

01                   EXAMINATION UNDER OATH  
02                                   OF  
03                   BILLY BROWN, JUNIOR  
04  
05  
06    Taken pursuant to Notice by Autumn D.  
07    Furby-Pritt, a Court Reporter and  
08    Notary Public in and for the State of  
09    West Virginia, at Department of  
10    Environmental Protection, 1101 George  
11    Kostas Drive, Logan, West Virginia,  
12    on Friday, March 31, 2006, at 10:25  
13    a.m.

14

15

16

17

18

19

20

21

22

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

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

02

03 ANTHONY WEBB

04 U.S. Department of Labor

05 Mine Safety and Health Administration

06 Coal Mine Safety and Health

07 District 6

08 100 Fae Ramsey Lane

09 Pikeville, KY 41501

10

11 MARK HEATH, ESQUIRE

12 Spilman, Thomas & Battle, PLLC

13 990 Elmer Prince Drive

14 Suite 205

15 P.O. Box 4474

16 Morgantown, WV 25604-4474

17

18 DANIEL M. BARISH, ESQUIRE

19 U.S. Department of Labor

20 Office of the Regional Solicitor

21 1100 Wilson Boulevard

22 22nd Floor West

23 Arlington, VA 22209-2247

24

25

3

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

02

03 WILLIAM TUCKER

04 Assistant Inspector at Large

05 West Virginia Office of Miners'  
06 Health, Safety & Training  
07 142 Industrial Drive  
08 Oak Hill, WV 25901

09

10 ALSO PRESENT:

11 DENNIS A. BEITER

12 BETH SPENCE

13 DERRICK TJERNLUND

14

15

16

17

18

19

20

21

22

23

24

25

4

01 I N D E X

02

03 INTRODUCTION 6 - 16

04 WITNESS: BILL BROWN, JUNIOR

05 QUESTIONS

06 By Mr. Webb 16 - 104

07	By Mr. Tucker	104 - 121
08	By Mr. Webb	121 - 147
09	By Mr. Tucker	148
10	By Mr. Webb	149 - 151
11	By Mr. Tucker	151 - 152
12	By Attorney Heath	152
13	CONCLUSION	152 - 156
14	CERTIFICATE	157
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

01	EXHIBIT PAGE		
02			PAGE
03	NUMBER	DESCRIPTION	IDENTIFIED
04	A	Map of Whole Mine	36
05	B	Longwall Report	60
06	C	Closeup Map	125
07			
08			
09			

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

6

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

02 -----

03           MR. WEBB:

04           My name is Anthony  
05 Webb, and I represent the Mine  
06 Safety and Health  
07 Administration, which is an  
08 Agency of the U.S. Department  
09 of Labor. I'm assigned to the  
10 District Six Office in  
11 Pikeville, Kentucky. I'm a

12 member of MSHA's accident  
13 investigation team that's  
14 charged with investigating the  
15 accident that occurred at the  
16 Aracoma Coal Company,  
17 Incorporated, Aracoma Alma  
18 Mine Number One, on January  
19 19, 2006.

20 This is a joint  
21 accident investigation that  
22 MSHA is conducting with the  
23 State of West Virginia. I  
24 will be asking the questions  
25 for MSHA in this interview.

7

01 Also here today are other  
02 members of MSHA's and the  
03 State's investigation teams.  
04 MSHA's team includes various  
05 specialists from around the  
06 country and members of the  
07 Solicitor's Office. At this  
08 time, I would like to ask each  
09 member of MSHA's team to  
10 identify themselves for the  
11 record.

12 ATTORNEY BARISH:

13 Hello, Mr. Brown. My  
14 name is Dan Barish. I'm an

15 attorney in the Solicitor's  
16 Office representing MSHA and  
17 I'm from Arlington, Virginia.

18 MR. BROWN:

19 How you doing?

20 MR. TJERNLUND:

21 Derrick Tjernlund, MSHA  
22 Tech Support, Triadelphia.

23 MR. BEITER:

24 Denny Beiter, Tech  
25 Support, Triadelphia.

8

01 MR. WEBB:

02 Thank you. And again,  
03 I'm Anthony Webb from  
04 Pikeville, Kentucky. Also  
05 here today representing the  
06 State of West Virginia is Mr.  
07 Bill Tucker. Mr. Tucker will  
08 also be asking you questions.  
09 At this time, I would like to  
10 ask Mr. Tucker to make his  
11 opening statement and identify  
12 members of the State's team.

13 MR. TUCKER:

14 We appreciate you  
15 coming in today, Billy.

16 MR. BROWN:

17 Thank you.

18 MR. TUCKER:

19 I have a statement I  
20 need to read for the record.  
21 The West Virginia Office of  
22 Miners' Health, Safety &  
23 Training is conducting this  
24 interview session jointly with  
25 MSHA. And we're in agreement

9

01 with the procedures outlined  
02 by Mr. Webb. However, let me  
03 make it clear that the  
04 Director reserves the right,  
05 if necessary, to call or  
06 subpoena witnesses or require  
07 the production of any record,  
08 document, photograph or other  
09 relevant materials necessary  
10 to conduct this investigation.

11 Again, my name is Bill  
12 Tucker, I'm with Miners'  
13 Health, Safety & Training. I  
14 work out of the Oak Hill  
15 office.

16 MS. SPENCE:

17 Beth Spence with the  
18 Governor's Office.

19 MR. WEBB:



20 Thank you. This  
21 investigation is being  
22 conducted by MSHA and the  
23 State of West Virginia to  
24 gather information to  
25 determine the cause of the

10

01 accident and to help prevent  
02 similar accidents from  
03 happening in the future.  
04 These interviews are an  
05 important part of the  
06 investigation. After the  
07 investigation is completed,  
08 MSHA will issue a written  
09 report detailing the nature  
10 and causes of the accident.  
11 MSHA accident reports are made  
12 available to the public in the  
13 hope that greater awareness  
14 about the causes of accidents  
15 can reduce their occurrence in  
16 the future. Information  
17 obtained through witness  
18 interviews is frequently  
19 included in these reports.  
20 Your statement may also be  
21 used in other enforcement

22 proceedings.

23 I want to thank you in  
24 advance for being here today.  
25 We appreciate your assistance

11

01 in the investigation. It's  
02 the willingness of miners and  
03 mine operators to work with us  
04 that's critical in our success  
05 in making the nation's mines  
06 safer.

07 This interview with  
08 Billy Brown is being conducted  
09 under Section 103(a) of the  
10 Federal Mine Safety & Health  
11 Act of 1977 as part of an  
12 investigation by the Mine  
13 Safety & Health Administration  
14 into the conditions, events  
15 and circumstances surrounding  
16 the fatalities that occurred  
17 at the Aracoma Alma Mine  
18 Number One located at Route 17  
19 North, Bandmill Hollow Road,  
20 Stollings, West Virginia,  
21 25646.

22 This interview is being  
23 conducted at the West Virginia  
24 Department of Environmental

25 Protection in Logan, West

12

01 Virginia, on March 31st, 2006.

02 The current time is 10:28

03 a.m. Eastern Standard Time.

04 MR. WEBB:

05 Mr. Brown, this

06 interview will begin by asking

07 you a series of questions.

08 Feel free at any time to

09 clarify any statements you

10 make in response to the

11 questions. After we have

12 finished asking the questions,

13 you will have an opportunity

14 to make a statement of your

15 own and provide us with any

16 other information you believe

17 to be important.

18 You are permitted to

19 have a representative with you

20 during this interview, and you

21 may consult with your

22 representative at any time.

23 You may designate any person

24 to be your representative.

25 Following the questions by

13

01 MSHA and the State, this  
02 representative will be given  
03 the opportunity to ask  
04 questions for purposes of  
05 clarification on areas already  
06 discussed.

07 Your statement is  
08 completely voluntary. You may  
09 refuse to answer any question  
10 and you may end your interview  
11 at any time. If you do not  
12 understand a question, please  
13 tell me so I can clarify the  
14 question. If you need a break  
15 at any time for any reason,  
16 just let me know. You may  
17 request the opportunity to  
18 make a confidential statement,  
19 which we will withhold from  
20 the public to the extent  
21 allowed by law. Should you  
22 desire to give a confidential  
23 statement, you should advise  
24 me before I begin your  
25 interview so that I can

14

01 arrange to accommodate your  
02 request. Do you wish to have  
03 a confidential interview?

04 MR. BROWN:

05 No, this is fine. This  
06 is fine.

07 MR. WEBB:

08 Thank you. A court  
09 reporter will record your  
10 interview and will later  
11 produce a written transcript  
12 of the interview. I ask that  
13 you state your answers  
14 verbally because the court  
15 reporter cannot record  
16 gestures like nodding or  
17 shaking your head. I'd also  
18 like to ask you to respond  
19 loudly so that all the team  
20 members can hear your answers.

21 Neither the transcript  
22 of this interview nor the  
23 content of the interview will  
24 be released to the public or  
25 the media until MSHA's final

15

01 accident investigation report  
02 is issued or until required by  
03 court order or until a public  
04 hearing takes place.

05 If any part of your

06 statement is based on  
07 information that you have  
08 learned from someone else,  
09 please let us know. Please  
10 answer each question as fully  
11 as you can, including any  
12 information that you may have  
13 learned from someone else. We  
14 may not ask the right question  
15 to learn all the information  
16 you have, so don't feel  
17 limited by the precise  
18 question that's asked. If you  
19 have information about the  
20 subject area, please provide  
21 us with that information. Do  
22 you have any questions about  
23 the manner in which this  
24 interview will be conducted?

25 MR. BROWN:

01 No, sir. No, I don't.

02 MR. WEBB:

03 Okay. At this time,  
04 I'd like to ask the court  
05 reporter to administer the  
06 oath.

07 -----

08 BILLY BROWN, JUNIOR, HAVING FIRST

09 BEEN DULY SWORN, TESTIFIED AS

10 FOLLOWS:

11 -----

12 BY MR. WEBB:

13 Q. Mr. Brown, may I call you

14 Billy?

15 A. Yeah, that's fine.

16 Q. Okay. Thank you. Please

17 state your full name for the record.

18 A. Billy Brown, Junior.

19 Q. And your home address?

20 [REDACTED]

[REDACTED]

25 Q. Could you spell your last name

17

01 for the record?

02 A. B-R-O-W-N.

03 Q. Are you appearing voluntarily

04 at this interview?

05 A. Yes, sir.

06 Q. Has anyone made any promises

07 to you for giving your statement or

08 offered you any rewards in exchange

09 for making this statement?

10 A. No, sir.

11 Q. Has anyone threatened you or  
12 warned you not to provide a  
13 statement?  
14 A. No, sir.  
15 Q. Do you understand that you may  
16 refuse to answer any question or  
17 terminate this interview at any time?  
18 A. Yes.  
19 Q. Do you have a representative  
20 with you?  
21 A. Yeah, he's a company  
22 representative.  
23 Q. Okay. Would you please  
24 identify your representative?  
25 A. Mark Heath.

18

01 Q. When did you first meet Mr.  
02 Heath?  
03 A. The other day. It was ---  
04 well, I was referred. I asked for  
05 help, you know, in case I need it,  
06 from the company.  
07 Q. You requested help from  
08 someone?  
09 A. Right. Yeah.  
10 Q. And who would that have been?  
11 A. Pepé.  
12 Q. And did he refer you to Mr.  
13 Heath?



14 A. Yeah.  
15 Q. Did you make the decision to  
16 choose Mr. Heath as your  
17 representative?  
18 A. Yes. Yeah.  
19 Q. Does Mr. Heath represent you  
20 individually?  
21 A. No, sir.  
22 Q. Okay. So is he your attorney  
23 or your representative?  
24 A. Just my representative.  
25 OFF RECORD DISCUSSION

19

01 ATTORNEY HEATH:  
02 Anthony, what he's  
03 referring to and I've already  
04 put on the record is that I'm  
05 Aracoma's Counsel and his  
06 representative under the  
07 procedures.

08 ATTORNEY BARISH:  
09 Mark, remember you know  
10 the rules now. You're only  
11 allowed to speak when it's at  
12 the end for clarifying  
13 questions. So we're just  
14 asking the witness.  
15 OFF RECORD DISCUSSION

16 ATTORNEY BARISH:  
17 Mr. Brown, we want to  
18 be clear here, you indicated  
19 that Mr. Heath is the company  
20 representative and that is  
21 correct.

22 A. I mean, he's ---.

23 ATTORNEY BARISH:  
24 He represents ---- he's  
25 the attorney for Aracoma Coal

20

01 Company.

02 A. Right. Right.

03 ATTORNEY BARISH:  
04 So do you have a  
05 personal representative ---

06 A. No, sir.

07 ATTORNEY BARISH:  
08 --- that you want here  
09 at this ---

10 A. No, I ---

11 ATTORNEY BARISH:  
12 --- interview?

13 A. No.

14 ATTORNEY BARISH:  
15 Okay. Then Mr. Heath,  
16 you're going to have to leave  
17 this interview.

18 ATTORNEY HEATH:

19                   No. I think ---.  
20       A. I misunderstood you. I'm  
21       sorry. I'm sorry.

22                   ATTORNEY HEATH:

23                   Yeah, I think you're  
24       trying to use a lot of legal  
25       phrases.

21

01                   ATTORNEY BARISH:

02                   No. Mark, let me ---  
03       I'm asking the witness.

04                   ATTORNEY HEATH:

05                   All right.

06                   ATTORNEY BARISH:

07                   I'm asking the witness.  
08       Mr. Brown, ---.

09       A. I want Mark here as my  
10       representative. I'm sorry, I  
11       misunderstood you. He's a company  
12       representative --- or a company  
13       lawyer.

14                   ATTORNEY BARISH:

15                   Correct.

16       A. Right.

17                   ATTORNEY BARISH:

18                   So you understand that  
19       Mark Heath is the attorney for  
20       Aracoma Coal Company?

21 A. Yes. Yes, I do.

22 ATTORNEY BARISH:

23 Is he your personal

24 attorney?

25 A. No, sir.

22

01 ATTORNEY BARISH:

02 Okay. Is Mr. Heath

03 representing you individually

04 ---

05 A. Yeah, right here at this time.

06 ATTORNEY BARISH:

07 --- in any capacity?

08 A. No.

09 ATTORNEY BARISH:

10 He's not representing

11 you?

12 A. Yeah, he's representing me

13 right here at this time.

14 ATTORNEY BARISH:

15 What do you mean at

16 this time, for this interview?

17 A. Yeah.

18 ATTORNEY BARISH:

19 But let's just be clear

20 now, is Mr. Heath your

21 attorney?

22 A. No, he ain't my attorney, ---

23 ATTORNEY BARISH:

24                   So what is ---?

25    A.   --- personal attorney if

23

01    that's what you're asking.

02                   ATTORNEY BARISH:

03            What is his role?  What

04    is Mr. Heath's role with

05    respect to you, if any?

06    A.   He's my representative for

07    this right here.

08                   ATTORNEY BARISH:

09            For this interview?

10   A.   Yeah.

11                   ATTORNEY BARISH:

12            So do you want him to

13    be here as your representative

14    for this interview?

