

01                   EXAMINATION UNDER OATH  
02                               OF  
03                   GARY BAISDEN  
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, Division of  
11       Mining and Reclamation, 1101 George  
12       Kostas Drive, Logan, West Virginia,  
13       on Thursday, February 23, 2006, at  
14       4:36 p.m.

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25               by the certifying agency.

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

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3

01 A P P E A R A N C E S (cont.)  
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16  
17 ALSO PRESENT:  
18 STEVE COX  
19 RONALD W. STAHLHUT  
20 C.A. PHILLIPS  
21 EUGENE WHITE  
22 BETH SPENCE  
23 DENNIS BEITER

24  
25

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

02 -----

03           MR. MURRAY:

04           Gary, my name is Kenny  
05 Murray. I represent the Mine  
06 Safety and Health  
07 Administration, which is an  
08 agency of the United States  
09 Department of Labor. I'm a  
10 member of MSHA's accident  
11 investigation team that's

12 charged with investigating the  
13 accident that occurred at the  
14 Aracoma Coal Company,  
15 Incorporated, Aracoma Alma  
16 Number One Mine, on January  
17 19th, 2006.

18 This is an  
19 investigation that MSHA is  
20 conducting with the State of  
21 West Virginia. I'll be asking  
22 the questions today for MSHA.  
23 With me here today are other  
24 members of MSHA's team and  
25 also the State of West

7

01 Virginia's team. MSHA's team  
02 includes subject matter  
03 experts from all over the  
04 United States and also members  
05 of the Solicitor's office. At  
06 this time, I would like to ask  
07 each of the members of MSHA's  
08 team to identify themselves  
09 for the record. Ron?

10 MR. STAHLHUT:

11 Ron Stahlhut, MSHA,  
12 Vincennes, Indiana.

13 MR. TJERNLUND:

14 Derrick Tjernlund, MSHA

15 Tech Support, Triadelphia.

16 MR. FRANCCART:

17 Bill Francart,

18 Pittsburgh, Pennsylvania.

19 MR. BEITER:

20 Dennis Beiter. I work

21 for Tech Support, ventilation

22 division.

23 ATTORNEY BARISH:

24 Dan Barish, the

25 Solicitor's Office, Arlington,

8

01 Virginia.

02 MR. MURRAY:

03 Like I said, my name is

04 Kenny Murray, and I'm from

05 Pikeville, Kentucky.

06 Here with me today

07 representing the State of West

08 Virginia is Mr. Bill Tucker to

09 my left. And Mr. Tucker will

10 be asking the questions for

11 the State. At this time I'd

12 like to ask Mr. Tucker to

13 introduce himself, and he also

14 has a statement to read to you

15 from the State of West

16 Virginia. Mr. Tucker?

17 MR. TUCKER:  
18 Okay, Gary. The West  
19 Virginia Office of Miners'  
20 Health, Safety and Training is  
21 conducting this interview  
22 session jointly with MSHA, and  
23 we are in agreement with the  
24 procedures outlined by Mr.  
25 Murray. However, let me make

9

01 it clear that the Director  
02 reserves the right, if  
03 necessary, to call or subpoena  
04 witnesses or require the  
05 production of any record,  
06 document, photograph or other  
07 relevant materials necessary  
08 to conduct this investigation.

09 You're appearing in  
10 response to a subpoena here  
11 today; is that correct?

12 MR. BAISDEN:

13 Yes.

14 MR. TUCKER:

15 You may decline to  
16 answer questions which would  
17 incriminate you and you may be  
18 represented by legal counsel  
19 should you choose. And again,



20 my name is Bill Tucker. I'm  
21 the Assistant Inspector at  
22 Large out of Oak Hill, and  
23 that's in Region Four.

24 MR. PHILLIPS:

25 I'm C.A. Phillips. I'm

10

01 the Deputy Director. I'm from  
02 Charleston, West Virginia.

03 MR. WHITE:

04 Eugene White, District  
05 Inspector, Region Three.

06 MR. COX:

07 Steve Cox, Region  
08 Three.

09 MS. SPENCE:

10 Beth Spence from the  
11 Governor's office.

12 MR. MURRAY:

13 Thanks, Bill. This  
14 investigation is being  
15 conducted by MSHA and the  
16 State of West Virginia to  
17 gather information to  
18 determine the cause of the  
19 accident and to help prevent  
20 this from happening in the  
21 future. These interviews are

22 an important part of the  
23 investigation.

24 After the investigation  
25 is completed, MSHA will issue

11

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

16 We would like to thank  
17 you for appearing here today.  
18 We appreciate your assistance  
19 in this investigation. The  
20 willingness of miners and mine  
21 operators to work with us is  
22 critical to the success in  
23 making the nation's mines  
24 safer. This interview with

25 Mr. Gary D. Baisden is being

12

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

15 This interview is being  
16 conducted at the State of West  
17 Virginia Department of  
18 Environmental Protection,  
19 Division of Mining and  
20 Reclamation, at 1101 George  
21 Kostas Drive, in Logan, West  
22 Virginia, 25601, on February  
23 23rd, 2006. And the time is  
24 approximately 4:42 Eastern  
25 Standard Time.

13

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

14

01           clarification on areas already  
02           discussed. If you don't  
03           understand a question, tell me

04 and I'll rephrase it. And if  
05 you need a break for any  
06 reason, let me know at any  
07 time. You may request the  
08 opportunity to make a  
09 confidential statement which  
10 we will withhold from the  
11 public to the extent allowed  
12 by law. Should you desire to  
13 give a confidential statement,  
14 you should advise me before I  
15 begin your interview so that I  
16 can reschedule your interview  
17 in order to properly consider  
18 your request. Do you wish to  
19 have a confidential interview  
20 today?

21 MR. BAISEN

22 No.

23 MR. MURRAY:

24 We have a court  
25 reporter with us today, and

15

01 she'll record your interview  
02 and later produce a written  
03 transcript of the interview.  
04 I ask that you state all your  
05 answers verbally because the

06 court reporter cannot record  
07 your gestures, such as nodding  
08 your head. Neither the  
09 transcript of this interview  
10 nor the content of this  
11 interview will be released to  
12 the public or the media until  
13 MSHA's final accident  
14 investigation report is issued  
15 or until required by Court  
16 Order or until a public  
17 hearing takes place. If any  
18 part of your statement is  
19 based not on your own  
20 firsthand knowledge but on  
21 information that you learned  
22 from someone else, please let  
23 us know that. Please answer  
24 each question as fully as you  
25 can, including any information

16

01 that you learned from someone  
02 else. We may not ask the  
03 right question to learn the  
04 information that you have, so  
05 don't feel limited to the  
06 precise question that I ask.  
07 If you have information about  
08 the subject area of a

09 question, please provide us  
10 with that information. I know  
11 that was a lot, but do you  
12 have any questions about the  
13 manner in which the interview  
14 will be conducted?

15 MR. BAISDEN

16 No.

17 ATTORNEY HEATH:

18 Let me just ask at this  
19 point also, is the Governor's  
20 office keeping things  
21 confidential, like has been  
22 agreed in the previous  
23 interviews?

24 MS. SPENCE:

25 Absolutely.

17

01 MR. MURRAY:

02 And that's part of the  
03 reason why we read that into  
04 the statement --- or into the  
05 record. I'm sorry.

06 ATTORNEY HEATH:

07 Thank you.

08 MR. MURRAY:

09 That was a good  
10 clarifying question, Mr.

11 Heath. Would the court  
12 reporter please swear in the  
13 witness?

14 -----  
15 GARY BAISDEN, HAVING FIRST BEEN DULY  
16 SWORN, TESTIFIED AS FOLLOWS:

17 -----  
18 BY MR. MURRAY:

19 Q. Mr. Baisden, please state your  
20 full name, address and telephone  
21 number, and please spell your last  
22 name for the record.

23 A. Gary D. Baisden,  
24 B-A-I-S-D-E-N, [REDACTED]

[REDACTED]

03 Q. Thank you. Is it okay to call  
04 you Gary ---

05 A. Yes.

06 Q. --- or would you prefer Mr.  
07 Baisden?

08 A. That's fine, Gary.

09 Q. Okay. Gary, has anyone made  
10 any promises to you for giving this  
11 statement or offered you any rewards  
12 in exchange for making your  
13 statement?



14 A. No.

15 Q. Has anyone threatened you or  
16 warned you not to provide this  
17 statement?

18 A. No.

19 Q. Do you have a representative  
20 with you?

21 A. Yes.

22 Q. Please identify your  
23 representative.

24 A. Mark Heath.

25 Q. When did you first meet Mr.

19

01 Heath?

02 A. Today. Earlier today I met  
03 with him.

04 Q. For the first time? Okay.  
05 How did this meeting come about?

06 A. Well, we talked on the phone  
07 before, and we got together and met  
08 today.

09 Q. Did you call Mr. Heath or did  
10 he call you?

11 A. I called the main office up  
12 there.

13 Q. And then the contact with Mr.  
14 Heath, did you make that or did he  
15 contact you?

16 A. He contacted me.

17 Q. By telephone?

18 A. Yes.

19 Q. Were you interviewed by  
20 anybody in the company prior to this?

21 A. No.

22 Q. Did Mr. Heath interview you?

23 A. We talked about it.

24 Q. What kind of questions did ---  
25 what kind of information did you

20

01 share?

02 A. Just about how shook-up I was  
03 about it. That's about it.

04 Q. Okay. Before your meeting  
05 with Mr. Heath, had anybody from the  
06 company contacted you and asked you  
07 questions about the events of January  
08 19th, 2006?

09 A. No.

10 Q. Have you been made aware that  
11 Mr. Hardy also represents the company  
12 in this matter and that there's a  
13 potential for --- I'm sorry, Mr.  
14 Heath also represents the company in  
15 this matter and that there's a  
16 potential for a conflict of interest  
17 to arise between yourself and the  
18 company?

19 A. Yes.

20 Q. Knowing that, do you still  
21 want to proceed with Mr. Heath as  
22 your representative?

23 A. Yes.

24 Q. Okay. When Mr. Heath  
25 discussed what you're about to

21

01 experience this afternoon, was anyone  
02 else present?

03 A. No.

04 Q. I understand that you no  
05 longer work for Aracoma?

06 A. No.

07 Q. That's correct?

08 A. That's correct.

09 Q. And where do you work now?

10 A. Superior Mining. It's still  
11 Massey Mine, just on strip now.

12 Q. What's your current position?

13 A. Truck driver, rock truck.

14 Q. Rock truck driver. Prior to  
15 gaining employment with Superior, how  
16 long had you worked at Aracoma?

17 A. A year and a half, maybe a  
18 little bit longer.

19 Q. What was your position at  
20 Aracoma?

21 A. At the time of my accident, I  
22 run the buggy, shuttle car.

23 Q. And how long did you hold that  
24 position?

25 A. Probably a year.

22

01 Q. What other positions did you  
02 hold at the mine?

03 A. Roof bolter.

04 Q. How many total years of mining  
05 experience do you have?

06 A. Two and a half.

07 Q. All underground?

08 A. I got two and a half  
09 underground and probably a year and a  
10 half, two years on the strip.

11 Q. Okay. The next series of  
12 questions would be relative to the  
13 day of the accident, January 19th,  
14 2006, in case I don't preface that.  
15 What shift were you scheduled to work  
16 that day?

17 A. The day of the accident?

18 Q. Yes, sir.

19 A. Second shift, I was in there.

20 Q. And what time did second shift  
21 start that day?

22 A. Three o'clock.

23 Q. And what time did it end?

24 A. It was supposed to end at  
25 12:00.

23

01 Q. About what time did you arrive  
02 at the mine?

03 A. Probably two o'clock.

04 Q. Who was your supervisor on  
05 that day?

06 A. Our boss on the section?

07 Q. Yes, sir.

08 A. Mike Plumley.

09 Q. Is that your normal  
10 supervisor?

11 A. Yes.

12 Q. And what were you assigned to  
13 do that day?

14 A. Run a shuttle car.

15 Q. And in what area of the mine  
16 were you assigned to work?

17 A. Two section.

18 Q. Had you worked in that area  
19 before?

20 A. Yes.

21 Q. When was the last time?

22 A. The day before.

23 Q. So the 18th. If you could,  
24 Gary, from the beginning of the shift  
25 up until the time that you were

01 ordered to evacuate, give me just a  
02 brief description of what your life  
03 looked like from the outside into the  
04 section. Just walk me through your  
05 activities.

