at that
06 time?

07 A. Before we went underground we
08 was given one.

09 Q. Okay. But not at that
10 particular time?

11 A. I don't remember the instant
12 we was given one, I really don't.
13 But we had a map.

14 Q. Did they have a map in that
15 command center that you could make
16 reference to?

17 A. Yes. Yes.

18 Q. Did you feel in the command
19 center and during that briefing that
20 you had an opportunity to ask
21 questions about what was going on
22 underground, the situation with the
23 fire?

24 A. Yes.

25 Q. Do you know what time that was

26

01 that you had that briefing?

02 A. I have no idea. I really
03 don't. I'm sure it's wrote down
04 somewhere but I, myself, I don't

05 remember what time it was, no.

06 Q. That's fine. If you don't

07 remember, that's good. Once you had

08 the briefing, then where did you go

09 from there? What was the next ---?

10 A. Went down in the box cut. We

11 had to wait on another team to come.

12 Q. You just briefly mentioned

13 about the --- some of the items

14 discussed at your briefing. Was

15 there any details or any information

16 concerning the victims, as far as

17 being not accounted for or being

18 lost? Do you recall any discussion

19 with that? Were you aware ---?

20 A. I was aware that we had two

21 people missing, yes.

22 Q. Any indication where they

23 might be or why they'd be in a

24 certain area?

25 A. I don't think anybody had

27

01 really --- a real good idea. I guess

02 a general idea but ---.

03 Q. Okay. Any idea what time you

04 got in the box cut?

05 A. No, sir.

06 Q. Okay. Once you were in the

07 box cut, what happened at that point?

08 A. Waited on them to tell us we
09 could go.

10 Q. Were you given another
11 briefing in the box cut by anybody?

12 A. Not that I recall.

13 Q. Did your team and Elk Run ---
14 or I'm sorry. Who was the other team
15 you traveled with that day?

16 A. East Kentucky.

17 Q. East Kentucky. Were they in
18 the box cut with you also?

19 A. Yes.

20 Q. Did both of you go underground
21 at the same time?

22 A. Yes.

23 Q. At your briefing, what was
24 your objective that you can recall
25 that you were given? Where were you

28

01 assigned to work once you got
02 underground? What areas was your
03 exploration to be in?

04 A. I don't remember what exactly
05 it was called, but we was going to go
06 up the back way off the longwall
07 panels because they kind of thought
08 they might have went down the --- one
09 of the longwall panels. I don't

10 remember what it was called, I really
11 don't.

12 Q. I have some wall maps up here
13 and we'll --- once we get done with
14 some of these preliminary questions,
15 we'll go to the wall maps and you can
16 mark with a marker and kind of detail
17 what those areas were.

18 A. Okay.

19 Q. How many days were you
20 assigned to go underground during the
21 rescue and recovery operation?

22 A. I'm not sure. I think we was
23 there six days. I believe I'm --- it
24 was all one big long day to me. I
25 don't remember exactly.

29

01 Q. Sure. Did you go in there on
02 the 19th or was it after midnight on
03 the 20th that you actually made it
04 underground?

05 A. I think --- I'm not sure of
06 the time.

07 Q. This map that you were given
08 to in the briefing that you had on
09 it, once you got underground, did you
10 have any problems with the mine map
11 being accurate?

12 A. Yeah.

13 Q. What was your problems that
14 you found with the mine map?

15 A. Just had a little with the
16 spad numbers, had a little trouble
17 with them.

18 Q. Okay. What about ventilation
19 controls, were there ventilation
20 controls indicated on the mine map
21 that maybe weren't in place once you
22 got to a location?

23 A. I don't recall any ventilation
24 controls. I just remember trying to
25 locate where I was at with the spads

30

01 and having a little trouble with what
02 the map said and what I was reading.

03 Q. Okay. Were there any other
04 markings on the mine map such as
05 escapeways, primary escapeways,
06 alternate escapeways?

07 A. I'm sure there was, but I
08 don't remember. Actually myself, I
09 didn't carry the map. It was kind of
10 a joint effort, but you know, we have
11 a map man for that.

12 Q. Was this your first time in
13 Aracoma Alma Mine Number One?

14 A. Yes.

15 Q. Did anybody mention anything
16 about escapeways to get out of the
17 mine in the event that ---?

18 A. Yes.

19 Q. Okay. So you were briefed on
20 escapeways?

21 A. Uh-huh (yes).

22 Q. Did anybody else from Aracoma
23 Alma Mine Number One go in with you
24 guys and travel with you as a team?

25 A. The first night, no, I don't

31

01 believe so.

02 Q. Okay. Do you recall on your
03 briefing on the escapeways, where
04 that --- where the escapeways were
05 and any markings of those escapeways,
06 how they were marked?

07 A. No, I don't. I don't.

08 Q. Let's go to the mine maps and
09 we'll indicate by using different
10 colored markers if we can distinguish
11 between days some of the areas you
12 were assigned to work in and what you
13 were to accomplish once you got in
14 those areas; okay?

15 A. We'll try.

16 Q. Okay. Okay. Rob, if you
17 would, this is the general mine map

18 from the box cut all the way into the
19 northeast mains. If you would sign
20 and date that at the top of it.

21 A. What did you say the day was?

22 Q. The 21st.

23 ATTORNEY HEATH:

24 The 21st.

25 BY MR. POGUE:

32

01 Q. Okay. And let's just back up
02 a little bit and we're sitting in the
03 box cut, you've been briefed. Let's
04 start with your briefing and as you
05 can see, right here is your fourth
06 north areas behind your longwall
07 panels, north mains, northeast mains,
08 which is Two section. If you could
09 just briefly describe to us what your
10 assignment was and your routes of
11 travel?

12 A. I think the first night they
13 was wanting to believe that maybe
14 these guys had come down through one
15 of these ways trying to get out to
16 come out this way. So we was going
17 to try to get in here and try and
18 make some of these areas to see if we
19 could locate somebody.

20 Q. Okay.

21 A. As far as the route of travel,

22 I wasn't running the man --- the

23 manbus, I really don't know. We was

24 in the intake.

25 Q. Okay. Do you know that you

33

01 did stop at Four Right?

02 A. Yes.

03 Q. Okay. Can you indicate any

04 location, particularly there where

05 you stopped or if you could mark on

06 the map and just tell us the staging

07 area? Call it the staging area as

08 opposed to a fresh air base at this

09 time.

10 A. I don't recall. I know we was

11 up to this door, these double doors.

12 I don't remember the staging area,

13 no. I really don't.

14 Q. Well, just maybe indicate this

15 was a mine and maybe a staging area

16 there if you want to. You do know

17 you traveled to those doors. What

18 position were those doors when you

19 traveled to them?

20 A. Position as in what?

21 Q. Open or closed?

22 A. They was closed.

23 Q. Okay. Can you kind of
24 indicate that, these two doors were
25 closed.

34

01 WITNESS COMPLIES

02 MR. POGUE:

03 Okay. Rob is
04 identifying the area where
05 they first were assigned to go
06 to on Exhibit A Asbury. And
07 we're in the Four Right area
08 of the mine right now. They
09 were traveling behind the
10 longwall panels.

11 (Asbury Exhibit A
12 marked for
13 identification.)

14 BY MR. POGUE:

15 Q. Okay. Continue on with your
16 exploration, Rob.

17 A. We just continued up through
18 here and we was trying to get through
19 the doors basically, checking our air
20 and whatnot. We were trying to find
21 smoke and stuff and we just continued
22 up through there. We was
23 communicating with the command
24 center. They would just tell us when

25 we could move on or ---.