15   A.   Yes, sir.

16                   ATTORNEY BARISH:

17            And you're aware that

18    he also --- he's the attorney

19    for the coal company, Aracoma

20    Coal?

21   A.   Yes, sir.

22                   ATTORNEY BARISH:

23            And are you aware that

24    that creates a potential

25    conflict of interest between

01 the fact that he represents  
02 the coal company and you also  
03 want him to be your personal  
04 representative here, although  
05 not your attorney? Are you  
06 aware of that?

07 A. Yeah. Yeah.

08 ATTORNEY BARISH:

09 Did Mr. Heath inform  
10 you ---

11 A. Yeah.

12 ATTORNEY BARISH:

13 --- that there's a  
14 potential conflict ---

15 A. Yeah.

16 ATTORNEY BARISH:

17 --- of interest?

18 A. Yeah, he did. Yeah, he did.

19 ATTORNEY BARISH:

20 Do you feel like you  
21 have a choice in whether or  
22 not you want Mr. Heath present  
23 here for this interview?

24 A. Yeah. Yeah, I feel like I've  
25 got a choice, but I want him here for

01 my --- just say representative for  
02 me, you know what I mean? Just be

03 here for me.

04 ATTORNEY BARISH:

05 And you want --- do you  
06 want to proceed with this with  
07 interview Mr. Heath?

08 A. Yes, sir.

09 ATTORNEY BARISH:

10 And do you feel coerced  
11 in any way as to --- do you  
12 feel that you have to have Mr.  
13 Heath here?

14 A. No, I don't have to have him,  
15 no. I just want him, you know, here  
16 to be like, I'll say, a witness  
17 probably, my representative.

18 ATTORNEY BARISH:

19 And you're aware that  
20 you can choose not to have Mr.  
21 Heath here?

22 A. Yes, sir. Yes, sir, I do.

23 ATTORNEY BARISH:

24 And you said that you  
25 --- that Mr. --- that you

26

01 requested --- you talked to  
02 Pepé Lester and asked him what  
03 in reference to this  
04 interview?

05 A. Well, I told him I had to come  
06 down here today the first day you all  
07 called me. It was like on a --- it  
08 was last Friday, I believe, for the  
09 hearing

10 ATTORNEY BARISH:

11 Yeah.

12 A. And I come up here and told  
13 him I had to miss work, you know,  
14 what do you do if I have to come down  
15 here, will I get paid for it or  
16 ---. And he said, where are you  
17 going. I said, I'm going down there  
18 for a hearing for the --- over at  
19 Aracoma --- you know, us. And he  
20 said, do you want a representative to  
21 go with you. Yeah. Yeah, that'd be  
22 fine. And I got ahold of Mark.

23 ATTORNEY BARISH:

24 How did you get ahold  
25 of Mark?

27

01 A. He gave me his number and I  
02 called him.

03 ATTORNEY BARISH:

04 Did Pepé Lester give  
05 you Mark's number?

06 A. Yes, sir.

07 ATTORNEY BARISH:



08 And then you called

09 Mark Heath?

10 A. Yeah.

11 ATTORNEY BARISH:

12 Did Pepé Lester give

13 you a choice as to whether you

14 could have a representative?

15 A. Yeah. Yeah, he did. He said

16 he didn't have to go with me or you

17 can take your wife with you if you

18 want to.

19 ATTORNEY BARISH:

20 Okay.

21 A. And I said well, I'll just

22 take Mark because this is the company

23 lawyer, you know, and all this.

24 ATTORNEY BARISH:

25 Have you signed a form

28

01 related to your --- to Mr.

02 Heath being your personal

03 representative, some sort of

04 paper or document?

05 A. What do you mean? I don't

06 understand.

07 ATTORNEY BARISH:

08 Did Mr. Heath have you

09 sign anything related to him

10 being your --- representing  
11 you personally for this  
12 interview?

13 A. I signed something. I can't  
14 remember what it was. I believe it  
15 was something like that.

16 ATTORNEY BARISH:

17 Is that a yes?

18 A. Yes.

19 ATTORNEY BARISH:

20 Who gave you that  
21 document?

22 A. He did.

23 ATTORNEY BARISH:

24 Mr. Mark Heath?

25 A. Yeah.

29

01 ATTORNEY BARISH:

02 And what --- what is  
03 it? What did it say?

04 A. Oh, I don't --- I believe I've  
05 got it out in the truck if I need it.

06 ATTORNEY BARISH:

07 Can you provide us a  
08 copy of that?

09 A. I believe I --- if it's in the  
10 truck, I can.

11 ATTORNEY BARISH:

12 You've got it here in

13 your truck?

14 A. Yeah.

15 ATTORNEY BARISH:

16 Okay. We'd like to get

17 that before the interview ---

18 before you leave today. Would

19 that be okay?

20 A. Okay.

21 ATTORNEY BARISH:

22 Okay.

23 A. I'm pretty sure it might be in

24 my truck. I ain't for sure. But if

25 it, you know, --- if I have to run

30

01 home and get it, I could bring it

02 back to you or whatever.

03 ATTORNEY BARISH:

04 Did you have a choice

05 as to whether to sign that

06 document or did you have to

07 sign it?

08 A. No, I had a choice.

09 ATTORNEY BARISH:

10 Okay. And you chose to

11 sign it?

12 A. Uh-huh (yes).

13 ATTORNEY BARISH:

14 All right. We'll get

15 that from you at the end of  
16 the interview. All right.

17 That's all right. Go ahead.

18 BY MR. WEBB:

19 Q. Did Mr. Heath discuss what was  
20 going to take place in today's  
21 interview?

22 A. Some. Some, yeah.

23 Q. And who was present during  
24 that discussion?

25 A. Just me and him.

31

01 Q. Okay. Were you interviewed by  
02 the company before today?

03 A. No, sir.

04 Q. Did you attend a meeting at a  
05 local grade school after the fire?

06 A. No. I was --- let's see, what  
07 was that? We was supposed to go but  
08 I didn't go. It was ---.

09 Q. How long have you worked at  
10 Aracoma Alma Number One?

11 A. December 31st made a year.

12 Q. And what's your current job  
13 title?

14 A. I set up the longwall and tear  
15 them down.

16 Q. How long have you had that  
17 title?

18 A. Ever since I've been there.

19 Q. Was that your same job title  
20 on January the 19th?

21 A. Yeah. Yeah.

22 Q. Are you a member of  
23 management?

24 A. No, sir.

25 Q. Do you hold any State or

32

01 Federal certifications or  
02 qualifications, like examiner or  
03 foreman's papers or anything like  
04 that?

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

06 Q. So you haven't had any other  
07 jobs at this mine, you've always been  
08 on the setup crew?

09 A. Yeah. Yeah.

10 Q. How many total years of mining  
11 experience do you have?

12 A. I'll say 12.

13 Q. So you've worked at other  
14 mines then?

15 A. Yeah. Yeah.

16 Q. Who's your immediate  
17 supervisor at Aracoma?

18 A. It'd have to be Rod Morrison.

19 Q. Does he work the same shift as

20 you?

21 A. Yeah. Yeah.

22 Q. Billy, just for purposes of  
23 clarification, what I'd like for you  
24 to do is, can you give me a  
25 description of just exactly what it

33

01 is that you do as part of a setup  
02 crew?

03 A. Well, what we do, we go in the  
04 miner section. We go to the miner,  
05 you know, where we're supposed to set  
06 up at for the face, what they call  
07 the face or the longwall. We'll go  
08 in and just, you know, clean a little  
09 bit, if it has to be cleaned or  
10 anything or just to ready to set up.  
11 Then we'll go try setting up the  
12 wall, the next wall that's going to  
13 come in there.

14 Q. So you perform setup duties  
15 for the longwall section?

16 A. Yeah. Yeah.

17 Q. Did you get any special  
18 training related to that?

19 A. No. I just --- I was on  
20 longwall over at Independence and I  
21 just --- they asked me to come on  
22 setup where I worked all the time and

23 showed real good interest in it.

24 Q. Is longwall setup something  
25 you do all the time or do you have

34

01 other duties that you do in between  
02 the time the section moves?

03 A. It's what we do --- supposed  
04 to do all the time, but we'll go ---  
05 like down Nine tailgate, that's what  
06 we was trying to get out of there for  
07 that --- old track and stuff.

08 Q. So what was the last work of  
09 that setup type that you were doing?

10 A. I was pulling that track out  
11 of it.

12 Q. Did you help set up the  
13 longwall section in the panel where  
14 it is now?

15 A. Yes, sir.

16 Q. If you were moving a longwall  
17 section, say, when you were setting  
18 up the longwall in the panel it is  
19 right now, if a fire had occurred,  
20 would you know how to get out of the  
21 mine from where you were working?

22 A. Yeah. Yeah.

23 Q. Had you ever installed  
24 standing roof supports in Nine

25 tailgate?

35

01 A. What do you mean, like cribs

02 or ---?

03 Q. Had you ever --- were you ever

04 instructed to go install roof

05 supports in Nine tailgate?

06 A. What cribs or props?

07 Q. Props, cribs?

08 A. Oh, yeah. Yeah.

09 Q. Can you give me an idea of

10 where that might have been?

11 A. We come across --- come to the

12 longwall, when you come across the

13 face, we walk across the face and

14 come out the tail entry where we was

15 all at, you know what I mean?

16 Q. Okay. What we could do is, if

17 you don't mind, we might make several

18 trips today. If you'll come up the

19 map for just a moment, and we'll get

20 you to mark on the map.

21 ATTORNEY BARISH:

22 Billy, if I could just

23 remind you, you're somewhat

24 soft spoken, can you try to

25 just speak a little bit

36

01 louder, so everybody can hear.



02 A. Oh, I'm sorry.

03 ATTORNEY BARISH:

04 We really appreciate

05 that.

06 A. I'm sorry.

07 BY MR. WEBB:

08 Q. Does this map show the area?

09 A. We might probably need to use

10 ---?

11 Q. Okay. Let's use this one.

12 MR. WEBB:

13 We'll mark this map as

14 Exhibit A Brown.

15 (Brown Exhibit A marked

16 for identification.)

17 BY MR. WEBB:

18 Q. If I could get you to use this

19 blue marker. And of course, now this

20 map shows an area from inby the box

21 cut up to Two section. And it shows

22 --- this brown is belt, mother belt.

23 If I could get you to show me where

24 you were sent to install the roof

25 supports in Nine tailgate.

37

01 A. Well, I just --- I don't know

02 the spad number or nothing like ---

03 you know what I mean? It was ---

04 just trying to think. Because I  
05 don't know what the --- I was off  
06 that Thursday, the 19th. So I don't  
07 know what they mined, you know what I  
08 mean? What head. This is going to  
09 be like an estimated guess.

10 Q. That's fine. Here's Nine  
11 headgate and Nine tailgate. No, this  
12 is the headgate entry.

13 A. Okay.

14 Q. Over here's the tailgate.

15 A. As far as I know right now, I  
16 went across the face, the regular  
17 longwall face, and came out, I think  
18 it was --- I'd say right here  
19 probably to Three. There was some  
20 over here, you know what I mean?  
21 But the cribs was there. Just walked  
22 across the face. There was a little  
23 bit of water and stuff. But it was  
24 ---.

25 Q. So the crib blocks were

38

01 already waiting on you?

02 A. Yes. Yes.

03 Q. Can you tell me about --- do  
04 you remember when that might have  
05 been?

06 A. It may have been the week

07 before.

08 Q. A week before the fire?

09 A. Yes.

10 Q. Could you just maybe draw a  
11 circle here to show us the area where  
12 you installed the cribs and then  
13 maybe put in here installed a week  
14 before the fire?

15 WITNESS COMPLIES

16 BY MR. WEBB:

17 Q. Do you know how the crib  
18 blocks got there?

19 A. No, sir, I don't.

20 Q. Was --- when you were in that  
21 area, do you remember which way the  
22 air was flowing in Nine tailgate when  
23 you were over there working?

24 A. It was coming back to us.

25 Q. Okay. Just kind of put an

39

01 arrow up there.

02 A. Just up here.

03 WITNESS COMPLIES

04 BY MR. WEBB:

05 Q. So it was coming toward you?

06 A. Yes, sir.

07 Q. And just, if you don't care,  
08 just mark airflow right there.

09 WITNESS COMPLIES

10 BY MR. WEBB:

11 Q. Had you ever traveled in the  
12 air between Nine tailgate and  
13 northeast mains?

14 A. No, sir. There was one thing  
15 when there was a mantrip broke down  
16 right at the mother drive, right inby  
17 the doors at the mother drive. And  
18 there was a spring broke on it. We  
19 had to go up there and bring it up.  
20 That's the only time.

21 Q. When you went across the faces  
22 here into the tailgate entry, was  
23 there any roof supports installed  
24 around the tailgate?

25 A. Yes, sir. They was all up

40

01 there, just at the corner of the  
02 block. That's where they was mining.

03 Q. Okay. And it was around the  
04 tailgate side ---

05 A. Yes.

06 Q. --- of the longwall? Just go  
07 ahead and mark some in there and give  
08 me an idea of where those supports  
09 were. And if you don't care, just  
10 kind of draw another circle around  
11 those that were already there when

12 you got there. And we'll draw a  
13 little line out here and put already  
14 in place.

15 WITNESS COMPLIES

16 BY MR. WEBB:

17 Q. Do you remember about how far  
18 outby the longwall face you were when  
19 you installed those cribs?

20 A. 200 foot, 250 foot.

21 Q. And who worked with you on  
22 that?

23 A. Jerry, Jerry Workman.

24 Q. Jerry Workman. Do you  
25 remember how long it took?

41

01 A. Yeah. We was back there about  
02 all day.

03 Q. You got it all done in one  
04 day?

05 A. Yeah.

06 Q. Go back for just a few  
07 minutes. We may have to come back up  
08 here.

09 A. That's fine.

10 Q. Before you go into an area to  
11 perform work, does somebody make you  
12 familiar with the escapeways out of  
13 that area?

14 A. Yes, sir. Yes, sir.

15 Q. And who would that be?

16 A. It'd be either Rod or C.W. or

17 Pepé.

18 Q. And how does he do that?

19 A. He'll bring us to a map, show

20 us, you know, if --- what, you know,

21 --- and then he'll walk us through

22 it.

23 Q. Okay. When you got up there

24 to install those cribs, the --- I

25 think you told me the crib blocks

42

01 were already there.

02 A. Yeah.

03 Q. Were they just laying on the

04 ground or were they in a car or a

05 trailer or ---?

06 A. No, they was on the ground,

07 like it was just still there. It was

08 there. I mean, I don't know ---.

09 Q. Like maybe somebody had

10 delivered them and dumped them there?

11 A. I would say. I ---.

12 Q. During the normal course of

13 your duties, did you ever have a

14 chance to travel from Four Right up

15 into Nine tailgate?

16 A. No. So far as we've been is

17 --- or as far as I've been is them  
18 doors past the power center.

19 Q. Okay. So when you went over  
20 there to work in Nine tailgate, you  
21 just went across the longwall face?

22 A. Yeah.

23 Q. Do you have a normal crew that  
24 you work with?

25 A. Yeah, me and Jerry and Kevin

43

01 and Chad.