06 A. Just walking through it as I  
07 was going in?

08 Q. Yes, from the time you got  
09 into the mine until the time that you  
10 were told to leave the section.

11 A. I don't understand what you're  
12 trying to ---.

13 Q. I want to know what you did  
14 from the time you entered the mine up  
15 until the time they told you to leave  
16 the Number Two section.

17 ATTORNEY HEATH:

18 Just start at the box  
19 cut and just work your way in,  
20 where you went and what you  
21 did.

22 BY MR. MURRAY:

23 Q. You got on the mantrip out in  
24 the box cut area?

25 A. We just got on the mantrip,

01 went to the section. We sat there  
02 while Mike made fire bossing around

03 the face of the section. We started  
04 on foot and was running coal. And  
05 our assignment was --- we just got  
06 done cutting the cut, backed out, and  
07 I walked outby with Billy Mayhorn and  
08 was helping him build crib when they  
09 came and got us.

10 Q. Before they came to get you to  
11 leave the section, did you notice  
12 anything unusual?

13 A. No.

14 Q. Did you smell anything?

15 A. No.

16 Q. Did you see anything, any kind  
17 of haze or smoke or anything in the  
18 air?

19 A. No.

20 Q. And you talked about Billy  
21 Mayhorn. What's his normal  
22 occupation or normal position?

23 A. Miner man.

24 Q. Miner man?

25 A. Runs the continuous miner on

26

01 the right side.

02 Q. But on this particular day,  
03 you and Billy weren't actually doing  
04 your normal job?

05 A. No. When it happened, we was  
06 outby building cribs.

07 Q. Where were you building cribs?

08 A. Probably six, eight breaks up  
09 by the section.

10 (Baisden Exhibit A  
11 marked for  
12 identification.)

13 BY MR. MURRAY:

14 Q. Okay. I guess this is as good  
15 a time as any. If you don't care,  
16 would you come on up to the map here?

17 A. Yeah.

18 Q. This is a map of the northeast  
19 mains, and it goes up to the Two  
20 section. So we've identified a few  
21 landmarks within the map to kind of  
22 give you an indication of where you  
23 may have been this particular day  
24 here. So let's go --- we'll work our  
25 way from the section back. And this

27

01 is the end of the --- that's the end  
02 of the belt, okay. So first of all,  
03 can you point on that map roughly ---  
04 for the record, let's understand to  
05 where we're talking about the same  
06 numbering system and things of that  
07 nature. The Two section consists of



08 four entries.

09 A. Yes.

10 Q. And how would you number those  
11 entries?

12 A. From left to right, One, Two,  
13 Three, Four.

14 Q. So the furthest left entry  
15 would be the Number One entry?

16 A. Yes.

17 Q. And the furthest right entry  
18 would be the Number Four entry.

19 Okay. And if we were going to number  
20 the entries of northeast mains, would  
21 we do the same thing?

22 A. Yes.

23 Q. So the top entry would be  
24 Number One, and as we worked our way  
25 down to ---?

28

01 A. Two, Three, Four, Five, Six.

02 Q. So in this case here, the  
03 closest entry that intersects Two  
04 section would be Number Six entry?

05 A. Yeah.

06 Q. That's a yes?

07 A. Yes.

08 Q. That way we'll all understand  
09 so that if we talk about that, it

10 will be easier to refer to the  
11 numbers. So when you all came in,  
12 you rode on the diesel mantrip, we  
13 understand?

14 A. Yes.

15 Q. Did you talk to anybody that  
16 we've interviewed so far?

17 A. No. I ain't seen nobody from  
18 that mine since I went on strip.

19 Q. Okay. Can you mark on the map  
20 generally where the mantrip was  
21 parked whenever you guys drove up to  
22 the section and got out of the  
23 mantrip to begin your normal  
24 activities for the day?

25 A. This is the fan belt of the

29

01 feeder?

02 Q. Yes, that would be the feeder  
03 in the section.

04 A. Probably parked right here on  
05 the old belt line. That should be  
06 the belt line. Ain't that drawn down  
07 farther than that?

08 Q. The way it's dotted is what  
09 had been mined. And the tailpiece  
10 is ---.

11 A. Our mantrip is probably  
12 sitting right here.

13 Q. Do you want to just mark it  
14 with just an X? Was it here?  
15 A. Right there.  
16 Q. Okay. So it was actually ---  
17 according to where the X is would be  
18 where the number six entry of the  
19 northeast mains intersects the Number  
20 Three entry of the Two section?  
21 A. Yes.  
22 Q. Now, just go ahead and write  
23 it outside the mantrip.  
24 WITNESS COMPLIES  
25 BY MR. MURRAY:

30

01 Q. And then you talked about the  
02 task that you and Mr. Mayhorn had of  
03 building cribs. Was that a sign ---  
04 did you know you were going to build  
05 cribs whenever you got on the mantrip  
06 outside?  
07 A. Once we got to the face we  
08 did.  
09 Q. You didn't know until you got  
10 to the section?  
11 A. Yes.  
12 Q. And did you run your shuttle  
13 car at all?  
14 A. Yes.

15 Q. So you did run the shuttle car  
16 for a while?  
17 A. Yes.  
18 Q. How many trips did you make  
19 from the continuous miner to the  
20 section tailpiece or section feeder  
21 crusher?  
22 A. Probably 15.  
23 Q. Fifteen (15) trips? Did you  
24 notice what the direction of air was  
25 on the Number Two belt that day? Was

31

01 it coming toward the section or was  
02 it going away from it?  
03 A. It had to be coming toward us.  
04 The smoke was coming at us.  
05 Q. I mean, when you were dumping  
06 coal before in the production cycle.  
07 When you'd bring your loaded shuttle  
08 car down to the feeder, as you dumped  
09 your coal into the feeder, did you  
10 notice what direction the air was  
11 coming in Number Two belt?  
12 A. No.  
13 Q. Did you notice any dust coming  
14 toward you as you dumped?  
15 A. No.  
16 Q. Did you notice it going away  
17 from you?

18 A. No. There really wasn't much  
19 dust.

20 Q. Okay. Is the belt separated  
21 with permanent stoppings? I know I  
22 don't have them marked on here.

23 A. Yeah.

24 Q. Okay. So after you took your  
25 15th load, is that when you were

32

01 assigned to go build cribs?

02 A. Yes.

03 Q. And who assigned you that  
04 trip?

05 A. Mike Plumley.

06 Q. Okay. And can you point out  
07 roughly where those cribs were going  
08 to be set?

09 A. Maybe we was --- me and Bill  
10 was probably right here below them  
11 cribs and had been scooping when they  
12 came and got us.

13 Q. Where you're pointing to is  
14 actually the 48-inch belt?

15 A. Yeah. We was right here on  
16 the seam.

17 Q. So the cribs were supplied or  
18 stored ---?

19 A. Yeah, right there.

20 Q. So how about putting an X  
21 there.

22 A. We was already there. We was  
23 loading in a scoop.

24 MR. MURRAY:

25 Okay. So Gary has

33

01 indicated that the cribs that  
02 they were going to use to  
03 build ---

04 A. Yeah.

05 MR. MURRAY:

06 --- standing cribs were  
07 stored in the crosscut  
08 adjacent to the 48-inch belt  
09 at survey station 4196.

10 BY MR. MURRAY:

11 Q. Is that right?

12 A. Yeah.

13 Q. Okay.

14 A. About as accurate as I can  
15 give to you on that map anyway.

16 Q. That's fine. Yes, that's  
17 fine. You're doing great. I  
18 appreciate your willingness to kind  
19 of point me in this direction. So  
20 now we've got the cribs stored here.  
21 And how did you --- well, first of  
22 all, where were you going to build

23 them?  
24 A. We went by --- I ain't sure  
25 --- we were going to build them right

34

01 in here somewhere, right there here.

02 Q. In the intake or the return?

03 A. It would have been in the

04 return.

05 Q. Okay. Point there again, if

06 you would.

07 A. It was right --- probably

08 right in here somewhere.

09 Q. Just put an X.

10 A. I ain't positive, but ---.

11 Q. That would be this --- this is

12 the return side on ---?

13 A. Yeah. It's the return side on

14 the right side.

15 Q. I mean, were they in the

16 return air force or were they in the

17 intake air force?

18 A. They were in the intake air

19 force.

20 Q. They were on the intake side

21 of the stopping?

22 A. Yes.

23 Q. Okay. So did you build any?

24 A. No. We didn't make it down

25 there.

35

01 Q. Oh, okay. But you knew you  
02 had to build them there?

03 A. Yeah. That's where we had to  
04 go.

05 Q. Okay. I'll say cribs to be  
06 built.

07 A. Yeah.

08 Q. Okay. Where were you at in  
09 this crib-building process? Were you  
10 at the stage where you were going to  
11 retrieve the blocks or you had ---  
12 did you have blocks loaded up  
13 already?

14 A. We probably was right there  
15 loading cribs in a scoop bucket.

16 Q. Okay.

17 A. We probably did like another  
18 20 cribs when we had a full ---.

19 Q. Okay. So you all were  
20 standing --- you and Billy ---

21 A. Yes.

22 Q. --- were located right here at  
23 the same area where you said the  
24 cribs were stored?

25 A. Yes.

36

01 Q. And how did you know that it



02 was time to leave?

03 A. Well, Mike Plumley and the  
04 whole crew had --- the mantrip come  
05 in and got us. Was on their way out  
06 and stopped and got us because we was  
07 already on past in that mine.

08 Q. Okay.

09 A. Because on the way out they  
10 just stopped and got us because they  
11 knew where we was.

12 Q. So everybody, except you and  
13 Mr. Mayhorn, were already in the  
14 mantrip?

15 A. Yes.

16 Q. Now, it looks like here that  
17 where they picked you up, you all  
18 were the furthest outby ---

19 A. Toward the smoke.

20 Q. --- toward the smoke?

21 A. Yes.

22 Q. Yet how about when you were  
23 standing here, did you smell anything  
24 there?

25 A. No. Didn't smell or see

37

01 nothing.

02 Q. Were you surprised when they  
03 come and told you that ---?

04 A. Yeah.

05 Q. And who told you? Who first  
06 told you?

07 A. Mike Plumley.

08 Q. And what did he say to you?

09 A. He told us to get on the  
10 mantrip. We had to hurry up and get  
11 outside because they said the belt  
12 line caught on fire down there.

13 Q. Did he say what belt line?

14 A. Yeah, down at the mother  
15 drive.

16 Q. And he said mother drive?

17 A. At the six-foot belt line.

18 Q. And that would be where the  
19 longwall ---?

20 A. Longwall belt.

21 Q. Okay. And did he say what  
22 piece of that belt was on fire?

23 A. No.

24 Q. Did he actually use the word  
25 fire?

38

01 A. Yeah. He told me that ---  
02 they said there was a belt line that  
03 caught on fire and there was a lot of  
04 smoke that was coming from it. They  
05 said you're supposed to get out of  
06 there.

07 Q. Okay. Was there any  
08 discussion at that point in time  
09 about putting on your SCSR?

10 A. No, because we weren't in  
11 nothing at the time.

12 Q. What were Mike's instructions,  
13 specific instructions to you at this  
14 point right here, whenever you guys  
15 were standing at that location where  
16 the cribs are at?

17 A. We're going to go back out the  
18 intake, like we had come in. We'd  
19 just go back out. And we couldn't  
20 make it.

21 Q. Did he tell you what route of  
22 travel you were going to use?

23 A. Yeah. We were going to try to  
24 go the same way we come in, just  
25 right back out the intake.

39

01 Q. The whole way?

02 A. Yes, the whole way. All the  
03 way back over, back down there.

04 Q. Okay. So when you got in that  
05 mantrip up here, where did you board  
06 the mantrip?

07 A. Right there.

08 Q. In that entry or ---?

09 A. Yeah, same place, right there  
10 where the cribs are.

11 Q. So you were in the Number Four  
12 entry ---

13 A. Uh-huh (yes).

14 Q. --- when he picked you up in  
15 the mantrip?

16 A. Yes.

17 Q. Okay. At survey station 4196?

18 And when you got in the mantrip,  
19 where did you sit?

20 A. In the back.

21 Q. And tell me about the back.

22 Is it the back ---?

23 A. That's a straight line in the  
24 back.

25 Q. Straight seat ---?

40

01 A. Yes.

02 Q. When you're sitting in the  
03 back, which direction are you  
04 looking?

05 A. Well, you can either look  
06 backwards or forwards. There's two  
07 seats, one on each side. There's a  
08 straight line of seats.