35

01 Q. Okay. How about pumps, did
02 you run across any electrical pumps
03 back there or air pumps or anything
04 of that nature?

05 A. I think I recall one pump
06 going --- right here. It was just a
07 little 110 pump as far as we could
08 see.

09 Q. Do you know the exact location
10 of it?

11 A. No, sir.

12 Q. Okay. When you were traveling
13 back through here, what was the
14 airways --- was there smoke in the
15 airways, heavy smoke, light smoke?

16 A. Through these stoppings, there
17 were. On the other side of the
18 stoppings, there was smoke and ---?

19 Q. Up in the --- towards the
20 drive area?

21 A. Yes.

22 Q. How about with these stoppings
23 right here? This was your travelway
24 right here? And you're saying
25 towards your air was ---. What were

36

01 conditions like in that ---?

02 A. The travelway was clear.

03 Q. Was clear?

04 A. Uh-huh (yes).

05 Q. Okay. How much further did

06 you go up in here that you can

07 recall, Rob?

08 A. I'm recalling we made it

09 somewhere in this area right here.

10 That's as far as we made it.

11 Q. Could you indicate that, just

12 by drawing a line approximate ---.

13 A. I mean, this is not exact.

14 Q. Right. We understand.

15 A. I'm giving a guess.

16 Q. Yeah.

17 WITNESS COMPLIES

18 BY MR. POGUE:

19 Q. Did you happen to go through

20 these airlock doors through here?

21 A. No.

22 Q. So you just basically went up

23 in here, kind of turned around and

24 came back out?

25 A. Went this way. The best I

37

01 recall, like I said, we went up in

02 there a little ways, but I don't

03 remember these doors being here. We

04 went to the single door and went a
05 little ways and run into a high CO
06 and they made us come out.

07 Q. Okay. As you traveled back
08 through here, what type of
09 communication did you have? Was it
10 hand-held or ---?

11 A. Hand-held.

12 Q. Okay. Did you travel as a
13 team or did you like two guys one
14 entry and two guys another entry?

15 A. We had a --- there's a phone
16 somewhere in this area right here and
17 we was --- we could communicate with
18 the command center there, so we left
19 a team member there with a hand-held
20 radio. That way we could keep our
21 communication all the time with the
22 command center.

23 Q. Was there a State inspector or
24 an MSHA inspector traveling with your
25 team?

38

01 A. Not at that time.

02 Q. Did you have them out here in
03 the staging area? Do you recall?

04 A. I don't recall. I don't think
05 --- I don't recall.

06 Q. Okay. After you went to your

07 furthest point in travel and you
08 turned around and came back, did you
09 get back out onto the mains yet?
10 A. Yes, they made us come back
11 out and made us pull back there and
12 meet with East Kentucky and then they
13 decided that we would go toward the
14 fire area.

15 Q. Was there any conversation
16 about once you guys got back here
17 before you went up or as you were
18 going up through here, checking these
19 inlets, getting air readings or
20 anything? Do you recall? Checking
21 ---?

22 A. We stopped on the way up
23 through there and checked those and
24 kept our communication systems going.

25 Q. Did you actually ---?

39

01 A. I, myself, did not go over and
02 check these.

03 Q. But somebody actually
04 physically went over into these
05 openings, these inlets?

06 A. If I remember correctly, they
07 did.

08 Q. What about the cut-throughs,

09 did you stop at the cut-throughs at
10 any ---?

11 A. I do remember. Yeah, I do
12 remember those.

13 Q. What do you remember about
14 those?

15 A. They went over there and
16 checked, I think East Kentucky went
17 over there and checked them while we
18 was getting some communications and
19 talking with the command center.

20 Q. Okay. Then once these inlets
21 and the cut-throughs were checked,
22 then what did you do?

23 A. Well, we kept advancing up.
24 I'm sure it's marked somewhere where
25 we had our fresh air base as we went

40

01 up.

02 Q. Well, we have the map over
03 here that starts --- this is the
04 cut-through area right here. This is
05 northeast mains, this would be the
06 north mains right here.

07 A. Uh-huh (yes).

08 Q. Let's go back to this map here
09 for a second and then we'll move over
10 to the --- Exhibit B Asbury.

11 Once you established

12 communication in this area, then what
13 did you do?

14 A. We just kept going up until we
15 got up to the fire area.

16 Q. Rob, let's go back in this
17 Four Right area of the mine. Do you
18 recall any of your concentrations
19 through that area, what your COs or
20 methane and oxygen may have been?

21 A. We called them out, but I'm
22 thinking when we got over in there,
23 we had four something, I believe
24 maybe.

25 Q. Four something what?

41

01 A. Parts per million CO.

02 Q. Where would that have been?
03 Can you indicate that on the map?

04 A. I don't recall exact location
05 but it was on this side of them
06 stoppings somewhere.

07 Q. Would it be like on your
08 intake side of this stopping?

09 A. To the best I remember, it was
10 in there.

11 Q. Okay. Could you just bring
12 that down and just put four parts per
13 million or whatever the

14 concentration. Were you guys open
15 faced going back through here? Did
16 you have your apparatuses on?

17 A. Had them on all day as long as
18 we didn't --- the fresh air we
19 didn't. When we went over and
20 checked before we went to the
21 stopping doors.

22 Q. That smoke that you described
23 that was back in there, was it light
24 smoke or heavy smoke?

25 A. In this walkway there was no

42

01 smoke where we was at. Then over
02 through the doors, it was --- I would
03 describe it probably light.

04 Q. And that's looking through
05 these, for instance, this door right
06 here at survey station 2657? That
07 would be a typical place where you'd
08 look through a door and could see
09 smoke?

10 A. Yeah.

11 Q. Can you describe that smoke,
12 was it white in color? Black in
13 color? Heavy? Light?

14 A. It was light, it was --- best
15 way to describe it.

16 Q. Kind of bluish or ---?

17 A. I don't remember the color
18 exactly.
19 Q. You don't remember the color.
20 Do you remember any other difference
21 in the smoke that you saw back ---
22 did you see any smoke back in here at
23 that time?

24 A. This area here had a little
25 bit of smoke. It was up there and

43

01 here we started to running into a
02 little bit. We called and pulled
03 out.

04 Q. Can you describe the smoke
05 that was in the Nine tailgate
06 entries?

07 A. It was light.

08 Q. Light. Can you recall what
09 direction the air movement was in
10 that area?

11 A. We called it up, but no, I
12 don't recall.

13 Q. Do you recall air movement in
14 this area at all?

15 A. No, I don't remember.

16 Q. The smoke that you saw up here
17 through this point in travel, was it
18 light, heavy?

19 A. It was light.

20 Q. Did it appear to be more

21 blackish or white type smoke?

22 A. I don't recall what the color

23 was.

24 Q. In this area back in here,

25 when you looked at your ventilation

44

01 controls, did you alter any

02 ventilation controls whatsoever back

03 there?

04 A. No.

05 Q. So if you went through a door

06 that was closed, on the way back out,

07 you closed the doors?

08 A. Yes.

09 Q. And none of these equipment

10 doors through here were altered? I

11 mean, they was --- the way you found

12 them is the way you left them?

13 A. If it was closed, when we got

14 there, we closed them back when we

15 got done.

16 Q. And that still holds true for

17 the doors right before you went down

18 the main hall?

19 A. Yes.

20 Q. Did you take any air readings

21 in that area with an anemometer?