02 Q. Kevin?

03 A. Evans and Chad Evans.

04 Q. Okay. Do it's you and ---?

05 A. But they're more --- Kevin and  
06 Chad's more --- they run the tractors  
07 and stuff, supplying --- help supply  
08 everything, you know what I mean?

09 But me and Jerry really is the one  
10 around each other the most, or we  
11 work together the most.

12 Q. So when you need materials to  
13 build cribs or supports with, who  
14 normally delivers that to you?

15 A. Chad or Kevin.

16 Q. Now, Chad would be Chad?

17 A. Evans.

18 Q. Evans?

19 A. Yeah.  
20 Q. And the other person?  
21 A. Kevin Evans. That's his  
22 brother, Kevin.  
23 Q. Okay. Chad Evans and Kevin  
24 Evans. Okay.  
25 A. Yes, sir.

44

01 Q. Do you know who might have  
02 taken those cribs into Nine tailgate?  
03 A. No. No, sir, I don't.  
04 Q. Now, Chad Evans and Kevin  
05 Evans, do you know what shift they  
06 work?  
07 A. They're all my same ---.  
08 Q. Same shift as you?  
09 A. Yeah.  
10 Q. Okay. I have an eight and a  
11 half by eleven sheet of paper that's  
12 titled Aracoma Alma Number One Mine  
13 longwall production report. And ---.  
14 A. Excuse me, when you said have  
15 I ever been past them doors.  
16 Q. Yes.  
17 A. I'm sorry, forgive me. Yeah,  
18 I have. I've been past that door.  
19 Q. Up in Four Right?  
20 A. Yeah, I have.  
21 Q. Did you ever go up in Nine



22 tailgate through Four Right?  
23 A. Well, I was back up there with  
24 --- that day I come out on third  
25 shift, kept them --- you know, I

45

01 guess switch the air on and  
02 everything and that's when I was back  
03 there at that --- just that one time.

04 Q. Okay. Well, if you don't  
05 care, let me get you to come up to  
06 the map one more time, or it may be  
07 more than one more time. What we can  
08 do is take a red pen and just kind of  
09 show me, start anywhere in outby Four  
10 Right you want to and just show me  
11 how you went up in Four Right and how  
12 far you went.

13 A. Let's see.

14 Q. Right here is the box cut.

15 A. That's what I was trying to  
16 see here.

17 Q. Before we do that, let's go  
18 ahead and let's take a little break.

19 ATTORNEY BARISH:

20 Yeah, we're just going  
21 to take a break.

22 A. That's fine.

23 SHORT BREAK TAKEN

24 BY MR. WEBB:

25 Q. We'll give you this red pen.

46

01 What I'd like to get you to do is ---

02 you said you were up in Four Right?

03 A. Yeah.

04 Q. Do you remember when that was

05 that you went up in Four Right?

06 A. It was Wednesday, I was up and

07 pulling this track out.

08 Q. That would be Wednesday, the

09 week of the fire?

10 A. Yeah, the 18th.

11 Q. Okay. Can you tell me ---

12 we'll just start in north mains right

13 here. Tell me what route you took to

14 get up into Four Right.

15 A. Like right there.

16 Q. Okay. The track was in ---?

17 A. That's on the railway.

18 Q. So did you ride the track or

19 just travel in the track entry?

20 A. We traveled in the track

21 entry, yeah.

22 Q. And how far did you go?

23 A. To right here, going right

24 here maybe.

25 Q. Could you mark that door for

47

01 me?

02 WITNESS COMPLIES

03 BY MR. WEBB:

04 Q. That's fine. Just draw me a

05 little line down here and put --- now

06 is that an equipment door?

07 A. Yeah, it's a six-foot or a

08 five-foot door.

09 Q. Okay. Just mark --- just

10 write equipment door there.

11 WITNESS COMPLIES

12 BY MR. WEBB:

13 Q. Is that door normally open,

14 normally closed?

15 A. It's normally closed.

16 Q. Have you ever been --- how

17 many times have you been up here to

18 this equipment door?

19 A. Several times.

20 Q. Have you ever found it

21 standing open?

22 A. No, sir, I haven't.

23 Q. Okay. Go ahead and tell me

24 what --- what you did that day when

25 you went up in there.

48

01 A. What, to pull the track out?

02 Q. On the Wednesday before the

03 fire, you said you were up in here?  
04 A. Oh, we was pulling this track  
05 out from behind here left --- the  
06 miner section left in behind to get  
07 to this one, to go back through here.  
08 Try and help set up a wall.

09 Q. Okay. When you were up in  
10 this area working, did you ever  
11 notice which way the air was flowing?

12 A. It was going towards us.

13 Q. Okay. Can you just draw a  
14 line in there or an arrow showing  
15 which way the air was flowing? And  
16 just put a little line up here and  
17 write airflow.

18 WITNESS COMPLIES

19 BY MR. WEBB:

20 Q. Were there any other equipment  
21 doors that you went through on the  
22 way up through here?

23 A. There was two right here.

24 Let's see ---.

25 Q. Now, these controls that are

49

01 marked on the map might not be  
02 accurate.

03 A. Okay.

04 Q. So we'll just depend on you to  
05 tell me where the doors were

06 regardless of where anything might be  
07 marked.

08 A. Okay. They was right ---  
09 there's two doors, like two, what  
10 they call, airlock doors. Two  
11 airlock --- airlock doors.

12 Q. Would you mark those for me?

13 A. That there's for it.

14 Q. Okay. Just go ahead and mark  
15 it in there.

16 WITNESS COMPLIES

17 BY MR. WEBB:

18 Q. Okay. Go ahead and take me up  
19 through there. Are there any other  
20 doors?

21 A. No. These two are at right  
22 here and there ain't no more there.

23 Q. Would you care to put an X on  
24 the ones that aren't there?

25 WITNESS COMPLIES

50

01 BY MR. WEBB:

02 Q. Okay. Now, this direction of  
03 airflow that you've shown me here, is  
04 that the direction of the way the  
05 ---?

06 A. No. Well, that's --- I'm  
07 sorry.

08 Q. Is that the direction the air  
09 was flowing in the track entry where  
10 you were?

11 A. Yes, sir.

12 Q. Okay.

13 A. But that's in the wrong entry  
14 though. It's supposed to be back  
15 over here, the airflow.

16 Q. Okay. Well, if you want to,  
17 we can make an X right on top of that  
18 arrow.

19 A. Yes.

20 Q. And then you can just bring  
21 this line right on down here and just  
22 make that arrowhead right there a  
23 little bit bigger.

24 WITNESS COMPLIES

25 BY MR. WEBB:

51

01 Q. I think that will do that.  
02 Have you ever been inby this last  
03 equipment door at the intersection of  
04 Four Right and Nine tailgate? Have  
05 you ever been up in Four Right past  
06 that, that intersection?

07 A. Yeah. I'm just trying to  
08 think. Well, we were --- I was just  
09 right here.

10 Q. Right. In the intersection?

11 A. Yeah, right close to it right  
12 there.

13 Q. Did you ever have a chance to  
14 go down and be anywhere around the  
15 stopping line on the outby side of  
16 Four Right anywhere in the area  
17 around the intersection of Nine  
18 tailgate?

19 A. No, sir.

20 Q. Do you know if there's a  
21 stopping down there that has a hole  
22 in it?

23 A. Couldn't tell you. It's been  
24 a while since I've been back in  
25 there.

52

01 Q. When you were up in here  
02 working, is there a waterline up in  
03 there?

04 A. Yes, sir. Yes.

05 Q. What size did it have?

06 A. They had two of them, two  
07 discharge. One was six-inch and one  
08 was an eight-inch.

09 Q. Are both of them in the track  
10 entry?

11 A. Yes, sir.

12 Q. And do they both have water in

13       them under pressure?  
14       A.  No.  Just when they run the  
15       pump back there, what they call an 88  
16       horsepower pump.  It's right inby the  
17       airlock doors going ---.  
18       Q.  Is there a pump up here?  
19       A.  Yeah, there's a pump.  
20       Q.  Okay.  Can you mark that on  
21       the map for me?  Just put a P there.  
22       A.  This is a rough estimate, you  
23       know what I mean.  
24       Q.  Okay.  Just draw me a little  
25       line out here and write pump.

53

01       A.  I think it's over here.  
02       WITNESS COMPLIES  
03       BY MR. WEBB:  
04       Q.  Okay.  When you go through  
05       this equipment door that's right here  
06       at the intersection of Four Right and  
07       Nine tailgate, which way does that  
08       door open?  
09       A.  It opens toward you, like if  
10       you're standing here, it would open  
11       back towards you.  
12       Q.  It would open outby, in an  
13       outby direction?  
14       A.  Yeah.  Yes, sir.  
15       Q.  Does it have any --- is it



16 hard to open? Does it have any air  
17 pressure on it?

18 A. Yes.

19 Q. Would you say it was easy or  
20 medium or difficult to open?

21 A. Medium probably.

22 Q. One person could do it without  
23 any problem?

24 A. Yeah.

25 Q. What about the airflow

54

01 direction, does the airflow change  
02 when you open that door?

03 A. Yeah, it might --- let me  
04 think.

05 Q. I know you mentioned that the  
06 air in the track's going inby. When  
07 you open that door, does the  
08 direction of the air change?

09 A. I don't believe it does.

10 Q. Does the amount of airflow  
11 change?

12 A. It picks up. It picks up  
13 right here.

14 Q. So with this equipment door,  
15 you'd have a heavier airflow through  
16 that area? Do you think the reason  
17 that the door's a little difficult to

18 open is because of the air pressure  
19 against it?

20 A. Yeah. Yeah.

21 Q. Getting back to these  
22 waterlines again.

23 A. Okay.

24 Q. Is it part of your job to  
25 remove waterlines as you're removing

55

01 the track?

02 A. No. We just scooted it to the  
03 side, whatever, to get it out of the  
04 way to make clearings.

05 Q. Do you know what the  
06 waterlines are in there for?

07 A. I know --- eight-inch  
08 waterlines for that 88 horsepower, I  
09 think this pump right here. It was  
10 sitting right here.

11 Q. The pump that's in the  
12 intersection of --- between Four  
13 Right and Nine tailgate?

14 A. Yes, sir.

15 Q. What's that pump do? Is it  
16 for dewatering?

17 A. Yes, sir. Yes.

18 Q. I think one of the things I'm  
19 trying to get clear in my mind is,  
20 this eight-inch waterline that this

21 pump serves, is it pumping water out  
22 of the mine?  
23 A. Yes, sir.  
24 Q. Okay. Do you have any idea  
25 when you open this door, what changes

56

01 that might make in airflow in other  
02 areas of the mine?  
03 A. No, sir, I don't.  
04 Q. Have you opened this door and  
05 maybe somebody get on the mine phone  
06 and will say, where's my air on the  
07 longwall face? Or have you ever had  
08 any complaints about maybe this door  
09 staying open?  
10 A. No. No, I haven't. Because I  
11 put --- I could have heard them  
12 holler because there's a power center  
13 right there. Right here.  
14 Q. Okay. Put a PC there for me.  
15 ATTORNEY BARISH:  
16 Billy, don't forget to  
17 speak up, please. It's hard  
18 to hear. It's hard to hear.  
19 BY MR. WEBB:  
20 Q. Just draw me a little line  
21 right there and just write power  
22 center.

23 WITNESS COMPLIES

24 BY MR. WEBB:

25 Q. Do you know how that power

57

01 center is ventilated? You've been to  
02 the power center; right?

03 A. Yeah, that's as far as we ---  
04 well, really I've been to the pump  
05 around right here, you know what I  
06 mean? But there's a hole in that  
07 stopping I believe right there, right  
08 behind the power center, the  
09 ventilation, to make it go.

10 Q. Okay. So if the power  
11 center's right here at the  
12 intersection near spad 2729 on this  
13 map, which stopping would have a hole  
14 in it now?

15 A. The one right behind it. The  
16 one right here. It should have.

17 Q. Okay. Let's circle that  
18 stopping. And just draw a line up  
19 there and just put hole in stopping.

20 WITNESS COMPLIES

21 BY MR. WEBB:

22 Q. And do you know which  
23 direction the air is flowing through  
24 that hole in the stopping? Is it  
25 coming into the power center or is it

01 going towards the ---?

02 A. It was pulling through ---  
03 pulling through the hole, the air.

04 Q. Okay. Let's mark just a  
05 little arrow right here. And we'll  
06 just label that airflow through  
07 stopping.

08 WITNESS COMPLIES

09 BY MR. WEBB:

10 Q. Okay. Are you familiar with  
11 any stoppings around the pump?

12 A. No. Because that part, where  
13 that pump's at --- you can see them,  
14 you know, if you get down and look  
15 and see. You can see them, but where  
16 it pumps at, it's like a sump hole,  
17 you know what I mean? Where they  
18 pump water or ---.

19 Q. Okay. So I'm trying to get it  
20 clear in my mind. The pump is --- is  
21 it in the intersection or is it in an  
22 entry or crosscut?

23 A. It's right close to an  
24 intersection or entry or  
25 intersection. It's right ---

01 probably right there in that area

02 right there.

03 Q. Is it in a hole or ---

04 A. Yeah.

05 Q. --- just setting in the ---?

06 A. I believe it's in a hole,

07 because like I ain't never been over

08 there to it.

09 Q. Okay. The air that goes

10 through this equipment door, do you

11 know where that goes? When you open

12 the door, do you know where that

13 air's going?

14 A. No, sir, I don't. Unless it

15 goes on up towards this way. I don't

16 know anything like that.

17 Q. And when you get to the

18 equipment doors before you open them,

19 is it wheezing? Is there a lot of

20 leakage or is it pretty tight?

21 A. It's pretty tight.

22 Q. Can you tell there's some

23 leakage through it?

24 A. Uh-huh (yes). You can hear a

25 (whistles), you know what I mean?

60

01 It's right over here.

02 Q. And which direction is that

03 air going

04 A. It's pulling through. It's

05 traveling towards the ---.

06 Q. It's going inby?

07 A. Yeah.

08 Q. Can we make that on the map?

09 Just put you an arrow.

10 WITNESS COMPLIES

11 BY MR. WEBB:

12 Q. Yeah, that's fine. And then

13 draw you a line up down here and just

14 put airflow through door.

15 WITNESS COMPLIES

16 BY MR. WEBB:

17 Q. All right. Let's come back to

18 the table for a few minutes. Okay.

19 I've got an eight and a half by

20 eleven sheet of paper that's titled

21 Aracoma Alma Number One Mine Longwall

22 Production Report that we mentioned a

23 few minutes ago. I'm going to mark

24 that as Exhibit B Brown.

25 (Brown Exhibit B marked

01 for identification.)

02 BY MR. WEBB:

03 Q. Do you recognize that?

04 A. No, sir, I don't.

05 Q. So you wouldn't have been the

06 one to fill that out?

07 A. No, sir.

08 Q. Okay. On this page it  
09 mentions a B. Brown over here under  
10 --- where all the writing is in this  
11 column. It mentions a B. Brown. Can  
12 you read for me what that says?