09 Q. And where were you sitting?

10 A. In the main back, facing  
11 toward the front.

12 Q. So your back was to Two  
13 section?  
14 A. Yeah.  
15 Q. And if you were traveling out  
16 of the section, you were looking in  
17 the direction you were traveling?  
18 A. Yes.  
19 Q. But who was sitting next to  
20 you?  
21 A. I believe Duane Vanover.  
22 Q. Duane Vanover, okay.  
23 A. If I ain't mistaken. Now, I  
24 ain't certain.  
25 Q. Okay. That's good. And were

41

01 you the only two sitting in that back  
02 seat?  
03 A. No, a bunch of us.  
04 Q. I mean, in the seat with your  
05 back to Two section?  
06 A. No. There was probably one or  
07 two more in there.  
08 Q. Do you know who they were?  
09 A. I ain't for sure.  
10 Q. Were you sitting on the end or  
11 in the middle?  
12 A. In the middle.  
13 Q. So Duane was one of the guys

14 sitting on one side of you?

15 A. Yes.

16 Q. Do you know who was sitting  
17 exactly on the other side of you?

18 A. I don't remember.

19 Q. Okay. What about in the seat  
20 that you say that the folks would  
21 have been facing you, do you know who  
22 was sitting in any of those?

23 A. I know Billy was in there with  
24 us, Billy Mayhorn.

25 Q. And he was facing you?

42

01 A. Yeah, I believe.

02 Q. Okay.

03 A. I can't remember who else was  
04 sitting in there.

05 Q. And you told me, but I can't  
06 remember, which Mayhorn ---? I know  
07 there's two on the section. Which  
08 Mayhorn was building the cribs with  
09 you?

10 A. Billy.

11 Q. Okay. Do you normally wear a  
12 watch underground?

13 A. No.

14 Q. You don't?

15 A. No, sir.

16 Q. Did you have a watch on?

17 A. No, sir.

18 Q. Do you have any idea what time  
19 they picked you up?

20 A. I believe after we got  
21 outside, I believe they said they  
22 picked us up, I don't remember,  
23 around six o'clock or somewhere, 15  
24 until 6:00, something like that.

25 Q. Who told you, do you know?

43

01 A. I believe I heard Mike tell  
02 me.

03 Q. Mike Plumley?

04 A. Yes.

05 Q. Do you know what time you got  
06 outside?

07 A. No, I don't remember. I don't  
08 wear a watch.

09 Q. Okay.

10 A. Time goes by too slow ---

11 Q. Oh, it does?

12 A. --- when I wear a watch.

13 Q. Okay. Were there any  
14 conversations going on on that  
15 mantrip as you guys proceeded out of  
16 the section that you can remember?

17 A. Nothing out of the ordinary,  
18 just talking about that they called

19 in and told us we need to get outside  
20 for there's smoke and maybe a fire  
21 down on that belt line. That's about  
22 the only thing we talked about.

23 Q. Did it register that there was  
24 an emergency in front of you because  
25 you didn't see the smoke or smell

44

01 anything?

02 A. No. Well, we know they told  
03 us to get outside because they knew  
04 something was wrong, but we never  
05 seen nothing until we just hit it all  
06 at once.

07 Q. Let's start at the  
08 intersection where they picked you up  
09 at. We've been underground several  
10 times and we've mapped the different  
11 items and different pieces of  
12 equipment, things of that nature, in  
13 the area. So we know that the  
14 mantrip is sitting here.

15 A. Yeah.

16 Q. And we know that there are  
17 cribs sitting here.

18 A. Yeah.

19 Q. So using those two landmarks  
20 as reference points, show me the  
21 route that you took to get from



22 survey station 4196 to survey station  
23 3546, where the mantrip is ---?

24 A. I can't tell you for positive.

25 I don't know which entry we come

45

01 down. We come across and come down  
02 one and go over, then come back up on  
03 another one, then come down through  
04 here.

05 Q. Okay. So whenever you --- I  
06 believe we turned up right here. We  
07 turned up right there, just about  
08 where the mantrip is sitting. That's  
09 about as far as we made it. We  
10 turned up in that entry.

11 Q. When you got up --- when you  
12 turned --- when we say turned up, is  
13 that --- let's go again. When you  
14 turned up into the Number Four entry,  
15 did you travel at all in the Number  
16 Four entry?

17 A. Yes.

18 Q. How far?

19 A. Probably ten breaks.

20 Q. I'm sorry. Let me back up.

21 When you turned out of the Number

22 Five entry into the Number Four

23 entry, were you able to travel at all

24 in the Number Four entry of this  
25 area?

46

01 A. Not right there we didn't. As  
02 soon as we turned up, we hit smoke  
03 and we parked right there.

04 Q. So if you could, let me ---  
05 the best you can, if you could just  
06 draw a couple arrows from the  
07 mantrip, where it picked you up, and  
08 we know that you turned up into here  
09 and get me from where the cribs are  
10 stored to here.

11 A. I can't draw you ---.

12 Q. The best you can.

13 A. I mean, all I know, we come  
14 down through here ---

15 Q. Okay.

16 A. --- and we're coming down an  
17 entry, and we come up right here.

18 Q. Good. Okay. Thanks. Tell me  
19 about the atmosphere. When I say  
20 atmosphere, tell me what the air  
21 looked like in this area here, before  
22 you turned up into here.

23 A. Well, we never seen nothing or  
24 hit nothing until we got probably  
25 right in here.

47

01 Q. You're pointing to survey  
02 station 3568?  
03 A. Yes.  
04 Q. Is that the first sign of ---?  
05 A. Smoke or anything.  
06 Q. Tell me about that first sign.  
07 What was it, a smell, sight?  
08 A. You could see it and smell it.  
09 Q. Sight and smell. Okay. Sight  
10 and smell. What did it smell like?  
11 A. Smoke, just rubber.  
12 Q. Rubber. Was it strong?  
13 A. Yeah.  
14 Q. I mean, was it offensive to  
15 where you --- a choking-type smell?  
16 A. No, not really until we hit  
17 right here, where the mantrip sat.  
18 Q. Okay. Were you able to see  
19 when you smelled it?  
20 A. Yeah, we could see. We could  
21 see all the way until we parked right  
22 there. We parked there because we  
23 couldn't see nothing else.  
24 Q. At survey station 3568, in  
25 that first sign of smoke, tell me  
48  
01 what the visibility would have been,  
02 if you could guess, in feet. Could

03 you see 100 feet? Could you see a  
04 block?

05 A. Oh, yeah, we could see a  
06 break.

07 Q. Could you see two breaks?

08 A. I doubt it.

09 Q. In that break, if there would  
10 have been green reflector hanging,  
11 could you see it?

12 A. Oh, yeah.

13 Q. Okay. Now, describe for me  
14 the difference in what we just talked  
15 about from the time you turned up at  
16 survey station 3547 until you stopped  
17 the mantrip at 3546. What was the  
18 difference between here and here?

19 A. At 3546, it was like hitting a  
20 black wall of smoke. You couldn't  
21 see your hand in front of your face.

22 And Steve couldn't see to drive the  
23 mantrip no more. So we jumped off  
24 right there and donned our rescuers.

25 Q. Okay. Let's back up for one

49

01 second. Steve is ---?

02 A. Hensley.

03 Q. And he was the guy driving the  
04 mantrip?

05 A. Yes.

06 Q. Did somebody tell him to stop  
07 or he had stopped because he couldn't  
08 see?

09 A. He stopped his own self.

10 Q. And we talked about the SCSRs.  
11 Did somebody say, we need to put the  
12 SCSRS on or you knew based on ---?

13 A. Everybody knew. When we got  
14 off the mantrip, everybody agreed we  
15 would don our rescuers there.

16 Q. Did anybody talk about putting  
17 rescuers on before you made that  
18 turn?

19 A. Yes. But it wasn't really bad  
20 enough to put them on back through  
21 there.

22 Q. At 3546, let's kind of compare  
23 using the same kind of comparison  
24 that we had here. What was the  
25 visibility when you got off the

50

01 mantrip in feet?

02 A. When we first got off of it?

03 Q. Yes.

04 A. A foot.

05 Q. A foot? So you could see ---  
06 okay. If there would have been a  
07 green reflector in this entry where

08 the mantrip ---

09 A. No.

10 Q. --- could you see it?

11 A. No.

12 Q. Did you personally have any  
13 problems with putting your SCSR on?

14 A. No. It come open easy.

15 Q. Did you put your goggles on?

16 A. Yes.

17 Q. Nose clips?

18 A. Yes.

19 Q. Did you hear anybody in the  
20 group complain or say that they were  
21 having problems?

22 A. Not as I remember.

23 Q. Where were you at when you put  
24 your --- in relationship to the  
25 mantrip, where were you at whenever

51

01 you put your self-rescuer on, do you  
02 remember?

03 A. I'm pretty sure we were right  
04 beside it or right in front of it,  
05 right at the edge front of it.

06 Q. When you say edge front, would  
07 it be the outby ---?

08 A. Yeah.

09 Q. The front edge?

10 A. Yes.

11 Q. So whenever you told me that  
12 you got on the mantrip up at the  
13 section, you talked about sitting in  
14 the back seat, looking toward the  
15 front.

16 A. Yes.

17 Q. So whenever you stopped, which  
18 side ---?

19 A. I crawled off the right side.

20 Q. Okay.

21 A. As soon as we crawled off the  
22 right side, we all put our rescuers  
23 on.

24 Q. Okay. So I get the mental  
25 picture, you crawled out of the right

52

01 side in the back and then walked  
02 toward the front?

03 A. Yeah.

04 Q. And you could feel people in  
05 the area or see people?

06 A. Well, you can see the lights.  
07 You could probably see the lights at  
08 the time burning.

09 Q. Okay.

10 A. We all tried to gather up to  
11 keep from losing each other.

12 Q. Okay. So once you had your

13 self-rescuer on, you keep on walking.

14 Walk me to where you went next.

15 A. After we put our rescuers

16 on, ---

17 Q. Yes.

18 A. --- I believe ---.

19 Q. And I'll just give you a

20 heads-up, that's supposed to be

21 cribs.

22 A. Yeah, cribs. And I believe

23 it's this break or this break, one of

24 them there's a stopping --- a door in

25 a stopping.

53

01 Q. It's this one.

02 A. Well, that's where we went to

03 from the mantrip and went through a

04 mandoor over into the four-foot belt

05 line entry.

06 Q. Okay. Now, do you have any

07 idea what number you were in line?

08 A. Fourth or fifth one.

09 Q. Okay. Let me back up just a

10 couple steps. When you got out of

11 --- whenever you guys were coming

12 down the number five entry in the

13 mantrip and you talked about you saw

14 this, you know, a little bit of smoke

15 and you smelled just a little bit,



16 then you made the right-hand turn,  
17 did it gradually get to this black  
18 wall-type thing or did you see --- as  
19 soon as you made the turn, did you  
20 see this light smoke beginning to get  
21 dense and then it turned ---?

22 A. It really wasn't no different.  
23 Right there when we turned, when we  
24 made that turn, that's when it hit  
25 all at once.

54

01 Q. Okay. Could you tell --- and  
02 this is a pretty obvious question,  
03 but I'll ask it anyhow. Could you  
04 tell the direction that the smoke was  
05 moving?

06 A. Yes.

07 Q. And what was the direction?

08 A. It was coming back towards the  
09 section.

10 Q. It was going inby, into Number  
11 Four entry toward Two section?

12 A. Yes.

13 Q. When you were putting your  
14 self-rescuer on in front of that  
15 mantrip, were you on your knees?

16 A. Yeah, I went down on my knees.

17 Q. You were on your knees?

18 A. Both knees.

19 Q. Both knees. And was there a  
20 difference in the density at that  
21 level? How tall are you, about six,  
22 two?

23 A. Six, two.

24 Q. Pretty good guess, huh?

25 A. Right on.

55

01 Q. I have a son that's six, two.  
02 Whenever you were kneeling down and  
03 you were putting the self-rescuer on  
04 and then when you stood up, did you  
05 see a difference in the density of  
06 the smoke from say the  
07 three-foot level compared to the  
08 six-foot-two level?

09 A. If there was any at all, it  
10 was real light, real light. There  
11 wasn't much difference.

12 Q. I appreciate your patience,  
13 Gary.

14 A. That's fine.

15 Q. You're doing a good job. Now,  
16 we're inside the door. Do you  
17 remember which way that door opened?  
18 Did it open toward the intake or did  
19 you have to push it toward the belt?

20 A. I can't remember.

21 Q. Okay. Because it was probably  
22 open whenever you went ---?

23 A. No. It doesn't open up for  
24 us.

25 Q. That's the symbol for the

56

01 door.