22 A. I, myself, didn't.

23 Q. How about anybody on your
24 team, did they?

25 A. Not that I recall. I don't

45

01 think. It wasn't what we was worried
02 about at that time.

03 Q. Okay. When you were getting
04 your direction from the command
05 center, who were you talking to?

06 A. Chris Adkins I believe, if I
07 remember correctly. Mostly him.

08 Q. At your briefing that you had
09 prior to going underground, is that
10 who gave you your briefing? Did he
11 give you your direction that you
12 needed to be traveling in?

13 A. Charlie Beirs (phonetic) gave
14 the briefing.

15 Q. Charlie Beirs. What's his
16 position?

17 A. He's the president of Sentinel
18 I believe.

19 Q. While you were underground,
20 did that person in the command center
21 change any at all? Did it go from
22 Chris to somebody else?

23 A. Are you referring to the first

24 night? I mean, there was different
25 people in here?

46

01 Q. Yes. Yeah, just the first
02 night, what we're talking about right
03 now.

04 A. I believe it was pretty much
05 just steady the first night ---

06 Q. Okay.

07 A. --- in terms of who we talked
08 to.

09 Q. Okay. I think we --- you
10 mentioned getting to the fire area.
11 What did you do once you got right up
12 here to the junction of the north
13 mains or the northeast mains? What
14 was your travel at that point, do you
15 recall?

16 A. No, I really don't. I don't
17 really have a ---.

18 Q. Okay. We have this second map
19 over here that's Exhibit B Asbury.
20 And it's a little bit more detailed
21 and gives us a little bit more
22 information and maybe that will help
23 us out a little bit. Let's move over
24 to that map and see what we can
25 remember. Take a couple minutes

47

01 there or a minute, sort of look over
02 the map.

03 WITNESS COMPLIES

04 (Asbury Exhibit B

05 marked for

06 identification.)

07 BY MR. POGUE:

08 Q. Do you know what these circles
09 indicate right here?

10 A. There's a fresh air base.

11 Q. And you can find those all the
12 way throughout the northeast mains

13 ---

14 A. Right.

15 Q. --- depending on the travel
16 that the teams had?

17 A. Uh-huh (yes).

18 Q. Does that bring anything to
19 remember where you guys first staged

20 up there or your first fresh air
21 base?

22 A. Most of the overcast was on up
23 through here, I remember that.

24 ATTORNEY BARISH:

25 Hey, Rob, can you speak

48

01 a little louder ---

02 A. Oh, I'm sorry.

03 ATTORNEY BARISH:
04 --- so the court
05 reporter can hear.
06 A. I remember crossing the
07 overcast at one of these fresh air
08 bases, establishing this one, the
09 first one.
10 BY MR. POGUE:
11 Q. Before you got to that point,
12 did you guys go up through the
13 cut-through, this second cut-through
14 towards your longwall? Did you do
15 any traveling down that direction?
16 A. I, myself, did not.
17 Q. What about your team?
18 A. Nobody on my team. Like I
19 said, East Kentucky might have went
20 up that way.
21 Q. Okay. Let's go back up to our
22 fresh air base, Number Eight, is that
23 what ---? And let's go from there
24 with our travel.
25 A. We traveled on the four-foot
49
01 belt line is where we traveled. That
02 area was fairly clear.
03 Q. Do you know where that is on
04 this Exhibit B map?
05 A. It's right here, this green

06 line here.

07 Q. Okay. Once you left the fresh

08 air base, what was your route of

09 travel? Can you indicate it with

10 your marker what area you traveled

11 through to get to that 48-inch belt?

12 WITNESS COMPLIES

13 A. Through this door right here

14 if I remember correctly, then got on

15 this, this belt line.

16 BY MR. POGUE:

17 Q. Was that door opened or closed

18 whenever you --- before you went

19 through it?

20 A. I don't recall exactly. I'm

21 fairly certain it was closed.

22 Q. Did you back up towards the

23 head of that 48-inch belt, the drive

24 area?

25 A. Yes.

50

01 Q. Can you describe what you saw

02 coming up through here?

03 A. This was clear, this area was

04 clear.

05 Q. Okay. How about your

06 ventilation controls on both sides of

07 the belt, do you recall any

08 notations?

09 A. I don't recall anything

10 catching my attention.

11 Q. So as far as you know, the

12 stoppings were in place ---

13 A. Uh-huh (yes).

14 Q. --- is that what you're

15 saying? Okay. Can you indicate with

16 your marker that you traveled back

17 through here? And down here, maybe

18 just draw a line, say, at 119, 20.

19 WITNESS COMPLIES

20 BY MR. POGUE

21 Q. That's good. Put a six up

22 there also. And let's start here and

23 show me --- indicate with your marker

24 what air --- or what direction you

25 traveled from there.

51

01 a. Continued on up this four-foot

02 belt line, established the next fresh

03 air base.

04 Q. What did you find in that

05 entry as far as smoke? Did you take

06 any air readings?

07 A. We started encountering a

08 little bit of light smoke in here.

09 Q. Okay. Any indication of what

10 color it was? Was it white as

11 opposed to being kind of brown or

12 ---?

13 A. Oh, it was probably white.

14 More white probably.

15 Q. Any concentrations of CO,

16 methane in that area?

17 A. Slight.

18 Q. Slight?

19 A. I don't remember exact number,

20 it was in the --- maybe the 30s

21 maybe.

22 Q. That was your, what, CO?

23 A. Yeah, parts per million.

24 Q. Could you indicate that on the

25 map?

52

01 WITNESS COMPLIES

02 BY MR. POGUE:

03 Q. Okay. So you traveled to a

04 point in the 48-inch belt just north

05 of survey station 3411; is that

06 correct?

07 A. The best I remember, yes, sir.

08 Q. What did you do there then?

09 Did you set up a fresh air base at

10 that location?

11 A. Yeah, we set up a fresh air

12 base there.

13 Q. Did you have communications at
14 that point?
15 A. Yes. We had communications
16 the whole time.
17 Q. But once you got established
18 there, what was your next directive
19 that you got from the command center?
20 A. I don't remember.
21 Q. Okay. Do you recall what
22 direction you traveled from that
23 point?
24 A. Well, we all --- we traveled
25 --- always traveled that four-foot
53
01 belt the rest of the --- that was our
02 ---.
03 Q. For the rest of that night.
04 Okay. What about ventilation
05 controls on your 48-inch belt to the
06 north and to the south, can you tell
07 us anything about the ventilation
08 controls?
09 A. I never noticed anything, like
10 I say, that caught my eye. We were
11 just --- as we was traveling, we had,
12 you know, the command center, they
13 wanted us to keep an eye on
14 everything. We'd have to go find a
15 door and try to ---.

16 Q. Could you indicate with your
17 marker some of those areas that you
18 traveled in off the belt, checking,
19 that you were checking on the way?

20 A. I don't remember the exact
21 places. I don't remember. That
22 wasn't what ---.

23 Q. Okay.

24 A. I just know when we found a
25 door, we would go over and check.

54

01 Q. But what would you check?

02 A. They wanted the air
03 concentration from wherever that is
04 on the other side of the stopping.

05 Q. On the other side of the
06 stopping. Do you recall any of those
07 quants or concentrations that you
08 determined?

09 A. Not that I remember. I'm sure
10 they're wrote somewhere, but no, I
11 don't recall the exact number.

12 Q. Okay. From fresh air base
13 number nine, then what did you do?
14 Did you establish fresh air base ten
15 or was that somebody else that ---?