13 A. Do you want me to read all of  
14 it or ---?

15 Q. Yes, if you would, please.

16 A. Gathered up structure and  
17 brought out --- brought out --  
18 brought out structure old tram motor  
19 and old cover motor and old trapping  
20 shoe, empty bottles, run monorail  
21 down, hung up shovel on tail, busted  
22 rock, moved hoses for the next move,  
23 and hung up --- worked on hanging  
24 rest of it or laying rest of track.  
25 Went to Rum Creek, filled up tanker

62

01 up, transferred oil on that wall,  
02 sent A.C. two men, plus B. Brown to  
03 change the air around.

04 Q. Okay. Now, this B. Brown is  
05 that you?

06 A. I guess, sir.

07 Q. Do you remember being sent ---  
08 A. Yeah.

09 Q. --- to change air around?



10 A. I went to help A.C.  
11 Q. Okay. Now, who is A.C.?  
12 A. A.C. Kline I believe is his  
13 last name. He's on third shift.  
14 Q. And it mentions two other men.  
15 Do you remember who they were?  
16 A. No, sir, I don't.  
17 Q. Okay.  
18 A. Because that's the only time  
19 really I worked third shift over  
20 there. I didn't ---.  
21 Q. As far as you know, are you  
22 the only B. Brown ---  
23 A. Yes, sir.  
24 Q. --- at the mine?  
25 A. Yes, sir.

63

01 Q. Okay. So you and A.C. were  
02 sent to change air around. And the  
03 date on this is 1/18/06 on third  
04 shift. Where did you go to change  
05 the air around?  
06 A. Right there where I was at  
07 Nine tail.  
08 Q. That would be --- is that at  
09 the intersection of Nine tailgate and  
10 Four Right?  
11 A. Yes, sir. Yeah, it's on up

12 where them doors and stuff is at,  
13 inby. You know, right there where I  
14 told you we was at --- where I was at  
15 before.

16 Q. Okay. And after being sent up  
17 there to change the air around, what  
18 did you do to change the air?

19 A. We --- the only thing I done  
20 was, they had marked already like  
21 knocked two stoppings, knocked or  
22 whatever. This is what Rod told me.

23 Q. Rod?

24 A. Morrison

25 Q. Morrison.

64

01 A. Rod told me, he said, Bill, I  
02 do, I got them marked and everything.  
03 He walked me through it, me and A.C.  
04 He told me --- and he said I got the  
05 stoppings marked you need to knock.

06 Q. Okay. Can you show me those  
07 stoppings on the map?

08 A. Okay. If I remember.

09 Q. Okay. And we'll use a green  
10 pen this time. So did he --- he  
11 walked you through the area?

12 A. Yes, sir.

13 Q. Now, this would have been Rod  
14 Morrison?

15 A. Yes, sir.

16 Q. Walked you through the area  
17 and shoed you --- showed you which  
18 stopping ---

19 A. Yes.

20 Q. --- he wanted knocked.

21 A. If I can remember ---.

22 Q. Did Rod have a map with him at  
23 that time?

24 A. Yeah, he was up there before  
25 when I was up there pulling the track

65

01 out. He come, him and C.W. come up  
02 there to fire boss or whatever.

03 Q. Okay.

04 A. And they was up there looking  
05 around and he took a, I guess, a can  
06 of spray paint with him and just  
07 wrote, you know what I mean, knock on  
08 them.

09 Q. Okay. So he already had the  
10 stoppings marked for you with spray  
11 paint?

12 A. Yes, sir.

13 Q. And the word knock on the  
14 stopping, okay. If you can just take  
15 a look at it and take your time and  
16 see if you can remember where those

17 stoppings were.

18 A. I can't remember.

19 Q. Would it have been somewhere  
20 in Four Right between Nine tailgate  
21 and Nine headgate or would it have  
22 been inby Nine tailgate?

23 A. It seemed like it was over  
24 through in between where we was, they  
25 was working at before --- or I was

66

01 working, you know, and they went  
02 through. That's the only time I've  
03 ever ---.

04 Q. Could you remember if it would  
05 have been inby that equipment door or  
06 outby the equipment door?

07 A. Inby.

08 Q. So it would have been inby the  
09 equipment door?

10 A. Yeah.

11 Q. Okay. Do you think it was in  
12 Four Right or was it up in Nine  
13 tailgate?

14 A. It seemed like it was closer  
15 to Four Right.

16 Q. We're getting there, in the  
17 air down here.

18 A. Yeah. Yeah.

19 Q. Now, the equipment door that

20 we're talking about is the one that's  
21 at the intersection of Four Right ---  
22 A. Right.  
23 Q. --- and Nine tailgate? Okay.  
24 So it would have been inby that  
25 equipment door.

67

01 A. You see, these doors right  
02 here are no longer there. These two  
03 right here.  
04 Q. Is there anything there?  
05 A. No.  
06 Q. Just go ahead and mark an X on  
07 those for me.  
08 A. And these are still here.  
09 Them two right there. As far as I  
10 know they are.  
11 Q. So the two equipment doors  
12 that are shown inby spad 2741 in Four  
13 Right are no longer there. But the  
14 equipment doors at the mouth --- or  
15 at the intersection of Nine tailgate  
16 and Four Right, the equipment doors  
17 that are actually in Nine tailgate  
18 are still there; correct?  
19 A. As far as I know they are.  
20 Q. Okay. Is that helping you  
21 narrow down anywhere those stoppings

22 might have been?

23 A. Now I remember something,

24 yeah.

25 Q. Okay.

68

01 A. Seemed like we built --- I

02 built two.

03 Q. So you knocked out two and

04 built two?

05 A. Yeah.

06 Q. Okay.

07 A. Seemed like it --- I don't ---

08 I can't remember right off hand.

09 Seemed like we built that one. Put

10 one right here maybe.

11 Q. So you think you built one

12 here and where else might you have

13 built another one? And we'll

14 identify it just in a minute.

15 A. Seemed like --- no, I'm sorry.

16 It's right her, I believe. Mark that

17 one out. There was one right here.

18 I believe it's in between the doors,

19 because that's a --- I guess that's a

20 longwall's return up there. I believe

21 we put one right there.

22 Q. Okay. So it looks like we

23 built one stopping in Four Right inby

24 spad 2788, one break inby and to the

25 left of that spad. And we've built

69

01 one stopping in Nine tailgate between  
02 spads 2789 and 2795. Okay. Is that  
03 helping you remember about where you  
04 might have taken out those other two  
05 stoppings?

06 A. I believe it was --- might be  
07 these two right here. I can't --- it  
08 was somewhere close right there, in  
09 that vicinity, I think.

10 Q. Just go ahead and circle the  
11 ones that you think that it was. And  
12 we'll just draw a line here saying  
13 removed --- or let's say, before I  
14 write anything there, let's see, when  
15 you knocked out these stoppings, did  
16 you knock out the whole stopping or  
17 just knock a portion of it out?

18 A. Well, we knocked a portion of  
19 it out, yeah. We made a --- I guess,  
20 A.C. called to see if it had any  
21 effect on it or whatever. And then  
22 they said no. And then we knocked  
23 some more of it out.

24 Q. So in the end, did you pretty  
25 much knock the whole stopping out?

70

01 A. Yeah. Yeah.

02 Q. What if we mark that knocked  
03 out?

04 WITNESS COMPLIES

05 BY MR. WEBB:

06 Q. And then on these other two  
07 stoppings, we'll draw us a little  
08 line to them and just get you to  
09 write the word --- write built  
10 stopping up there.

11 WITNESS COMPLIES

12 BY MR. WEBB:

13 Q. Did Rod tell you why he wanted  
14 that done?

15 A. To put air across that face,  
16 the new Ten headgate.

17 Q. Okay. And when you knocked  
18 out these stoppings, do you remember  
19 which way the air came --- did the  
20 airflow change when you knocked them  
21 out?

22 A. No, not really. No.

23 Q. Which way was the air flowing?  
24 Was the air flowing out of Nine  
25 tailgate ---

71

01 A. Yeah.

02 Q. --- or up into Nine tailgate?

03 A. Flowing in.



04 Q. So the air was coming out of  
05 Nine tailgate into Four Right?

06 A. Yeah.

07 Q. And did that change when you  
08 knocked out those two stoppings?

09 A. No, it didn't.

10 Q. Did you notice any changes  
11 when you built the other two  
12 stoppings?

13 A. I can't remember. I really  
14 can't.

15 Q. Okay. Do you remember about  
16 what time you all did that work in  
17 there?

18 A. Tuesday or --- Tuesday evening  
19 or Tuesday night.

20 Q. I think ---.

21 A. Well, that's --- wait a  
22 minute. I'm sorry.

23 Q. If I was looking at the  
24 Exhibit B here. It's dated on the  
25 18th on the third shift.

72

01 A. Okay. That would be Wednesday  
02 night. We're always a day ahead. On  
03 third shift.

04 Q. Okay. So what time would that  
05 actually be for you?

06 A. That'd be --- that'd be my  
07 18th.

08 Q. So that would actually be your  
09 Wednesday?

10 A. Right.

11 Q. Okay.

12 A. I just stayed back Wednesday  
13 day to pull the rest of this track  
14 out and stuff.

15 Q. Okay. Do you remember about  
16 what time of day it might have been  
17 that you were doing that?

18 A. When I come out on third shift  
19 or ---?

20 Q. When you were in there working  
21 on these stoppings.

22 A. Oh, lord. I'm going to say  
23 one o'clock, maybe two o'clock.

24 Q. Okay. Would that be a.m.,  
25 p.m.?

73

01 A. A.M.

02 Q. Okay. When you all were doing  
03 this work, were they up here running  
04 the longwall?

05 A. No, they wasn't running. They  
06 was out. That was on third shift is  
07 when it was at.

08 Q. Okay. So who did --- I think

09 you said A.C. called someone to see  
10 if they had changed the air?

11 A. I believe it was Derrick  
12 Christian.

13 Q. Derrick Christian?

14 A. Yeah.

15 Q. And did A.C. come back and  
16 talk you about whatever --- had it  
17 made a difference or anything?

18 A. Yeah.

19 Q. What did he ---?

20 A. Well, we was standing --- we  
21 was all standing right there where  
22 his phone was at. We was all  
23 standing there, where he was at.

24 Q. Okay. What did he tell you?

25 A. He said that it didn't change

74

01 anything, whatsoever.

02 Q. Okay. So you knocked out two  
03 stoppings first or did you build two  
04 stoppings?

05 A. Yeah.

06 Q. You knocked out two first  
07 stoppings first?

08 A. I believe that's the way we  
09 was doing it, yeah.

10 Q. And was that when A.C. called

11 to see if it had helped?

12 A. No, that's when we built.

13 Q. Okay. So it was after you had

14 knocked two of them out, and built

15 two of them back in?

16 A. Yeah.

17 Q. Okay. So after you had done

18 all this work and A.C. had called to

19 find out if it had an effect, and

20 from what I understand you're telling

21 me, the report came back to A.C. that

22 it hadn't had any effect on it?

23 A. Right. Right. Right.

24 Q. Were you sent to do anything

25 else about the air or ---?

75

01 A. No.

02 Q. What did you and your crew do

03 after that?

04 A. Well, I went back outside, but

05 --- I went back outside, out with my

06 crew, then I rode back in with them.

07 Then we started pulling these tracks

08 again back here, because we didn't

09 have it all done at the time.

10 Q. So you went back to pull them

11 track?

12 A. Right.

13 Q. The person that A.C. called,

14 was he on the longwall?

15 A. Yes.

16 Q. And that was ---?

17 A. I believe it was Derrick

18 Christian.

19 Q. Derrick Christian. Does he

20 --- does he normally work on the

21 longwall?

22 A. Yeah, he's one of --- him and

23 A.C. both are the third shift.

24 Q. Okay. What, boss? They're

25 both bosses?

76

01 A. Yeah.

02 Q. Okay. Just to kind of clear

03 things up for me. When you were down

04 here working on these, would that

05 have been 1:00 a.m. on the 18th or

06 1:00 a.m. on the 19th?

07 A. The 18th, because I was off

08 the 19th, because I had to go to

09 divorce court.

10 Q. Were you working on the 17th,

11 January 17th?

12 A. Yeah.

13 Q. Okay. What time did you start

14 work on the 17th?

15 A. Had to be dayshift.

16 Q. Okay. Did you work the night  
17 of the 17th, or did you work a normal  
18 shift?

19 A. I think I worked that normal  
20 shift.

21 Q. Okay. And what is your normal  
22 shift?

23 A. From 7:00 to 4:00.

24 Q. Okay. Is that 7:00 a.m. to  
25 4:00 p.m.?

77

01 A. Yeah, 7:00 a.m.

02 Q. Okay. Well, I was trying to  
03 get it clear in my mind, you doubled  
04 back.

05 A. I doubled back.

06 Q. So you went to work ---?

07 A. Well, really I went to work,  
08 went home, grabbed me a couple hours  
09 sleep, three or four hours, and I  
10 come back out on third shift.

11 Q. Okay. So you went to work  
12 your normal time on the 17th, which  
13 would have been 7:00 a.m.?

14 A. 7:00 a.m. to 4:00 p.m.

15 Q. Okay. At 4:00 p.m., you came  
16 out and you went home?

17 A. Right.

18 Q. Then you came back at what

19 time?

20 A. It was 11:00.

21 Q. P.M.?

22 A. Yes. Yeah. 11:00 p.m.

23 Q. On the 17th?

24 A. Yeah.

25 Q. And then you worked through to

78

01 the 18th.

02 A. Right.

03 Q. And then about what time did

04 you come out of the mine on the 18th?

05 A. When we come out the first

06 time, it was right around 6:30 a.m.,

07 and I went back in with the crew at

08 seven o'clock and I come back out at

09 4:00, 4:00 p.m.

10 Q. So you went back in on the

11 18th?

12 A. Yeah.

13 Q. At your normal work time, 7:00

14 a.m.?

15 A. Right.

16 Q. And worked through 'til 4:00

17 p.m. on the 18th?

18 A. Yeah.

19 Q. When A.C. called the longwall

20 section, was he trying to find out if

21 there had been any effect or ---

22 A. Yes.

23 Q. --- was he trying to show that  
24 there had been no effect?

25 A. Well, probably a little bit of

79

01 both, you know what I mean? He was  
02 just calling to make sure it didn't  
03 have no effect. If it did, we was  
04 going to go back and re-do what we  
05 done.

06 Q. Okay. So A.C. called to make  
07 sure that what you all did hadn't  
08 affected the longwall?

09 A. Right. Right.

10 Q. Okay. Do you know if there  
11 was a split of air that ventilated  
12 Ten headgate before you made the  
13 ventilation change?

14 A. No. No, sir, I didn't.

15 Q. Had you ever been up in this  
16 area or did you go up in the area  
17 after the change?

18 A. After the change, I went up  
19 there and walked the face of it. I  
20 went to the face, me and C.W. Me,  
21 Rod, C.W. I don't know what C.W.  
22 would've ---

23 Q. Who is C.W.



24 A. Clarence Workman. It was me,  
25 Rod, Gary and Pepé that went back

80

01 over to see what all they left or  
02 supplies they left or --- you know  
03 what I mean?