02 A. Yeah.

03 Q. Okay. Now, when you get  
04 inside the door onto that 48-inch  
05 belt, what could you describe as far  
06 as the atmosphere in that location?

07 A. It was clear.

08 Q. When you were walking into the  
09 door --- well walking through the  
10 door, could you feel the fresh air or  
11 the clear air, as you described it,  
12 coming towards you or was the smoke  
13 following you in?

14 A. I don't remember. All I  
15 remember was seeing fresh air, and  
16 that's where I was going.

17 Q. Good idea. At what point in  
18 time, after you were all assembled  
19 inside that door, did you realize  
20 that there were two men missing?

21 A. As soon as we come through the  
22 mandoor right there, the guys in

23 front of me were sitting there,  
24 waiting to count everybody that come  
25 through. And that's when we figured

57

01 out we was missing two.

02 Q. Do you remember who was  
03 counting?

04 A. I believe Pat Kinser and maybe  
05 Steve Hensley.

06 Q. And at that point in time,  
07 when they realized that you were two  
08 short, did they realize who the two  
09 were?

10 A. Yes.

11 Q. Tell me about the conversation  
12 then, as you're inside the door and  
13 you guys have now realized that  
14 you're two short? Was there any  
15 discussion at that point?

16 A. Yeah. After we figured out we  
17 was two short, I believe Mike  
18 Plumley, Steve Hensley and Billy  
19 Mayhorn popped back through the door  
20 and come around this edge and  
21 hollered and looked --- hollered at  
22 Don and Elvis, looked for both of  
23 them. I believe Mike may have even  
24 walked up here one break looking for  
25 them and couldn't find them. And it

01 got so bad that they couldn't do  
02 nothing with it. So they turned  
03 around and went one break this way  
04 and still couldn't do nothing with  
05 it. They come back to the mandoor  
06 and come back down this belt line,  
07 hollering for them and looking for  
08 them and never did find them. By  
09 that time, that smoke --- I don't  
10 know where it's coming through or how  
11 it got through, but it done come in  
12 the belt line entry over there. And  
13 when I saw it then, we had to get out  
14 of there. We had no option but to  
15 leave.

16 Q. Let me just --- so I  
17 understand what you just said and so  
18 the court reporter can understand it  
19 too, when you were inside the  
20 four-foot belt line and you found the  
21 clear air and there were discussions  
22 going on, were you able to take your  
23 self-rescuer out of your mouth?

24 A. Yeah.

25 Q. And talk, like we're talking?

01 A. Yes.

02 Q. So at that point, there was no  
03 need for a self-rescuer?

04 A. No.

05 Q. And whenever you --- you  
06 described a few gentlemen that went  
07 back through the door, looking for  
08 the two folks that were left behind.

09 MR. MURRAY:

10 Just for the purpose of  
11 the court reporter, Gary had  
12 indicated that they traveled  
13 inby toward survey station  
14 3228, and then they retreated  
15 and they traveled outby to  
16 survey station 3233, looking  
17 in both directions. Then we  
18 talked about coming back in on  
19 the belt line.

20 BY MR. MURRAY:

21 Q. And can you tell me how far  
22 inby in the four-foot belt line that  
23 --- and who it was that traveled  
24 up ---?

25 A. It was the same three that

60

01 traveled up here. But I don't know  
02 how far they went because they made  
03 all of us stay here together. They  
04 told us not to separate because they

05 were just walking out the door and  
06 looking, and they would be back after  
07 us.

08 Q. So you all --- other than ---  
09 there would have been a total of ten  
10 in on the belt line?

11 A. Yes.

12 Q. And seven stayed in the  
13 intersection of 3230?

14 A. Yes.

15 Q. And the three in --- could you  
16 tell me who those three were again?

17 A. Billy Mayhorn, Steve Hensley  
18 and Mike Plumley.

19 Q. Okay. And those three  
20 gentlemen traveled inby for --- can  
21 you guess how many blocks?

22 A. I don't have no idea how far  
23 they went.

24 Q. Were they out of your sight at  
25 all?

61

01 A. Oh, yeah.

02 Q. Did they travel inby so far  
03 you couldn't see them from where you  
04 were standing?

05 A. Yes.

06 Q. Okay. And did you see the

07 smoke in on the 48-inch belt or did  
08 somebody report that to you?  
09 A. We never seen it right here.  
10 When Mike Plumley and them come back  
11 from up here, when they came back to  
12 us, they told us we had to leave  
13 because the smoke was already getting  
14 up in here.  
15 Q. Okay. So the three gentlemen  
16 that traveled inby ---?  
17 A. They warned us that smoke was  
18 over ---.  
19 Q. Okay. But you guys hadn't  
20 seen it at the location that you were  
21 waiting for ---?  
22 A. No, we hadn't seen it.  
23 Q. Okay. Am I pretty well caught  
24 up ---  
25 A. Oh, yeah.

62

01 Q. --- to what's happened so far?  
02 Okay. Now, let's go back to here.  
03 What side of the belt were you on  
04 like when you walk through the door?  
05 A. Walk through the door, we  
06 crossed the belt line on the other  
07 side.  
08 Q. So you were on the side of the  
09 belt opposite the door that you came



10 in?

11 A. Yes.

12 Q. Could you continue out the  
13 belt line? You can go above it if  
14 you want.

15 A. Which way we went?

16 Q. Yes. And how far you traveled  
17 down the drive. I'll just give you  
18 another little landmark. This belt  
19 here is the belt in the north mains  
20 that the 48-inch belt dumps onto.

21 A. Yes.

22 Q. This would be the Number Six  
23 belt.

24 A. This right here is the  
25 longwall belt.

63

01 Q. This is the longwall belt, and  
02 this is ---.

03 A. But the mother drive should be  
04 right here.

05 Q. That is the mother drive right  
06 there that you're pointing to. And  
07 the belt, as indicated with this  
08 brown line, is the 72-inch belt that  
09 the mother drive dumps onto.

10 A. Uh-huh (yes).

11 Q. So those are known locations

12 on this map.

13 A. We come all the way down  
14 through here somewhere. I ain't for  
15 sure where it was at by looking at  
16 this map, but we come to a mandoor  
17 and come right down through here by  
18 the longwall. I ain't for sure which  
19 entry we come through.

20 Q. Did you come out of the belt  
21 and go right into the longwall or  
22 when you come out of the belt were  
23 you in north mains?

24 A. When we come out, we come out  
25 right beside --- right close to the

64

01 longwall, maybe two breaks over or  
02 something, three breaks over, and  
03 come straight down the longwall.

04 Q. Did you travel in north mains  
05 to get to the longwall possibly to  
06 the cut-through?

07 A. I ain't for sure which mandoor  
08 we come through up here because Steve  
09 Hensley was leading us.

10 Q. Okay.

11 A. I ain't positive which one we  
12 went through. I can draw a line  
13 through it, but I don't know.

14 Q. Well, let's talk about it.

15 Whenever you come out of the mandoor  
16 of the 48-inch belt, what did --- did  
17 you see anybody?

18 A. Yes. When we come out of  
19 there, I seen Bryan Cabell. And he  
20 was the beltman up there.

21 Q. Okay.

22 A. And Pat Callaway and I don't  
23 know the other guy's name, but he was  
24 a contractor, he was with Pat,  
25 working on the belt line.

65

01 Q. Okay.

02 A. We come out through here  
03 somewhere, right above the mother  
04 drive and crossed back over.

05 Q. Okay. And what was the  
06 discussion whenever you came out with  
07 Mr. Callaway and Mr. Cabell and the  
08 other guy? Would that other guy have  
09 been Joe Rose?

10 A. It might have been.

11 Q. But in any event, the three  
12 guys, two of them known, Calloway and  
13 Cabell, ---

14 A. Yeah.

15 Q. --- and the other guy, who we  
16 won't even identify ---.

17 A. I ain't sure what his name  
18 was.

19 Q. Well, that's fine, what was  
20 the conversation you had then?

21 A. I believe Cabell or Pat, one  
22 of them, asked us if we had  
23 everybody. And we told him, no, we  
24 had two missing. So we gathered  
25 everybody up and everybody stayed

66

01 there. And I believe we had run into  
02 --- about down here somewhere, we  
03 ended up running into Fred Horton and  
04 Billy --- I ain't sure of Billy's  
05 last name. We run into them. After  
06 we run into them, I believe Dusty  
07 Dotson, Terry Shadd and all of them  
08 met up with us right here. And we  
09 went over this way, went over, I  
10 believe, one break and longwall was  
11 over there. We met with them, then  
12 they told all of us to get outside  
13 and get out now. We all left, and  
14 just Fred Horton and the main bosses  
15 stayed.

16 Q. How did you get out?

17 A. They had mantrips down there.

18 Q. Okay. Who rode out with you  
19 then? You talked about meeting the

20 longwall crew?

21 A. We brought two mantrips out.

22 We all just gathered on both

23 mantrips.

24 ATTORNEY HEATH:

25 Gary, was the mantrip

67

01 in the entry you had walked

02 down?

03 A. Yeah.

04 BY MR. MURRAY:

05 Q. Okay. Then when you got on

06 that, did you go straight out of the

07 mine?

08 A. Yes.

09 Q. So your roadway out of the

10 mine would have been in the north

11 mains?

12 A. Yes.

13 Q. This is the north mains right

14 here. This is the roadway that they

15 traveled along that belt line.

16 A. The longwall gets up there

17 somewhere.

18 Q. The longwall comes through

19 this cut-through.

20 A. That's where the rider was

21 sitting at, right here where the

22 longwall come through at. And we  
23 come down and met the longwall  
24 wherever their ride sits.

25 Q. The longwall would come out

68

01 --- this is the longwall face right  
02 here. The longwall crew would come  
03 out and travel through the  
04 cut-through.

05 A. If that's the way they go,  
06 that's the way we come through. We  
07 come down and made --- went straight  
08 over in this entry and come all the  
09 way up.

10 Q. Whenever you guys come out of  
11 the doors, wherever it was at, did  
12 you have to cross over the 72-inch  
13 belt at any point?

14 A. No.

15 Q. You were able to come under  
16 overcasts or ---?

17 A. Yeah.

18 Q. When you met the longwall crew  
19 and Fred Horton and the other fellow,  
20 the Billy that you can't remember his  
21 last name, were there any other  
22 activities that you did before you  
23 left the mine, or did you get on the  
24 mantrip ---

25 A. Yeah.

69

01 Q. --- and proceed immediately

02 out?

03 A. Well, as soon as we met Billy,

04 ran into him and Dusty and Terry

05 Shadd, we went over towards the

06 longwall belt line, way down below

07 the fire and smoke, and tried to ---

08 we cut the belt line and stuff in two

09 right there, tried to hang curtain

10 there to block the air and put the

11 smoke up through there. Because the

12 smoke somehow --- the smoke was going

13 through there and we put a curtain

14 across, trying to block it out. And

15 as soon as we started to try and

16 block it off, Fred told us just go

17 outside and leave it alone. And we

18 just ---.

19 Q. You personally, were you

20 working on installing that chain?

21 A. Yes.

22 Q. In which entry?

23 A. The entry to the belt line.

24 Q. The entry to the belt line was

25 in the longwall?

70

01 A. Yes.

02 Q. Did you smell smoke?

03 A. Yeah, you could smell it a

04 little bit.

05 Q. Did you see any?

06 A. Right before we left, we

07 started seeing smoke. That's why

08 Fred run us out. Fred said, get out

09 here. He didn't want nobody else in

10 there.

11 Q. Did you have an SCSR on at

12 that point?

13 A. Yes.

14 Q. The same one?

15 A. Yeah, I had the same one. But

16 when we met the longwall, the

17 longwall had two boxes of them. I

18 don't know how many, ten or --- how

19 many is in a box. I believe ten is

20 in a box. They had two whole boxes

21 of them sitting down there for if

22 somebody has already busted theirs up

23 and they had a fresh one sitting

24 there if they needed one.

25 Q. Is that the one --- did you

71

01 need a fresh one?

02 A. No.

03 Q. You used the one --- the one



04 you initially put on at the mantrip

05 was the one that you ---?

06 A. No. I tried --- we took it

07 out over here. I never put it back

08 in, didn't have to.

09 Q. Whenever you all were working

10 on putting that check up on the

11 longwall belt, did you have to put

12 your SCSR back in your mouth at that

13 point?

14 A. No.

15 Q. Did you still have it on your

16 body?

17 A. Yeah. I had it wrapped around

18 my neck.