16 A. Let me think. If I remember
17 correctly, the first one --- I think

18 we made it to 11 I think. And that's
19 when them other teams come if I
20 remember correctly the first night.

21 Q. So your furthest point of
22 travel would have been through this
23 Number 11 fresh air base?

24 A. If I remember correctly. I'm
25 fairly certain that's as far as we

55

01 made it the first night.

02 Q. Could you indicate that with
03 your felt tip pen since your travel
04 was to approximately that location?

05 WITNESS COMPLIES

06 A. Right in here.

07 BY MR. POGUE:

08 Q. Who were your team members who
09 were with you that night?

10 A. Let's see, I had Jim Riddick
11 (phonetic), Mike Volt, Shane
12 McPherson, Jenny McCleary and Jeremy
13 McCormick, Frank Foster came as well.

14 Q. And Frank Foster was with you?

15 A. Uh-huh (yes).

16 Q. Was he in apparatus wear?

17 A. Uh-huh (yes).

18 Q. Did you it have on with you?

19 A. Uh-huh (yes).

20 Q. Did he ever have to don it?

21 A. Yes, sir.

22 Q. Did he travel this 48-inch
23 belt with you, to your first point of
24 travel?

25 A. Frank communicated with the

56

01 command center somewhere along. He
02 stopped back in here and stayed with
03 --- on the communication I believe.
04 Was talking to them best I remember.

05 Q. What areas would he have
06 traveled in with his apparatus on?

07 A. Four Right.

08 MR. POGUE:

09 Rob is indicating on
10 Exhibit A Asbury that Frank
11 Foster had traveled in the
12 Four Right area with his
13 apparatus on.

14 BY MR. POGUE:

15 Q. And he actually had it --- his
16 face piece on and everything? He had
17 donned the apparatus?

18 A. Yes.

19 Q. Was he with you whenever he
20 did this? Were you guys all together
21 when he did this?

22 A. Yes.

23 Q. Did he wander away from you as
24 a team or ---?

25 A. No.

57

01 Q. He was right with you the full
02 time? That map that you had that
03 night, do you recall what happened to
04 it after you come back out of the
05 mine, the 20th? I guess it would
06 have been the 20th, that night.

07 A. I don't know what we --- it
08 should be easy to find, because on
09 the way out we hit a waterhole and it
10 got really muddy and wet, but we
11 turned it in, went over what we
12 found. Where it's at right now, I
13 have no idea.

14 Q. Do you recall who you turned
15 it into at the command center?

16 A. It was a room full of people.
17 I mean, we went over it with --- I
18 don't recall exactly.

19 Q. Okay. All right. On this
20 command center map, which is Exhibit
21 B Asbury, we have some notes in the
22 margin of the map. These right here
23 you can just pretty much read. These
24 are kind of upside down so it would
25 make that pretty hard to read those

01 particular notes. Do you recall any
02 other information on the night of the
03 19th that you can give us at this
04 point, or is that the furthest point
05 that you traveled?

06 A. To the best of my knowledge,
07 that's all I can give you right now.

08 Q. Could you indicate with the
09 line, your furthest point of travel?

10 A. I think it's what --- right
11 here is the 11 is what I'm guessing
12 on the 19 and 20th.

13 Q. Okay. Indicate --- you did
14 actually travel this entry down to
15 that point? Was that your route of
16 travel?

17 A. Yeah.

18 Q. Okay. Go ahead and mark it.

19 WITNESS COMPLIES

20 A. Is that good enough?

21 BY MR. POGUE:

22 Q. Just continue it from here
23 down to there. Did you do any
24 exploration in this area right in
25 here that night or did you just stop

01 in your 48-inch belt and ---?

02 A. We was --- like I said, when
03 we was coming through, we was going
04 --- they wanted us to go through man
05 doors and get air readings, find out
06 what our air quality was.

07 Q. Did you get any air direction
08 for this area of the mine, which way
09 the air was moving?

10 A. Yeah, I'm sure we called that
11 out, too. I'm sure.

12 Q. Do you remember if the air was
13 moving inby for these entries?

14 A. It was coming inby, yes.

15 Q. Could you indicate with an
16 arrow in which areas you know that
17 that air was moving inby towards the
18 Two section?

19 A. It was in the intake and it
20 was coming ---.

21 Q. What about in the 48-inch belt
22 entry, what direction was the air
23 going? Do you recall?

24 A. No, sir, I don't recall what
25 the air was --- it wasn't moving ---

60

01 I don't recall.

02 Q. These doors that you indicated
03 that you looked through when you
04 traveled from the belt entry, how far

05 to the south did you actually go with
06 your exploration through those doors?

07 A. We was mainly concentrating in
08 this area right here. If we could
09 make it, we would go through the
10 doors mainly in this area is where we
11 was looking --- thinking we needed to
12 be.

13 Q. Can you indicate with your
14 marker exactly what entries you
15 traveled to the south end?

16 A. I can't remember exactly where
17 they are. I mean, I'll give you a
18 general area. We just ---.

19 Q. That's fine.

20 A. Like I told you, we traveled
21 these two entries, tried to, then we
22 come over and make what we could of
23 them.

24 Q. Would you have gone through
25 this door right here and then

61

01 traveled up and traveled back down or
02 how would you have gone? Do you
03 recall?

04 A. No, sir, I don't recall. We
05 wouldn't have traveled --- the first
06 night, we didn't do a whole lot up

07 through here. We was just coming
08 through, looking through the doors.

09 Q. Okay. Once you had gone to
10 your furthest point of travel, do you
11 recall any concentrations in here?

12 Let's start from your first point of
13 travel and once you've done your
14 exploration work in that area, where
15 did you report back to then on that
16 first night? Where did you walk back
17 to?

18 A. Well, we all met up with the
19 other team at the fresh air base.

20 Q. Okay. Then what happened?
21 Were you ---?

22 A. We left. We was relieved.

23 Q. To go outside?

24 A. Uh-huh (yes).

25 Q. And there was two other teams

62

01 that replaced you guys?

02 A. Uh-huh (yes).

03 Q. Okay. Once you got outside,
04 you were debriefed?

05 A. Yes, sir.

06 Q. And that was done in the
07 command center?

08 A. Yes, sir.

09 Q. Do you recall who did that?

10 A. I remember Charlie being there
11 and ---.

12 Q. Charlie?

13 A. Beirs.

14 Q. Beirs.

15 A. It was a room full of people.

16 I was tired, I didn't really pay
17 attention.

18 Q. Sure. Let's look at some of
19 these notes in the margin here, see
20 if you can read some of them to me.
21 If they were any of the results of
22 your exploration or ---?

23 A. I don't see nothing on there.

24 Q. Okay. Let's go to the second
25 map. We'll use a different color

63

01 felt-tip. Did anyone --- did you or
02 anyone on your team, including Frank
03 Foster, talk with anyone on the
04 surface besides the people in the
05 command center that you're aware of?

06 A. When are you referring to?

07 Q. On the 19th during your
08 travel.

09 A. No. I think there was people
10 standing there that said don't talk
11 to nobody, go to the command center.

12 Q. On that first night, did your
13 team open or close any water valves?

14 A. On the first night?

15 Q. Yes.

16 A. No.

17 Q. Your primary focus was just on
18 going down and exploring the 48-inch
19 belt and those entries?

20 A. Just trying to locate those
21 guys, yes, sir.

22 Q. Was somebody else assigned to
23 actually do the firefighting at the
24 belt drive at that point?

25 A. If I remember, I think East

64

01 Kentucky was fighting the fire the
02 first night.

03 Q. And again, you may have
04 already answered this, but did you
05 alter any waterlines or ---?

06 A. No.

07 Q. Did not shut off any waterline
08 valves or add any valves? Do you
09 know the location of the victims?

10 A. Not to be exact, no. I didn't
11 --- I wasn't there when they found
12 them.

13 Q. Okay. Once you got back to
14 the surface do you recall what time

15 that was on the 19th or the 20th?