04 Q. So Gary was ---?

05 A. He's the superintendent.

06 Q. You mean Gary Goff?

07 A. Yes.

08 Q. Okay. So once this was all  
09 done, you walked up in here with the  
10 folks that you just mentioned?

11 A. Right.

12 Q. Can you kind of show me where  
13 you went?

14 A. Yes, sir. Right here, just  
15 down at the face. We walked down the  
16 face, what they call the longwall  
17 setup face and then went over and we  
18 come back, we walked. It seemed like  
19 it was just in through here, just to  
20 look around for supplies, Rod and  
21 Pepé. It'd be the track entry we  
22 were on.

23 Q. Okay. And how did you get  
24 from the longwall face area over into  
25 the track entry?

01 A. When we was ---?  
02 Q. You walked in an inby  
03 direction?  
04 A. Yes, sir.  
05 Q. And once you got up here, how  
06 did you get over in that entry?  
07 A. There was --- there's a --- I  
08 think there's a set of doors, I'm  
09 thinking right here or right here,  
10 one of them. I can't remember.  
11 Q. Care to mark that?  
12 A. You want me to circle both of  
13 them?  
14 Q. Certainly just circle the  
15 area, just put a set of doors.  
16 WITNESS COMPLIES  
17 BY MR. WEBB:  
18 Q. And then if you can mark the  
19 direction of travel? You traveled  
20 inby on the longwall face?  
21 A. Yeah.  
22 Q. And then did you turn around  
23 and travel back outby in the next  
24 entry ---  
25 A. Yeah.

01 Q. --- beside that or ---? Okay.  
02 What I'm interested in, when you

03 walked up this way and then you came  
04 across somewhere and walked back out,  
05 ---

06 A. Yes.

07 Q. --- in the next entry outby,  
08 how did you get from this point to  
09 this point?

10 A. There's a man door right here.  
11 There's a man door right here it  
12 seemed like. You know what I mean?  
13 I walked those three breaks. This is  
14 on the headgate entry here.

15 Q. You're talking about Ten  
16 headgate?

17 A. Right. Walked maybe three  
18 breaks to the head maybe, in the face  
19 itself.

20 Q. So there was a ---?

21 A. No. I'm sorry. I want to  
22 rephrase it. When we come out, there  
23 was a --- I guess before we switched  
24 the air, went across to, I guess,  
25 longwall instead of going across to

83

01 the return air, came across through a  
02 new face. And there was a half a  
03 stopping, I want to say, right here  
04 maybe?

05 Q. So half a stopping out  
06 A. Yeah. It was, I guess, for  
07 the airflow going towards the fan. I  
08 don't know what fan it is.  
09 Q. Okay. That half of a stopping  
10 would have been at the intersection  
11 of Four Right and Ten headgate  
12 adjacent to spad 3434 and the  
13 stopping is actually in Four Right.  
14 Okay. So you walked across the  
15 longwall, the new longwall face and  
16 through that half stopping and then  
17 back out?  
18 A. Right. Right.  
19 Q. Do you remember what direction  
20 the air was flowing in that area  
21 across the long --- the new longwall  
22 face?  
23 A. It seemed like it was coming  
24 -- we was walking with it.  
25 Q. Walking with the air?  
  
01 A. Yes.  
02 Q. Let's mark airflow right here  
03 if that's all right? Okay. What  
04 about the airflow in the next entry?  
05 A. It was going the same way.  
06 Q. The same way?  
07 A. Yes.

08 Q. So the airflow in both of  
09 these entries was going inby. Did  
10 --- that change that you made down  
11 here, did it have any effect on the  
12 leakage at the equipment door at the  
13 intersection of Four Right and Nine  
14 tailgate?

15 A. As far as --- no, I don't  
16 believe. It stayed the same.

17 Q. Did the change that you made,  
18 do you know if it changed the airflow  
19 across the new longwall between Nine  
20 tailgate and Ten headgate?

21 A. No. When --- do you know how  
22 Derrick Christian determined that  
23 there hadn't been any effect on the  
24 longwall face ---

25 A. No.

85

01 Q. --- when A.C. called him?

02 A. No, I don't. Unless he ---  
03 no, I don't. Unless he took an air  
04 reading or something. I don't know.

05 Q. Can you give me just a little  
06 idea about how long it may have taken  
07 you to knock out the two stoppings  
08 and build the other two stoppings in  
09 at the intersection of Four Right and

10 Nine tailgate? Just from the time  
11 you started knocking the stoppings  
12 out until you got the other two  
13 built? Just an estimate of how long  
14 it might have taken you?

15 A. I was going to try to give you  
16 a real good estimated time. An hour,  
17 two hours about.

18 Q. Okay. Do you know if anybody  
19 was working in Nine tailgate or Ten  
20 headgate when you all was doing this?

21 A. No. I don't know, they might.

22 Q. You don't know if there was or  
23 ---?

24 A. No, I don't know if they was  
25 or not.

86

01 Q. Okay. When Rod Morrison was  
02 telling you about doing this work,  
03 did he tell you, you needed to make a  
04 ventilation change or did he instruct  
05 you --- how did he tell you what to  
06 do?

07 A. Well, he said we'd like to  
08 have some air across the new setup  
09 there. I said, well, that's fine.  
10 We need it before we go up there and  
11 start playing around or --- you know  
12 what I mean, or whatever? And I

13 thought about it that day, and I come  
14 out and I said, you got that  
15 extension where you --- where we go  
16 in. And I guess on Tuesday,  
17 whatever, Tuesday day, he told me ---  
18 he said, go on out today. He said up  
19 through in there.

20 Q. Okay. So did he kind of  
21 indicate to you that he had gotten  
22 ---

23 A. Yes.

24 Q. --- or the company had gotten  
25 approval ---

87

01 A. Yes.

02 Q. --- to make these changes?

03 A. I would not have attempted and  
04 I know A.C. wouldn't either unless it  
05 was already approved or whatever.

06 Q. Was the idea to get the air  
07 moving across this face or was it to  
08 get more air moving across?

09 A. Just the face air moving, kind  
10 of like more air moving across.

11 Q. Okay. So what the intention  
12 was to increase the airflow that was  
13 already there?

14 A. Yeah. More or less dry the

15 mud and stuff that was left, and the  
16 gob.

17 Q. So would that have been in  
18 preparation for starting the process  
19 of moving the longwall in the future?

20 A. Yes.

21 Q. Do you normally start that far  
22 ahead of time?

23 A. Well, usually --- really they  
24 should have done had the airflow  
25 across of it. I shouldn't have had

88

01 to change the air or nothing.

02 Usually we would go in there and  
03 start setting up, they usually got  
04 the air and everything, you know what  
05 I mean? Everything's right.

06 Q. Okay.

07 A. And I just come over there to  
08 clean the face or whatever I had to  
09 do to start setting up.

10 Q. Do you know how this air gets  
11 in here? Where this air came from  
12 that goes across the new longwall  
13 face between Nine tailgate and Ten  
14 headgate in Four Right? Do you know  
15 where that air comes from?

16 A. No, sir, I don't. I couldn't  
17 --- no, I don't really.



18 Q. Okay. Just to clear something  
19 up so that when I'm looking at this  
20 map later on, what I'd like to do is  
21 to mark these two continuous lines as  
22 this is the route that you all walked  
23 when you walked this area, these are  
24 not airflow lines. We'll put  
25 direction walked and this is in Four

89

01 Right at the new longwall face  
02 between Nine tailgate and Ten  
03 headgate. And that's the area ---  
04 the green continuous line with the  
05 arrowheads in it indicates the  
06 direction that you and A.C. and Gary  
07 Goff ---?

08 A. Well, I don't believe A.C. was  
09 there.

10 Q. Okay. You and Gary Goff?

11 A. Me and Gary Goff and Pepé and  
12 Rod.

13 Q. That's the area that you all  
14 were in?

15 A. Yeah.

16 Q. Okay. Did the direction of  
17 the airflow across the new longwall  
18 face change?

19 A. No, not really.

20 Q. So it just increased?

21 A. Yeah.

22 Q. Do you remember what the --- a  
23 little more details about the  
24 conversation you had with Rod about  
25 making sure you got MSHA approval

90

01 before you made those changes?

02 A. He approached me like that  
03 Monday or maybe one day the week  
04 before that. It might have been the  
05 first part of the week before that.  
06 And he said --- he said, will you  
07 come out and help A.C. or Derrick  
08 make the air change. I said, yeah, I  
09 meant, well, anyway, I'll do what I  
10 can. And he said --- I thought about  
11 it that day when I got that out  
12 evening --- and he knowed I'd help  
13 them do it, you know what I mean?  
14 Just help them set it up. I thought  
15 about it that day and that evening  
16 when I got out that evening, I said  
17 did you submit a plan or whatever to  
18 have it changed, have the air  
19 changed. He said I'm waiting to  
20 hear. And he said --- Tuesday day he  
21 approached me when I got outside.  
22 And third shift helped him do it. I

23 didn't ask to see to the map, you

24 know what I mean?

25 Q. So that would have been

91

01 Tuesday the 17th?

02 A. Yes.

03 Q. Did he mention anything about

04 who had cleared it or who had

05 approved it or ---?

06 A. No, sir, he didn't.

07 Q. Do you know if he had walked

08 that area before or I'm wondering how

09 did he ---?

10 A. I seen him up through there

11 when we was pulling those tracks out.

12 Him and C.W. both went up through

13 here, walked through, you know what I

14 mean?

15 Q. Do you remember about what

16 time it was when he said that it had

17 been cleared or approved?

18 A. It was when I was got outside.

19 It was 4:00, 4:30, something like

20 that.

21 Q. Does the --- do you have any

22 power, power lines, going up in Four

23 Right?

24 A. High line?

25 Q. High line. Let's use a purple

92

01 one for that.

02 A. It runs up --- it runs right

03 along with the track entry, what was

04 the track entry. It's right in the

05 same entry that was right here.

06 Q. And where does it stop?

07 A. This power center that's right

08 here stayed right there. It's in the

09 track entry also. It stops right

10 there. Right there is where it

11 stops.

12 Q. So it didn't go any further?

13 A. No, sir. It would be, oh,

14 Three section's power, I guess.

15 Q. Before I forget, let me get

16 you to sign this map, sign it and

17 date it right there for me.

18 A. Today's the 30th?

19 Q. Today is the 31st, 3/31st.

20 Okay. Go back and sit down for a few

21 minutes. You sounded like a pretty

22 conscientious type person, I noticed

23 that you had mentioned to Rod that he

24 needed to get approval before he made

25 that ventilation change. Do you know

93

01 if any ventilation changes were ever

02 made at the mine without approval  
03 from MSHA?

04 A. No, sir, I haven't. Like I  
05 said, I haven't been over there a  
06 year probably.

07 Q. When you're in an area where  
08 you're working to remove track or  
09 move a longwall section or whatever,  
10 if you're moving equipment out, does  
11 your crew --- do you also take down  
12 the escapeway reflectors as you're  
13 moving out of an area?

14 A. No, sir.

15 Q. Do you know if they are taken  
16 down?

17 A. I haven't paid that much  
18 attention to them really, you know  
19 what I mean?

20 Q. Okay. Do you know what color  
21 a primary escapeway ---

22 A. It's green.

23 Q. --- reflector is?

24 A. It's green.

25 Q. Do you know what color an

94

01 alternate is?

02 A. It's amber.

03 Q. What about roadways going into

04 the mine, are they marked with  
05 reflectors?  
06 A. Yes, sir.  
07 Q. And what color would they be?  
08 A. I believe the one we travel  
09 now is amber coming out until you get  
10 to Number One Fourway and it's green  
11 because that's our mainline intake.  
12 Q. Okay. As part of a setup or  
13 move crew, did you ever --- were you  
14 ever instructed to make any other  
15 kind of ventilation changes?  
16 A. No.  
17 Q. So this was the only time?  
18 A. Yeah. Yeah.  
19 Q. I may need to ask you to come  
20 up to the map one more time.  
21 A. That's fine.  
22 Q. You were saying that there was  
23 an area where the reflector color  
24 changed and it was at the Fourway?  
25 A. Yes.

95

01 Q. Can you --- we'll get you to  
02 come up there one more time. Of  
03 course, I know this is about the  
04 third time I've told you one more  
05 time. Where is the Fourway?  
06 A. I believe it's right here,

07     yeah.

08     Q.   Okay.  Here's the crosscut.

09     A.   Right there is the Fourway.  I

10     believe it's right here, right

11     through here and then it comes over

12     here.  Yeah, it comes over ---.  I

13     can't remember what entry it's in, we

14     traveled ---.

15     Q.   So the Fourway is in this

16     area?

17     A.   I'm pretty sure it is.

18     Q.   So that's in north mains in

19     the --- near the intersection of Five

20     headgate?

21     A.   Yeah.

22     Q.   And I think this is called the

23     Number One cut-through ---

24     A.   Yes.

25     Q.   ---- over to the ---

01     A.   Yes.

02     Q.   --- to Nine headgate.  So the

03     Fourway is in that area?

04     A.   Yes.  Yes.

05     Q.   And is that where the

06     reflector colors change?  How does

07     that happen?

08     A.   I'm trying to think of what

09 way we come in, what entry we come in  
10 at. It's right here at this entry.  
11 We come in here, I believe. Come in  
12 this way. And we go through these  
13 set of doors right here.

14 Q. Okay. The doors that are in  
15 north mains where it intersects with  
16 Five headgate?

17 A. Yeah. I believe there's  
18 another door right here they had put  
19 in for ---?

20 Q. Was that before the fire or  
21 after?

22 A. After.

23 Q. Okay.

24 A. And we went through these,  
25 come through these and go up. That's

97

01 where ---.

02 Q. Okay. Then when you were  
03 talking about where the reflector  
04 colors change ---

05 A. Right here.

06 Q. --- can you show me?

07 A. It changed because there's a  
08 --- there's a life line run --- go  
09 down the primary intake.

10 Q. This life line was it  
11 installed before or after the fire?



12 A. It was after. They changed

13 it.

14 Q. Okay. Go ahead and describe

15 for me, when you're traveling out of

16 the mine and you're in north mains,

17 let's say coming --- coming outby in

18 north mains past Seven headgate, Six

19 headgate, there's a certain location

20 where the color of the reflectors

21 change?

22 A. Well, I'm pretty sure it's

23 right here, coming down this way it's

24 green and then right on the intake it

25 cuts over somewhere right through ---

98

01 I believe it's right here, come over

02 and down through this way. And I

03 believe it changes right here,

04 somewhere right through here.

05 Q. To what color?

06 A. Amber. Over here and it's

07 green. The life line's running in

08 green. And the amber is in the

09 secondary.

10 Q. Okay. So if we --- if you

11 were traveling outby, this would be

12 green reflectors?

13 A. Yes, sir.

14 Q. And we'll put green reflectors  
15 as traveling outby. And then when  
16 you come down through the Fourway,  
17 the amber reflectors ---

18 A. Traveling outby.

19 Q. Okay. So this is amber  
20 reflectors as traveled outby. And  
21 the change occurs in this area that  
22 you call the Fourway?

23 A. Yes, somewhere right there.

24 Q. So that area that I've drawn a  
25 dashed circle in the intersection of

99

01 north mains and Five headgate in the  
02 Number One cut-through.

03 A. Yes.

04 Q. And that's the Fourway area?

05 A. Yes.

06 Q. Okay. Thank you again. And  
07 just for clarification, do you ever  
08 get involved in adding or removing  
09 fresh water lines as a part of your  
10 job?