19 Q. Okay. But it wasn't in your

20 mouth?

21 A. No.

22 Q. Okay. Tell me just a little

23 bit more, if you can, about the

24 location of where you hung that

25 check. And I believe that this is

72

01 the longwall cut-through where the

02 longwall crew would exit the longwall

03 face to come out onto the north mains

04 to get on that mantrip. Was that

05 check that you worked on toward the

06 mother drive or toward the face in  
07 relationship to that cut-through?

08 A. Probably toward the face.

09 Q. Do you have any idea of  
10 what ---?

11 A. I don't have no idea where it  
12 was at.

13 ATTORNEY HEATH:

14 Kenny, can I suggest  
15 you ask him if he walked  
16 uphill or downhill to put it  
17 up?

18 A. I walked downhill. We walked  
19 down toward the face.

20 BY MR. MURRAY:

21 Q. Do you remember how far? Let  
22 me ask you this. Whenever you were  
23 putting that check up, if you would  
24 look in toward the longwall  
25 section ---?

73

01 A. I couldn't see the face.

02 Q. Could you see the stage  
03 loader?

04 A. No.

05 Q. The tailpiece?

06 A. No.

07 Q. So the only thing --- if you  
08 looked --- if you were standing

09 on ---?

10 A. When we looked back downhill  
11 at the belt line, we couldn't see  
12 nothing.

13 Q. Just belt?

14 A. Just belt.

15 Q. Okay. Do you want to offer a  
16 rough estimate of --- in relationship  
17 to this cut-through how many blocks  
18 it would have been to where that ---?

19 A. I ain't got a clue. I don't  
20 know. I don't work on the wall  
21 there. I don't know nothing about  
22 it.

23 Q. I'll just say somewhere from  
24 here toward the face check installed  
25 on longwall belt. Did you finish the

74

01 installation of it before they asked  
02 you to leave?

03 A. We had --- I'm trying to think  
04 what we had. We only hung about one  
05 side. And by then we had a little  
06 bit of smoke starting to come over  
07 us, so Fred put us --- told us to go  
08 straight outside.

09 Q. Could you tell which direction  
10 the air was traveling on the belt?

11 A. It looked like to me that the  
12 air was coming up.  
13 Q. Where do you think the smoke  
14 was coming from?  
15 A. I mean, I don't know. To me,  
16 it seemed like it was circling around  
17 and come back up. The smoke  
18 shouldn't have been down here. I  
19 know it was circling itself around.  
20 Q. This would have been a solid  
21 pillar?  
22 A. Yeah. Right here on this belt  
23 line?  
24 Q. Yes. I believe this is the  
25 solid coal?

75

01 A. Yeah. Somehow --- I don't  
02 know if it sucked itself back around  
03 through there or somehow it sucked  
04 back down this entry right here, and  
05 we hung curtain, trying to keep it  
06 from going back up through there,  
07 trying to push it out.  
08 Q. Did I hear you say you had to  
09 cut the belt?  
10 A. Yes.  
11 Q. Physically cut the belt so  
12 that there was a separation rib to  
13 rib?

14 A. We took the structure part and  
15 cut the belt in half, top and bottom,  
16 because we put a solid curtain up  
17 there.

18 Q. So in that location, wherever  
19 it is, you would be able to walk from  
20 rib to rib without stepping over a  
21 belt?

22 A. Yes.

23 Q. Or stepping over structure?

24 A. Yes.

25 Q. I get the picture. So you

76

01 guys were almost done with the  
02 installation and Fred said it's time  
03 to go?

04 A. Yes.

05 Q. And at that point, you ---?

06 A. We went to the mantrip and  
07 come all the way out.

08 Q. Do you know if anybody that  
09 was left behind finished that check  
10 or continued working on the check  
11 after you left?

12 A. We just had --- you know, we  
13 just had that one side to hang.  
14 Probably one more nail would have  
15 hung it up. And as we was leaving,

16 Terry Shadd was finishing.

17 Q. Do you know if any other  
18 checks were being installed in that  
19 area?

20 A. I don't know. As far as I  
21 know, that's the only one we know.

22 Q. You personally worked on that?

23 A. Yes.

24 Q. Who cut the belt, do you know?

25 A. Me and Pat Callaway and Terry

77

01 Shadd.

02 Q. I hate to keep bouncing  
03 around, but while you're here we'll  
04 do as much as we can. Are you  
05 getting tired?

06 A. No.

07 Q. Whenever we talked about  
08 making the turn from the Number Five  
09 entry up toward the Number Four  
10 entry, where the location of the  
11 mantrip is currently spotted on this  
12 map, could you tell what direction  
13 the air was moving through this  
14 crosscut right in here, between  
15 Number Four and Number Five entry?

16 A. I couldn't tell you. It just  
17 had smoke in it, all I can tell you.

18 Q. Whenever you came down with

19 your SCSR on and you walked through  
20 the intersection where the cribs are  
21 at survey station 3228 and you went  
22 one more block and made that  
23 right-hand turn, when you made the  
24 right-hand turn and you cleared that  
25 line of ribs to approach that

78

01 stopping at the door, did you see any  
02 difference in the density of the  
03 smoke in that location?

04 A. No.

05 Q. It was thick up to the  
06 stopping?

07 A. Up to the door.

08 Q. And when you opened the door  
09 and you walked in there, that's when  
10 the air became clear?

11 A. Yes.

12 Q. Did that tell you that the air  
13 that was on the outside, the fixed  
14 smoke that was on the outside of the  
15 stopping at that location hadn't yet  
16 traveled through?

17 A. No. It went to that stopping.

18 Q. Even though the door was open?

19 A. And when it was open, I mean,  
20 you could see a little bit of smoke

21 was passing through, you know, was  
22 pulling through, but nothing to worry  
23 about. I mean, after we shut the  
24 door, we couldn't see nothing else,  
25 no more smoke coming through.

79

01 Q. I know it was probably a short  
02 period of time, but how long do you  
03 think you had that door open to get  
04 the ten of you guys in there?

05 A. Probably a minute. And we was  
06 all in a line.

07 Q. While we're here, is there  
08 anything you want to add to your  
09 map ---

10 A. No.

11 Q. --- before we sit down?

12 A. No.

13 Q. Okay. Why don't you go ahead  
14 and sit down there. Gary, do you  
15 have a CO alarm at the tailpiece of  
16 the Two section belt?

17 A. Yes.

18 Q. Did it go off at any time  
19 during the shift?

20 A. I don't know. I was outby  
21 building cribs.

22 Q. I mean, before, when you were  
23 dumping your 15 shuttle car loads.



24 A. No.

25 Q. And that alarm, is it audible

80

01 and visual? Does it sound an alarm

02 that you can hear?

03 A. I believe it just shuts

04 everything down on us.

05 Q. Can you see the alarm?

06 A. I couldn't see it, not from on

07 the buggy. No, I can't see it.

08 Q. Can you describe what the

09 alarm would look like if it was in

10 the alarm mode?

11 A. I don't know.

12 Q. On that evening, did you have

13 any occasion to speak with anybody on

14 the mine phone?

15 A. Did I talk to anybody on the

16 mine phone during that shift?

17 Q. Yes.

18 A. Yes.

19 Q. And at what part of the shift

20 did you have a conversation with

21 someone?

22 A. Right after we started. Right

23 after we got to the face.

24 Q. Okay.

25 A. I don't know what they was

01 wanting. The dispatcher called up  
02 there, wanting to talk to the boss,  
03 Mike Plumley.

04 Q. Okay. Who was the dispatcher  
05 that night, do you know?

06 A. I don't remember who it was.  
07 I know when we got --- I believe it's  
08 --- I don't even know his name.

09 Q. Okay.

10 A. He ain't been there very long.  
11 Mike. I believe his name might be  
12 Mike.

13 Q. Would it be Mike Brown?

14 A. I don't know his last name.

15 Q. Okay. What was the  
16 conversation you had with Mike?

17 A. I seen the phone blinking and  
18 I went to him and I asked him, and he  
19 told me --- hollered Mike, he needed  
20 Mike for something. I don't know  
21 what it was about or what it was  
22 over.

23 Q. And did Mike come to the  
24 phone?

25 A. Yeah.

01 Q. Okay. After Mike completed  
02 that conversation, did he indicate

03 that there was anything unusual or  
04 anything going on to you?

05 A. No.

06 Q. How about from the time that  
07 Mike came down and picked you up on  
08 the mantrip until you get outside,  
09 did you talk to anybody on the  
10 telephone ---

11 A. No.

12 Q. --- during that period of  
13 time?

14 A. No, I didn't.

15 Q. You said when Mike came down  
16 and picked you up that he indicated  
17 that the fire --- there was a fire at  
18 the mother drive. Did he tell you  
19 what caused the fire?

20 A. No.

21 Q. Do you know what caused the  
22 fire?

23 A. No idea. I wasn't down there.

24 Q. Has anybody discussed or have  
25 you heard anybody talk about what may

83

01 have caused the fire?

02 A. No. I didn't talk to nobody.

03 Q. I know you didn't have a watch  
04 on, but can you estimate how much

05 time had elapsed from when you quit  
06 running your shuttle car and went to  
07 the location where you were going to  
08 install the cribs until you were  
09 picked up ---? From the time you  
10 left your shuttle car until you  
11 actually got on the mantrip to go  
12 out, how long a period of time that  
13 was?

14 A. Ten, at the most 15 minutes.

15 Q. Okay. Do you have any idea  
16 what time you all got onto the  
17 section that day? How long does it  
18 normally take to get to the section  
19 from the outside?

20 A. Probably 3:30, four o'clock.

21 Q. What time did you come in the  
22 mine at the cut-through --- I'm  
23 sorry, not the cut-through, at the  
24 box cut?

25 A. I told you wrong a while ago.

84

01 I said we started at 3:00. The Two  
02 section, where we was, started at  
03 2:30. So we probably got to the  
04 section probably --- went up the box  
05 cut probably 2:30, probably got to  
06 the section right around 3:30, 3:20,  
07 3:30. Right around an hour it takes

08 us.

09 Q. And how long after you arrived  
10 on the section did you see the phone  
11 flashing to where someone, the  
12 dispatcher, called for Mike?

13 A. It wasn't 10 or 15 minutes. I  
14 thought maybe he wanted to ask him a  
15 question or something. I don't know.  
16 That's about the only way they get  
17 our attention from that buggy because  
18 we can't hear the phone. That light  
19 is the only thing we got.

20 Q. Do they ever shut the belt off  
21 intentionally to get your attention?

22 A. No.

23 Q. From the time that Mike had  
24 this conversation on the telephone  
25 with the dispatcher until the time

85

01 they picked you up, how long do you  
02 think that was?

03 A. I don't have no idea.

04 Q. Do you have any idea how Mr.  
05 Bragg may have gotten separated from  
06 the group?

07 A. No idea.

08 Q. What about Mr. Hatfield?

09 A. No idea.

10 Q. When is the last time you saw

11 Mr. Bragg?

12 A. On the section.

13 Q. While you were loading?

14 A. Yes.

15 Q. What about Mr. Hatfield?

16 A. On the section.

17 Q. Have you ever participated in

18 a mine emergency evacuation drill,

19 fire drill?

20 A. Yes.

21 Q. How long before the accident?

22 A. Probably two or three days.

23 Q. Could you describe what that

24 would consist of?

25 A. We walked our escapeways out.

86

01 Q. Which escapeway?

02 A. Our return escapeway.

03 Q. Which would be what?

04 A. We walked our escapeway down

05 the return --- I'm trying --- it was

06 on the right --- the right side, Six,

07 Five, whatever it is. And we started

08 out on Four on the section and we

09 walked back outby that way. Then we

10 also maybe the day before that was

11 right there at the Three way, we

12 walked all down through there, then

13 we walked from there, come out right  
14 there at the drift mouth.

15 Q. At the box cut?

16 A. Yes, all the way outside.

17 Those double doors underneath the  
18 fan, ---

19 Q. Yes.

20 A. --- come all the way out that  
21 way.

22 Q. Where did you begin that walk  
23 from?

24 A. We walked from the section.

25 Q. You walked all the way from

87

01 the section?

02 A. Whatever we done --- I mean,  
03 just --- we walked from the section a  
04 little ways, then the next --- then  
05 the next time we walked a little bit  
06 farther. Then we walked from the  
07 Three way, come outside.

08 Q. Have you ever seen an  
09 escapeway map at the mine?

10 A. Yeah.

11 Q. Where would you see it at?

12 A. I've seen them in the mine  
13 office. There's one on the table.

14 There's a map on the table as soon as

15 you walk in --- where we all sit and  
16 wait before we go underground,  
17 there's maps.