16 A. No.

17 Q. And you got to the box cut and
18 went up to the command center and was
19 debriefed?

20 A. Yes, sir.

21 Q. And do you recall any times at
22 all, what time that took place?

23 A. No.

24 Q. All right. Let's start on the
25 second night, which would have been

65

01 which date?

02 A. This would have been the 20th
03 I suppose.

04 Q. Any idea what time you
05 reported back to the mine on the
06 20th?

07 A. I don't remember times, I
08 really don't. I'm sure --- like I
09 said, I'm sure it's wrote down
10 somewhere when we went underground,
11 but I don't remember the times, no.

12 Q. Okay. Do you remember the
13 area of the mine that you were
14 assigned to travel in that night?

15 A. Like I said, six days went
16 into one. I mean, you're asking me

17 to remember --- yeah, I don't --- I'm
18 fairly certain we explored --- got a
19 little more in depth in these areas
20 here in the second night. We had two
21 MSHA inspectors and a State with us
22 that night best I remember.

23 Q. Okay.

24 MR. POGUE:

25 We're looking at

66

01 Exhibit B Asbury and Rob is
02 indicating that on the second
03 night ---.

04 BY MR. POGUE:

05 Q. Which would have been which
06 date were you saying?

07 A. Well, I'm guessing it would be
08 the 20th. I mean, ---.

09 Q. The 20th.

10 A. We went back and got a few
11 hours sleep and come back the best I
12 remember.

13 Q. Was it still daylight when you
14 got at the mine on the second day or
15 was it during the evening?

16 A. It was the evening time.

17 Q. So it was dark outside
18 possibly?

19 A. Possibly. I really don't ---.

20 Q. Okay. So you went into the
21 mine after being briefed?

22 A. Yes, sir.

23 Q. And the briefing was held in
24 the command center?

25 A. Yes, sir.

67

01 Q. Do you recall any information
02 that they gave you at that briefing?

03 A. Not exactly. I mean, they
04 told us where they had been and what
05 they had explored and where they
06 wanted us to try to concentrate on
07 that day.

08 Q. Could you recall what areas
09 you were told to concentrate on, on
10 your shift?

11 A. To be exact, I couldn't give
12 you exact.

13 Q. Okay.

14 A. I really couldn't.

15 Q. All right.

16 A. I could guess, but I'm not
17 going to do that.

18 Q. What other areas of the mine
19 during the course of your rescue and
20 recovery days spent at Aracoma, what
21 other areas of the mine did you

22 actually explore if you recall?
23 A. Pretty much this area.
24 Q. Okay. Can you indicate by
25 just maybe circling this area all the

68

01 way up the Two section in back?

02 WITNESS COMPLIES

03 BY MR. POGUE:

04 Q. And in the margin here just
05 indicate that --- maybe a time period
06 as far as the dates from like the
07 20th to the ---.

08 WITNESS COMPLIES

09 BY MR. POGUE:

10 Q. Do you recall any of the
11 conditions of the ventilation
12 controls in this area as you passed
13 through? Were the stoppings missing?

14 A. I don't recall any missing
15 stoppings, no.

16 Q. The direction of air?

17 A. It's like it was supposed to
18 be. I mean, I don't know --- you
19 know.

20 Q. Did you actually travel with
21 the team in each one of these entries
22 or did you split up to travel and
23 explore those entries? Do you
24 recall?

25 A. Well, I mean, when we got any

69

01 smoke we had to be on a lifeline, you
02 know. Traveling all together on a
03 lifeline when we was running into
04 smoke.

05 Q. Were all those entries when
06 you traveled through, did they have
07 smoke in them?

08 A. Yes.

09 Q. So from what you're indicating
10 is that you traveled as a team at
11 those entries for the purpose of
12 exploring?

13 A. Yes.

14 Q. Was it heavy smoke?

15 A. In this area, once you went
16 through the stoppings it was.

17 Q. By this area, can you
18 indicate?

19 A. The bearings right here? The
20 belt line right through here; right?

21 Q. Yes, this is your 48-inch belt
22 line.

23 A. And when we went through these
24 doors, we encountered heavy smoke in
25 this area.

70

01 Q. Was it a dark smoke or a white
02 smoke or ---?

03 A. It was a dark smoke I suppose.

04 Q. Do you recall any
05 concentrations? As you look at this
06 map right here, there are
07 concentrations. Would those have
08 been the results of your exploration
09 through that area?

10 A. More than likely. We wasn't
11 the only team that explored this
12 area. I mean, there was other teams
13 in that area.

14 Q. Did you go all the way to the
15 face, the two faces of Number Two
16 section?

17 A. I went to the face of Number
18 Two section, but I'm thinking it
19 might have been the third night
20 before we made it there. There was
21 another team that had already been
22 there.

23 Q. What was your purpose in going
24 up the second night or subsequent to
25 that?

71

01 A. They wanted us to. Command
02 center wanted us to go back in.

03 Q. Was that just you and your

04 team members? Was there anybody else
05 from the mine with you --- from
06 Aracoma mine with you?

07 A. Well, we had an inspector with
08 us. Mike Hess. I don't remember who
09 it was, it wasn't Mike. It was
10 another fellow.

11 Q. Anybody from Aracoma with you
12 at that point?

13 A. No, sir.

14 Q. Frank Foster or anybody? In
15 the course of your travel, did you go
16 down Ten headgate area?

17 A. I, myself, didn't, no.

18 Q. Your team?

19 A. No.

20 Q. What about this area right in
21 here, did you travel into that area
22 ---

23 A. No, sir.

24 Q. --- which would have been the
25 Nine tailgate area.

72

01 A. They done them on a different
02 night.

03 Q. Did you ever come back and ---
04 were you ever around the fire area?

05 A. After it was --- you know, we

06 located the ---

07 Q. Victims?

08 A. --- the victims.

09 Q. Okay. What can you tell us

10 about --- was that subsequent to you

11 traveling up to the Two Right section

12 for the Number Two section? Was that

13 the following day or was that ---?

14 A. It was after --- we traveled

15 here after we had this took care of.

16 Q. Okay. Do you recall what day

17 you were in the fire area?

18 A. No. After --- like I said,

19 after they found the victims, we went

20 to the fire area.

21 Q. But prior to that, you were

22 pretty much in the ---

23 A. I was pretty much in the ---

24 Q. --- northeast mains and to the

25 ---

73

01 A. Yes, sir.

02 Q. --- Number Two section? Okay.

03 Can you tell us anything about the

04 fire area, exactly what you did in

05 that fire area, where you traveled?

06 I have a larger map down here if that

07 would help.

08 A. No, this one's okay. I'm just

09 trying to remember. The first night
10 I went to the fire area, this
11 stopping right here, this would have
12 been the mother drive I believe right
13 here, if I remember.

14 Q. Okay. Can you just indicate
15 on here mother drive?

16 WITNESS COMPLIES

17 A. We installed a foam machine
18 right here. Basically we worked on
19 them, we was going in there shooting
20 water on the hotspots.