11 A. Let me think. No, I ain't  
12 ---. I think maybe right off hand, I  
13 know here recently I haven't. I  
14 mean, ---.

15 Q. Do you ever work on fire  
16 protection, waterlines or piping in a

17 longwall belt entry, installing them,  
18 taking them out, repairing them,  
19 whatever?

20 A. No.

21 Q. All right. Do you ever work  
22 on conveyor belts as part of your  
23 job?

24 A. No.

25 Q. You don't install or remove

100

01 belts or structure?

02 A. No. We --- the only time I  
03 got to deal with the belt is to  
04 thread it through the tailpiece for  
05 the longwall. That's the only time I  
06 have ---.

07 Q. Do you know who would be in  
08 charge of the mine's ventilation  
09 system?

10 A. I don't know. That's a tough  
11 question. I don't know.

12 Q. And if you don't know, that's  
13 okay. Before you go into an area to  
14 work, does somebody go in there and  
15 conduct an examination for you?

16 A. Yes. Yes.

17 Q. Who would that normally be?

18 A. A.C. Or if like we was up on

19 Nine tailgate, A.C. or Derrick would  
20 come down there. Or if I was up  
21 there working, C.W. or Rod would come  
22 up. That's why I seen --- I seen him  
23 come up through there.  
24 Q. And to refresh my memory, now  
25 A.C.'s name is?

101

01 A. Kline.  
02 Q. A.C. Kline?  
03 A. Yeah. Or Jerome Roberts would  
04 be up there, too, you know, checking  
05 the horsepower pump or whatever.  
06 Q. Do you know where the mine  
07 phones are located underground?  
08 A. Yeah. Yeah.  
09 Q. Is there one located close to  
10 where you would ---  
11 A. Yes.  
12 Q. --- would be working up in  
13 Four Right?  
14 A. Yes.  
15 Q. Is it near the power center?  
16 A. Yes, it's right next to the  
17 power center. Yeah.  
18 Q. Have you ever been sent to  
19 help put out a fire on a belt  
20 conveyor?  
21 A. No, sir, I haven't.

22 Q. And I know we've talked about  
23 it before, but the people who were  
24 actually there with you at the  
25 intersection of Four Right and Nine

102

01 tailgate making that ventilation  
02 change, building the stoppings,  
03 knocking out the other stopping, do  
04 you remember --- I believe you said  
05 it was you and A.C. Kline and two  
06 other people.

07 A. Yeah.

08 Q. Do you remember who those  
09 were?

10 A. I believe one was a red hat,  
11 but he ain't there no more. I  
12 believe he quit after --- or both of  
13 them quit, I believe, after this  
14 fire. I ain't seen them really.

15 Q. Did all four of you work  
16 together?

17 A. Yeah. Yeah.

18 Q. What I'm trying to ask is, all  
19 four of you removed the stoppings or  
20 did a couple of you remove stoppings  
21 while the other guys were building  
22 stoppings or were you all four  
23 together?

24 A. No. We was --- well, let me  
25 think. I think we was all together.

103

01 Q. Well, let's go back to January  
02 the 19th, were you working on the day  
03 of the 19th?

04 A. No, sir, I wasn't. I had  
05 divorce court that day.

06 Q. Okay. And how did you --- how  
07 did you learn about the fire?

08 A. There was some guy called me  
09 from work --- or Jerry called me from  
10 work --- or he was at home and a  
11 14-year old girlfriend --- or his  
12 daughter's boyfriend, his daddy  
13 called me. And that's how I knowed  
14 about it. My dad heard it on the  
15 scanner.

16 Q. Did you go to the mine?

17 A. I didn't go to the mine. I  
18 went to the church at the hollow.  
19 They wouldn't let me up in.

20 Q. Okay. So on the 19th, you  
21 didn't get underground?

22 A. No. Uh-uh (no). Which I  
23 didn't try. I didn't even bother  
24 because I knowed they wouldn't let me  
25 up through there.

104

01 Q. Do you remember hearing about  
02 the mine being evacuated?  
03 A. No, sir, I hadn't.  
04 Q. When did you first hear about  
05 the miners being missing?  
06 A. I believe it's when I got over  
07 there and they said --- the people  
08 taking said there was two missing.  
09 Q. Have you heard anything about  
10 what --- what people thought may have  
11 caused the fire?  
12 A. No, I haven't. No.  
13 Q. Did you ever work up in  
14 northeast mains on a construction  
15 project, extending belt lines or ---  
16 A. Uh-uh (no).  
17 Q. --- building or removing  
18 stoppings?  
19 MR. WEBB:  
20 Bill?  
21 BY MR. TUCKER:  
22 Q. I just have a few questions,  
23 Billy. I'll be bouncing around a  
24 little bit and you may have been  
25 asked a few of these but if I ask you  
01 again, I apologize in advance. If I  
02 understand right, you was asked to

03     come out on the third shift, that was  
04     a preplanned thing just to help ---  
05     A. Right.  
06     Q. --- change the air around?  
07     A. Right.  
08     Q. Okay. Do you know why they  
09     --- was you the only one that was  
10     asked to come out extra or do you  
11     know why they asked you specifically?  
12     A. No. Because they --- I guess  
13     they knowed I'd do it to help them,  
14     you know what I mean? I guess I was  
15     the only one to ask --- they asked.  
16     Q. Okay. But you was the only  
17     one that doubled back to help?  
18     A. Yeah.  
19     Q. That actually came out early?  
20     A. Yeah.  
21     Q. The stoppings that you  
22     knocked, is that the blocks you used  
23     to build the stoppings back, the  
24     other locations or was there blocks  
25     delivered there?

106

01     A. I believe the stoppings that  
02     we knocked was --- we had to build  
03     that one back because those blocks  
04     --- there was blocks laying there  
05     already where that one was, I guess,



06 through the longwall tail coming off  
07 for the return there, I guess. There  
08 was blocks already there for that.  
09 And I don't know how them other  
10 blocks got there. I don't know if  
11 they was --- they was still there.  
12 They was there from ---.

13 Q. So for the one stopping, there  
14 was already blocks delivered?

15 A. Right. Right.

16 Q. And the other stopping, you  
17 used blocks from the ones that you  
18 knocked?

19 A. Right. Yeah.

20 Q. Well, did you have a  
21 wheelbarrow or hand carry them?

22 A. They was laying right there.  
23 They must have knocked it when they  
24 made that air change across Nine  
25 tail, you know what I mean? Where we

107

01 done all the setting up and all this.  
02 And they just left them there. They  
03 just like knocked it and it fell over  
04 or whatever and then we used them  
05 blocks to put it back.

06 Q. Okay. So the stopping you  
07 built there was one that you think

08 had previously been built, somebody  
09 had knocked it and then you built it  
10 back?

11 A. Right.

12 Q. One of the two that you ---?

13 A. Yeah.

14 Q. What about the other location,  
15 had there ever been a stopping there?

16 A. As far as I seen was that  
17 plaster on the rib or something. I'd  
18 say there was one there at one time.

19 Q. But there wasn't any blocks  
20 left there?

21 A. Right.

22 Q. And you carried the blocks  
23 over for that?

24 A. Yeah.

25 Q. After you built these

108

01 stoppings, you know, you knocked two  
02 and built two, and then A.C. had  
03 called the longwall section and  
04 talked to Derrick, did you hear any  
05 comments from Rod, Gary Goff or Pepé  
06 or A.C. about any additional  
07 ventilation work that they were going  
08 to need to do?

09 A. No, I haven't. No, I didn't.

10 Q. Because they was satisfied

11 with what they did?

12 A. As far as I know. They didn't  
13 approach me or nothing like that or  
14 ---.

15 Q. So you didn't hear any  
16 discussion about further ventilation  
17 or anything?

18 A. No.

19 Q. Had the longwall started back  
20 up? I understand they start usually  
21 running the morning, early in the  
22 morning, maybe a little before the  
23 dayshift gets there. Had the  
24 longwall started back up before you  
25 all left out of there or do you know?

109

01 A. No. No. We took their  
02 mantrip and left before even dayshift  
03 ever got up there. It was --- or  
04 matter of fact, we passed them going  
05 in when we was coming out.

06 Q. The dayshift was coming in  
07 when you was coming out?

08 A. Yeah.

09 Q. But you don't know if the  
10 midnight shift had started the  
11 longwall before you all left that?

12 A. No, I don't.

13 Q. Have you helped with air  
14 changes in the past at other mines?  
15 I think you mentioned you hadn't at  
16 Aracoma. But have you ---?  
17 A. No. I've been --- at  
18 Independence probably one time.  
19 Q. I was just wondering how you  
20 become aware that a ventilation  
21 change had to be approved by MSHA? I  
22 guess is why I'm asking.  
23 A. Oh, it's just where I've been  
24 in the coal mine so much and done  
25 setup work for five or six years, you  
110  
01 know what I mean, I know you got to  
02 take it step by step before you ---  
03 because I ain't going to get nobody  
04 in trouble. I ain't going to get in  
05 trouble.  
06 Q. Right.  
07 A. And I just ----.  
08 Q. So you had done setup work at  
09 the Independence Mine ---  
10 A. Yes, sir.  
11 Q. --- when you worked there?  
12 A. Yeah.  
13 Q. And there were times for new  
14 longwall setup that you'd have to  
15 make changes ---

16 A. --- ventilation changes?  
17 A. Yeah.  
18 Q. Okay. And you mentioned that  
19 Rod had asked you about it and then  
20 you went under --- asked you about  
21 coming out and helping. You went  
22 underground, you thought about it,  
23 when you came out, you asked him if  
24 he got approval by MSHA.  
25 A. Right.

111

01 Q. Did you talk to anybody on  
02 your shift about that as far as  
03 anybody else wondering if they got  
04 approval or anybody ask you if they  
05 got approval or ---?  
06 A. No, not really. No.  
07 Q. Do you carry a methane  
08 detector?  
09 A. Yeah.  
10 Q. Do you?  
11 A. I get one every --- well, I  
12 try to get one every morning.  
13 Q. Uh-huh (yes). Do you recall  
14 the highest level of methane that  
15 you've ever detected?  
16 A. Point one. It's ---.  
17 Q. It's one-tenth? When was the

18 last time you was down to Ten  
19 headgate longwall setup prior to  
20 making the air change?  
21 A. I believe it was after I come  
22 back, the day --- day or two after I  
23 come back when I was off the 19th.  
24 Did you say after the air change or  
25 ---?

112

01 Q. Well, before or after ---

02 A. Oh, I have ---

03 Q. --- the last time that you was  
04 on the ---

05 A. Nine tail?

06 Q. --- the Ten headgate ---

07 ATTORNEY HEATH:

08 Bill, do you mean

09 before the fire?

10 BY MR. TUCKER:

11 Q. --- face setup?

12 MR. TUCKER:

13 Either one, before or

14 after the fire.

15 ATTORNEY HEATH:

16 Okay.

17 BY MR. TUCKER:

18 Q. I'm just wondering when's the

19 last time that ---. I know you was

20 up there when you made the air change

21 and you walked down the setup face.  
22 I was just wondering if you had been  
23 there prior to ---  
24 A. No.  
25 Q. --- doing that or after?

113

01 A. After, after the air change.  
02 Q. So after the air change, if  
03 you'd been there since then, it would  
04 have been after the fire ---  
05 A. Yeah.  
06 Q. --- since the fire occurred on  
07 the 19th?  
08 A. Yeah.  
09 Q. But have you been ---?  
10 A. No, I haven't back there  
11 since.  
12 Q. Okay. And I guess part of my  
13 other question was, had you been  
14 there before that?  
15 A. No.  
16 Q. Before you made the air  
17 change?  
18 A. No.  
19 Q. Okay. Have you ever worked at  
20 the mother drive for the Nine  
21 headgate, the current longwall?  
22 A. No.

23 Q. Have you ever helped rob belt?

24 A. No, I haven't.

25 Q. No? Have you ever installed

114

01 any --- I know most of the waterline

02 at the mines is a larger size, four,

03 six or eight inches. Have you ever

04 installed any two-inch waterline?

05 A. Yes, I have.

06 Q. Where did you do that at?

07 A. It's down beside the mother

08 drive, on down past the --- not the

09 head, but I guess it was already

10 there, and we was installing it from

11 the head down to the, what they call,

12 the glut, you know, at the end where

13 you put your hoses and stuff on up

14 there.

15 Q. Up to the ---

16 A. End of the monorail.

17 Q. --- the monorail?

18 A. Yeah.

19 Q. Yeah. Thank you. So you

20 installed a two-inch waterline along

21 the belt up to the end of the

22 monorail?

23 A. Right.

24 Q. Do you remember when you did

25 that?



01 A. No, I don't. I can't  
02 remember.  
03 Q. Was it, say, before Christmas  
04 or do you think it  
05 would have been January or December?  
06 A. Seemed to me like it was in  
07 December.  
08 Q. Do you recall if it was the  
09 first part of December or ---? Did  
10 you take any time off for Christmas?  
11 A. Yeah. Yeah, I took --- I  
12 guess probably the first part, middle  
13 of December probably. I don't know.  
14 Q. Okay. Do you know what was  
15 there --- was there anything there  
16 when you installed the two-inch or  
17 was that the first waterline? I  
18 mean, was there any other waterlines  
19 in the area when you was installing  
20 the two-inch?  
21 A. Yeah, it was a four-inch, I  
22 believe is what it was, running over  
23 to it.  
24 Q. How was it running over to it?  
25 A. I want to say --- yeah, it

01 went up the six-foot belt, you know,

02 where the mother drive dumps on the  
03 six-foot belt?

04 Q. Yes.

05 A. It come down beside the mother  
06 drive, the two-inch line, then it was  
07 on down a little bit before I started  
08 working on it, on the two-inch. I  
09 guess they made a T up there on the  
10 ---.

11 Q. So the two-inch connected to  
12 the ---

13 A. Four-inch main.

14 Q. --- the four or six, whatever  
15 it is, running on Number Seven belt  
16 ---

17 A. Yeah.

18 Q. --- where the head --- the  
19 mother drive belt discharges on the  
20 six-foot belt?

21 A. Right.

22 Q. Yeah. But when you was  
23 working on the two-inch waterline on  
24 the mother drive belt, did you notice  
25 any other waterlines? When you was

117

01 installing the two-inch up the  
02 longwall belt up to the monorail ---

03 A. Yeah.

04 Q. --- did you notice any

05 waterlines in the way or along the  
06 belt line when you were doing that?  
07 A. I can't remember. It seemed  
08 to me like there was a fire hose, but  
09 I can't ---.

10 Q. Maybe a fire hose laying  
11 there?

12 A. Yeah. I can't remember.

13 Q. Did you take out any --- you  
14 installed the two-inch.

15 A. Yeah.

16 Q Did you take out any waterline  
17 during that time?

18 A. No.

19 Q. No? Did you put fire valves  
20 in the ---

21 A. Yes, sir.

22 Q. --- two-inch line?

23 A. Yes, sir.

24 Q. How far apart did you put  
25 those, do you remember?

118

01 A. Every 300 feet I believe.

02 Q. Every so many joints, you ---

03 A. Yeah. Yeah.

04 Q. --- put one?

05 A. Yeah. But it was --- yeah,

06 because I remember Jerome Roberts was

07 with me.