18 Q. On the surface?

19 A. On the surface?

20 Q. I mean, the table you're  
21 talking about, is this outside?

22 A. Yes, up there in the  
23 bathhouse.

24 Q. Would that be the table that  
25 has the plexiglas over top of it?

88

01 A. Yes. There's maps there.

02 There's maps upstairs.

03 Q. Is there a map on the section?

04 A. Yes.

05 Q. Where is that kept at?

06 A. Right at the power center.

07 MR. MURRAY:

08 Gary, what I have in  
09 front of you is the escapeway  
10 map that we found on the Two  
11 section during our  
12 investigation. And we're  
13 going to identify this map as  
14 Exhibit B, as in boy, Baisden,  
15 on this little tag here.

16 (Baisden Exhibit B

17 marked for



18 identification.)  
19 BY MR. MURRAY:  
20 Q. We did find this on the load  
21 center, as you correctly pointed out.  
22 You're going to have to bear with me  
23 just a bit and use a little bit of  
24 imagination based on the map that we  
25 have behind us that we discussed the

89

01 different evacuation routes because  
02 this map isn't all inclusive of the  
03 actual entries and crosscuts  
04 underground that have been mined.  
05 But I will --- well, first of all,  
06 have you ever seen a map that looks  
07 like this ---

08 A. Yeah.

09 Q. --- at the mine? Okay. And  
10 could you describe for me what  
11 markings on this map designate the  
12 primary escapeway?

13 A. On this map?

14 Q. Yes.

15 A. Green.

16 Q. Yes. There's color-coded ---  
17 there's a legend here and there's a  
18 color-coded system of identification  
19 of different entries that would

20 depict different escapeways. And  
21 which color would indicate the  
22 secondary escapeway?

23 A. Yellow.

24 Q. Okay. Now, just to kind of  
25 give you a little orientation here,

90

01 like I said, it's really --- you have  
02 to use just a little bit of  
03 imagination based on what we  
04 identified in the map behind me and  
05 what we have in front of us here as  
06 the escapeway map. Here's the  
07 longwall, okay. Here's the mother  
08 drive that we talked about. Here's  
09 the --- the top yellow line is the  
10 48-inch, okay. This is the old Ten  
11 headgate section. Did you work on it  
12 at all?

13 A. No.

14 Q. Okay. These are the entries  
15 that have already been mined going up  
16 toward the Two section in the  
17 northeast mains. And then if you can  
18 imagine, by referring to the entries  
19 that are depicted on the map that we  
20 have on the wall, which is identified  
21 as Exhibit A, Baisden, and what we  
22 have here, those entries in northeast

23 mains would continue a ways and then  
24 make a right-hand turn to form the  
25 Number Two section. Okay. Now, you

91

01 talked about an escapeway drill that  
02 involved walking, as you said, the  
03 return escapeway.

04 A. Uh-huh (yes).

05 Q. And where would the return  
06 escapeway be? If the primary  
07 escapeway is indicated with green and  
08 the secondary is indicated with  
09 yellow, what would denote the return  
10 escapeway on this map?

11 A. What do you mean?

12 Q. You indicated you had a couple  
13 escapeway drills. One of them was  
14 traveling from the Three way to the  
15 outside ---

16 A. Uh-huh (yes).

17 Q. --- in the primary escapeway.  
18 And then you said the one before that  
19 involved traveling the return  
20 escapeway. Could you point out, at  
21 least out in the northeast mains,  
22 where the return escapeway would be?

23 A. If I was showing you how I  
24 worked out of there, I'll never tell

25 you. I ain't got no idea how to map

92

01 the way we walked. I have no idea.

02 That map is just about useless to me.

03 Q. Okay.

04 A. Unless I'm under there, it

05 ain't no good to me.

06 Q. Is there a third escapeway on

07 the Two section? First of all, do

08 you know where the --- in this case

09 here, the secondary escapeway off

10 the ---?

11 A. According to where you're at,

12 you got your intake and your two

13 returns.

14 Q. Which one would be the

15 secondary escapeway off the Two

16 section?

17 A. Secondary?

18 Q. Yes.

19 A. Usually our intake or a belt

20 line.

21 Q. Okay. So if the belt line or

22 the intake was --- one or the other,

23 I'm interested in where the return

24 escapeway that you've referred to

25 would be?

93

01 A. We walked --- it wasn't

02 probably a month before I walked ---  
03 we walked from the belt line --- I  
04 walked the whole belt line from there  
05 all the way outside when you come to  
06 the Three way.

07 Q. Okay. The belt line?

08 A. Yes. I worked that belt line  
09 from one end of it to the other.

10 Q. To the outside. So now we're  
11 talking about walking the secondary  
12 escapeway.

13 A. Yeah.

14 Q. Okay. And then the other  
15 escapeway that you described when  
16 you'd come down to the Three way, how  
17 did you get to the Three way from the  
18 Two section?

19 A. We walked all the way down.

20 Q. You walked from the Two  
21 section ---

22 A. Yes.

23 Q. --- to the Three way?

24 A. I walked every inch of it.

25 Q. And then you continued

94

01 walking?

02 A. I walked to the Three way.

03 And right there in the intake, we

04 walked the intake down. I ain't  
05 sure, we crossed over down there some  
06 --- crossed over through one of them  
07 mandooors down there and went right  
08 straight on outside. Come out there  
09 at the box cut.

10 Q. As you traveled this  
11 escapeway, let's go back to the  
12 primary escapeway where you walked to  
13 the outside, to the box cut from the  
14 Three way.

15 A. Uh-huh (yes).

16 Q. Did you follow reflectors as  
17 you traveled out that escapeway?

18 A. I don't remember. Mike  
19 Plumley was leading us.

20 Q. Underground, what color  
21 reflectors would designate the  
22 primary escapeway?

23 A. The primary?

24 Q. Yes, sir.

25 A. Green.

95

01 Q. Okay. And what about the  
02 alternate or the section ---?

03 A. Yellow.

04 Q. And we established that the  
05 secondary was on the belt?

06 A. Yeah.

07 Q. And when you walked that  
08 entire belt as you described, did you  
09 see any reflectors on that belt?

10 A. Yeah, there were reflectors  
11 hanging everywhere.

12 Q. What color?

13 A. Well, you got green ones and  
14 yellow ones hanging.

15 Q. I mean, on the belt line,  
16 specifically.

17 A. Yellow.

18 Q. When did you actually  
19 physically take off your SCSR?

20 A. After I got to the mandoor.

21 Q. I mean, the one you said you  
22 had --- remained on your body?

23 A. When I got out and wanted to  
24 take it out?

25 Q. Yes.

96

01 A. When I got upstairs.

02 Q. Okay. And then what did you  
03 do with it?

04 A. It was home with me.

05 Q. We may need to get that.

06 A. We done discussed that. I've  
07 got it. I've got it at the house.

08 Q. And when we're done doing what

09 we do with it, we'll return it to  
10 you.

11 A. I'm pretty sure I still got  
12 the goggles and everything with it.

13 Q. Okay.

14 A. The cap for my dinner bucket,  
15 you would find it up there on Two  
16 section somewhere.

17 Q. Your dinner bucket?

18 A. My cap from my dinner bucket,  
19 you would find them up there  
20 somewhere around that mantrip.

21 Q. You say you left your dinner  
22 bucket? Do you rub Copenhagen by any  
23 chance?

24 A. Yes, sir, I do. There's  
25 probably two or three cans of it in

97

01 there.

02 Q. Do you drink Coca-Cola by any  
03 chance?

04 A. Yes. Somebody found my dinner  
05 bucket, didn't they?

06 Q. I think we found your dinner  
07 bucket.

08 A. It says Cobra on the top of  
09 it?

10 Q. I didn't pay attention to what  
11 was on top, but I know inside of ---?



12 A. It should have had a Cobra  
13 sticker on it and it should have had  
14 one of them cable hangers, a red  
15 cable hanger on it.

16 Q. It does. And we'll be glad to  
17 return that to you at some point in  
18 time.

19 A. I appreciate it. That's mine.

20 Q. We already --- we have two  
21 cans on --- we'll take good care of  
22 it. It's locked up right now. As  
23 you guys traveled from the mantrip  
24 after you put on your SCSRs, were you  
25 holding onto each other physically?

98

01 A. Yes.

02 Q. Do you know who was in front  
03 of you?

04 A. I don't remember. You could  
05 hardly see their light burning.

06 Q. Do you know who was behind  
07 you?

08 A. Yeah. Mike Shull, the  
09 electrician.

10 Q. Okay. We talked about this  
11 map in pretty great detail. And  
12 obviously, it doesn't indicate the  
13 entire coal mine, but it does

14 indicate the furthest projection of  
15 Aracoma Alma Mine Number One.

16 A. Yes.

17 Q. So by your work location in  
18 the Number Two section, you were the  
19 furthest section in the mine?

20 A. Yes.

21 Q. At what point do you think you  
22 should have been notified that there  
23 was an emergency situation in the  
24 coal mine?

25 A. I don't know when they did

99

01 notify --- should have been notified  
02 as soon as they seen it.

03 Q. Seen what?

04 A. As soon as the belt man found  
05 any smoke or anything, he should have  
06 let us know. I mean, he may have. I  
07 don't know that.

08 Q. Okay. Tell me how long you  
09 worked in this area of the mine  
10 again.

11 A. Up there?

12 Q. Yes.

13 A. Well, I've been up there  
14 before on and off, but I guess the  
15 last time I probably went up there a  
16 month, month and a half at the time.

17 Q. Okay. How do you think that  
18 primary escapeway got contaminated so  
19 quickly?

20 A. No idea.

21 Q. Would you expect the primary  
22 escapeway to be air clear, fresh air?

23 A. Yes.

24 Q. How far?

25 A. Well, that belt line should

100

01 have stayed clear.

02 Q. What about the primary  
03 escapeway, the intake escapeway that  
04 we talked about?

05 A. It should have stayed clear.

06 Q. For how long?

07 A. It should have stayed clear  
08 all the way out.

09 Q. All the way out to the  
10 surface?

11 A. It should have stayed --- I  
12 don't know how it got over there. It  
13 shouldn't have been over there.

14 Q. Did you ever hear any  
15 discussions either before the fire or  
16 since then that there may have been  
17 some stoppings that weren't installed  
18 to separate the belt line from the

19 primary escapeway?  
20 A. Not that I know of. I ain't  
21 saying they ain't, but not that I  
22 know of. I didn't hear nobody  
23 talking about it. I know the day  
24 before that, two or three days before  
25 that, Pat Kinser and Don Bragg, the

101

01 one boy that got killed, ---  
02 Q. Yes, sir.  
03 A. --- they went down through  
04 there fixing stoppings. I don't know  
05 how far they went off the section,  
06 but I know they went up there and  
07 repaired a couple stoppings when they  
08 had little holes in them or  
09 something.  
10 Q. Do you know which stopping  
11 line it was in? Is it the stopping  
12 line that separated the 48-inch belt  
13 from the escapeway?  
14 A. No. It was the right return.  
15 Q. The return coming off the Two  
16 section?  
17 A. It would be on your left  
18 coming off of it. As you go onto the  
19 Two section, it's the right return.  
20 I'm pretty that's where they was at.  
21 Q. Okay. Have you ever heard of

22 other fires at Aracoma Mine?

23 A. Not as long as I've been

24 there.

25 Q. We talked about this once, but

102

01 let me ask it again. As a shuttle

02 car operator that goes back and forth

03 routinely from the tailpiece to the

04 working section --- to the working

05 face with a continuous miner, can you

06 tell me what direction the air in the

07 Number Two belt entry would travel on

08 a normal day?

09 A. Number Two?

10 Q. Pardon me?

11 A. The Number Two?

12 Q. Yes. That would be the Number

13 Two entry. Whenever you're dumping

14 your coal onto the feeder --- into

15 the feeder, can you tell whether that

16 air would normally hit you in the

17 face or would it take the coal dust

18 away from you that would be the

19 amount that would be generated as you

20 discharge your shuttle car into the

21 feeder?

22 A. I don't understand what you're

23 talking about.

24 Q. I'm trying to determine ---  
25 okay. Let's say, for example, you

103

01 have a load of coal in your shuttle  
02 car and you tram down to the feeder  
03 crusher and you're going to discharge  
04 your load of coal into the feeder  
05 crusher.