21 BY MR. POGUE:

22 Q. Where did you put the foam
23 generator at?

24 A. We put it up on --- let's see,
25 there was a stopping there that ---.

74

01 Q. Can you indicate on the map
02 what stopping you're talking about?

03 WITNESS COMPLIES

04 A. That one right there, best of
05 my memory.

06 BY MR. POGUE:

07 Q. Let me draw a line down here
08 that says foam generator. Did you
09 actually --- were you actually there
10 when they put the foam generator in

11 that stopping?

12 A. Yes, I put it in.

13 Q. Okay. How did you repair that
14 stopping to put the foam generator
15 in? Did you have to knock out blocks
16 or ---?

17 A. It had already been knocked
18 partially.

19 Q. Partially?

20 A. I stuck the foam generator up
21 in there, in the hole, anchored it
22 down and hooked it up.

23 Q. Do you recall, were the blocks
24 laying on the floor, on the mine
25 floor, at that location?

75

01 A. Ye, they were. I stood on
02 them to ---.

03 Q. Did somebody from your team or
04 another team knock those ---?

05 A. I'm not sure.

06 Q. Can you remember about what
07 size hole that was?

08 A. No, not really. It was at
09 least four-foot by four because we
10 got the foam generator in there, but
11 exact size, I don't ---.

12 Q. Okay. How about, can you tell
13 us anything more? Once you had the

14 foam generator installed and it was
15 running, did you actually hook the
16 plumbing up to it, the water or did
17 somebody else do that?

18 A. Yes, me and Gerry Good
19 (phonetic).

20 Q. And do you know where you got
21 your water source from at that point?

22 A. Right here.

23 Q. Was there a valve there?

24 A. Yes, sir.

25 Q. Did you trace this line back

76

01 to where it went to or did you ---?

02 A. I had water there, that's all
03 I needed.

04 Q. What kind of line was that?

05 Was that a hard plastic line?

06 A. Hard plastic line.

07 Q. Color, do you remember the
08 color of it?

09 A. No.

10 Q. At this point right here, did
11 the line come through any kind of a
12 ventilation control that you recall?

13 A. I don't recall.

14 Q. Do you recall the condition of
15 this stopping right here or was there

16 a stopping up in here or can you tell
17 us anything about the ventilation
18 controls in that --- that location?

19 A. I don't recall that.

20 Q. Did you walk this line back to
21 the 48-inch belt, the waterline?

22 A. I'm sure at some time I
23 probably did, but I didn't ---.

24 Q. Can you recall that does it go
25 back to the 48-inch belt?

77

01 A. No, I couldn't verify that,
02 no.

03 Q. Okay. From your hard line,
04 your hard plastic line, over to your
05 foam generator, what did you hook up,
06 any kind of line?

07 A. A fire hose. Just a white
08 pump fire hose that had two joints in
09 it.

10 Q. Okay. Was that something that
11 was spraying water on the fire area
12 or was that a new line that you had
13 to lead to the foam generator?

14 A. It was a new line. They had
15 hoses hooked up already. That was
16 new ---.

17 Q. Okay. Then once the foam
18 generator is working, then what did

19 you do at that point?

20 A. Just monitored this area.

21 Q. How did you monitor that area?

22 Were you looking and taking

23 concentrations of ---?

24 A. I had to call out every hour

25 what our air readings were and where

78

01 we found any hotspots and ---.

02 Q. Did you find hotspots

03 subsequent to hooking up your foam

04 generators?

05 A. Yes.

06 Q. Do you remember any of the

07 concentrations that you had in that

08 area? Was there CO or ---?

09 A. I don't remember exact

10 concentration but it was low. By the

11 time, we was here, you know, the fire

12 was basically out and it was just

13 taking care of hotspots.

14 Q. Can you recall any of the

15 ventilation controls from this point

16 here inby towards Two section?

17 A. No, sir, I don't recall.

18 Q. How about travel, did you

19 travel down through any of these

20 areas?

21 A. Uh-huh (yes).
22 Q. Do you recognize this symbol
23 right here?
24 A. No.
25 Q. This would be your mother belt

79

01 ---
02 A. Uh-huh (yes).
03 Q. --- from the longwall and this
04 is your 72-inch belt coming through
05 here.
06 A. Uh-huh (yes).
07 Q. And this would be the tail
08 roller of your 72-inch belt.
09 A. Okay.
10 Q. It was kind of hard to read.
11 Do you recall any kind of ventilation
12 control immediately behind that,
13 that's indicated on this mine map?
14 Let's take a look at these right
15 here. Do you recall any kind of
16 ventilation control behind here?
17 A. I don't recall any, no.
18 Q. Okay. What about this
19 ventilation control located here at
20 3268, just inby the tail towards Two
21 section?
22 A. I don't recall that.
23 Q. Okay. What can you tell us

24 about this crosscut here between
25 entry Number Seven and Eight? Did

80

01 you remember seeing anything in that
02 location?

03 A. This would be the mother
04 drive; right?

05 Q. Yes.

06 A. That would have been a KVA
07 box, the power centers were right
08 there.

09 Q. Do you recall any stoppings or
10 anything in that crosscut between
11 Seven and Eight?

12 A. No, sir.

13 Q. How about other areas in and
14 around this fire area that you
15 traveled, do you remember --- can you
16 give us any details about air
17 direction in that area or ventilation
18 controls?

19 A. No.

20 Q. Your first night up in this
21 area, do you recall these doors
22 through this area?

23 A. Yes.

24 Q. What position were those doors
25 in the first time that you had saw

01 them?

02 A. The first time I saw these
03 doors, they were closed.

04 Q. And that would have been ---
05 do you recall what night that would
06 have been or what day?

07 A. No.

08 Q. Okay. What about the inby
09 door?

10 BRIEF INTERRUPTION

11 ATTORNEY HEATH:

12 Let's take a break.

13 MR. POGUE:

14 Okay.

15 SHORT BREAK TAKEN

16 BY MR. POGUE:

17 Q. All right. Rob, let's go
18 ahead and -- we're looking on the
19 Exhibit B Asbury map, and we're in
20 the margin where it indicates that
21 the --- a team is underground and you
22 have some notes in the margin. We
23 need to identify those notes. What
24 can you tell us about those notes
25 that are on this command center map?

01 A. Let's see, at 4:40 a.m., it
02 tells us our team was at spad 2842,

03 all was clear.

04 Q. And this would have been on

05 the 20th of January?

06 A. That would be --- that would

07 have been my guess. I would say that

08 would have been the night.

09 Q. Do those notes that are in the

10 margin, do they indicate areas you've

11 traveled on that first night and

12 reflect some of the conditions that

13 you found and concentrations?

14 A. Yeah, it's when we called out

15 talking to the fresh air base.

16 Q. Could you circle for me and

17 indicate what notes pertain to your

18 travel and exploration on that first

19 night, on the 20th?

20 A. You want me to circle what was

21 mine, is that what you're ---? I'm

22 not sure.

23 Q. That's correct.

24 A. Well, I'm not sure which one

25 of these. I see some of them says

83

01 team ER, but these other ones doesn't

02 say. It says two team, such and such

03 and I'm not sure if that was --- who

04 that was.

05 Q. Well then, if you're not sure,
06 then don't circle.

07 A. I mean, it says here what ---
08 where we was at certain times.

09 Q. So the ERs that are indicated
10 in the margin with the time there
11 reflect Elk Run's?

12 A. Yes, that's our team.

13 Q. Results of their exploration?

14 A. Yes, sir.

15 Q. Okay. Do you recall any
16 discussions at all with the command
17 center as far as ventilation controls
18 that might be missing along the inby
19 end or the 72-inch belt that we
20 talked about earlier?