08 Q. Jerome Roberts?

09 A. Yeah.

10 Q. What's his normal job?

11 A. He's what they call a pumper.

12 Q. A pumper at the mine?

13 A. Yeah.

14 Q. So he's got a pretty good  
15 knowledge of the water system ---

16 A. Yeah.

17 Q. --- what needs to go where?  
18 So you was helping him basically?

19 A. Yeah. And --- well, he missed  
20 a fire valve and I had to go back and  
21 get it before he ---.

22 Q. Yeah. So you was helping each  
23 other?

24 A. Yeah.

25 Q. Did you --- when you were

01 doing that, just so I'm kind of clear  
02 on it, did you notice any other  
03 waterlines along the belt with those  
04 fire outlets that you were installing  
05 on the two-inch?

06 A. That goes with ---?

07 Q. That goes up the belt toward  
08 the monorail?

09 A. I can't remember. I didn't

10 pay --- I paid attention, but I  
11 didn't pay that much attention, you  
12 know what I mean?  
13 Q. So you didn't notice any?  
14 A. No. I can't remember.  
15 Q. When you were working  
16 installing that waterline --- so that  
17 would put you down around the takeup  
18 unit and all.  
19 A. We was --- Jerome had it down  
20 to there past it, I believe.  
21 Q. Just a little past it when you  
22 started?  
23 A. Yeah.  
24 Q. Okay. When you was installing  
25 the waterline, was you aware of or  
01 hear anybody talk about any problems  
02 with the belt, the longwall belt, or  
03 the mother drive during that time?  
04 A. No, sir, I haven't. No.  
05 Q. Do you --- and I know this is  
06 asking a lot. This is a couple ---  
07 several months ago. But do you  
08 happen to recall the air direction  
09 when you were working on the longwall  
10 belt, if it was --- would have been  
11 hitting you in the face or been at

12 your back?

13 A. Seemed like it hit you in the

14 --- in your face, I believe.

15 Q. That would have been as you

16 was working from the --- from the

17 takeup toward the section. So if you

18 was walking up toward the face, the

19 longwall section, air would have been

20 hitting you in the face?

21 A. It might have been the other

22 way around. If you was walking

23 toward the head, it'd hit you in the

24 face, you know, towards the mother

25 drive. I have ---.

121

01 Q. Okay. Okay. Did you ever

02 notice any --- the belt rubbing the,

03 say, the hangers or --- while you

04 were working on the belt? I know

05 sometimes like if it's rubbing or

06 cutting into hanger, you may have

07 just a little bit of smoke coming.

08 Do you ever notice anything like

09 that?

10 A. No. No, I didn't. I usually

11 --- if I smell one, I go look and see

12 where it's at.

13 Q. Right.

14 A. And I usually try to fix it or

15 whatever. No, I haven't.

16 Q. Okay.

17 MR. TUCKER:

18 That's all I have for  
19 right now, Anthony. Thank  
20 you.

21 BY MR. WEBB:

22 Q. Okay. Billy, if I can get you  
23 to come to the map for me again. One  
24 of the things I wanted to make sure  
25 we're clear on is, building and

122

01 removing these stoppings down here.

02 Do you --- did we understand what  
03 time of day that was?

04 A. I believe you asked me once  
05 and I told you about 1:00 or 2:00,  
06 something like that, 1:00 a.m., 2:00  
07 p.m. --- or a.m.

08 Q. And I need to clear up one  
09 thing here that I know I just marked  
10 one arrow here ---

11 A. Yeah.

12 Q. --- on the map that is Exhibit  
13 A in Four Right where the new  
14 longwall face would be between Nine  
15 tailgate and Ten headgate, but I  
16 believe you told me that the air in

17 the entry that was against the  
18 longwall face and the entry adjacent  
19 to it was up --- both going the same  
20 direction.

21 A. Yeah.

22 Q. Okay. So what I'd like to do  
23 is just put another arrow right there  
24 and that way we can identify that the  
25 air flowing in both of those entries

123

01 was going inby. Do you remember when  
02 you started work on those stoppings  
03 at the intersection of Four Right and  
04 Nine tailgate?

05 A. Right --- I'd say right around  
06 one o'clock, 1:00 p.m., somewhere ---  
07 or a.m., I'm sorry.

08 Q. So then it probably finished  
09 up sometime around what time?

10 A. 2:00, 2:00 a.m. maybe,  
11 roughly.

12 Q. Okay. When you were up in  
13 this area around the mother drive, do  
14 you remember if there were any holes  
15 in any stoppings between the roadway  
16 and Nine gate --- Nine tailgate  
17 entries?

18 A. No. As far as I've been was  
19 right --- where the doors was at and



20 there was a ride broke down somewhere  
21 right inby the doors going towards  
22 --- underneath the mother drive  
23 because --- it was a spring or  
24 something. Because a spring broke on  
25 it. I had to get a chain and take it

124

01 back up and bring it back outside.

02 Q. So that's as far as you ---

03 A. Right.

04 Q. --- as you went? When ---

05 going back down talking about the new

06 longwall setup face in Four Right

07 between Nine tailgate and Ten

08 headgate, was there any equipment of

09 any kind on the new longwall face?

10 A. No.

11 Q. And I'm talking about during

12 the time when you all were installing

13 and removing some stoppings?

14 A. No. The ride we had was back

15 down here at the --- you know,

16 somewhere past them airlock doors

17 because I know --- we know we

18 couldn't go through them airlock

19 doors right there, at least on the

20 mantrip. It was parked outby from

21 it.

22 Q. Okay. When you built those  
23 stoppings, did you plaster them or  
24 just build them?

25 A. We plastered them.

125

01 Q. And you --- it kind of sounds  
02 like you tore out two stoppings and  
03 built two stoppings in about an hour?

04 A. Roughly about an hour, an hour  
05 and a half, you know what I mean?

06 Q. Did you ever hear of the  
07 longwall section up here losing air  
08 for any reason?

09 A. No. No, I haven't.

10 Q. I'm going to move over to  
11 another map.

12 MR. WEBB:

13 And I'm going to mark  
14 this as Exhibit C.

15 (Brown Exhibit C marked  
16 for identification.)

17 BY MR. WEBB:

18 Q. And of course on this map,  
19 it's a closeup of where the longwall  
20 face was the last time the map was  
21 posted. And I believe actually the  
22 longwall face is about 17 and a half  
23 crosscuts into Nine headgate. But I  
24 believe you said you were helping

25 install some two-inch waterlines on

126

01 the longwall belt?

02 A. Yeah.

03 Q. Can you draw on the map where

04 you --- where you were working on

05 that waterline? And here on this

06 map, we've got the Number Seven belt

07 shown. We've got the 48-inch belt

08 that goes up into Two section.

09 A. Right.

10 Q. And we've got the mother drive

11 and the longwall belt.

12 A. It seemed to me like it was

13 through here probably. Through here

14 going back towards the longwall.

15 Q. Do you remember how far you

16 worked on installing that line? Was

17 it just a short section or did you

18 ---?

19 A. No, it was ---.

20 Q. Do you remember where you

21 started installing the line?

22 A. Huh?

23 Q. Do you remember where you

24 started installing the line?

25 A. That's what I meant, right

127

01 through there is where I started.

02 Q. Okay. Somewhere near spad

03 3274. Do you remember about how far

04 inby in the longwall belt that you

05 installed that two-inch line?

06 A. We went all the way to the ---

07 the end of the monorail.

08 Q. Okay. Go ahead and mark that

09 off for me.

10 A. Which it would be --- I don't

11 know how far it is from the monorail

12 now, but when they moved power, it's

13 ten break, you know what I mean? I

14 would say roughly right here. It's

15 probably right there as far as I

16 know, you know what I mean?

17 Q. Okay. Let's say somewhere

18 near spad 3269. And I believe you

19 said that as you was installing the

20 two-inch waterline, you did install

21 fire valves?

22 A. Yes, sir. Yes.

23 Q. Did you ever move any

24 waterline while you were in the

25 process of installing the two-inch

128

01 waterline?

02 A. Like I was telling him, I

03 can't remember because them hoses or

04 --- them red fire hoses or something  
05 stretched out. I can't remember  
06 because it seemed like I had moved  
07 one or two of them out of the way so  
08 I could lay it down.

09 Q. Do you remember who told you  
10 to go in there and install that  
11 waterline?

12 A. Rod Morrison.

13 Q. Okay. Let's draw a little  
14 line over here and just mark this as  
15 two-inch waterline.

16 WITNESS COMPLIES

17 BY MR. WEBB:

18 Q. And do you remember what date  
19 it was when you were working on  
20 installing that?

21 A. No, sir, I don't. I sure  
22 don't. I can't ---. It's been a  
23 while back. I can't remember. I  
24 know it was cold.

25 Q. Do you remember how much of

129

01 the two-inch waterline was in place  
02 when you started that?

03 A. I'm thinking it's past the  
04 takeup area before I started working  
05 on it.

06 Q. I'm trying to think of a way  
07 to help you remember about what time  
08 it was ---

09 A. When I installed that?

10 Q. --- when you installed the  
11 two-inch waterline? Do you remember  
12 if it was around the holiday season  
13 or if it was ---? You say it was  
14 cold.

15 A. It seemed like it would be. I  
16 ain't for sure.

17 Q. Okay. It was before ---?

18 A. Christmas.

19 Q. It was before Christmas, okay.  
20 If you could --- if you're pretty  
21 sure it was before Christmas, could  
22 you just write in two-inch waterline  
23 installed before Christmas?

24 WITNESS COMPLIES

25 BY MR. WEBB:

130

01 Q. Do you remember if it was  
02 after Thanksgiving? I can't think of  
03 too many other holidays ---?

04 A. No, I was going through a  
05 divorce. I was going through a big  
06 divorce at that time, I can't ---.

07 Q. Well, I'm not going to ask you  
08 to identify it with that date.

09 A. I mean, it was started from  
10 August 'til here recently.

11 Q. Okay. Do you remember how  
12 much of this two-inch waterline ---  
13 or let me rephrase that.

14 Was the two-inch waterline  
15 that you were installing new to this  
16 area? Were you extending an existing  
17 waterline or replacing something?

18 A. No. We was --- I think we was  
19 extending the waterline on down from  
20 what was already previously here.

21 Q. Uh-huh (yes). Did you --- did  
22 you install it and then connect it to  
23 the existing ---

24 A. No.

25 Q. --- or did you connect it as

131

01 you went?

02 A. Connected as we went and we  
03 flushed it out to make sure it had  
04 water in it.

05 Q. Flush it out piece by piece as  
06 you installed the pipes?

07 A. Yeah.

08 Q. So was the waterline that was  
09 in this area that had already been  
10 installed along the mother belt, it

11 was pressurized ---

12 A. Yes.

13 Q. --- at the time?

14 A. Yes.

15 Q. And did it have valves in it?

16 A. From what Jerome told me, it

17 has a four-inch valve --- it has

18 four-inch cable off the four-inch to

19 two-inch --- come down to the two-

20 inch line.

21 Q. Was that near the mother belt

22 drive?

23 A. Yeah.

24 Q. And then when you would

25 install --- did you install all of

132

01 the pipe and then flush it or did you

02 flush it each time you put a piece

03 in?

04 A. Well, what we installed ---

05 when I install it, we didn't flush

06 --- we flushed every piece out.

07 Q. So every time you'd install a

08 piece of pipe, someone would come

09 back here to the valve---?

10 A. Well, we had some water

11 running in, it was kind of a gradual

12 flow. He had to crack it somewhat to

13 fault the valve.



14 Q. So there was a waterflow the  
15 whole time when you were installing  
16 it?  
17 A. Right. Right. Yeah. Then we  
18 got all of it done, we went up there  
19 and opened it up some more and  
20 flushed it out good.  
21 Q. Okay. Did you leave it turned  
22 on after you installed it?  
23 A. As far as I know, we did.  
24 Q. Okay. Did anybody check  
25 anywhere along this line to see if it

133

01 had pressure or ---  
02 A. Yeah.  
03 Q. --- to clear out air bubbles?  
04 A. Well, like a fire valve or  
05 something I checked, you know, for  
06 the air to get out of it. I left one  
07 open, the one above me. And I seen  
08 --- I walked ---I kept this one and  
09 we stopped there, we had to end it  
10 and when water started coming out,  
11 you know, air and stuff started  
12 coming out of it, I shut that valve  
13 and walked down to this one. After I  
14 seen it got flushed good, I turned it  
15 off.

16 Q. Okay. Now, the water that was  
17 flowing in the waterline, it was  
18 intentional or because there was a  
19 leak or ---?

20 A. No, it was intentional. Just  
21 help wash it out, wash it --- where  
22 you put the straws in or --- you know  
23 what I mean, the grooves and stuff.

24 Q. Were there any fire valves  
25 along the longwall belt before you

134

01 put this two-inch waterline in there?

02 A. Really as far as I've been was  
03 the glut before we set it up because  
04 I know the glut's got one every 300  
05 foot off the long rib. Really that's  
06 as far as I've been when I come up  
07 here and done this and got to that  
08 mantrip.

09 Q. Okay. But along the area from  
10 where the previous waterline ended at  
11 the --- in the mother belt, along  
12 this area where you worked to install  
13 the new waterline?

14 A. No. It was --- it seemed like  
15 it was about ---

16 Q. Do you know where --- go  
17 ahead, I'm sorry.

18 A. --- where --- I'm trying to

19 think where they go through the doors  
20 there. Because I remember seeing it  
21 when we got that mantrip. So this is  
22 the mother drive right here; right?  
23 Q. Yeah, this brown line that  
24 goes along the longwall panel is the  
25 mother drive.

135

01 A. Seemed like there was a  
02 waterline laying here rolled up on  
03 the panel with rock dust, right here  
04 on the corner.

05 Q. Okay. While you were  
06 installing this --- the new section  
07 of this, did you notice if there were  
08 any fire valves that were already  
09 installed in a waterline along the  
10 mother belt?

11 A. No, I don't. I can't  
12 remember. I didn't --- not really.  
13 I didn't pay any attention because it  
14 was running late and trying to help  
15 Rod get it done.

16 Q. About how many shifts did it  
17 take you to install this waterline?

18 A. One.

19 Q. You did it all in one shift?  
20 Do you know about how many fire

21 valves you all installed?

22 A. I think --- where I went and  
23 got to, it seemed like it was four  
24 maybe before I started with them.

25 Q. And after you installed the

136

01 two-inch waterline, did it dead-end  
02 or did it connect to the monorail?

03 A. No. It dead-ended at the end  
04 of the monorail.

05 Q. Okay. So you dead-ended it at  
06 --- near the end of the monorail?

07 A. Right.

08 Q. Did you work on the fire  
09 suppression system at the longwall  
10 mother belt drive?

11 A. No, sir.

12 Q. Did you notice if it had one?

13 A. No.

14 Q. You didn't notice?

15 A. No, I didn't.

16 Q. Going back over to the other  
17 map, Exhibit A, I believe you told me  
18 that you could only take a diesel  
19 mantrip so far up in Four Right?