06 A. Uh-huh (yes).

07 Q. And as you're dumping the  
08 coal, there would be --- it may be  
09 slight, but there would be somewhat  
10 of a bit of dust generated just from  
11 the mere fact that you're dumping  
12 pulverized coal into a feeder  
13 crusher.

14 A. Yeah.

15 Q. Can you tell me what  
16 direction ---

17 A. The dust went?

18 Q. --- the dust ---? Would it  
19 come toward you or would it go away  
20 from the section?

21 A. I don't remember.

22 Q. When you're dumping coal into  
23 that feeder crusher, can you look and  
24 see down the belt line or is there a  
25 check curtain installed?

104

01 A. There's a curtain right there.

02 Q. A solid curtain that would  
03 prevent you from seeing the belt?

04 A. I could see the belt down  
05 through there. Yeah, there should be  
06 a curtain there. Up there on the Two  
07 section --- well, it's on Three  
08 section. Two section, I can't  
09 remember if there was a curtain there  
10 or not. Because all around the Three  
11 section we got six and seven entries,  
12 and ours is different from up there.

13 Q. Okay.

14 A. I can't remember if there are  
15 or not. I'd rather not answer about  
16 that. I don't know.

17 Q. We appreciate your honesty.  
18 Do you know if they ever applied rock  
19 dust to the belt lines either in  
20 northeast mains or the Number Two  
21 section belt itself while you're up  
22 in the area mining coal?

23 A. I don't have no idea what the  
24 belt men do.

25 Q. Did you ever have occasion to

105

01 be conducting normal production  
02 activities and experience excessive

03 dust, whether it be from the roadway  
04 or from the belt line, to where you  
05 had to get off the section? You were  
06 dusted out, in other words?

07 A. No. I always worked.

08 Q. What about did you ever have  
09 --- doing your normal production  
10 cycle activities and had smoke come  
11 up on the section, where you were  
12 smoked out for some reason?

13 A. No.

14 Q. Mr. Baisden, based on your  
15 experience and what you know about  
16 what happened on January 19th, 2006,  
17 what do you think could have been  
18 done to prevent this accident?

19 A. I have no idea. I wasn't down  
20 there. I wasn't down there at the  
21 belthead. I don't know what  
22 happened, what went on, so I can't  
23 tell you.

24 Q. What do you think could be  
25 done to ensure an air clear primary

106

01 escapeway to the surface?

02 A. No idea. Don't know what they  
03 can do. I'd rather not answer. I  
04 don't want to voice my opinion about  
05 it.



06 Q. As I stated in the opening  
07 statement, part of what we're trying  
08 to do here is to determine the facts  
09 to prevent this thing from occurring.

10 A. I don't have no idea what went  
11 on down there. I don't know --- I  
12 have no idea what went on down there.

13 Q. Do you ever work on idle  
14 periods, when there's nonproduction  
15 in the mine, and do different things  
16 other than run shuttle car?

17 A. I work the face.

18 Q. Do you ever work on  
19 nonproduction shifts?

20 A. No.

21 Q. On a Sunday, for example,  
22 when ---?

23 A. Don't do Sundays. I work  
24 my ---.

25 Q. Do you know when they

107

01 routinely rock dust --- apply rock  
02 dust to the belt lines to maintain  
03 their combustible content?

04 A. No. As we move belt, every  
05 night before they move belt we dust,  
06 dust the breaks ahead of them. Every  
07 night we move belt, we dust the

08 breaks on the belt line when we go  
09 in.

10 Q. When you say we, who would  
11 that be?

12 A. Two or three of us. Just two  
13 or three off a section will do it.

14 Q. Off the production crew?

15 A. Yeah.

16 Q. And this rock dusting that  
17 you're talking about, it's applied  
18 before the belt line is installed?

19 A. Before they move the belt,  
20 they do two breaks at a time.

21 Q. And Gary, if you don't care,  
22 before I turn it over to my colleague  
23 here, we need to take a short break.

24 SHORT BREAK TAKEN

25 BY MR. MURRAY:

108

01 Q. We're back on the record. I  
02 got one more just to clarify a  
03 previous question, then I'm going to  
04 turn it over to Mr. Tucker and his  
05 group. The rock dust that we talked  
06 about applying before we moved the  
07 belt to those two blocks, was it  
08 applied with a machine or ---?

09 A. Machine.

10 Q. What kind of machine?

11 A. Bucket duster.

12 Q. When you say a bucket duster,  
13 is it used in the bucket of the  
14 scoop?

15 A. Yeah. It hooks on the front  
16 of the scoop, on the front of the  
17 scoop bucket.

18 Q. Is that a hydraulic piece of  
19 equipment?

20 A. Yes.

21 Q. And then how do you get the  
22 rock dust into that particular bucket  
23 duster? Is it bulk ---?

24 A. Bulk bags.

25 Q. Pardon me?

109

01 A. Bulk bags.

02 Q. How big ---?

03 A. Bulk bags of dust.

04 Q. How big are the ---?

05 A. 200 or 300-pound bag,  
06 200-pound bag, whatever they are.

07 Q. You can only lift one at a  
08 time?

09 A. Yeah, you can only lift one at  
10 a time.

11 MR. MURRAY:

12 Okay. Thanks a lot,

13 Gary. Mr. Tucker?

14 BY MR. TUCKER:

15 Q. Gary, we're going to be  
16 bouncing around a good bit to try to  
17 just fill in some pieces here, okay?  
18 So just bear with me if you would.  
19 Just to try to clear up one, though,  
20 on the --- when you were talking  
21 about the escapeways. You were  
22 talking about, you know, you'd walk  
23 the belt line to some point, I think  
24 up to the Three way, and then maybe  
25 you'd walk the intake out to the box

110

01 cut. Was that on different days or  
02 was that on the same day, or how did  
03 that fall?

04 A. Different days.

05 Q. Different days, okay. And you  
06 mentioned --- you made reference to  
07 maybe a walk on the return escapeway.  
08 Is there another escapeway other than  
09 the belt line and the intake or what  
10 do you mean by return?

11 A. I don't understand what you're  
12 saying.

13 Q. You had mentioned about  
14 walking out a return escapeway. I'm  
15 just trying to clarify this, if that

16 was just maybe something you said by  
17 mistake or if, in fact, you have  
18 another escapeway that is return air,  
19 or if the escapeways that you're  
20 talking about is, in fact, the belt  
21 line and the intake?

22 A. Yeah.

23 Q. So yeah, meaning ---?

24 A. The belt line intake.

25 Q. Okay. You mentioned when you

111

01 arrived on the section that you  
02 started the shift out running the  
03 shuttle car. Do you run the off  
04 standard or standard?

05 A. They're all the same.

06 Q. Which is --- what are they,  
07 standards?

08 A. Standard.

09 Q. Okay. Were you on the right  
10 side of the section? Do you remember  
11 what entries you were in?

12 A. I believe I was cutting in  
13 Three.

14 Q. In Three. Straight ahead or a  
15 crosscut or ---?

16 A. Break.

17 Q. Three break. Right or left?

18 A. Right.  
19 Q. Okay. Is part of the shuttle  
20 car man's duties --- as part of those  
21 duties, do you ever like help install  
22 line curtain or is that part of your  
23 duties or ---?  
24 A. Hang curtain?  
25 Q. Hang curtain, yes.

112

01 A. Pin men.  
02 Q. Pin men hang curtain?  
03 A. Hang curtain as they go.  
04 Q. Okay. So when you hauled coal  
05 out of Number Three, who was running  
06 the miner?  
07 A. Mike Plumley.  
08 Q. Mike Plumley was running the  
09 miner and you were running the  
10 shuttle car?  
11 A. Yes.  
12 Q. Had Billy already left to load  
13 the cribs at that point?  
14 A. He just left.  
15 Q. So after you finished that  
16 cut ---?  
17 A. I went and helped him.  
18 Q. Okay. Was the other miner  
19 running --- was somebody else running  
20 the other miner or who's the other

21 miner man?

22 A. Steve Hensley. I don't know

23 if he was running it or not.

24 Q. Just to clarify, if I

25 understand right, you said that since

113

01 the accident on the 19th you've not

02 been back to the mines?

03 A. No.

04 Q. Was that your last shift

05 worked there?

06 A. That night.

07 Q. That night. And when did you

08 go to work for Superior?

09 A. Probably three weeks ago. Two

10 weeks ago, two and a half, three

11 weeks ago.

12 Q. So is that --- how long after

13 the --- how long was you out of work

14 you think?

15 A. Probably two weeks.

16 Q. Did you just go there and like

17 put in an application or you knew

18 somebody or ---?

19 A. I already talked about

20 transferring.

21 Q. Before the 19th you talked

22 about ---?

23 A. Yeah.

24 Q. And who did you talk with  
25 about transferring?

114

01 A. Gary Duncan and Pepe Lester.

02 Q. When you arrived on the  
03 section on the 19th, did you go  
04 straight to the face and start  
05 working or was there a delay there?  
06 Was there anything going on when you  
07 first arrived on the section?

08 A. Yeah. We sat there at the  
09 mantrip to --- we sat there on the  
10 mantrip and talked to Terry Shadd,  
11 because he was up there on dayshift.  
12 When we was sitting there, Mike  
13 Plumley I guess walked up and made a  
14 face and come back, then we all went  
15 to work. I met Terry Shadd at the  
16 mantrip.

17 Q. Okay. So the dayshift was  
18 still there ---

19 A. Yes.

20 Q. --- at that time? They was  
21 just hanging around or was it a joint  
22 discussion going on?

23 A. It was just a joint  
24 discussion. They was coming to the  
25 mantrip and we was coming in.



01 Q. Prior to the 19th, had you  
02 heard any discussion at all about any  
03 trouble at the mother drive belt?

04 A. Not that I know of.

05 Q. Was there a particular reason  
06 that night that you quit running the  
07 shuttle car and went to build cribs?

08 A. I don't reckon.

09 Q. Just the fact that Mike told  
10 you ---?

11 A. They told me to.

12 Q. Okay. On a normal shift, if  
13 everything is running, do you usually  
14 run the shuttle car all night or is  
15 there times that you're not running  
16 it and doing other things or how does  
17 that usually go?

18 A. Usually run it about all  
19 night.

20 Q. Say when Mike Plumley's like  
21 operating the miner or running --- he  
22 would run equipment or whatever, is  
23 there anyone else who would like  
24 supervise the other workers on the  
25 section?

01 A. Well, Mike went over just a

02 few minutes. They come around and  
03 Billy --- he told Billy to go around  
04 through there, and I believe he just  
05 just a little bit and we finished it  
06 up, and that's all we done with it.

07 Q. So who started the cut out?

08 A. Mike. We just cut a --- that  
09 right-hand break right there is all  
10 we was cutting on.

11 Q. When the manbus came by and  
12 picked you up, you and Billy, what  
13 was the mood of everyone when they  
14 picked you up?

15 A. They just told us to get on  
16 the mantrip, we had to go.

17 Q. Did it seem tense or was it  
18 kind of kidding or what was just kind  
19 of the overall mood? Were you overly  
20 alarmed or ---

21 A. No.

22 Q. --- concerned? You had  
23 mentioned Mike had said that when he  
24 came to tell you that you had to  
25 leave that you had a lot of smoke and

117

01 the belt was on fire.

02 A. They told us. They said there  
03 was some smoke down there. It may be  
04 on fire. We wasn't sure what all we

05 had done there. That's just what  
06 they told him, I guess. I don't have  
07 no idea what ---.

08 Q. I was just trying to determine  
09 if Mike said that we had a lot of  
10 smoke ---.

11 A. Well, I guess the way Mike  
12 took it, what they told him at that  
13 time, we didn't think it was that  
14 bad. We didn't think it was that  
15 serious. We didn't think it was that  
16 bad that we was going to run into  
17 something like that.

18 Q. So when you left, when you got  
19 on the mantrip, at that point did you  
20 have any idea that you were going to  
21 be running into smoke going out your  
22 haul road?

23 A. No, not like that.

24 Q. Did you ever hear anybody say  
25 or do you know who called the

118

01 section?

02 A. I wasn't there.

03 Q. You mentioned when you all  
04 were coming out and you started  
05 hitting smoke that maybe somebody had  
06 commented about donning the

07 self-rescuers. Do you know who made  
08 that comment?

09 A. No.

10 Q. That was prior to making the  
11 turn that somebody made a comment.

12 A. I don't know.

13 Q. If I understand right, you  
14 said you got off the right side of  
15 the mantrip and stopped, and you were  
16 on the back of the mantrip. Did you  
17 notice anybody whose first reaction  
18 may have been to go past you and go  
19 back towards the section?