21 A. I don't recall. I didn't
22 discuss it.

23 Q. So you had no discussion and
24 they didn't confer to you that maybe
25 a stopping would be missing at a

84

01 location?

02 A. No.

03 Q. The second day that you
04 entered the mine, did you have the
05 same team members with you as you did
06 the first day?

07 A. The second day, yes, I believe

08 we did.

09 Q. Was that generally the case
10 through the rescue and recovery
11 operation?

12 A. They broke us down into teams
13 of three after a period of time.

14 Q. Do you recall what day that
15 might have been?

16 A. No, sir.

17 Q. Do you recall on the second
18 day, anybody else besides your
19 immediate team members traveling with
20 you, anybody else that you can
21 remember, like Frank Foster or
22 anybody from the company or from the
23 mine in general?

24 A. On the second day, I think
25 they only let them have a person from

85

01 the company drive the mantrip in,
02 that was familiar with the mine, but
03 they stayed at the fresh air base.

04 Q. Do you know who --- what
05 person that would have been?

06 A. No.

07 Q. On any of the days that you
08 traveled underground, did exploration
09 work and fought the fire or monitored

10 the fire, did you have a map with you
11 all the time?

12 A. Yes, sir.

13 Q. At the conclusion of your
14 shift, what did you do with that map?

15 A. Took it back to debrief,
16 showed the report of what we had and
17 they marked it on their big map in
18 the command center.

19 Q. Did you turn those maps into
20 anybody?

21 A. Yeah. I don't recall the
22 person I gave them to, but yeah, we
23 went over it with everybody on
24 debrief and they marked what we found
25 and ---.

86

01 Q. Do you have any of those maps
02 in your possession now?

03 A. I don't.

04 Q. Do you have any notes in your
05 possession right now?

06 A. No.

07 Q. Do you recall any individual
08 conducting the debriefing once you
09 got back to the surface? Any
10 particular person?

11 A. Charlie. I remember Charlie
12 Beirs.

13 Q. Charlie Beirs.

14 A. I think he was in the command
15 center.

16 Q. Does Elk Run have more than
17 one team?

18 A. No, just one.

19 Q. When did your team last train
20 prior to the 19th of January, do you
21 recall?

22 A. I don't remember the date. We
23 brought all of our stuff with us,
24 records, and they looked at them all.

25 Q. You had said earlier that

87

01 Frank Foster had traveled with you
02 guys and he had an apparatus; is that
03 correct?

04 A. Yes.

05 Q. Do you know where he got that
06 apparatus from?

07 A. No, sir.

08 Q. Do you know anything about the
09 apparatus whatsoever? Was it benched
10 or was it ---?

11 A. Me personally, I don't know.

12 Q. Did Frank direct your team
13 underground?

14 A. No. He had to --- it was

15 pretty much a team effort there.

16 Q. Where did you receive your

17 directives from once you were

18 underground?

19 A. The command center.

20 Q. Okay. Was Frank ever in the

21 command center to your knowledge.

22 A. Not to my knowledge.

23 Q. So you don't know that he was?

24 A. I don't ---.

25 Q. What's your position at Elk

88

01 Run?

02 A. Safety director.

03 Q. What was your overall

04 impression of the mine there, Aracoma

05 Alma Number One?

06 A. It wasn't good when I was

07 there.

08 Q. Can you say that again,

09 please?

10 A. It wasn't good atmosphere when

11 I was there. I mean, ---.

12 Q. And that's in reference to

13 what?

14 A. It was on fire.

15 Q. What about the condition of

16 the mine in general?

17 A. I don't recall anything --- I

18 really --- I wasn't there inspecting.

19 I mean, I was --- had different

20 things on my mind.

21 Q. Sure. What about with the

22 accuracy of the map? What's your

23 thought on the accuracy of the map

24 that you guys used underground for

25 exploration and travel?

89

01 A. It had a few problems.

02 Q. Can you kind of tell us what

03 problems you had exactly with the

04 maps? I mean, ---.

05 A. The spad numbers.

06 Q. Spad numbers?

07 A. Yes, sir.

08 Q. The copy of the command center

09 map, does that pretty much reflect

10 the results of your mine rescue

11 team's travel and exploration through

12 the mine?

13 A. Ask that again? What do you

14 want on the ---?

15 Q. Well, with these notes that

16 are here in the margin and the

17 indications of the --- that are

18 actually on the mine map, do they

19 indicate pretty much the way your map

20 that you used to explore ---?

21 A. Yeah.

22 Q. It should have --- would have

23 indicated ---?

24 A. Yes, sir.

25 Q. You don't see that much

90

01 difference between this map and the

02 map that you actually used

03 underground?

04 A. No.

05 Q. Nothing really stands out to

06 indicate that there would have been a

07 big difference between the two maps?

08 A. Nothing stands out, no, sir.

09 Q. You can go ahead and sit down.

10 MR. POGUE:

11 Bill, that's all the

12 questions I have for him.

13 MR. TUCKER:

14 Okay.

15 BY MR. TUCKER:

16 Q. A couple more for you, Rob.

17 Do you recall who drove the mantrip

18 in for you on your first trip

19 underground?

20 A. One of my team members, Shane

21 McPherson.

22 Q. Okay. To the best of your

23 knowledge, was your team and the
24 Eastern Kentucky team the first two
25 teams underground?

91

01 A. Yes, sir.

02 Q. So you were the first teams to
03 arrive to the fire area?

04 A. Yes, sir.

05 Q. The mother drive?

06 A. Yes, sir.

07 Q. How did you become aware of
08 the fire area?

09 A. Well, we talked to them
10 outside, the guys that had --- the
11 people that had been there and let us
12 know where it was, you know what I
13 mean? The guys that had tried to
14 fight it before we went in there.
15 And one break inby where --- I'm
16 trying to explain where we put the
17 foam generator at. There was a
18 stopping there and the wood on it,
19 you could see was red. I mean,
20 that's how I knew there was something
21 on the other side of that stopping.

22 Q. So that was your first
23 personal ---

24 A. Yes, sir.

25 Q. --- experience with the fire?

92

01 A. Yes, sir.

02 Q. What did you do from that

03 point when you first came up on the

04 area and realized that's where the

05 fire's at? What did your team do at

06 that point?

07 A. We was communicating with the

08 command center and they was coming up

09 with a plan on --- as far as having

10 some people fight the fire and others

11 explore. And we was in the --- we

12 was exploring.

13 Q. Did you do any type of

14 exploration around to try to go

15 around the perimeter of the fire?

16 A. Yeah, but I didn't want to

17 open that door because I didn't --- I

18 was afraid what would shoot out on me

19 there. There was a lot of heat and

20 ---.

21 Q. Right. Do you recall --- are

22 you familiar with the team members,

23 the Sydney Team --- or the Eastern

24 Kentucky?

25 A. Yes.

93

01 Q. Do you recall when you were at

02 the fire area, you know --- and I'm
03 sure the teams had got together at
04 some point. Do you recall who all
05 was there, other than your team
06 members? You've already mentioned
07 those.

08 A. I could probably get --- yeah.

09 Q. Can you just tell us?

10 A. Charles Conn, Steve Comen
11 (phonetic), Steve Miller, Mike Jude.

12 I can't think of the other fellow.

13 That's all I can come up with right
14 now at this moment. There was --- I
15 think there was two more but I can't
16 come up with their names right now.