20 A. Right. Right.

21 Q. What was the reason for that?

22 A. I guess because this was  
23 return air coming off the longwall.

24 Q. Okay. So we're talking about  
25 the air coming off of Nine tailgate

137

01 would have been return air from the  
02 longwall?

03 A. As far as I know, yeah.

04 Q. And that would have been why  
05 you couldn't take a diesel mantrip  
06 through the equipment door at the  
07 intersection ---

08 A. Right.

09 Q. --- of Four Right ---

10 A. Right.

11 Q. --- and Nine tailgate?

12 A. Right.

13 Q. When you installed that  
14 waterline, was the longwall already  
15 up and running?

16 A. Yeah. Yeah.

17 Q. So the two-inch waterline that  
18 you were installing in Nine headgate  
19 in the longwall belt entry, when you  
20 were installing that, the longwall  
21 was already producing ---?

22 A. To the best of my knowledge,  
23 yeah.

24 Q. Did --- why did Rod Morrison  
25 want that waterline installed?

01 A. He didn't specifically tell me  
02 why, you know what I mean?

03 Q. Can you --- oh, go ahead. I'm  
04 sorry.

05 A. Go ahead.

06 Q. I was just going to get you to  
07 mark on the map here who worked on  
08 installing this, the waterline?

09 WITNESS COMPLIES

10 A. I don't know if I spelled his  
11 name right.

12 BY MR. WEBB:

13 Q. That's all right. Spell it  
14 the best you can. All right. Let me  
15 get you to go ahead and sign and date  
16 Exhibit C while we're at it.

17 WITNESS COMPLIES

18 BY MR. WEBB:

19 Q. And I think you indicated that  
20 the people who worked on installing  
21 this two-inch waterline would have  
22 been yourself and ---

23 A. Jerome.

24 Q. --- Jerome ---

25 A. Jerome Roberts.

01 Q. --- Roberts? Okay. I think I  
02 want to make sure I'm clear that the

03 air that comes off of --- that's  
04 coming out of Nine tailgate, is that  
05 return air?

06 A. As far as --- yeah, because it  
07 comes out --- it should be. If it  
08 comes out of the gob that they  
09 already mined, it should come down  
10 and back up towards the fan.

11 Q. Okay. And that was the air  
12 you directed across the new longwall  
13 face to dry it out?

14 A. No. It was already going  
15 across it.

16 Q. Okay. It was going across it?

17 A. Right. But we --- as far as I  
18 know, what we done was put fresh air  
19 across it to make it come --- you  
20 know what I mean?

21 Q. Okay. Now, I'm a little bit  
22 confused as to how it would have gone  
23 from ---.

24 A. That's what --- I know what  
25 you're saying, how did it go from

140

01 return air to fresh air; right?

02 Q. Right.

03 A. Right.

04 Q. I was thinking that you had

05 told me that the air coming down Nine  
06 tailgate was going across the face of  
07 the new longwall section before you  
08 made any changes?

09 A. Right. Right.

10 Q. And then after you made some  
11 ventilation changes, did that  
12 increase the amount of air going  
13 across the new longwall setup face or  
14 did it cause air from somewhere else  
15 to go across that face?

16 A. I think it come from this way.  
17 I know you got that --- I'm sorry.

18 Q. That's all right. That's all  
19 right. I'd rather get it clear to  
20 make sure.

21 A. It seemed like it was coming  
22 down this way and then up around.

23 Q. So you believe that after the  
24 ventilation change, ---

25 A. Yeah.

141

01 Q. --- the air would have been  
02 coming down Ten headgate ---

03 A. Yeah.

04 Q. --- and going outby instead of  
05 coming inby like we originally  
06 thought? Okay. What we'll do then  
07 is we'll mark an X on these airflows



08 that --- in Four Right where it goes  
09 across the longwall face, and then  
10 we'll mark them --- in black, we'll  
11 mark new airflow direction for the  
12 air that's going out of Ten headgate  
13 and outby across the face of the new  
14 longwall setup. Now, what about the  
15 air in the next entry outby in Four  
16 Right, did it change that direction  
17 or was it still traveling inby?

18 A. No. I believe it --- I wish I  
19 can remember, but I can't.

20 Q. Okay. If you can't remember,  
21 that's okay.

22 A. I can't remember.

23 Q. I guess as you've thought  
24 about this a little bit more, is that  
25 why you ---?

142

01 A. Yeah, that's why I thought you  
02 had it wrong.

03 Q. Okay. You've realized ---

04 A. Yeah.

05 Q. --- that the air was flowing  
06 the other direction ---

07 A. Yeah.

08 Q. --- after you've thought about  
09 it?

10 A. Yeah.

11 Q. Okay. Are you pretty certain  
12 now that that's how the air was  
13 flowing across that ---?

14 A. Yeah.

15 Q. Okay. Is that what Rod said  
16 it was for, was to put fresh air  
17 across the new longwall setup here?

18 A. Yeah, so it would get up back  
19 in there and start fanning our  
20 monorail and scooping the face or  
21 whatever.

22 Q. Okay. So it was to put some  
23 intake air across the new longwall  
24 setup so that you could put people in  
25 there ---

143

01 A. Right.

02 Q. --- to work on it ---

03 A. Right.

04 Q. --- installing equipment?

05 A. Right.

06 Q. Do you remember an inspector  
07 citing the longwall for low air  
08 quantity ---

09 A. No.

10 Q. --- around in that same time  
11 period? Do you remember --- do you  
12 ever remember being given a citation

13 or the company being given a citation  
14 for low airflow on the longwall?

15 A. No, sir, I haven't.

16 Q. That would have been on the  
17 next shift. Do you remember anything  
18 about that?

19 A. No, I don't.

20 Q. Okay. Going back over to  
21 Exhibit C, do you remember when the  
22 rest of this waterline was installed,  
23 the two-inch waterline?

24 A. No, I don't.

25 Q. Okay. Do you remember about

144

01 where the longwall face was when you  
02 --- when you put in the two-inch  
03 waterline?

04 A. No, I can't.

05 Q. You might need to speak up a  
06 little bit.

07 A. Oh, I'm sorry. No, I can't.

08 Q. Okay. Just a few more. Over  
09 here where it says airflow, ---

10 A. Yeah.

11 Q. --- I'm just going to mark  
12 that this is airflow --- I want to  
13 make sure I'm correct before I mark  
14 anything. Airflow after the

15 stoppings were ---

16 A. Right.

17 Q. --- after the ventilation

18 change was made?

19 A. Uh-huh (yes).

20 Q. Okay. Do you --- when you

21 went up to go across the longwall to

22 set these cribs that were in Nine

23 tailgate, how did you get to the

24 longwall section, like from the box

25 cut, you traveled up north mains and

145

01 then how did you get to the longwall

02 section?

03 A. Well, it come up --- like we

04 go to north mains, what would be our

05 intake, taking this longwall intake,

06 come back to the second cut-through

07 and come back down here.

08 Q. Okay. So you went up --- you

09 went from the box cut inby north

10 mains ---

11 A. Yeah.

12 Q. --- to the Number Two

13 cut-through and came back ---

14 A. Yeah.

15 Q. --- through there and then

16 down Nine headgate?

17 A. Right. Down to the longwall

18 face.

19 Q. Now, when you were working on  
20 installing the waterline, ---

21 A. Yeah.

22 Q. --- how did you get to the  
23 longwall then?

24 A. We went --- I went up to the  
25 mother drive and walked down the

146

01 mother belt --- you know, down the  
02 belt line to Jerome.

03 Q. Did you bring the waterline in  
04 the mine with you?

05 A. No, I didn't.

06 Q. Did you just go to a certain  
07 location and the waterline was there

08 ---

09 A. Yes.

10 Q. ---- waiting on you?

11 A. Yes.

12 Q. Do you remember where it was?

13 A. Seemed to me like it was right  
14 there where we started, where I  
15 started with him. Somewhere right  
16 --- maybe right through here  
17 somewhere or something. It wasn't  
18 very far.

19 Q. In the ---?

20 A. Yeah.

21 Q. In the are somewhere between  
22 spad 3279 and 3287?

23 A. Yeah. Because I had to pack  
24 it up three or four joints, yeah,  
25 three or four joints to --- then

147

01 start packing it back down to stretch  
02 it out, you know, to get it to lie  
03 down to where I could it put it  
04 together. Then we put it together.

05 Q. So we'll mark that as  
06 waterline stored for install. Would  
07 that be correct?

08 A. Yeah.

09 Q. Okay. When you were working  
10 on installing that waterline, did you  
11 go into that area through the Number  
12 One or Number Two cut-through?

13 A. No.

14 Q. So you always went up around  
15 the mother drive and back around the  
16 longwall?

17 A. That day, that's when I went  
18 up there to help him install that  
19 waterline, I went up to the mother  
20 drive and walked on down the belt.  
21 But I didn't know right where he was  
22 at. So I was going ahead, I walked

23 through here and behind Four entry.

24 MR. WEBB:

25 Bill?

148

01 BY MR. TUCKER:

02 Q. One other thing, Billy, the  
03 shift you worked a double shift would  
04 have been on the 18th, you come out  
05 on the midnight shift and helped with  
06 the air change and then you went back  
07 on the dayshift. Where was you  
08 working on the dayshift?

09 A. Down pulling that --- rest of  
10 that track out of Nine tail where we  
11 was at.

12 Q. On Four Right?

13 A. Yeah, right there on Four  
14 Right.

15 Q. Okay. Did your crew receive a  
16 call sometime that morning to do  
17 anything with the ventilation?

18 A. No. I didn't hear any.

19 Q. You're not aware of any  
20 changes that was made on the  
21 dayshift?

22 A. No.

23 Q. Okay.

24 MR. TUCKER:

25           That's all I have.

149

01    Thank you.

02    BY MR. WEBB:

03    Q.   Okay.  Billy, I just want to  
04    ask you a couple other questions.  I  
05    just want you to think back about the  
06    notations that we've made on the  
07    exhibits, and make sure that what  
08    we've got marked on there now is your  
09    best recollection of the way things  
10    actually were.

11    A.   Yeah.  Yeah.

12    Q.   And I just want to make sure  
13    like, let's say, on Exhibit C here if  
14    you're --- if you're comfortable with  
15    that?  I want to make sure we've got  
16    everything marked the right way.

17    A.   Yeah.

18    Q.   Are you comfortable with the  
19    notations?

20    A.   Yeah.

21    Q.   Okay.  What about Exhibit A,  
22    are you comfortable --- I know we've  
23    made some changes on this one, but  
24    are you comfortable with the way it  
25    is right now?

150

01    A.   Yeah.



02 Q. Okay. Thank you. So Exhibit

03 A and Exhibit C are accurate

04 representations of what you know?

05 A. Yeah. Yeah, it is.

06 Q. Okay. Do you have an opinion

07 of how the accident could have been

08 avoided?

09 A. Yeah. Yeah, I do. To me I

10 thought the guys up on the section

11 was notified too late. They should

12 have been notified right then. For

13 as far as I know, they was notified,

14 you know what I mean, it wasn't ---.

15 And there should have been overcasts

16 right there at the mother drive.

17 Q. Is there --- is there anything

18 else that you can think of --- I know

19 you weren't working on the day of the

20 accident. But is there anything else

21 you can think of looking back on your

22 interview, any ideas you might have

23 or anything regarding the accident?

24 A. No.

25 Q. Do you have any idea how the

151

01 smoke may have gotten from that

02 mother drive area up into northeast

03 mains in the Two section intake?

04 A. No, sir, I don't know.

05 Q. Okay.

06 MR. TUCKER:

07 I don't really have

08 anything.

09 BY MR. TUCKER:

10 Q. You mentioned about the

11 overcasts at the mother drive.

12 A. Well, that's my opinion. I

13 mean, you know what I mean? I don't

14 --- every one I've seen would

15 ---

16 Q. Normally there is one, is that

17 why you say that?

18 A. Right.

19 Q. Right. We greatly appreciate

20 your comments.

21 A. But I don't want anything ---

22 I liked them two boys.

23 Q. Yeah, I understand.

24 MR. WEBB:

25 Okay. Mr. Heath, do

152

01 you have any clarifying

02 questions regarding the items

03 covered in the interview?

04 ATTORNEY HEATH:

05 Just briefly.

06 BY ATTORNEY HEATH:

07 Q. Billy, you've made a lot of  
08 marks on the maps here.

09 A. Yeah.

10 Q. All of this is, what, prior to  
11 January 19th, is what you're trying  
12 to mark on the maps?

13 A. Yeah.

14 Q. So about two --- over two  
15 months ago?

16 A. Yeah.

17 Q. Okay.

18 ATTORNEY HEATH:

19 That's all.

20 MR. WEBB:

21 Billy, on --- I may  
22 have one more.

23 ATTORNEY BARISH:

24 We appreciate your  
25 patience.

153

01 MR. WEBB:

02 Okay. Billy, on behalf  
03 of MSHA, I want to thank you  
04 for appearing here today and  
05 answering our questions and  
06 sharing your information about  
07 the mine. Your cooperation is  
08 very important to us as we

09 work to determine the cause of  
10 the accident. If you wish,  
11 you may go back now over any  
12 answer that you have given  
13 during the interview and you  
14 can make a closing statement  
15 if you'd like to, to cover any  
16 additional points that you  
17 believe should be raised

18 A. No. No, not really.

19 MR. WEBB:

20 Okay. We'd like to ask  
21 that you not discuss your  
22 interview today with any  
23 person who may have already  
24 been interviewed or may be  
25 asked to give a statement in

154

01 the future. We want to ensure  
02 that we get everybody's  
03 independent memory of what  
04 happened.

05 After questioning other  
06 witnesses and obtaining  
07 additional information, we may  
08 be asking you to come back for  
09 some further questions.

10 If at some later point  
11 you have additional

12 information regarding the  
13 accident that you think we  
14 need, I'd like to give you a  
15 couple of business cards. One  
16 of them is my business card  
17 and the other one is the  
18 business card for Kenneth  
19 Murray. He's the District  
20 Manager in District Six in  
21 Pikeville, and he's also the  
22 accident investigation team  
23 leader.

24 A. Oh, okay.

25 MR. WEBB:

155

01 And the Mine Act  
02 provides certain protection  
03 for individuals who  
04 participate in accident  
05 investigations. So if at any  
06 time you believe that you've  
07 been treated unfairly because  
08 of your cooperation in this  
09 investigation, please  
10 immediately contact Mr. Murray  
11 or myself. And I believe Mr.  
12 Tucker has a closing statement  
13 as well.

14 MR. TUCKER:  
15 Also on behalf of  
16 Miners' Health, Safety &  
17 Training, Billy, we'd like to  
18 thank you for coming in today  
19 and trying to answer our  
20 questions, and we greatly  
21 appreciate that. And the  
22 State also offers similar  
23 protection against  
24 discrimination against miners  
25 for reporting safety concerns

156

01 or anything of that nature.  
02 There's my card if you ever  
03 need to contact me about  
04 anything. That is C.A.  
05 Phillips' card. He's Deputy  
06 Director out of our Charleston  
07 office. And again thank you  
08 for coming in today.

09 \* \* \* \* \*  
10 EXAMINATION CONCLUDED AT 1:00 P.M.

11 \* \* \* \* \*

12  
13  
14  
15  
16

17

18

19

20

21

22

23

24

25