20 A. No.

21 Q. So as far as you know, when  
22 everybody unloaded, they went toward  
23 the front of the ---?

24 A. Yeah. They took us out toward  
25 the front, as far as I know.

119

01 Q. Okay. Did you hear any  
02 discussion coming out as far as ---  
03 in your mind, when you left the  
04 section and you got on the mantrip,  
05 how far was you expecting to ride the  
06 mantrip?

07 A. All the way.

08 Q. All the way down through the  
09 double doors at the mother drive and

10 on out or ---?

11 A. We didn't figure that smoke  
12 was that bad. We figured we'd just  
13 go right on through there. Maybe  
14 there was just a little bit of smoke  
15 or something and they just called to  
16 warn us.

17 Q. Right. Okay. I'm just trying  
18 to put it all together. Once you hit  
19 into smoke when you round the corner,  
20 and I understand it was so thick you  
21 couldn't hardly see your hand in  
22 front of your face, did you ever hear  
23 a detector going off from that point  
24 on, maybe somebody's alarm on their  
25 detector, the gas detector?

120

01 A. I don't remember.

02 Q. You don't remember hearing  
03 anything?

04 A. I don't remember.

05 Q. Once you went into the 48-inch  
06 belt line, from that point after they  
07 initially went back and tried to find  
08 Mr. Bragg and Mr. Hatfield, did  
09 everybody travel out as a group from  
10 that point on?

11 A. Yes.

12 Q. Once you traveled down and you  
13 came back into the intake, from the  
14 belt line back into the intake, you  
15 said you saw Bryan, Pat and someone  
16 else. From that point, do you  
17 remember --- did you go back toward  
18 the double doors in the haul road or  
19 do you remember seeing the double  
20 doors that's in the haul road where  
21 you cross under the ---?

22 A. I never did see it.

23 Q. So you were never close enough  
24 to see any flames from the fire or  
25 anything of that nature?

121

01 A. No.

02 Q. From the time that you entered  
03 the 48-inch belt and you started out,  
04 do you remember personally noticing  
05 any smoke in the belt entry from the  
06 time you all left and started going  
07 out?

08 A. Once we come to the mandoor?

09 Q. Yes.

10 A. There was a little bit of  
11 smoke there, but not enough to really  
12 bother you.

13 Q. Just real light smoke?

14 A. Yes.

15 Q. And that was after you started  
16 out ---  
17 A. Yeah.  
18 Q. --- down toward the --- where  
19 you crossed over to the intake?  
20 A. Yes.  
21 Q. Did you see any other foremen  
22 in the intake after you start ---  
23 once you start out and you cross back  
24 over in the intake, other than Pat  
25 Callaway, Bryan and Terry Shadd that

122

01 you can remember?  
02 A. Going towards the longwall?  
03 Once we got over to the longwall,  
04 Fred Horton and everybody was up  
05 there.  
06 Q. When you say everybody, could  
07 you ---?  
08 A. Fred Horton, Dusty Dotson and  
09 I don't know what --- I don't know  
10 what the other guy's name --- he's  
11 the chief electrician. He's over on  
12 the longwall side.  
13 Q. Do you have any idea in your  
14 mind how long it would take to travel  
15 from where you were at at the cribs,  
16 where you was loading the cribs, down

17 to where you --- the mantrip stopped,  
18 if you were guessing how long it  
19 would take to travel that distance?

20 ATTORNEY HEATH:

21 On foot or in the  
22 mantrip?

23 MR. TUCKER:

24 In the mantrip.

25 A. I don't know, five, ten

123

01 minutes.

02 BY MR. TUCKER:

03 Q. When you arrived back in the  
04 intake and everybody is gathering up  
05 down there and you're trying to  
06 decide, you know, what to do, did you  
07 hear any discussions on putting water  
08 on the fire?

09 A. No.

10 Q. You've mentioned about  
11 building the check on the longwall  
12 belt. If I understood you right, at  
13 that point, you had noticed some  
14 smoke and you're not sure which  
15 direction it was ---.

16 A. It may have been sucking back  
17 down the belt. I don't know. But we  
18 was noticing smoke there, and we  
19 left.



20 Q. But it was right there, where  
21 you were hanging curtain basically?

22 A. Yes.

23 Q. Once you arrived outside on  
24 the 19th, was you interviewed by  
25 anyone after you got outside?

124

01 A. Yeah, some --- I don't  
02 remember. Some MSHA people, I don't  
03 know who they were, they talked to us  
04 up there in a room, we was all in one  
05 room together. I don't know who it  
06 was.

07 Q. You're not sure who it was?

08 A. I can't remember his name. I  
09 really appreciate your patience, Gary  
10 --- Mr. Baisden. Was there any  
11 particular reason why the State had  
12 to issue a subpoena for you to come  
13 and talk?

14 A. If they didn't, I probably  
15 wouldn't have come. Somebody called  
16 two or three times wanting me to  
17 come. I went back to work since  
18 then. And I've been going to  
19 retraining and everything else, and I  
20 just ain't had time. Like he said, I  
21 got a newborn baby at the house. If

22 I didn't have to come, I wouldn't  
23 come.

24 MR. TUCKER:

25 I appreciate your

125

01 honesty about it. That's all  
02 I have at this time.

03 MR. MURRAY:

04 I just got a couple  
05 more, Gary.

06 BY MR. MURRAY:

07 Q. You talked about --- Mr.

08 Tucker asked you about the detectors  
09 going off or anything. Do you know  
10 if Mr. Plumley had his detector  
11 turned on at the time?

12 A. I'm sure he did. He'd usually  
13 leave it on all shift.

14 Q. When you talked about getting  
15 out of the mantrip right here, when  
16 you were in the back and you got out  
17 on the right and circled around, and  
18 you also talked about the smoke being  
19 much clearer or less ---

20 A. Yeah.

21 Q. --- in the entry below you.

22 Was there a discussion about going  
23 back in to here, where it was a  
24 little bit clearer, to put the

25 self-rescuers on?

126

01 A. No. We put them on out there  
02 because we knew we'd get through that  
03 mandoor right there and we would have  
04 been safe.

05 Q. Was there a discussion about  
06 that mandoor before you started  
07 walking from the mantrip?

08 A. Yes.

09 Q. And who ---?

10 A. Steve Hensley.

11 Q. Steve identified that there  
12 was a mandoor?

13 A. Yes.

14 Q. Who led the way?

15 A. I believe Steve was in front.

16 Q. Steve.

17 A. I'm sure you all have talked  
18 to Steve.

19 Q. Pardon me?

20 A. I'm sure you all have talked  
21 to Steve. Steve's pretty smart about  
22 that mine.

23 Q. Was there a reason why you  
24 wanted to transfer to Superior?

25 A. Yeah. The sky ain't going to

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01 fall on me. The sky won't fall on  
02 me.

03 Q. You desired to work on a  
04 surface location as opposed to  
05 underground?

06 A. Yeah.

07 Q. Did you ever work in another  
08 underground mine other than Aracoma?

09 A. Yeah.

10 Q. And what was that mine?

11 A. Sago.

12 Q. Any other mine other than Sago  
13 and Aracoma?

14 A. When I first started out, I  
15 worked at Victory for Massey as a  
16 contractor, when I first started out  
17 as a red hat.

18 Q. Do you remember who operated  
19 Sago when you worked there?

20 A. Jim Schwartz, I believe, and  
21 Brad --- I don't remember Brad's last  
22 name. Brad was superintendent, but  
23 Jim Schwartz was mine foreman.

24 Q. What did you do at Sago?

25 A. End top.

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01 Q. Do you think Aracoma was a  
02 safe mine?

03 A. Yeah. It's a pretty good

04 mine.

05 MR. TUCKER:

06 One last question.

07 BY MR. TUCKER:

08 Q. Do you think that Mr. Plumley  
09 would keep his detector on when he  
10 operates the continuous miner?

11 A. I don't know if he does or  
12 not. No idea.

13 MR. MURRAY:

14 Gary, can I get you to  
15 come up here and sign and date  
16 the map that we worked on  
17 today? You're just indicating  
18 that what we've talked about  
19 was to the best of your  
20 knowledge. Mark anywhere.

21 WITNESS COMPLIES

22 MR. MURRAY:

23 Mr. Heath, any  
24 clarifying questions?

25 MR. HEATH:

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01 Just one or two brief  
02 ones.

03 BY ATTORNEY HEATH:

04 Q. Gary, when you all crossed  
05 over out of 48-inch-inch belt, were

06 you near the end of the belt line or  
07 how close were you to the end of it,  
08 where it dumps onto the six-foot belt  
09 going outside?

10 A. I ain't sure. I don't believe  
11 it's --- I ain't for sure. If they  
12 said it's six, ten breaks down  
13 through there, I ain't sure.

14 Q. Okay. And when you crossed  
15 through, do you recall being on top  
16 of the hill, basically?

17 A. Yeah, we was pretty close to  
18 the top.

19 Q. And did you walk straight down  
20 to meet the longwall crew?

21 A. Yes.

22 ATTORNEY HEATH:

23 That's all the  
24 questions I had.

25 BY MR. TUCKER:

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01 Q. This is my last question.

02 A. Uh-huh (yes).

03 Q. Was you working on the Two  
04 section on December 23rd, which would  
05 have been the Friday before  
06 Christmas?

07 A. I don't remember.

08 Q. That crew did work on that

09 section on that day. Is that your

10 normal crew ---

11 A. No.

12 Q. --- that you work with?

13 A. I've been with them here for

14 the last month or so. My normal crew

15 is Three section, where I come from.

16 Q. So you're not sure the week

17 before Christmas if you were on Two

18 section or Three section?

19 A. I don't remember no dates,

20 what time I started up there.

21 Q. Okay. If you were on Two

22 section on December 23rd and as you

23 were leaving the section and you came

24 to the double doors, do you remember

25 seeing Brandon Connelly in that area

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01 of the mother drive belt?

02 A. I don't know. I can't tell

03 you that because I don't know.

04 MR. TUCKER:

05 Okay. Thank you.

06 MR. MURRAY:

07 Gary, on behalf of

08 MSHA, we want to thank you for

09 coming over today and

10 answering our questions and

11 sharing the information that  
12 you personally know about this  
13 coal mine. Your cooperation  
14 is very important as we try to  
15 work to determine the cause of  
16 the accident. If you wish,  
17 you may now go back over any  
18 answer that you had given  
19 during the interview. And you  
20 may also make a closing  
21 statement to cover any  
22 additional points that you  
23 believe should be raised  
24 today. Did you want to  
25 clarify anything?

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01 A. No.

02 MR. MURRAY:

03 Do you have anything to  
04 add that we may not have  
05 covered?

06 A. No.

07 MR. MURRAY:

08 Okay. We ask that you  
09 not discuss your interview  
10 today with any person who may  
11 have already been interviewed  
12 or who may be asked to give a  
13 statement in the future. This



14 will ensure that we obtain  
15 everyone's independent memory  
16 of the events surrounding the  
17 accident.

18       After questioning other  
19 witnesses and obtaining  
20 additional information, we may  
21 need to ask you to come back  
22 to answer further questions as  
23 we learn more about this  
24 accident. We hope not, but we  
25 may have to. If at some later

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01 point you have additional  
02 information regarding the  
03 accident that you would like  
04 to provide us, you can either  
05 contact me or my staff  
06 assistant, Anthony Webb. That  
07 was the gentleman that was  
08 calling to try to set the  
09 interview up. And here's our  
10 contact information.

11       The Mine Act provides  
12 certain protection for  
13 individuals who participate in  
14 accident investigations. If  
15 at any time you believe that

16 you have been treated unfairly  
17 because of your cooperation in  
18 the investigation, please  
19 immediately contact either me  
20 or Anthony Webb. And again,  
21 we appreciate you coming in  
22 here. We know it's tough with  
23 a new child and a new job and  
24 the work schedule, but we  
25 really appreciate you coming

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01 in here as we try to put this  
02 puzzle together.

03 A. I'm sure they'll pay me for  
04 the day.

05 MR. MURRAY:

06 Okay.

07 MR. TUCKER:

08 That's all I have.

09 Here's a card. If you feel  
10 like because of your testimony  
11 you are discriminated against  
12 in any way, here's a card  
13 where you can contact me. Or  
14 if you think of something  
15 maybe that would be helpful in  
16 the investigation at any  
17 point, you know, feel free to  
18 give us a call and we

19 appreciate if you'd share that  
20 with us.

21 \* \* \* \* \*

22 SWORN STATEMENT

23 CONCLUDED AT 6:34 P.M.

24 \* \* \* \* \*

25