17 Q. When do you first recall
18 seeing Johnny Robertson? Or do you
19 know Johnny Robertson?

20 A. Oh, yeah.

21 Q. When do you first recall
22 seeing him underground?

23 A. The first night.

24 Q. But at what point?

25 A. He went in with East

94

01 Kentucky's team when we went
02 underground.

03 Q. Okay. So he went in as a mine

04 rescue team member with the East
05 Kentucky team?
06 A. Yes, sir.
07 Q. Other than the team members of
08 Eastern Kentucky and the team members
09 of Elk Run's mine rescue team, do you
10 recall seeing anybody else
11 underground?
12 A. At what point, the first
13 night?
14 Q. Yes.
15 A. No, sir.
16 Q. So if I understand right, I
17 mean, normally it's somewhat unusual
18 to go inby a fire area during mine
19 rescue operations without fully
20 knowing the extent of the fire. So
21 did I understand right that your team
22 tried ---
23 A. We knew ---
24 Q. --- the best they could
25 determine how far the fire ---

01 A. Yes.
02 Q. --- area ---
03 A. Yes, sir.
04 Q. --- had spread?
05 A. We knew where the fire ---
06 where it was.

07 Q. Okay. Do you recall what
08 teams relieved you out?

09 A. I'm not 100 percent, but I
10 think it might have been Pinnacle,
11 Pin Oak, I believe and maybe --- it
12 was a contract team. I can't
13 remember their name. I'm not sure.
14 I remember ---

15 Q. Okay.

16 A. --- Pin Oak, but I don't
17 remember the other one.

18 Q. When you were exploring the
19 fire area, was your team the backup
20 team or was your team advancing to
21 explore the fire?

22 A. We switched off, you know, we
23 try to relieve everybody out and give
24 everybody a break. We switched off
25 different times.

96

01 Q. Do you recall if your team
02 ever got on the inby side of the
03 longwall mother drive to determine
04 ---?

05 A. At the first night? I mean,
06 at what time?

07 Q. Yeah, I'm just referring to
08 the first night.

09 A. Yeah, at some point, I'm sure
10 we did the first night.
11 Q. That's all. I was just trying
12 to jog your memory as far as --- when
13 you talk about you explored the
14 perimeter of the fire to ---
15 A. Yeah.
16 Q. --- to see how you determined,
17 you know, how far it spread and ---.
18 A. Yes.
19 Q. That's just what I was getting
20 at, Robert. As far as the crosscut
21 where you put the --- you've shown on
22 the map where you put the foam
23 generator later on. But on the first
24 night, do you recall going up that
25 entry any?

97

01 A. No.
02 Q. Okay.
03 A. I don't recall everywhere I
04 went, you know. I mean, I really
05 don't.
06 Q. Okay.
07 BY MR. POGUE:
08 Q. Rob, could I get you to come
09 back up the map? I need to get a
10 signature and a date on the map, on
11 Exhibit B, please. You can put it

12 right here in the margin, the date
13 and your signature.

14 A. What is today, the 21st?

15 Q. Yes.

16 A. That's all?

17 Q. On that first night, what was
18 the closest that you got to the
19 location of the victim?

20 A. Like I told you, I'm not sure
21 exactly where they were. So I mean,
22 one was close to the mother drive I
23 understood. Right?

24 Q. Yes.

25 A. So we was at the fire area, so

98

01 ---.

02 Q. Well, did you recall --- of
03 course, we're upside down again, but
04 on the Exhibit B map, do you recall
05 being in this area inby the fire
06 area? Were you in this area, between
07 entries Six, Seven and Eight and
08 Nine? Through here?

09 ATTORNEY HEATH:

10 What night or when are
11 you asking him?

12 BY MR. POGUE:

13 Q. I guess it would have been the

14 first night in?

15 A. I don't recall if I was. I
16 really don't, to be honest with you.

17 I just don't remember.

18 Q. Did you try to get through the
19 airlock doors on the inby side of
20 that on the first night? Did you try
21 go get into this area where the
22 airlock doors were?

23 A. Oh, I see what you're talking
24 about.

25 Q. These two doors right here.

99

01 We're on the inby side of the mother
02 drive.

03 A. I, myself, didn't, no. These
04 two doors right here?

05 Q. Yes.

06 A. No. I, myself, didn't, no.

07 Q. Did you try to get in there?

08 A. I didn't, no.

09 Q. All right.

10 MR. POGUE:

11 Bill, do you have
12 anything else?

13 BY MR. TUCKER:

14 Q. Just one. The morning of the
15 20th when Pin Oak was relieving you
16 out, do you recall anyone else at the

17 fresh air base when they came to
18 relieve you out and your team had
19 came? Do you recall where that was
20 at, if that was at fresh air base
21 Nine at 48-inch belt?

22 A. It was on the 48-inch belt,
23 but I'm not sure which fresh air base
24 it was.

25 Q. Fairly close to the fire area?

100

01 A. Yes, sir.

02 Q. Okay. Other than who you've
03 already mentioned, do you recall
04 anyone else being there?

05 A. I don't recall anybody else.

06 Q. Okay.

07 MR. TUCKER:

08 That's all I have.

09 MR. POGUE:

10 Mr. Heath, do you have

11 any questions?

12 ATTORNEY HEATH:

13 No questions.

14 MR. POGUE:

15 I have a closing

16 statement I'm going to read to

17 you, Rob.

18 A. Okay.

19 MR. POGUE:
20 On behalf of MSHA, I
21 thank you for appearing here
22 today and answering our
23 questions and sharing your
24 information about the mine.
25 Your cooperation is very

101

01 important to us as we work to
02 determine the cause of the
03 accident. If you wish, you
04 may now go back over any
05 answer that you've given
06 during the interview and you
07 may also make a closing
08 statement covering any
09 additional points you believe
10 should be raised. Do you have
11 any of those at this point?

12 A. No, sir.

13 MR. POGUE:
14 We ask that you not
15 discuss your interview today
16 with any person who may have
17 already been interviewed or
18 who may be asked to be giving
19 a statement in the future.
20 This will ensure that we
21 obtain everyone's independent

22 memory of the events
23 surrounding the accident.
24 After questioning other
25 witnesses and obtaining

102

01 additional information, we may
02 call you back for further
03 questioning. If at some point
04 in time, you have additional
05 information regarding the
06 accident that you would like
07 to provide us, please contact
08 Mr. Kenny Murray, the lead
09 accident investigator or his
10 staff assistant, Anthony Webb.
11 And here's two business cards
12 for those two gentlemen.

13 The Mine Act does
14 provide certain protection for
15 individuals who participate in
16 accident investigation. If at
17 any time, you believe that
18 you've been treated unfairly
19 because of your cooperation in
20 this investigation, please
21 immediately contact Mr. Murray
22 or Mr. Webb. And again I
23 thank you for your information

24 today and your patience.

25 Bill?

103

01 MR. TUCKER:

02 We appreciate you
03 coming in, Rob. And on behalf
04 of Miners' Health, Safety &
05 Training, we appreciate the
06 hard work you do as a mine
07 rescuer member and we
08 appreciate your team. And
09 here's my card if you ever
10 need to contact me for
11 anything and this is C.A.
12 Phillips' card. He's the
13 Deputy Director out of our
14 Charleston office. Thank you.
15 A. Thank you.

16 MR. POGUE:

17 Thanks.

18 * * * * *

19 EXAMINATION CONCLUDED AT 9:55 A.M.

20 * * * * *

21

22

23

24

25